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Agriculture Committee
February 03, 2015

[LB128 LB242]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 3, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB128 and LB242. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Burke Harr; Tyson Larson; Merv Riepe; and Ken Schilz. Senators absent: None.

SENATOR JOHNSON: Okay. We will begin our hearings today. We will follow the agenda as posted. First, we'll have LB128 will be heard, then LB242. First of all, I want to remind everyone to turn off your cell phones or turn them to vibrate at least so we do not interrupt the hearing. Also remind members in the audience that we ask you to refrain from any...stating any opposition or support of testimony during the remarks, no outrage or no exhibits or anything like that. I don't believe we will see that today anyway. Green sheets to sign in--if you're going to testify, we ask you complete that green sheet and bring it as you come forward to the chair at the end of the table, place it in the box. And if you have material to hand out today, we ask that you bring ten copies and so that we can distribute them and have them for appropriate staff. If you do not have copies, one of our pages will take care of that for you. Our pages today are Kelli Bowlin from Cody and Jay Linton from Dalton, both from Nebraska and both UNL students. We appreciate their being here today. It is the policy of the Ag Committee that we can use lights and normally do use lights. I see we have quite a few people here today. We will not invoke the light system; but if we need to as we move along, I will announce that. I like to see the testimonies in the neighborhood of three minutes. That's pretty concise, but we also have a policy that we put in at the beginning of our hearings for each side to have at least an hour for testimony if that is needed. I want to introduce the members of the committee that are present now. To my left is Senator Chambers; Senator Bloomfield; next would be Senator Merv Riepe and some senators are presenting bills in other committees. Senator Burke Harr I know is presenting a bill in another...in front of another committee. To my right would be Senator Tyson Larson; next to him, Senator Ken Schilz; next to him is Senator Mark Kolterman. To my right is Rick Leonard who is our research analyst for the committee. And to my left is Travis Moore, our committee clerk. I would also like to make the announcement to the committee members that if you do need to leave for testimony or do need to leave the committee, I would ask that you come back even though the hearing might be over because we will go into Executive Session on bills and confirmations that have been heard already by the committee. We will not Exec on the bills that we will be discussing or hearing today. So I believe that concludes the announcements. At this time, we will begin hearing, the first hearing on LB128 and Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. Chairman. I'm Ernie Chambers. I represent the 11th Legislative District. And the purpose of this bill, LB428, is that it? [LB128]

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SENATOR JOHNSON: LB128. [LB128]

SENATOR CHAMBERS: Oh, LB128, is to repeal outright the Black-Tailed Prairie Dog Management Act. And I don't know if any place in my statement of intent it mentions the statutes that embrace that act, but they are found at 23-3801 through 28-3810. I will be as brief as I can while outlining what the bill is so that we'll have the time for those who want to testify. And then when I close, if there are questions you want to put to me, I'll answer them at that time. I want to repeal this bill. First of all, I don't see the necessity of an act such as this. If I am using my property in a way that infringes on the rights of my neighbor's property, a law and a structure and principles of law are already in place, and I can be enjoined or prevented from doing that. And any damage that has been done to my neighbor's property I can be held accountable for. It is not necessary to give to the government the authority to designate any person they please--and that's what the statute says--a county board can send anyone they please on to the property of...let me not get ahead of myself. We have a situation where one landowner has prairie dogs. Next to that landowner is somebody who doesn't like prairie dogs. The one without the prairie dogs can file a complaint and say that this prairie dog colony...colony is encroaching on his or her property which is adjacent to that of the prairie dog holder. If the county board decides that this complaint is valid and there's nothing in the law that says what steps would constitute proving that the prairie dog colony has migrated, it doesn't say how much evidence there has to be, how much damage, how many burrows, how many tunnels or anything. It just says that this adjacent landowner files a complaint. And should that complaint be deemed valid by the county board, there is a system of notices that will be given. And after these notices have been given, one of which lets the landowner with the dogs know that a complaint has been filed, it's up to this person who has the dogs to make sure that the colony does not encroach on the property of anybody else's. The county board has determined that has happened so it's up to you now to manage that colony and in effect is saying you have to wipe it out because there's nothing in the law that says when such a colony has been managed. And that's the word they use. There's a man who goes around doing this, and he said the poison that he uses is zinc phosphate. He tries to be careful not to spill anywhere because it is...it will kill any animal. It doesn't say strictly for prairie dogs. He poisons oats and then spreads them around in hopes that none of the animals that are there would consume any of these, no hawks, no eagles, no black-footed ferrets, no other animals that are drawn to prairie dogs either as their prey or to their burrows as places to live. But nevertheless, he did. There's an article in last August's newspaper, August of last year or the year before, and he enjoys this because he gets to go back and do it again and again until he kills all the prairie dogs. And it's up to him to enjoy it if he wants to, but the point is the poison is deadly, as poison is supposed to be. Since there are other animals that use the prairie dogs for prey, the prairie dog is known as a keystone critter. They are indigenous or native to Nebraska. Unfortunately, Senator Loudon and those others who went along with this program used the noxious weed law as an example. Noxious weeds are invasive species of weed, plant, and the purpose is

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to exterminate all of them--individual plants, all of them. So when you use that as the model, the mind-set is that you are to exterminate all of these animals and that is what is attempted. When the law first went into place, some landowners in counties where there was no county board resolution setting up such a program poisoned or had poisoning done to the prairie dogs on their land because they were worried about the penalties that the law would allow. After these notices and a certain amount of time had passed, if the landowner hadn't killed the dogs himself or herself, there would be a fine of \$100 a day for 15 consecutive days until the fine reached \$1,500. That amount, if it's not paid, would be an assessment against that landowner's property. It would be converted into a lien. And if there still was no payoff and the property went into foreclosure, the law says that none of the proceeds would in whole or in part do away with the debt that was owed to the county. So I don't know what that means that they would do with the proceeds. And you still, if you're the landowner, have to pay the amount that the county is going to say they spent. There are all kinds of irregularities in this law. And were I a landowner, one who was affected by it, I would challenge it in the Supreme Court...in the court. It would wind up in the State Supreme Court as being an overreach, unconstitutional, violative of the rights of a landowner. I'm wrapping it up. I told the chair that I wouldn't speak as exhaustively as I usually do so that there would be time for those who testify. But I think for the record I should give the reasons why I'm offering this bill. What the county can do under the law without any guidelines or any directions, authorize anybody, anybody...the person doesn't have to be trained, not a law enforcement officer, not a game warden or officer, anybody to go on the land and manage these dogs. They won't use the term "poison" in the law. And Sheridan County would not use the term "poison" in their resolution because they want to stay away from what they call "trigger words." But that is how they so-call manage these dogs. This person can come on the land and do whatever he or she thinks is necessary to get rid of these dogs. You have to because your land is adjacent to somebody else's, take some precautions along the entire length of the property line. It doesn't say how deep into your property if you're the place where the dogs live would have to do this managing. In other words, how far do you have to spread the poison into your land? And if you attempt to do it and there are other prairie dogs that wind up on that person's property, they can pursue the complaint process and you have to do it again. So some people either will do nothing or they'll kill all of the prairie dogs. In this state, there are people who want these animals on their property. There are people who don't. And those who don't have gotten the upper hand and by doing so they got the Legislature, in my absence--because I stopped a bill like this while I was in the Legislature--managed to get this that I'm trying to repeal into the law. There is no liability on this person or these persons authorized by the county board to go onto private property against the will, certainly not with the permission of the landowner, and do whatever it is they're going to do. If they exercise proper care, whatever that means, and there is no guideline on any of this--damaged property, damaged crops, damaged fields, anything that can be damaged, they can damage it. And all they have to do is establish that they exercised proper care. And I suppose that the landowner whose land has been invaded

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is going to have to go to the expense of filing a lawsuit to show that proper care was not exercised and also pay for all that the county says it had to expend to send these people onto this private property. I'm not going to go into constitutional issues here. But I'm going to share with the committee a statute that says that no wildlife can be taken on any landowner's property without that landowner's consent or permission. This bill makes no reference to that statute. And no statute is repealed by implication. In other words, you cannot say because this law was passed that automatically does away with every other law. Sometimes if there may be several laws and you can't locate all of them, you will indicate that--and I'm going to use layperson's language--despite any other provision of law, this is what the law will be. You've acknowledged that there are other statutes, but you've at least pursued the practice that courts allow when there may be a lot of different laws bearing on a subject. But when there is one specific statute that's a part of the game laws and it makes it crystal-clear that you cannot go on the property of a landowner to take wildlife, and wildlife is defined as any natural growing mammal, bird, fish, mollusk, anything you can think of, arthropod, other than grasshoppers and other insects. So I'm going to look into that and find ways to get rid of this law. Last year I brought the law, the bill. Some of the people on the committee at that time had said they wouldn't vote for it last year for whatever reasons they had. But they wouldn't be against it this year. Not all those people are on the committee now. And I don't even remember who they are, quite frankly, but I know Senator Schilz was because he was the chairperson. With all respect to Senator Schilz, had he not been the chairperson, I...I just don't remember everybody directly. So let me sum it up. No law, in my opinion, should be passed by this Legislature totally discounting the rights of a person who owns property based on the complaint of a neighbor who may have a grudge or any reason to sic these people onto the neighbor's land. What we ought to do is let those disputes be resolved, not by the county board, deputizing people to go tromping around on this land, but go to court and establish that this person is interfering with my enjoyment of my land. And therefore, I want the court to order that person to stop and give any other relief that is justified and establish the damage that was done. But if you have some political pull, you can go to the county board and there's no guidance in the law as to what constitutes this encroachment that would justify this forced remedy as they call it, entry force. It says no portion of the prairie dog colony. What is a portion? Any amount, any amount, no guideline whatsoever. So I think the bill is unconstitutional, the law unconstitutionally vague. I think it derogates against the rights of property owners. And it gives the county board the authority to exceed its legitimate constitutional power. If you want to ask me some questions, I will answer them now because I don't want to be evasive. I've tried to cover the waterfront so I'm at your disposal. [LB128]

SENATOR JOHNSON: Thank you, Senator Chambers. Senator Bloomfield. [LB128]

SENATOR BLOOMFIELD: Thank you. Senator Chambers, you said at the beginning that you would be here for close and that you would take questions at that time. Is that

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still your intent? [LB128]

SENATOR CHAMBERS: Yes. [LB128]

SENATOR BLOOMFIELD: I will save my questions until we're done with the people. [LB128]

SENATOR CHAMBERS: And who knows? The world may come to an end before then. [LB128]

SENATOR JOHNSON: I appreciate you attempting to shorten it up. I think you did (laugh) from what other openings maybe have been. Does anybody have any question they need to ask now? Otherwise, he will stay for questions afterwards. Thank you, Senator Chambers. I want to introduce Merv Riepe, a member of our committee. At this point we will take testimony, those proponents, those in support of the bill, ask the first one to come forward, deposit your green sign-in sheet in the box and state your name and spell your name for the sake of the record. Welcome, sir. [LB128]

BRUCE KENNEDY: Mr. Chairman, members of the Ag Committee, my name is Bruce Kennedy. And I'm here this afternoon representing the Wachiska Audubon Society. We're a Lincoln-based conservation organization. Our chapter area is basically the 16 counties in the southeastern part of the state. [LB128]

SENATOR JOHNSON: Sir, can you spell your name, please. [LB128]

BRUCE KENNEDY: Kennedy, K-e-n-n-e-d-y. [LB128]

SENATOR JOHNSON: Thank you. [LB128]

BRUCE KENNEDY: We're best known for setting aside small prairies within our chapter area, and we're appearing this afternoon to support this bill offered by Senator Chambers. I would remind the committee that during the time that this was aired this basically was...this particular bill was basically opposed by most major conservation organizations in Nebraska. We feel that the Prairie Dog Management Act is not needed. That landowners who wish to control the prairie dogs, eradicate, if you will, the prairie dogs on their land have that opportunity and have the means to do so. And we don't like the idea of them encroaching upon folks who do want to keep prairie dogs. And as Senator Chambers said, there are people in the state who will tolerate prairie dogs. There are people in the state who want prairie dogs on their land. We...one of our biggest concerns, and Senator Chambers mentioned this, one of our biggest concerns is that just about the time that the law was enacted landowners kind of got scared a little bit and wanted to be in compliance with the law. And so we saw some...probably saw...I say "probably" saw some eradication, you know, in anticipation that probably would not

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have occurred. And, you know, this is not necessary. The prairie dog is one of our natural heritage species. It is a keystone species. And we do believe that there is room out there for the prairie dog. Many years ago we...our organization worked to pass something called LB145 which was the rare and endangered conservation issue or I don't think that's the exact word of the act, nongame rare and endangered conservation act. And this act was basically to give Nebraska the power to manage all of the wildlife species in the state. The fear is if numbers of prairie dogs drop drastically across the area that they inhabit that this could become an issue for the United States Fish and Wildlife Service to declare it an endangered species and then we would have to put up with the federal government telling us, you know, how we were going to manage our wildlife. That's all I have. I thank you for the opportunity to testify, and I would answer questions if possible. [LB128]

SENATOR JOHNSON: Anyone have a question of Mr. Kennedy? [LB128]

BRUCE KENNEDY: Thank you very much. [LB128]

SENATOR JOHNSON: Seeing none, thank you. Welcome, Mr. Hansen. [LB128]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record my name is John Hansen,, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union, and I am also our lobbyist. We did not support this bill when it was passed in the first place for the very same reasons or at least a substantial portion of the reasons that Senator Chambers has already listed in his presentation. The issue of how you manage this species is one that requires a...I think a fairly light hand on the balance wheel. And it is...we have, as we all know, those of us who are involved in agriculture, we have folks who hate prairie dogs, folks who love prairie dogs, and a small number of folks who are undecided or in the middle but will tolerate them. So you're going to hear today from several of my members who do have prairie dogs and they're going to talk about some of the negative impacts that this law has on them that we listed when this bill was first passed. That some of those things that we feared might happen have happened. We feel that it is unnecessarily heavyhanded and it puts, I think, a real strain on counties and also the relationship between neighbors. And so the problem of the prairie dog going over the hill and across the fence is not a new one. But I do believe that there are truly management options relative to being able to manage the species short of what amounts to an invasion of private property rights that ends up in most cases eradication. And eradication is not the same as management. They are different items. And I would also tell you that I usually wait till the end and let other folks go first. But in this case, I have bills up in Education Committee this afternoon. And with that, I'll be glad to end my testimony and answer any questions if I'm able to do so. [LB128]

SENATOR JOHNSON: Any questions of Mr. Hansen? Seeing none, thank you for your testimony. [LB128]

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JOHN HANSEN: Thank you. I would also point out that I spent several years on the prairie dog task force committee with the ag groups and the wildlife folks and have spent several years studying this issue. And based on that study and involvement, I wish this committee well. [LB128]

SENATOR JOHNSON: Thank you. Next testifier. Thank you, sir. If you'd state your name and spell it, please. [LB128]

JAREL VINDUSKA: (Exhibit 1) Hi. Members of...Senator Johnson and members of the Ag Committee, my name is Jarel, spelled J-a-r-e-l, Vinduska, V-i-n-d-u-s-k-a. I've got a handout for each of you that I put together that highlights a few of the existing statutes that were in existence prior to the Black-Tailed Prairie Dog Management Act that show that it's in conflict, as Senator Chambers alluded to. And I also sent each of you an e-mail last night, an NRCS bulletin, that I think does a good job of explaining the life cycle of prairie dogs and their ecological significance. And for those of you who might not be that familiar with them, it might help you in your decision on LB128. First off, I want to...because I know there's going to be people that are going to be against this bill, but I want to tell you that my family farms and I have lots of friends that farm also and so we're coming...first off, I should say I'm representing, besides myself, the Nebraska Wildlife Federation, our board, and we're in favor of this bill and proponent of it because obviously we're people that like wildlife. But that's what I was getting into. My family farms and we have lots of friends and relatives that farm. And so I'm pretty cognizant of the fact that sometimes wildlife can be a challenge sometimes to have productive agriculture. So I'm not coming at it from a feeling like wildlife doesn't need to be managed. But the fact of the matter is, all wildlife, virtually all wildlife that can become a problem for farming and ranching we have the ability to control them right now. Almost all the predators right on down to possums, skunks, including prairie dogs and even game animals we have that capability to even if we have a deer problem to seek depredation permits. But all of that control is done on the property that's recognizing the offense. We've never until this law, we never...well, I shouldn't say never, but where the problem comes with this is, this transgresses into now we have the ability to control a native wildlife species on our neighbor's land. That's where I think we've went over the line. So basically I think the decision you have to make is the whole issue boils down to who owns wildlife in Nebraska and where should the liability of control go? Should it be on the person that has the wildlife or should that be expanded into a neighboring property? I can give you a little example just that happened this fall. A friend and neighbor is a chemical applicator on farms, sprays neighboring farms. And I got to talking to him and he got himself in trouble with the Department of Ag because...and we're on farms in Sarpy County and there's acreages showing up. And he was spraying next to an acreage and the person had a garden right up against the fence line and his Roundup drifted and killed the person's garden. Well, they complained to the Department of Agriculture and he says, I got to talk to the senators. I got to make a law

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that anybody that lives in farm country has to have a buffer back from the fence line so that we can keep farming up to the fence line like we always have farmed. And I told him, I said, well, Merlin (phonetic), I said I can appreciate your frustration. But don't you think that guy would say, since it's your chemical that crossed the fence line, you're supposed to have the buffer? You're supposed to stay back far enough where your drift doesn't get his things? Well, that's what we have happening right here only in reverse. We have this landowner saying I want this guy to produce the buffer for the native species that we're not supposed to be...or goal isn't supposed to be to eradicate them. You know, last time when this hearing came up in 2012, and like Senator Chambers said, it was alluded to that this is no similar than our noxious weed bill. Well, it is no different. Well, it is different because like Senator Chambers said, our goal with the noxious weed is to eradicate it and whereas this, we're not supposed to be eradicating native species. In fact, it's in direct conflict with 37-722 where it says, "It shall be unlawful for anyone to take any wildlife upon any private lands without permission of the owner." Well, the only way that the Black-Tailed Prairie Dog Management Act could be affect...could be excluded if you added a sentence after that says "except prairie dogs" which really wouldn't make any sense because we're spending millions of dollars in this country to try to save threatened and endangered species, many of which or several of which can only live in a prairie dog town. So here we are spending taxpayers' money to save these animals but then we're turning around and making a law where not only on the land of the guy that has the offense with the prairie dogs on it but on other land we have to. And there's no way, since prairie dogs can go great distances, no way you can determine it. It says in the Sheridan County management that the county put together, it says there has to be a negotiation between the offending landowner and the guy that's being offended. And, well, what is that negotiation? If you kill back a quarter mile from the fence line and all of a sudden these guys see heavily grazed property over here, which they're seeking out, you know, prairie dogs love nothing but to have overgrazed land where the grass is short. They see a prime spot over here, these guys a quarter mile away, move over here and they drill a hole here, cut a hole...dig a hole here. Now this guy is still offended. Okay, now I got to move back another quarter mile. It just doesn't make sense. The boundary line is where the control has to occur and that's the way it is with wild animals. I mean, we've got...years ago in this country we determined that wildlife was the property of all people of the state. And so as such, that liability shouldn't be shifted to any particular landowner. It's different with a wild animal than it is with a domestic animal. If your cow gets in your neighbor's cornfield or soybean field or gets on the highway and somebody gets hurt, you're liable for it because that's a domestic animal and you were supposed to control that animal. But any wild animals on your property, if a deer jumps off your property and somebody hits it on the road, you can't be held liable or he goes and eats the guy's corn. No, that control is done on the property that's perceived as the offense. And so... [LB128]

SENATOR JOHNSON: Can you start to wrap up? [LB128]

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JAREL VINDUSKA: That's all I have to say. [LB128]

SENATOR JOHNSON: Oh. I didn't mean to cut you off. I thought maybe you were getting close. [LB128]

JAREL VINDUSKA: Well, basically, like I say, in my mind and a lot of us folks that believe that wild animals are the property of everybody and have to be managed by everybody, we consider it an embarrassment to the state of Nebraska that such a law like this is on the books. And we hope that you'll support Senator Chambers and advance this bill and do what you...okay. [LB128]

SENATOR JOHNSON: Thank you. Any questions? Senator Bloomfield. [LB128]

SENATOR BLOOMFIELD: Thank you, Chair. Mr. Vinduska, and I will probably bring this back to Senator Chambers when he closes, you quoted: It shall be unlawful for anyone to take any wildlife upon any private lands without permission of the owner. Are we in fact taking the animal? We're killing the animal. This pertains, my understanding, to furbearing animals and whatnot that you can't trap them or anything else. But are we, in fact, taking the animal or just killing it? We're not removing it from the property. [LB128]

JAREL VINDUSKA: 37-242 defines take. It says, "Take means to harass, wound, hunt, trap, fish, harvest fur, or attempt to harass, wound, hunt, trap, fish, or harvest fur." And then if you don't see anything in there about killing, if you look up the definition of hunt, definition of hunt includes killing. So, in fact, we are taking. [LB128]

SENATOR BLOOMFIELD: Okay, thank you. [LB128]

SENATOR JOHNSON: Any other questions? I have one question and before you leave, Mr. Vinduska, you need to fill out a green sheet so we have your full information. [LB128]

JAREL VINDUSKA: Oh, yeah, okay, I did, yeah. [LB128]

SENATOR JOHNSON: Maybe we misplaced it. I don't know. [LB128]

JAREL VINDUSKA: No, I just forgot to set it up there. It's on my seat. [LB128]

SENATOR JOHNSON: Oh, okay, thank you. I get your main concern and the main concern of the bill is infringement on private property. Secondary is protecting the animal. You commented that in Sheridan County maybe need...I'll call it just a permission slip. Does that take care of any part of that or enough of that if they had to have a statement from property owners involved, enabling property owner giving

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permission to come on his property, his or her property? Does that help or does that help enough? [LB128]

JAREL VINDUSKA: Well, it would help a lot, sure, yeah, because now all of a sudden the landowner that had the prairie dogs would be a partner in controlling them. [LB128]

SENATOR JOHNSON: Okay. That's all I have. Any other questions? If not, thank you. [LB128]

JAREL VINDUSKA: Thank you. [LB128]

SENATOR JOHNSON: Yeah, if you can get your slip up here, that would be great. [LB128]

JAREL VINDUSKA: Thanks. [LB128]

SENATOR JOHNSON: Next person to testify as a proponent, in support of the bill. [LB128]

ANGELIKA T. L. BYORTH: My name is Angelika T. L. Byorth, A-n-g-e-l-i-k-a T. L. Byorth, B-y-o-r-t-h. I'd like to talk about three different things real quick about this bill. Basically, I am tired of having to come here and talk about the same thing over and over because this bill should have been settled last year but here goes. I'm testifying on behalf of myself as an American person who has been in the real estate business for 30 years. I'm a broker. And from that standpoint, I consider property rights very important. And the bill is against infringing on that kind of right for people who have prairie dogs on their land. The other point I'd like to make, before I became an American in 1978, I grew up in Germany. Initially until age 5 I grew up in the former east communist totalitarian state. And when I was 5, my father had the courage to leave his house and his job and everything he owned to bring us kids to the western part of the country and we applied for political reasons to become citizens of West Germany and be in a free country. And in East Germany, this situation in Nebraska reminds me of East Germany before I came to West Germany. We had the police come without any legal authorization into my aunt's house on a Sunday afternoon to check on which television channel we were watching because it was illegal to watch western German television. They didn't want us to see how much better the country was as far as economy and life quality. And my aunt and uncle were called outside and they came back white as a sheet. They were threatened with deportation to a work camp in Siberia if they were ever caught again watching west German television. I feel...I felt when I came to West Germany and then first as an exchange student and then later as an immigrant to become an American that I was going to a free country and going to Nebraska as a free state. And now I am finding out there is a situation that's much like the one in East Germany. And I'm very perturbed about that because it just doesn't make sense. And the last point I'd like to

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make, when I first came here as a young person, my husband, who has been deceased, he showed me around in the Sandhills and it was breathtaking. The beauty out there is just out of this world. And I had never seen anything like it--sunflowers blooming, the Sandhills landscape. It's like a golf course made in heaven and then prairie dog towns and the way these little guys stand up and whistle to each other. They're cute. And coming back and, in fact, I've traveled the Sandhills every year for 40 years because I've turned into a person who pushed the law called the turtle bill that now puts all 62 species of reptiles and amphibians under protection in Nebraska. And by doing that every summer, I have seen plenty of prairie dog towns and was always really charmed by these little critters. And I think it's unfortunate that there are people in the state who are bound and determined to want to exterminate everything that is beautiful (inaudible). That's all I have to say. Thank you. [LB128]

SENATOR JOHNSON: Thank you. Just a moment, ma'am. Does anybody have any questions? [LB128]

ANGELIKA T. L. BYORTH: Oh, questions. [LB128]

SENATOR JOHNSON: I guess not. Thank you. Senator Burke Harr has now finished his testimony in another hearing and has joined us. Next testifier in support. How many more testifiers do we have in support? I think we're going to be all right. Just kind of using the guideline of three minutes in one hour, I think we'll be okay. So thank you. You may begin. [LB128]

KENNETH WINSTON: Good afternoon, Senator. [LB128]

SENATOR JOHNSON: You know the routine. [LB128]

KENNETH WINSTON: (Exhibit 2) Yes. Good afternoon, Senator Johnson and members of the Agriculture Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Chapter of the Sierra Club and providing testimony in support of LB128. There's a number of reasons why we support LB128. First of all, we have serious questions about whether the law is needed because there's many studies that have concluded that prairie dogs provide many benefits for an ecosystem because they're one of the...they're a keystone species and they...when prairie dogs are found, there are many other species that also thrive in the area. And then there's many studies that also conclude that they help maintain grasslands, that they provide benefits by digging up the soil and the activities that they do there. In addition, one of the stories that are often used about why to control prairie dogs or, in fact, eradicate them is the story that animals...that livestock will break their legs in their holes. And I have a quote from a researcher from Colorado State University who states as follows: It would be almost impossible for a cow to break its leg in a prairie dog hole he says. I studied these animals' behavior and they are extremely adept at placing their feet. In my 50 years

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around cattle and horses, I don't personally know of a single incident where a horse or a cow has been injured in a prairie dog hole. Then the next thing I wanted to talk about in following up on the discussion about property rights is property rights and the constitutionality of the current law. Section 23-3808 allows entry onto private land without permission and states that anyone authorized under the act would not be subject to any action for trespass or damages, including damages for destruction of growing crops. Well, there's two provisions of the Nebraska Constitution that there appears to be in conflict with. First of all, Article I, Section 3 states, "No person shall be deprived of life, liberty, or property, without due process of law, nor be denied equal protection of the laws." And then Section 1...Article I, Section 21 states, "The property of no person shall be taken or damaged for public use without just compensation therefor." Since this law appears to deny both due process and says that a person's private property will be taken without compensation, that appears to be in direct conflict with the two constitutional provisions that I cited. In addition, there's a substantial body of case law on the subject, and I won't go into all of that because we don't have time. But I would be glad to provide cites to some of those cases if members of the committee are interested that talk about the right of people to conduct lawful activities on their own premises. And I guess the other thing that I wanted to mention is that in 2012 when the bill was introduced that was passed, I provided testimony that that legislation was unconstitutional. And I guess just as a matter of reference, in 2012 I also testified that LB1161 was unconstitutional and today every judge that has ruled on that issue has found that legislation to be unconstitutional. So I'm not making this suggestion lightly. I'd be glad to answer questions. [LB128]

SENATOR JOHNSON: Any questions? Senator Bloomfield. [LB128]

SENATOR BLOOMFIELD: Thank you again, Chair. Do you have any issues with the property owner eradicating the prairie dog colony? [LB128]

KENNETH WINSTON: The property owner has the right to do what they want on their own property. [LB128]

SENATOR BLOOMFIELD: So if we get the idea of entering on to someone else's property, you're not going to be back here trying to further protect the black-tailed prairie dog by... [LB128]

KENNETH WINSTON: Well, let me...I guess it kind of depends upon how it's structured. But it's always been the law that a person can do what they want on their own property unless it's dealing with a threatened or endangered species. And until they're considered threatened or endangered, a person could deal with them however they wish. [LB128]

SENATOR BLOOMFIELD: Okay. I won't go any further with that line of questioning right

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now. Thank you. [LB128]

SENATOR JOHNSON: Senator Riepe. [LB128]

SENATOR RIEPE: Thank you, Mr. Chairman. I'm looking for some education here and that is, is it your opinion that the prairie dogs are the property of the landowner on which property they're located? [LB128]

KENNETH WINSTON: No. I wouldn't take that position. They're a wild animal. I wouldn't take the position that they were the property of that person. [LB128]

SENATOR RIEPE: Property of all of the people. [LB128]

KENNETH WINSTON: Yeah. [LB128]

SENATOR RIEPE: Is that your position? [LB128]

KENNETH WINSTON: Right. Well, yeah, that wildlife...it's hard to ascribe ownership to wildlife so I would say if there is any ownership it would be in all the people. But frankly, I don't think they belong to anyone. [LB128]

SENATOR RIEPE: Okay. At our last hearing we talked about branding so there's no one branding these little prairie dogs, right? [LB128]

KENNETH WINSTON: Not that I'm aware of. They would probably be hard to catch. [LB128]

SENATOR RIEPE: Okay. Thank you, Chairman. [LB128]

SENATOR JOHNSON: Senator Bloomfield again. [LB128]

SENATOR BLOOMFIELD: Contrary to what I said, I am going to follow that line of questioning just a little further. [LB128]

KENNETH WINSTON: Sure. [LB128]

SENATOR BLOOMFIELD: Deer are a constant problem... [LB128]

KENNETH WINSTON: Sure. [LB128]

SENATOR BLOOMFIELD: ...if you happen to be trying to grow corn. You can't just go in and indiscriminately shoot any deer that enters into your cornfield. If you could, I could find you deer stacked up four foot high in northeast Nebraska. [LB128]

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KENNETH WINSTON: Yeah, I agree with that point. But I don't think...I think deer, because of the fact that they're a species that's subject to a deer season and what have you, I think that's the issue there that you can't. But there's never been like a prairie dog season, for example. And... [LB128]

SENATOR BLOOMFIELD: Perhaps there should be because, again, we can't...you can't protect your...(laughter). Perhaps it should be 365 days a year. I was just questioning your statement that we can protect our property from any animal that's not declared endangered and we can't. And that's are we going to go further in trying to protect the prairie dog was my question. [LB128]

KENNETH WINSTON: Sure. And I will yield to you on that. There definitely are some things where we can't necessarily protect themselves so I would agree with that statement. [LB128]

SENATOR BLOOMFIELD: Thank you. [LB128]

SENATOR JOHNSON: Senator Schilz. [LB128]

SENATOR SCHILZ: Thank you, Senator Johnson. Ken, thanks for coming in today. [LB128]

KENNETH WINSTON: Sure. [LB128]

SENATOR SCHILZ: In your letter and in your testimony you talked about the due process of law. Can you explain that? Because as I understand and maybe this doesn't go far enough, but as I understand they do have a process in which they're going through. Can you explain to me what you see as due process and then why this law that's in place right now doesn't fit that? [LB128]

KENNETH WINSTON: Well, and I recognize this may be subject to interpretation, but...and I understand there is a process where they go to the county board if the county has established a process to create a prairie dog management plan. But you are not saying that the person...basically you're going in and you're taking this person's property. You haven't...you're going in and you're saying that you can go on their property, you can destroy their growing crops, and there's no ability for them to recover for that. And to me, that violates a due process of being able to be compensated. I would think that there would be a requirement for some sort of compensation. This is basically saying once we've decided this then you have no right to due process in terms of...I guess in terms of due process, I'm thinking in terms of a process where will I be able to get my damages, to present my issue about damages to a court of law? [LB128]

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SENATOR SCHILZ: Okay. Thank you. [LB128]

SENATOR JOHNSON: Any other questions? I do have a couple. [LB128]

KENNETH WINSTON: Sure. [LB128]

SENATOR JOHNSON: I don't want to get into a discussion with my son-in-law anymore. I don't want to get into a discussion with you, but he's told me that he lost a bull, broke its back leg, in a prairie dog hole. Again, I'm not going to argue with my son-in-law. [LB128]

KENNETH WINSTON: Sure. [LB128]

SENATOR JOHNSON: That's a side point. There's evidently five different species of prairie dogs. I read that on-line, a federation of some kind. And why is it the black-tailed prairie dog pointed out here? Is that in Nebraska the only one? I mean, I've seen a lot of prairie dogs and I've never paid that much attention to what color the tail is. [LB128]

KENNETH WINSTON: I'm not going to pretend to have... [LB128]

SENATOR JOHNSON: And why is this the black-tailed? I mean, you were maybe here before when this was introduced so... [LB128]

KENNETH WINSTON: Right. I'm not going to pretend to have expertise on that, on a prairie dog species so. [LB128]

SENATOR JOHNSON: Okay, I was just curious. If we rename this the white prairie dog tail...white tail (laugh)... [LB128]

KENNETH WINSTON: Yeah, I don't know what the variety of prairie dogs are and why... [LB128]

SENATOR JOHNSON: ...we'd be right back again. [LB128]

KENNETH WINSTON: I presume that it's because of the fact they're the predominant species in the state of Nebraska. But... [LB128]

SENATOR JOHNSON: That sounds...I'll accept that for now. Thank you. Any other questions? [LB128]

KENNETH WINSTON: And I also would...because I don't know your son-in-law's experience, I'm also not going to attempt to argue with him. I was just citing a study that I read this morning so. [LB128]

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SENATOR JOHNSON: Okay, understand. Thank you. [LB128]

KENNETH WINSTON: You bet. Thank you. [LB128]

SENATOR JOHNSON: There's no other questions, again, thank you. [LB128]

KENNETH WINSTON: Thank you, Senator. [LB128]

SENATOR JOHNSON: Next testifier in support of the bill, proponents. Welcome. [LB128]

DAVE HUTCHINSON: (Exhibits 3 and 4) I'm Dave Hutchinson, H-u-t-c-h-i-n-s-o-n. I ranch in the Sandhills at Rose, Nebraska. We've been certified organic for 25 years. I support Ernie Chambers' bill, Senator Chambers. Being certified organic, this would be kind of devastating if somebody came in with chemicals and would kill the prairie dogs. We'd lose our certification and would not be able to be certified organic. And I believe in property rights and I support Senator Chambers' bill, LB128. Thank you. [LB128]

SENATOR JOHNSON: Any questions? Seeing none, thank you. [LB128]

ROBERT BERNT: (Exhibits 5, 6, 7) My name is Robert Bernt from Spalding, Nebraska. I live in Wheeler County. That's R-o-b-e-r-t B-e-r-n-t. And I'm a member of Nebraska Farmers Union, the board of directors of Nebraska Sustainable Ag Society, and I do have a prairie dog town on my farm. I have...I'm the fifth generation and I believe it's been there as long as we've owned the land. I've got two other members of the Nebraska Save the Sandhills organization that has sent letters to you and their concerns as to why they do not or do approve Senator Chambers' bill. Mine is in one of the letters there and I'll read that briefly. Fifth generation Wheeler County organic farmer and rancher. Myself and my wife and our 12 children own and operate Clear Creek Organic Farms. We have had a prairie dog town on our ranch for as long as I can remember. As an organic rancher and farmer, if poison was applied on our land, we would lose our organic certification for a minimum of three years. Along with the prairie dogs, their town becomes home to the booming grouse, the prairie chicken every spring, along with the burrowing owl. We generate income from bird watchers and tourists that wish to see and witness this beautiful dance and variety of species that live in the environment with the prairie dog town. Control of the prairie dog town from...control of the prairie dog from harming my neighbor was done by providing a perch in the boundary line, and this has kept the prairie dog from spreading to his property for the last ten years. This is much more effective and humane. The poisoned barley or milo that is commonly used is frequently scratched back onto the surface, allowing the burrowing owls, the prairie chicken, the striped gophers, the kangaroo rats, the box turtle, the jack rabbits, and the list goes on and on, all of which will consume this

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poison and die. And I've seen this happen. And I am concerned because I don't want to lose my organic certificate. If that happens, I've got three years of not being able to generate the income that I have from our processing facility where we process cheese on the farm from our dairy cows that graze on this pasture. My son wanted to go to college and he actually generated income from having bird watchers come to the farm, set up a blind, and watch these unique animals in this environment that didn't exist anywhere else. By killing off the prairie dogs, you're going to eliminate all of those under functioning parts of that environment. And this will no longer be a source of income for him, which put him through school. And I hope we can do that with other young children to help thrive the rural community. The idea of the perch was actually my neighbor's idea. He had heard about it. And they were starting to move onto his property. He basically put up a pole with a platform, cost him about \$8, and there his dogs were on an L shape. My property lays on the east side and on the south side. And there hasn't been a dog on his place since. Very simple, very effective. It actually controls the number of dogs that we have. So I don't want them to take over my whole 700 acres. So it's very effective to do. To poison is very harmful. I have seen the animals mentioned here laying on their backs and on their side scratching, trying to survive and can't. The jack rabbit, we almost eradicated them. I don't want to see any more of them (inaudible). The burrowing owl, it's put a son through college. We need to have these things out there and available for this. I don't want to bring harm onto my neighbors, don't want to do that. We need to work together as neighbors should and take care of things the way they need to be done without giving up our landowner rights. Thank you. [LB128]

SENATOR JOHNSON: Questions? Senator Bloomfield and then Senator. [LB128]

SENATOR BLOOMFIELD: Would you explain this perch a little more? [LB128]

SENATOR RIEPE: That's what I want to know. [LB128]

ROBERT BERNT: It's just simply a post that sticks approximately 12 feet in the air and it draws eagles and hawks. And the minute they draw, the dogs automatically move because they can sense that. But they do eradicate a lot of them because that's why they're there. They perch, they see, they come down and grab, and they go. It's very effective. [LB128]

SENATOR BLOOMFIELD: Okay. Thank you. [LB128]

SENATOR RIEPE: Can I follow up? [LB128]

SENATOR JOHNSON: Yeah, follow up. You're next. [LB128]

SENATOR RIEPE: It's a simple perch. It's not with feed on it or it's just a simple like in a way a scarecrow in reverse. [LB128]

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ROBERT BERNT: What happened here, my neighbor had an old hay cage where he used to stack hay in, if you're familiar with those, and he would put it around his irrigation well to protect the cows from getting around the wall to do damage. So during the summer when he was farming, he drug it over into the corner of the pivot up against my property and we noticed these hawks and eagles setting on it. And now we noticed the prairie dogs backing away. So we actually designed a perch. You know, it's a very effective way. We could go through the Extension Office or the university and educate the ranchers--this is a way we can control them without the cost and the harm to the other species that's present. [LB128]

SENATOR RIEPE: If this is so successful, why hasn't it been used by others that are having this problem? [LB128]

ROBERT BERNT: Well, you know, we got 1,000 people in our county. And I don't go to the coffee shop and sit and talk. But I'm here. I'm here. [LB128]

SENATOR RIEPE: Well, maybe you should. [LB128]

ROBERT BERNT: You know, and I think this is the place to do it. I think we can get the word out there. Like I just said, I think the Extension Office we could educate the people of using this method. [LB128]

SENATOR RIEPE: Okay. Thank you. [LB128]

SENATOR JOHNSON: Senator Schilz. [LB128]

SENATOR SCHILZ: Thank you, Senator Johnson. Sir, thanks for coming in today and what you point out here is exactly what I would hope some of the tools would be that the county that introduced this would have in mind when we talk about managing and control because you're talking about...just like if you take small square bales and sit them around so that the prairie dogs can't see. Well, they don't go where they can't see. I mean you know that too. So as I look at this, what you're telling everyone--and I think it's exactly a point that needs to be made--is that you don't necessarily have to poison and kill prairie dogs to control and manage them. And so I just wonder if under a law that's in place now where you have the opportunity to show what you're doing to control and manage those prairie dogs, wouldn't you have an opportunity under the bill to be able to say, hey, this is what I'm doing to control them? It's not a problem. We don't have to poison them. And if you could show that you can control them, shouldn't you be able to do that? [LB128]

ROBERT BERNT: Well, I'm hearing your question correctly, I think that anytime that you're leaving, like as has been testified earlier, if one neighbor feels offended, maybe

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for whatever reasons it might be, he can now become officially complaining about this dog town. [LB128]

SENATOR SCHILZ: But he can do...excuse my interrupting you, but he can do that anyway through the courts if he really wanted to. He could sue you for about anything, couldn't he? [LB128]

ROBERT BERNT: And that is when that landowner would have the right to be able to explain what he has done to help prevent his dogs or these dogs from damaging his neighbor. [LB128]

SENATOR SCHILZ: Right. [LB128]

ROBERT BERNT: But if this law the way it reads today, my understanding he has no right to that. That guy could come in on my property, poison my dogs, kick me out of organic certificate program for three years, costing me in the neighborhood of \$400,000 worth of income, of not including agritourism income, this has already happened in northwest of Burwell, Nebraska, Calamus Outfitters, one of the most pronounced agritourism organizations in the state of Nebraska, actually had a prairie dog town of the neighbors that they would do bus routes to and visually watch the booming grouse on there because the grouse will go there because there's no grass and they do their dance. And they would go out, park their bus. These people would spend thousands of dollars from now to basically mid April to watch this activity. Because of this bill, he told me personally, that this neighbor got scared and actually poisoned all the dogs. There's no longer that source of income for Calamus Outfitters on... [LB128]

SENATOR SCHILZ: I'm sorry. What county was this in? [LB128]

ROBERT BERNT: It would be Loup County, Garfield County. [LB128]

SENATOR SCHILZ: This law only comes into place if a county puts it in place. And Loup County isn't one that's put it in place, has it? [LB128]

ROBERT BERNT: Well, he told me his neighbor got scared when he seen what the bill read and disposed of them, willingly disposed of them. And a lot of us take that into consideration out there. When we're sitting out there, and you don't see me in here very often, when we're sitting out there reading what's going on, we become scared. You know, we don't want some of the activities that's coming down the pipe to harm us. So we want to get out there and take care of it and head off this and make sure it's done. You know, and this is what happened in this case. [LB128]

SENATOR SCHILZ: Okay. You know, you're exactly right when you talk about recreational activities. We need to help bolster that and do some things there. It's hugely

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important for rural Nebraska for situations (inaudible). And it's one way to preserve these types of animals because you can show folks what really happens. So I don't disagree with what you're saying and your ideas on how to manage them without killing them or whatever are things that need to get out there, too, because we do the same thing on our land out there. We've got a...we've actually got a school section where we've got about 250 acres of it is a prairie dog town. And we control them so they don't get on to the neighbor's ground. But we don't want to eradicate them. They're part of what we have so I don't disagree with you. [LB128]

ROBERT BERNT: My dog town has been there, like I say, as long as I can remember. And I've never ever witnessed any harm to any livestock. I was stupid. I rode a horse across that thing faster than I should have, and I should have got hurt. I've never seen it happen. I do know that when a prairie dog abandons its hole a larger burrowing animal will come in and then the hole becomes big enough, whether it's a badger or whatever, that will allow the hoof of a bull to go down a hole and be broke. I do know that will happen. But that's another species that moves in and takes over the existing hole. [LB128]

SENATOR SCHILZ: Very rare. Thank you. [LB128]

SENATOR JOHNSON: Other questions? None. Thank you, sir, for coming in. [LB128]

ROBERT BERNT: Thank you. [LB128]

SENATOR JOHNSON: (Exhibits 8 and 9) I see maybe it's the white sheet going around. If you are here and want your position known and are not testifying, if you'll sign the white sheet going around or in the entryway and you can mark whether you're in support or opposition to the bill. Other testifiers in support of LB128. Okay. We have letters of support from the Humane Society in support of LB128 and also an individual, Rachel Simpson, a letter of support, LB128. With that, we will ask those in opposition to LB128. We will begin that portion of our hearing. Welcome, Mr. Dix. [LB128]

LARRY DIX: (Exhibit 10) Good afternoon, Senator Johnson, members of the Agriculture Committee. For the record, my name is Larry Dix, D-i-x. I'm executive director of the Nebraska Association of County Officials. What I'm passing around, some of you may have seen, you may not have, but I'm really here to put some information on the record. To date as far as our association is aware of, there has been one county that has created or has enacted the Prairie Dog Management Act and that is Sheridan County. And I want to share with you some of the experience and what they went through in getting this act ready and available. And I think they took the proper steps, and I'm going to tell you a little about what went on. In the resolution, you'll see that the county board adopted this. Of course, they held public hearings to gather the input of the citizens in their county. They have went through the steps and one of the things that

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they implemented which you do not see in the bill, in Sections...all but 23-3801, what they did was they implemented and asked the citizens to serve on a committee, volunteering to serve on that committee in their county. And they set up that committee of five people that could volunteer to serve on the committee. Folks came forward. Sheridan County looks at this as it is a landowner-driven process. And what you will see in that resolution is that it is landowner driven. So once they did that, one of the key components that they went through is said we want to make sure this is complaint driven only. We as a county board are not interested going out countywide and trying to control the population. We want to make sure it is a complaint-driven system. One of the things that they took into consideration and I think is wise for any of us as Nebraskans is to make sure we're good neighbors. I think the process that Sheridan County went through, they set up the committee, what ended up happening was a group of the landowners in the southern part of Sheridan County came together, had a meeting, had a discussion. Within that discussion, there were people there that had prairie dogs on their property. There were people there that did not want prairie dogs on their property, encroaching on their property. In the end, they really came to an agreement as to how this should be handled. Now one of the things that I noted today, this plan is in place in one county. We didn't have anyone here from Sheridan County saying this is terrible. This is not working for our county. We didn't hear that. And one of the things that I think the reason for that is, is because it's a very open process. It allowed the citizens to participate in it. The gentleman from Wheeler County, that's the first I ever heard of it. I would tell you I will make note of that to make sure that Sheridan County is aware of that and possibly takes a look at it. What I will tell you is since Sheridan County put this in place, since they put the management act in place, they have the meeting of the landowners. That's been over a year ago. Since that year period of time, there's not been one complaint. So it is working. It can work. I think Sheridan County has proved that. They've given us evidence. They've also given us a very, very nice road map on how to create the resolution, what should be in it, and that we should have at all stakes should have our taxpayers' input into that process. So that's why I'm here today in opposition to it. I know Sheridan County wishes that this bill will remain in statutes. For those purposes, they believe it is working in their county. And with that, I'll try to answer any questions anyone has. [LB128]

SENATOR JOHNSON: Senator Harr. [LB128]

SENATOR HARR: Mr. Chair, thank you. Mr. Dix, thank you for testifying negative in another committee. I appreciate it. Would you agree that this animal is indigenous to the area? [LB128]

LARRY DIX: I believe that to be correct. [LB128]

SENATOR HARR: Okay. And the statute 23-3801-3810, are there statutes similar to what's outlined in the Prairie Dog Management Act? [LB128]

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LARRY DIX: Well, they're probably not specifically to the prairie dogs, but there are statutes that we have that do give deference to county boards to adopt, set up some rules, some guidelines and things like that. [LB128]

SENATOR HARR: And that would be the noxious weed. [LB128]

LARRY DIX: That would be the noxious weed. That would be ordinance authority to take care of I think peddlers, panhandles, things of that nature. And so that would go across the border state to state. [LB128]

SENATOR HARR: Okay. And you can see that noxious weeds are generally weeds that are not indigenous to an area. [LB128]

LARRY DIX: Yeah. We're going to have noxious weeds in all 93 counties of some type. We may not have the same noxious weed in all 93 counties although we're probably pretty close. [LB128]

SENATOR HARR: Probably the most common is the Russian thistle. [LB128]

LARRY DIX: I would assume. [LB128]

SENATOR HARR: Okay. And those are not indigenous to this area. [LB128]

LARRY DIX: Right. [LB128]

SENATOR HARR: Okay. So we're basically treating something indigenous to the area as though it's noxious. Is that correct? [LB128]

LARRY DIX: I would say that's probably a true statement. [LB128]

SENATOR HARR: Okay. I have no further questions. Thank you. [LB128]

SENATOR JOHNSON: Any other questions? Senator Schilz. [LB128]

SENATOR SCHILZ: Thank you, Senator Johnson. Mr. Dix, thank you for being here today. I'm going to ask the same question as Mr. Winston about the due process and if...and I know this is just kind of a thumbnail sketch, but is it...am I understanding this correctly that if the complaint is received and it's deemed to be a valid complaint, and there's the first question, is deemed to be a valid complaint by the board, does the landowner have recourse to say or to prove that...it sounded does he have to take control measures first and then prove that his controls worked? The question is, do they have a right to say, hey, no, this isn't my problem, it shouldn't be my problem? [LB128]

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LARRY DIX: And I'm not an authority on this Sheridan County, but when I did speak to the staff person in Sheridan County whose office fields these requests, there is a process that they notify them 48 hours in advance if a complaint has come forward. That complaint goes before the committee--and that's a committee of landowners--before it goes then to the county board. Once it goes to the county board, of course, then that has to be according to the open meetings act, that has to be advertised and there is a public hearing to determine really what the next step should be. So I think Sheridan County has taken a very conservative approach and allowed that due process for the citizen on either side of the issue to come forward. [LB128]

SENATOR SCHILZ: So now my next question is, and this is kind of just playing around with it a little bit but not really. So you have two landowners that are there. One landowner has a prairie dog town on his land. When can this guy complain? Is it when prairie dogs have established themselves on his land? Or is it when he sees one on his land? Or is it...when is the...what's the bright line there? Where's that at? [LB128]

LARRY DIX: I really wouldn't know where that line is. I would imagine like a lot of things people can make complaints based on assumptions. This may be assumption. They may have proof. I think the key thing to that is...and again, I'll go back to the gentleman from Wheeler County. I got to tell you these small counties like that I bet he knows those county board members pretty uniquely. He knows them very, very well. They are his local elected official. They are very close to him. And so I think he gives the opportunity, as we see in all counties, for our taxpayers to communicate with those county board members. [LB128]

SENATOR SCHILZ: So if it were me and I was looking at this from the side of the prairie dogs that come from my land and set up a colony on the other guy's land, if the guy that...my neighbor called against me and made a complaint, wouldn't I then pick up the phone and make the same complaint back to him? [LB128]

LARRY DIX: I see where you're going. I think it would. It's almost like once we get into property taxes, as soon as somebody goes to the county board because there's a law that you can protest somebody else's taxes, I think as soon as you would protest one the other one would have the counterprotest. [LB128]

SENATOR SCHILZ: And I'm not trying to put you in a spot. [LB128]

LARRY DIX: No, no, no. [LB128]

SENATOR SCHILZ: I'm just thinking about things what I would do (laugh). [LB128]

LARRY DIX: Yeah. But I think that fundamentally comes back to Nebraskans. We're

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typically commonsense people. And what I think Sheridan County has done here is taken a tremendous amount of common sense and put it into play, invited the citizens to be part of the role, part of the process, which we would encourage every step of the way. And I think you've seen that after a year's period of time there have been no more complaints. So the county board has done nothing in that year's period of time. They've taken no action. So I think it's good the way it's working. [LB128]

SENATOR SCHILZ: Sure. And I understand and I'll make sure to get a hold of the Sheridan County folks to make sure I know what I'm talking about. So thank you very much. [LB128]

SENATOR JOHNSON: Senator Riepe. [LB128]

SENATOR RIEPE: Senator Johnson, thank you. My question is this. Given the fact that people want to do the right thing and they want to be good neighbors, what has the county Extension Office done to give guidelines to the various individuals who have prairie life colonies to help them control them, to...we talked about hay bales, I guess I'm learning here, and perches, those kinds of hints that could help make a win-win situation out of the whole thing? [LB128]

LARRY DIX: Sure. I can't speak for sure for the Extension Offices. I know in Sheridan County they did inform me that they work very closely with Game and Parks, and the Game and Parks Commission provide them some assistance as also I believe they've looked at the University of Nebraska-Lincoln on a study that they have conducted. [LB128]

SENATOR RIEPE: But they haven't necessarily openly shared that with those who have prairie dog farms? [LB128]

LARRY DIX: I don't know. I would assume they have. I think that's fairly common knowledge that's out there when you're dealing with this. But for me to specifically state that Sheridan County has shared that, I can't make that statement. I can find out. [LB128]

SENATOR RIEPE: That's okay. Thank you. [LB128]

SENATOR JOHNSON: I have a question. Is Sheridan County the only county that's pursued this? Can you tell me maybe why or any others looked at it at all? [LB128]

LARRY DIX: Sheridan County is the only one that we're aware of. I know previously when this bill was up I believe there were some folks that testified I believe from Dawes County that were looking into it. But to my knowledge, Sheridan County is the only one that has adopted the act and went through the process to set up their plan for their

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county. [LB128]

SENATOR JOHNSON: So part of an education process. Why do all the other counties that maybe are neighboring that that have maybe the same issues but haven't taken action, what does a citizen do there in order to control what they feel is a problem? [LB128]

LARRY DIX: I would assume the citizens there, it's just a matter of complaining and who can complain the loudest. I do know this plan has been discussed at one of our Panhandle district meetings amongst the counties. I know a couple of the counties were looking at seeing if it was effective, how it ended up working. I think now that we've had a year of an indication of how it worked there are probably some other counties that may look into it now. [LB128]

SENATOR JOHNSON: Okay. Any other questions? Senator Bloomfield. [LB128]

SENATOR BLOOMFIELD: Thank you. In Sheridan County where they have the process set up, are there any instances where they actually went in and did anything? [LB128]

LARRY DIX: I believe there were. To my knowledge, I think there were. They worked with Game and Parks. Certainly the county does not have folks on staff that are qualified in this area, but I think they did work with Game and Parks to control on some of the property. But I think it was an agreement. The way I understand it, it was a joint agreement between the landowners on both sides of the issue. [LB128]

SENATOR BLOOMFIELD: So to your knowledge, there hasn't been an issue yet where one farmer said to a rancher, said don't come on my property and they said, well, we're going to anyway. [LB128]

LARRY DIX: I'm not aware of that. I did hear from the Sheridan County Board that said prior to them adopting the act they had many, many more complaints from taxpayers than since they have adopted the act. [LB128]

SENATOR BLOOMFIELD: Okay. Thank you. [LB128]

SENATOR JOHNSON: (Exhibits 11, 12, 13) Any other questions? If not, thank you, Mr. Dix. Next testifier in opposition. No other testifiers in opposition? Okay. We have the following in opposition to LB128: Scott Smathers, Nebraska Sportsmen's Foundation; Nebraska Cattlemen signed by Dave McCracken, president; and in opposition, Jack Andersen as an individual. Any testimony in a neutral position? Seeing none, Senator Chambers, you are welcome to do your closing. [LB128]

SENATOR CHAMBERS: Mr. Chairman, fellow committee members, I have a problem

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when I present a bill. There are people who want to oppose it, people who have knowledge, people who could answer the questions that were asked by this committee, but they never come. They send somebody like Mr. Dix, whom I know and I like him, but he can't answer the questions. There are questions asked that a county board member should answer. Mr. Dix doesn't live out there. He has no experience in the issues that are involved here. Nobody who is against this bill came to present concrete information to the committee members. You heard testimony from people who farm or ranch and ride animals and have animals that go through the land where prairie dog colonies exist. From what was stated, the problem of an animal stepping a foot in one of those holes arises when the colony vacates the premises and a larger burrowing animal such as a badger comes and has to enlarge the hole to get in. Then it's big enough to accommodate the hoof of any of these animals. But until that happens, he knew of no animal, cow, no livestock, or horses that he rides to step in one of those holes. In these small counties, I don't live in any. But I've, on other issues, had calls made to me about the peer pressure that occurs. And people will call me because they say they heard that if they give me good information I don't have to have or use the name of the person who told me. I said, well, if this problem is as you say it is, it's known to the people in authority. They say, yeah, but if I say anything then it will be bad for me. I'll say, well, is the sheriff going to arrest you or what? Well, the people who live in the county will see me as a troublemaker so I'm not going to say anything and I hope you'll do something about it. And if you all want to see some of the letters I get written exactly like that, you can come to my office and I'll show you. And it's not just in those counties. It happens in the city also, but especially when you have a place where everybody knows everybody because they'll know who the troublemaker is who is bringing a problem to the county. When landowners become aware that if they don't do precisely what the county board wants them to do, and I'll wager that if anybody on this committee will read that resolution and read the law about these different days and amounts of time you have to do this, that, and the other and how you must take action and then establish that the action was effective; and if not, they're going to come on your property again and make an application. But they won't put...Senator Loudon didn't want it in the statute "poison." Read that resolution. And they talk about applications in the winter or the spring, but they don't tell you that the application is talking about poison. And the poison kills other than prairie dogs. So if a landowner sees those things and they're not trained in the law, I've even had members of the Legislature tell me, I can't go into this because I don't know the law. I'm not a lawyer. And you see where if a point is reached and you haven't done all these different things and you're not sure in what order you have to do them or how to do them, you can be fined \$100 a day. And in addition to that, the county attorney will bring a charge against you and you will be taken to court, tried, and if convicted, be guilty of a Class II misdemeanor. You are convicted of a crime. How many of you all knew that this law is enforced by means of invocation of the criminal law? Neighbors don't have to do it now because the sheriff and the county attorney are involved, and we're talking about moving against a landowner who has not done anything openly wrong. I hadn't thought of what Senator Schilz mentioned--he calls on

me then I call on him. And then we've got the dispute between him and me out in the open. If property rights mean anything and there are laws and processes under the law for resolving disputes, let the law be utilized. And I'm glad others said what they did about wild animals before I said anything because I didn't want ever it appear that I influenced somebody. Wild animals, when you take property law, it's difficult to understand property interests so they start with wild animals. Who owns them? The king owns them. The land on which animals are found do not belong to the one who owns the land. That's why if you have deer on your land you can't go out there and shoot them. One of the reasons deer and elk became overly abundant is because they went through a period where they exterminated all of the mountain lions from this state. And that is a fact. The mountain lions were at the top of the predator chain. And when they were all eradicated, then the deer multiplied. They find this happening in places like Yellowstone Park and other preserves where you can witness it. And the alpha predator may be wolves instead of mountain lions. And when they're introduced, their mere presence will cause these herd animals to find someplace else to do their browsing. They don't just graze on the ground. They eat little trees and pull vegetation from the trees, and land around streams have gone barren because of all of this grazing by these herd animals and they beat down the land. The stream widens. It runs out of its bank. There's erosion and other problems occur. When they let some of the predators come back, these animals didn't do that. Some of these animals were the kind that live not in the forest and they could see the predator so they'd take off and they wouldn't congregate. These are studies. These are facts. These are things that the people who are biologists and experts with Game and Parks know very well, but they have the restraints on them. So they're not allowed to come to hearings. They're not allowed to speak. And the only reason Game and Parks is talking now about doing something about not having a hunting season on mountain lions and doing a three-year study is because they're under the pressure. And some senators may say, we want to talk to the biologists and the experts, not the director. And now the biologists are going to be able to speak. In this situation, you have nobody who is an expert who has to get involved. The county attorney, I meant the county board does not have to press into service a person who knows a badger from a prairie dog or a prairie dog from a groundhog or a groundhog from a boar hog or a wild boar, a feral pig. Just anybody, the law says they can send anybody and that person can go on that land and damage the land. Now let's say you don't have a lot of money but you have land and somebody shows you the law and interprets it for you. Are you going to say, well, I'm going to let you do this and then I'll take you to court? They say, what do I have to do? You got to kill the prairie dogs. And in some cases, that's what the people did. Then you have somebody who comes here and say the owners agreed mutually on how to handle it, but they don't tell you that the one that had the prairie dogs was pressured to such an extent and put in such fear that he poisoned all the animals on his own land. You heard one example. You may believe it; you may not. But I understand how people operate. I understand the pressure that can be brought to bear on people. And I know and have seen that pressure brought to bear. And after it's been brought, the people will not complain because they think

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there will be additional retaliation. But I'll say this and then I'll be through unless you have questions. We're talking about property rights. You all are going to be talking about property taxes. These are issues that I'm going to discuss at great length. The issue of property taxes is brought about by people with large land holdings, the means to influence and pressure the legislators. But the small fry don't even count. They don't even factor in. When they talk about income tax breaks, the people up here and not the little people because they know the little people are not organized. They can be intimidated into silence. This bill and this program is an example of it. There are prairie dogs throughout certain parts of this state. I wish some were in the city. If they are such a bane and such a problem, in fact, such a plague that they can be compared to noxious weeds, I'm not a biologist. I know the difference between a native animal and a noxious weed. These prairie dogs are not foreign, invasive species. There are other animals native to Nebraska who thrive because of the presence of prairie dogs. But to take a process aimed at ridding the state of noxious weeds and superimposing it on a situation involving animals who have none of the traits of noxious weeds and use those processes, there are problems that result. And I may see if I can find a way, maybe as a public official, maybe as a taxpayer even though I don't pay taxes out there, to obtain standing to file a lawsuit and then show that there are people who will tell you about the law who are not bluffing. But if I have to hire a lawyer myself, the law, this will be challenged. And I'll bet you if a law is filed you will see people coming forward then and saying, my property rights. I felt they were being trampled on but I couldn't hire a lawyer. I didn't have anybody who would speak for me. And that is a serious issue with all of this. Any questions you have, I'll be happy to answer. [LB128]

SENATOR JOHNSON: Senator Bloomfield. [LB128]

SENATOR BLOOMFIELD: Thank you. Senator Chambers, I'm going to go back to the first question I asked I believe the second testifier. [LB128]

SENATOR CHAMBERS: Okay. [LB128]

SENATOR BLOOMFIELD: Is there any intent anywhere in your bill to keep me from exterminating a prairie dog that is on my own property? [LB128]

SENATOR CHAMBERS: It touches nothing that an owner can do on his or her property. The only thing that my bill would do is take away this authority that the county board has to put out that resolution then send their agents on the property of people who don't give their consent and are not agreeing with it. That's as far as this bill goes. It says nothing about what the person who has prairie dogs on his or her land may do with those dogs. Now I'm not familiar enough with some of these game, nongame laws protection of endangered species, not harming the habitat of those who are to be protected such as the black-footed ferret who lives around prairie dogs and so forth. Maybe there's a way to bring in the federal government and have them take action since the ferret, the

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black-footed ferret is, I believe, on the endangered list, and they're in the process of having programs to reestablish them. So maybe my alternative is not to have to go to court but to try to bring the federal government in to make determinations because nobody will say that I dictate to the federal government. But I am going to do something. I'm trying to do it in the way that's available to a legislator. And the point I was going to make, if these animals are running rampant in the way that we've been told, why has no other county, no other county done what Sheridan County has done? [LB128]

SENATOR BLOOMFIELD: Okay. Thank you. [LB128]

SENATOR JOHNSON: Any other questions of Senator Chambers? Seeing none, thank you, Senator Chambers. [LB128]

SENATOR CHAMBERS: You can see how I was getting wound up, can't you, as far as...? But then I remembered what I had promised so I won't say more. Thank you. [LB128]

SENATOR JOHNSON: Appreciate that. I want to apologize I did not recognize Senator Larson when he came to the hearing. So with that, we will conclude the hearing on LB128. We appreciate those that attend and we will now move to LB242. Again, if you want to be recognized that you were here and did not testify but want to be included in the opposition or support, please sign the white sheet. We'll let the...I think we're about finished with our transition. We'll open up the hearing on LB242 and the senator introducing that, Senator Stinner. [LB128]

SENATOR STINNER: Thank you, Senator Johnson and members of the Agriculture Committee. For the record, my name is John Stinner, spelled J-o-h-n S-t-i-n-n-e-r. I'd first like to thank Ken Schilz for allowing me to sponsor this bill. I'd like to thank Richard Leonard and his staff for drafting the bill, and Lynn Reuter, who is a neighbor of mine in Gering, actually came to the bank on a snowy Saturday to give me additional information for this presentation. LB242 makes needed changes to the Dry Bean Act. Dry edible beans are a very important agricultural commodity not only grown in my district, but in Senator Schilz's, Hughes's, Davis's, Groene; and I did find one grower in Senator Larson's district. I just want to talk a little bit about dry edible beans just to try to give you a little bit of color behind what dry edible beans are all about and the industry that's out west. Dry edible beans thrives on a dry, semiarid climate. And if you've ever been to western Nebraska, you know that annual rainfall varies from 16 to 20 inches. I think when you're in the middle of summer and you start to drive out west you hit about Gothenburg and all of a sudden you kind of feel things start to change. Well, you're starting up into the high plains. And because of the elevation, we have a lack of humidity so that semidry, arid climate that we have in western Nebraska and beans do thrive on that. There are approximately 500 farmers involved in the production of dry edible beans and 15 different bean companies involved in the industry. Nebraska ranks

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third in commercial dry bean production and accounts for 11 percent of the U.S. dry bean crop. In 2013, Nebraska harvested 2,750,000 hundredweight of dry beans valued at \$117,700,000 on 117,000 acres. Now for you and the math majors out there, that's \$1,000 an acre. This was by far a record year, at least in my estimation. I went to Valley in 1985 and worked as a banker in this business and prepared a lot of financial statements, looked at a lot of results. And I can tell you in 1985 through the '90s we prayed for 20 bags an acre and \$20 beans, and there was a lot of times we were underperforming those numbers. But I will tell you this: that through research at the University of Nebraska about drought conditions, the development in breeding of dry edible beans these numbers have come up. And I can demonstrate that to you. But about five, six years ago I did a computation on, and have used that computation, it's about \$250 to \$300 to grow dry edible beans. So you can see the margin is fairly large when you hit that \$1,000 an acre. At 20 bags, \$20 is \$400. Probably that production cost has crept up to that \$350. So don't get carried away with the analysis that this is an extremely profitable crop. But it certainly is a good alternative crop. It's used in the rotation a lot in my district and certainly Ken Schilz's district and certainly Davis's district. Nebraska is the number one producer of great northern beans; number two in pinto and light red kidneys. In 2013, Nebraska production broke down between 45 percent great northern, 43 percent pintos, and the rest is the other types of beans grown out there. According to the USDA, dry bean consumption is 6.53 pounds per person in 2011. Now the mission of the Dry Bean Commission is to develop, carry out, and participate in programs of research and education, market development and promotion to enhance the profitability and expand the demand and value of Nebraska-grown dry edible beans. The commission's mission is funded by an assessment or a checkoff on each hundred pounds of beans sold. Two thirds of that assessment is paid by the farmer, a third is paid by what they call the first purchaser. I call them processor warehouses. That's the 15 different companies that work out there. They buy the dry edible beans. They process the dry edible beans. They warehouse dry edible beans, and they sell those dry edible beans. The maximum assessment was set in law in 1987. It was 6 cents at that time. It was raised to 7.5 cents in '93-94; to 10 cents in 2004 and '05. In the recent months over the summertime, I was actually actively involved in listening to presentation by the Nebraska dry bean growers. The first purchaser of beans or the processors were also involved in those discussions because they did have a vested interest in this and the Dry Bean Commission. And surveys were sent out, meetings were held. I know individual discussions were put forth. And article after article was placed in The Bean Bag, which is the circular that the Nebraska Commission comes up with. So this is not a surprise to everybody. It was endorsed. In fact, there was a time when we were looking at doing a percentage of the total crop, total revenue generated and it was everywhere from .5 to 1 percent. And the idea was in good years we'd generate a lot more revenue and then we could store that up for bad years. The processors got involved and said, man, accountingwise this is very difficult for us to account for. And the reason that it is, is many times--and I was a farmer at one time associated with that--we'd contract ten bags an acre at a certain fixed price. Say

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today's computation would be somewhere ten bags at \$35. Now if I produced 20 bags or 25 bags, we would harvest those, store them, probably defer all revenue until after year end for the obvious income (inaudible). And then maybe over a period of time, depending on price, either sell those beans March, April, May or sell a portion of those to cover production cost. Depending on price again, you may carry those over, over a year. So the accounting problems as it was explained by the processor, they thought were extreme. And mistakes could be made and they are audited by your state audit people. So anyhow, I guess the membership did sit down and say, okay, we want to take this bean checkoff from 10 cents to 15 cents per hundred. The bill does call for the checkoff to be raised from the current maximum allowed of 10 cents to 15 cents. And of August 1, 2015, with the authority for the commission to adjust the assessment to a 24-cent maximum. It repeals a refund provision that today is included in that. It amends the law regarding for the publication of annual reports. That kind of brings you up. Right now they believe that they have to publish by actually putting paper together. They have a Web site now. I think all of the corn and wheat people have moved to this so it can be dispersed through electronic means. I know that the contracts are also entered into. A description of those are published. If a producer wants to get an actual report or a processor wants to get an actual copy of the report, you can copy it off of the Internet. You can ask for those contracts and those will be...many times those contracts are four, five, six pages long. They can provide you with those. So the information is not being withheld. It's just accommodation of the current Web site and electronic means and a way of saving a little bit of money frankly. It amends the provisions of the commission's cash fund and specifies receipts that are to be credited to the fund. LB242 adds new language to provide that payments to the cash fund include licenses, royalties, and repayments. And that is put in there I think pretty consistent with the corn and wheat growers because we spend a lot of money, the commission does, on research and development, patents may occur. The universities have been known to grab that money and take it into the general fund. We want to be able to control it and pay it into this fund and control our researchers. You know, I want to add some commentary. The request of the checkoff is sought primarily due to the declining purchasing power of the existing checkoff and the stagnant dry bean production acres. Now I'd like to take you to the fiscal note, and I believe you all have a copy of the fiscal notes. And let's see if I can find them. I think if you start to look at just the top line, let's just focus in on beginning balances. You can see a steadily declining cash balance that are maintained there. As you start to work down, you can see that the cash funds, because of the checkoff, is about \$40,000 more. I think in the projections they used an average yield, average number of acres, and added about 10 percent to that. And that's kind of how you get the fluctuation between the 324,000 and the 401,000. What they want to do is, is to spend more money on the research and development side of things. All the research and development is spent predominantly at UNL Extension Division in Scottsbluff. And I can tell you this: that I've been very impressed with the folks that are doing the research at that. This is one of those programs I can tie directly from the University of Nebraska helping the farmer on the production side. They have a dry bean day that they bring the

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farmers in, in January. The auditorium is full. They have a field day that is in I think July, could be first of August, but I think it's July. It's absolutely packed--good information, good feedback, good commentary. Interestingly, the Panhandle Extension Division has a gentleman by the name of Dr. Urrea. There are five renowned breeding experts for seeds internationally. He's one of them and he does fantastic work. But I'm going to read to you something that I kind of picked up from The Bean Bag. And it was in the middle of this summer and we were talking about this raise. The Bean Bag, I just want to read to you, in recent months the Nebraska Dry Bean Growers Association has discussed the possibility of raising and/or changing the bean checkoff in Nebraska. And this was written by David Howell who you'll hear from later. He's a Nebraska Dry Bean Growers Association board person. One of the main reasons for increasing the checkoff is that inflation has decreased the buying power and eroded the budget of the checkoff dollars over time. And you can see that it's very well evidenced in the financial information. As a result, the Dry Bean Commission has had to make some difficult and important...difficult cuts in important areas such as Bob Wilson's work on the bean herbicides. And there are some other cuts and cutbacks that the...that we just can't afford that we'd like to reestablish. Now one of the things that I want to point out on the stagnation of the number of acres, again, it's a semidry, arid climate that the beans thrive in and can't be planted around the Lincoln and Omaha. And it does, does require irrigation so that's another compelling factor. The other thing is, is just introducing something into a farmer's crop rotation. It's kind of like divorcing somebody. They're pretty strict on what history is all about, what their dad did, what their uncle is doing. And so trying to introduce a new crop, especially a specialty crop like dry edible beans, into that rotation a little more difficult. The other thing is that it requires specialized equipment to harvest it. They cut the beans, they windrow the beans, and of course they have a harvester that lifts this and thrashes the beans out of the pile. Also dry edible beans are more sensitive to early frost in the fall, and they are more sensitive to hail. And some of the variations that you see as you start to work down through the history, that was a bad hail year. Some of it early on in the '90s was due to prolonged droughts that we had. Well, the University of Nebraska conducted some research and got the word out to the farmers: This is when in a drought year you apply water. Okay? And then they have some other farming techniques that they've introduced. Obviously the University of Nebraska is instrumental in some of the breeding of seed and the bringing along and making disease resistant, drought resistant. The outcome of that is we're no longer struggling to get to 20 bags an acre. We actually hit 25 bags an acre this year. I won't say that that's an extraordinary year, but we're much above that 20 bags an acre. And a lot of that has to do with the University of Nebraska Extension's work. I do want to introduce this: Finally, the UNL Research Center concluded that the research conducted by the Panhandle Station Extension Center there is \$5.61 back for every \$1 that's spent on the research. So there is a pretty good return on your investment, 561 percent. That's not too bad. That's what their research was about. Now on a promotional aspect, they want to continue to try to promote this and that's part of the mission of the commission. I just want to share some stories with you. There was a

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Chinese...a delegation of people that went to China here about four or five years ago. And what the Chinese apparently have noodle, oh, I can't even remember the name of it, but it's little tiny pots and they have noodles in there and they eat the noodles and that's kind of like our hamburger/French fry thing. What the people at the Dry Bean Association tried to introduce to them was that we ought to put some bean powder in there to increase the protein content and the fiber content. Interestingly, the Chinese government never makes a decision. And, you know, they're used to dealing in hundred years to make change. So...but interestingly, there is a research person that they sent to UNL right today working on precisely that project, and that's introducing that dry bean powder into noodle cups I guess is what they call. That's one effort. The other effort I think you saw in the paper was Cuba. Cuba was one of the big importers of dry edible beans at one period of time, along with Iraq. A delegation did go to Cuba with Governor Heineman, did sign a contract, did have one sale, and found out that it was really difficult to exchange money through the European banks on back through. And so I think we only did one year. The other phase that they're working on is school lunch program. They're trying to introduce dry edible beans, more dry edible beans into the school lunch program. And the thought there is that it covers two different areas. One is protein and it has a lot of protein. The other one was it covers the vegetable. It's kind of a checklist that they have. So it is a healthy choice. And I think in the diet, the diet people and the nutrition people as they look at obesity, as they look at heart disease, as they look at diabetes, cancer, those types of things because of the high fiber content, low calorie content dry edible beans is an answer to that dietary mix as healthy choices. And I will introduce one more thing into your thought process--Chipotle. Chipotle, as we all know, is a growing, "fastly" growing food chain. If you own their stock, you're probably wealthy today, which I don't own the stock. That was one I missed. But in any event, it is put into the classification of healthy foods and healthy choices. So that's really where we come back to why we need to have an increase in the bean checkoff because we continue to want to have to promote this. We're right I think on the edge of moving forward our marketing efforts. I think from the research and development side we continue to have to plow dollars back into that. And that's the case for the increase of the checkoff from 10 cents to 15 cents. Again, remember two thirds are paid by the grower, one third by the processor. The second part of this thing is the refund aspect of this. And I've talked to Senator Larson and he can close his ears at this point in time. Right now there's a refundability aspect to this. And I think the commission wants to close that similar to what you've done on the corn and wheat side of things. I've been told soybeans are still open and I know eggs are still open. We're one of the few states in the Union that has a refundability clause. Actually, it's only a 2 to 3 percent of the folks that are involved in this and no processor has ever asked for a refund, let's put it that way. So it is the grower and the landowner that ask for the refund. It's kind of interesting because when I used to get my slips and it listed all this stuff down and at the bottom they have the bean checkoff tax, you know, as soon as you see "tax" it's going to set somebody's hair on fire. So maybe we ought to change the way that looks and maybe we can eliminate that. But I think the position is you've got the freedom to

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choose whether you want to grow dry beans or not. If you're going to grow dry beans, you're going to be part of this research and development and you're going to be part of investing in this industry. And a lot of the refunds, by the way, actually come from people who are absentee landowners. So that's a story for another day. In any event, that dropping the refundability is part of this bill. Okay? The third thing is the intent to update the reporting requirements that I basically can read to you. The change in the annual report and the requirements to communicate information should be changed to reflect the ability to provide information on the Web site with the Internet. The term of "make and publish" has been interpreted to mean actual printing of a report on paper, which is increasingly expensive and archaic. LB242 changes the term to "prepare and make available," not to preclude electronic distribution of the report. The current requirement to provide a summary of the report to each producer and first purchaser is retained. You can get one on request or you can make your own. More modern technology enables a person to access the entire report, thus avoiding the question of whether the information is summarized correctly. The second change to this section relates to the requirement that the annual report contain complex text of all contracts. LB242 requires that the annual report contain a description of the contracts. Many times those contracts, as I've stated before, three, four, five, six pages long; we'll make them available to anybody that wants to get the exact contract. But we would like to put a description in that report and make it available and broaden that out. The fourth and final change is also consistent with the changes already made in other checkoff programs, most notable the corn and wheat. LB242 inserts new language that the cash fund is the proper repository for any repayment of funds, including licenses, fees, or royalties. As I talked before, we invest a lot of money into research and development: patents, all kinds of things may come out of this, certainly licensing fees. And the result and effect of that should come back to this fund. That way we can control it and plug it right back into the research and development aspect of this. I guess in conclusion this is a major industry out west. It's an important industry. As you can see, the fund is being depleted at a fairly high rate. We need to bolster that fund. As I've stated before, we're kind of on the edge from the marketing side of things so that we can maybe hold that price line at \$30, \$35. And certainly from a yield standpoint I think things can continue to be enhanced through research and development. Anyhow, I thank you for this opportunity to testify. [LB242]

SENATOR JOHNSON: Any questions? Senator Riepe. [LB242]

SENATOR RIEPE: Senator Stinner, thank you. You sound like an expert on beans. [LB242]

SENATOR STINNER: Well, when you're on my side of the desk banking, a lot of these...I should say that I have offices in Scottsbluff and Gering, which is in my district. But I also have offices in Bayard, Ogallala, Wauneta, and Grant. So we get a real kind of feel for where agriculture is at. It's part of being a community banker so you do get

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immersed in this and you do get passionate about it by the way. [LB242]

SENATOR RIEPE: Evidently. My question is this: Is legislation required to establish this checkoff assessment rate? Or do we need another organization, a commission or something, who is authorized by enabling legislation that would allow as many legal agreements (inaudible) from time to time that can be adjusted according to what benefits the industry? [LB242]

SENATOR STINNER: Now remember, the people who sit on the commission are also farmers and they have a vested interest in not raising it. I think the Hospital Association would be an example if I understand what your question is. [LB242]

SENATOR RIEPE: Okay. [LB242]

SENATOR STINNER: It takes legislation to get it to 15. That's the first thing. The scale between 15 and 24 it takes hearings by the commission. And I believe that those hearings have to be held and help me because I'm not 100 percent sure of this, but I do believe that it takes some level of legislation or does it not? This does... [LB242]

ROGER KEETLE: The board sets the rate above... [LB242]

SENATOR STINNER: This was similar to when they came in with 6 cents and allowed you to go to 10. So those periods of time when they felt the fund was in jeopardy is when the commission actually passed a resolution, held the hearings, and passed the increases. [LB242]

SENATOR RIEPE: So you're saying that the Legislature would have a better perspective on this for the long run than some of the producers might have because they might be more committed to the... [LB242]

SENATOR STINNER: No, I would not say that. I would say that the vested interest really rely...is back with the commission. Because of the way the law is set up, I have to come...the bean people have to come to the Legislature because we were at the maximum. We'd like to increase that and that's what takes this legislation to my understanding. [LB242]

SENATOR RIEPE: But if we gave you enabling legislation... [LB242]

SENATOR STINNER: But I'm wet behind the ears and I'm a new guy. Maybe Ernie could help me. [LB242]

SENATOR RIEPE: ...for the commission to occasionally raise the rates, we would say you be the better judge, you're closer to it... [LB242]

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SENATOR STINNER: Yes. [LB242]

SENATOR RIEPE: ...than we as a Legislature... [LB242]

SENATOR STINNER: That's what this is set up to do. [LB242]

SENATOR RIEPE: Oh, is that? Okay, then I apologize for that. I thought this was a one-time... [LB242]

SENATOR STINNER: This is a one-time increase to take you to 15 cents, allowing you to take it to 24 without having to come back to the Legislature. Is that correct? Okay. [LB242]

ROGER KEETLE: Correct. [LB242]

SENATOR RIEPE: And what I was saying was allow it ongoing that you would be allowed to, as you see fit and can sell it to your producers, that you could change it at any time. So it's we do one piece of legislation that lasts forever. [LB242]

SENATOR STINNER: And I would like you to ask the experts in the back of the room just how that all works because they've been involved in the discussions to increase it in the past. They could add some color and history to how that all happened. [LB242]

SENATOR RIEPE: Because under the current fix, you're going to come back to the Legislature at some time probably, possibly. [LB242]

SENATOR STINNER: Well, if we hit 24 then we think that...and these are pennies, by the way. [LB242]

SENATOR RIEPE: Sure, yeah. [LB242]

SENATOR STINNER: This is pennies per bag. [LB242]

SENATOR RIEPE: Okay. I was just looking for a very one-time fix. [LB242]

SENATOR STINNER: One-time fix is you've taken me to 15 cents. The one-time fix is you've given me the opportunity, not me, excuse me, the dry bean growers, the Dry Bean Commission, you know, I personalize this stuff. That's how passionate I am. It gives the Dry Bean Commission the opportunity to move it up as they see fit. [LB242]

SENATOR RIEPE: Oh, okay. Okay. [LB242]

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SENATOR STINNER: But it does take hearings. It does take input and it does take involvement of the bean growers and the bean association. So that... [LB242]

SENATOR RIEPE: This 24 cents is not a cap. [LB242]

SENATOR STINNER: Twenty-four cents is a cap, sir, yes. [LB242]

SENATOR BLOOMFIELD: It is now. [LB242]

SENATOR RIEPE: I'm trying to figure out why you would want a cap. Why wouldn't you (inaudible)? [LB242]

SENATOR STINNER: I think that would be a question for folks that have crafted the bill. But I would not want to give them a check or a blank check to say, hey, you can do whatever you want to do. Twenty-four would be the cap. [LB242]

SENATOR RIEPE: Okay. [LB242]

SENATOR JOHNSON: Any other questions? Senator Bloomfield. [LB242]

SENATOR BLOOMFIELD: Thank you, Chair. I'm going to have a series of questions. I'm having trouble finding where the refundability goes away in the bill. [LB242]

SENATOR STINNER: It goes away? [LB242]

SENATOR BLOOMFIELD: Yeah. [LB242]

SENATOR SCHILZ: It's on the last page. [LB242]

SENATOR LARSON: Page 3, 25-30. [LB242]

SENATOR BLOOMFIELD: I don't see any language crossed out I guess is why I didn't... [LB242]

SENATOR SCHILZ: It just repeals the whole section. [LB242]

SENATOR BLOOMFIELD: Okay, good enough. How many farmers did you say grew beans? [LB242]

SENATOR STINNER: Five hundred, well, plus or minus, you know. It moves around a little bit. [LB242]

SENATOR BLOOMFIELD: Roughly. How many are members of this association?

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[LB242]

SENATOR STINNER: You could probably get that testimony from somebody that's in the association. [LB242]

SENATOR BLOOMFIELD: And do you know, and again I'll have to go back, what percentage of actual growers support this increase? Because it's, whether we want to call it that or not, it's a tax on the actual grower. [LB242]

SENATOR STINNER: You know, I think... [LB242]

SENATOR BLOOMFIELD: I'll follow (inaudible). [LB242]

SENATOR STINNER: That could be, but I do have some copies of results of survey and it was very, very, very pro increase and getting this fund right. I think that all the bean growers know that they have to continue to invest in this industry. [LB242]

SENATOR BLOOMFIELD: As you're aware, sitting on the floor for the last week and a half, I'm not wild about fee increases. [LB242]

SENATOR STINNER: Well, I understand. I understand. [LB242]

SENATOR BLOOMFIELD: And Senator Larson and I have had several debates on refundability of some of these fees. [LB242]

SENATOR STINNER: I know that he will at some point in time voice himself. [LB242]

SENATOR BLOOMFIELD: (Laugh) I'm sure he will. That's one thing about your bill that I like. And you said we've had significant yield increases. Why did these yield increases not provide enough revenue to cover what we're doing here? [LB242]

SENATOR STINNER: Actually...you know, the yield increase, and I call it significant because we bounced around between 17, 19, 20 bags for a very long time, the '80s and '90s. We hit 2000, we've been consistently over 20 bags. This year was 25. That's an extraordinary year. It's an outlier. But if you want to use a number and now I'm at that 20, 22 bags an acre, pretty consistent average. Some of that has to do with development of the bean as it relates to drought and changing farming practices as it relates to drought. [LB242]

SENATOR BLOOMFIELD: But that increase should have provided... [LB242]

SENATOR STINNER: Should have provided. We still, you know... [LB242]

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SENATOR BLOOMFIELD: ...increase to the fund. [LB242]

SENATOR STINNER: You know, the thing that happens to us out west is variability and it has to do with how much hail we have. [LB242]

SENATOR BLOOMFIELD: Oh, that happens with...we were fortunate enough to grow 250 bushel of dryland corn last year. That doesn't happen every year. [LB242]

SENATOR STINNER: Yeah, well, it's...I agree. [LB242]

SENATOR BLOOMFIELD: But it happened this year. [LB242]

SENATOR STINNER: I agree, yeah. [LB242]

SENATOR BLOOMFIELD: But I don't...we're going to have some discussions on this big of an increase, as we will on any other fee increase so. You and I will visit... [LB242]

SENATOR STINNER: I'm just asking you to look instead of percentages use proportionality and use what's happening in the fund as an indicator of what's needed, and not...I mean I can screw around with percentages all you want, but you have to go back and really look at the exact numbers and what you're trying to get done so. And remember, it's two thirds to the producer/farmer, third to the processor. And the processors are... [LB242]

SENATOR BLOOMFIELD: It's a fee increase to both. [LB242]

SENATOR STINNER: Well, or as Senator Chambers would talk, it's still a tax. [LB242]

SENATOR BLOOMFIELD: Yes, it is. [LB242]

SENATOR STINNER: So...and it says it on the statement so it must be right. [LB242]

SENATOR JOHNSON: Unless there's other questions, let's try and move on so some other testifiers...do you have one, Senator? [LB242]

SENATOR LARSON: Yeah, thank you, Senator Stinner. Are the board members elected or appointed? [LB242]

SENATOR STINNER: They're appointed. [LB242]

SENATOR LARSON: They're appointed. So as you said on the statement and this would be a simple yes or no answer really, do you feel a producer should be forced to pay a tax without any representation, true representation? [LB242]

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SENATOR STINNER: I certainly do in this case. [LB242]

SENATOR LARSON: All right. [LB242]

SENATOR STINNER: You and I will disagree on this. That's okay. [LB242]

SENATOR LARSON: And I can understand that. I mean I have the strong... [LB242]

SENATOR STINNER: I'm just going to turn this around and say... [LB242]

SENATOR LARSON: No. [LB242]

SENATOR STINNER: ...is it fair that somebody that doesn't pay in and enjoys the benefit of increased yields and increase in prices without contributing to it, is that fair? [LB242]

SENATOR LARSON: Senator Stinner... [LB242]

SENATOR STINNER: That's my point. [LB242]

SENATOR LARSON: Yeah, I can understand that, but not everybody agrees with what they may be doing. And for that answer, they should either have the ability to elect who is representing them on that board and voice their opinion that way or have the ability, if they don't get to elect who represents them on that board, they should have the ability to request a refund because they may be disagreeing with what's happening. And we fought a war in the eighteenth century over representation...taxation without representation. And that's what happens with the corn checkoff. And I think the corn checkoff, if my understanding is correct, has always been mandatory and that's something I disagree with heavily. But it's...as you said on the statement, it's listed as a tax. And to tax someone when they have no choice or at least ability to change who is levying that tax I do think is wrong. I have no problem with the checkoff, the other four sections of the bill. I think...I don't have a problem with the fee increase because the board is doing it to themselves. So all of that is negligible. But the ability of representation is big to me, so thank you. [LB242]

SENATOR JOHNSON: Other questions? If not, thank you. You'll stick around for closing? [LB242]

SENATOR STINNER: Yes, I will. Thank you. [LB242]

SENATOR JOHNSON: Next proponent. Please turn in a hearing sheet and state your name and spell, please. [LB242]

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DEAN KEENER: (Exhibit 1) Hello, Senators. My name is Dean Keener, K-e-e-n-e-r. And for the interest of time, I'm going to kind of skip through some of my letter here. But I just wanted you to know that I am currently serving as chairman of the Nebraska Dry Bean Growers Association. We are a grower-only board that is elected by the growers. The Dry Bean Commission is separate. They are governor-appointed and they manage the tax. So there is representation by the growers throughout this process. And we have...we made every effort to contact all the growers through our publication, The Bean Bag, goes to every grower, every processor that receives...has anything to do with the bean industry. So as you'll hear in other testimony, why, there's reasons for what we're doing. I'll read this paragraph. We have communicated to our growers through our publication, The Bean Bag, over the course of the past year and a half, also in August at our annual field day tour held at the Panhandle Research Center, we talked and discussed with all the growers and other attendees about increasing the checkoff, found no opposition. Everyone polled and visited with saw the need for the increase. In January that year later on and also again in 2015 we met with growers and industry reps at our annual bean day. Again, there's been no opposition and everyone sees the value of the checkoff dollars being spent wisely. You senators can be real proud of the checkoff established that it's doing a great job of investing, as you heard Senator Stinner. We believe that the proposed increase will help to make sure for generations to come that the future of the dry bean industry will remain strong. We encourage you to look favorably upon LB242 and again, thank you for this opportunity to come and voice this. We got a seven-hour ride down and a seven-hour ride back, and we count this as important. And we rely upon you as senators to do the right thing. And thank you for this opportunity, and I will answer any questions. [LB242]

SENATOR JOHNSON: Appreciate you, the long trip. Hopefully, I don't want to cut you off, but I appreciate your interest and your testimony. Senator Larson. [LB242]

SENATOR LARSON: Thank you for coming in and obviously as the independent association. And I know kind of like the Corn Growers, the corn growers do have input on the Nebraska Corn Board and whatnot and you are the elected. Are you...you guys are nonvoting members of the Dry Bean Commission, though, correct? [LB242]

DEAN KEENER: That is correct. [LB242]

SENATOR LARSON: And who decides what the checkoff rate will actually be? [LB242]

DEAN KEENER: The growers are the ones that decide that. We see the need... [LB242]

SENATOR LARSON: Oh, so you're...no, I meant is it the Dry Bean Commission or the association? [LB242]

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DEAN KEENER: That decides on the checkoff? [LB242]

SENATOR LARSON: The actual checkoff amount. Who gets to decide because we're... [LB242]

DEAN KEENER: It's my understanding that the commission cannot lobby for an increase. The only thing...is that the question? [LB242]

SENATOR LARSON: No, that doesn't. So we're talking about raising this to 24 cents possibly. Who gets to decide when the increase goes from 10 to 12 cents? Who makes that decision? Is it the commission or your organization? [LB242]

DEAN KEENER: Well, based upon what has happened in the past when we had a short crop year and we saw that the commission, which does the funding, they choose where the money goes... [LB242]

SENATOR LARSON: Well, they just choose where the money goes. I guess what I'm getting at, who decides what the levy checkoff would be? Who gets the actual vote? Who gets to vote on we're raising it from 10 to 12 cents? [LB242]

DEAN KEENER: That is grower driven. [LB242]

SENATOR LARSON: So your organization actually gets to make that final decision, not the commission. [LB242]

DEAN KEENER: We were the ones that brought this proposal forward from 10 to 15. Now in the past, I can't answer for that. [LB242]

SENATOR LARSON: So the association gets to decide and tells the state or the commission gets the...is the actual one that votes. Do you get what I'm asking here? Who... [LB242]

DEAN KEENER: I think so. But we are the ones, the growers will say, hey, we missed out on some key research because there wasn't funding. [LB242]

SENATOR LARSON: I get that, but who actually votes on the increase? Who decides... [LB242]

SENATOR JOHNSON: Who signs the document, if there is one, that says your rate is going to be...? [LB242]

SENATOR LARSON: Like in the Corn Board. Like...we'll use the Corn Board as an example. The corn growers might say, we support an increase in the checkoff and

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they'll tell the Corn Board that. But it's still the Corn Board's decision whether or not that increase happens. They even...the corn growers might say we support it; but if the Corn Board says, no or yes, they're the actual decision makers because they're the state agency that makes that decision. And my question to you is, who has the last vote to decide whether your checkoff is raised or lowered? [LB242]

DEAN KEENER: I think if I understand you correctly, there is a...like in the instance there's a major storm and it wipes out 75 percent of the beans in the valley and surrounding areas and so during that year there will be an extremely low amount of checkoff applied. So the following year, in order to do research, marketing, and promotion, we as growers would say, I think it would be wise to charge more up to that 24-cent level to offset that hailstorm that went through. [LB242]

SENATOR LARSON: That's not what I'm asking. [LB242]

DEAN KEENER: I would assume... [LB242]

SENATOR LARSON: No, that's not what...I...I get the flexibility. I guess what I'm trying to get at is who actually...you can ask the Dry Bean Commission to raise the checkoff. But you, your organization itself, cannot raise the checkoff. [LB242]

DEAN KEENER: If I understand it correctly, at that point then there needs to be a lot of communication to a lot of people, including you folks in this room... [LB242]

SENATOR CHAMBERS: Excuse me, may I try? I think I...I'm on the outside. [LB242]

SENATOR LARSON: Please. Do you know where I'm...? [LB242]

SENATOR CHAMBERS: If the grower said we want it at 24 cents, can the commission say, no, it won't be 24 cents, it will be 18 cents? Can the commission do that? [LB242]

DEAN KEENER: I think you better ask the commission that. [LB242]

SENATOR CHAMBERS: That's what you should have said at the beginning. (Laughter). [LB242]

SENATOR LARSON: Thank you. [LB242]

SENATOR JOHNSON: Thank you. Any other questions? Senator Bloomfield. [LB242]

SENATOR BLOOMFIELD: Thank you. Can you answer the question I had earlier on what percentage of the actual farmers that plant beans are members of the growers association? [LB242]

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DEAN KEENER: Members by definition are anybody that receives a check from a growing crop of beans. Once they deliver it, they then are part of the growers association. You are now classified a grower when you receive a check. So there is not a membership per se where we do send this Bean Bag out, which is our voice to the growers. [LB242]

SENATOR BLOOMFIELD: What percentage of the growers then, if you know, actually support this increase? [LB242]

DEAN KEENER: We have had no opposition, called by our board, talking to every neighbor they can find, there has not been anybody step up and say I don't want an increase. [LB242]

SENATOR BLOOMFIELD: Well, the reason I'm asking these questions is a year or two years ago we ran into this with the Corn Board. The Corn Board came in and said, all of our members want this increase. Well, I started talking to corn producers... [LB242]

DEAN KEENER: Yeah, right. [LB242]

SENATOR BLOOMFIELD: ...lo and behold, they didn't all want that increase. [LB242]

DEAN KEENER: Yeah, I'm not ignorant enough to say that there's not somebody out there that opposes this. I'm sure there is. But as of up to today with our communication through The Bean Bag and through the meetings and the polling and so on and so forth there's been nobody say I don't want an increase in the checkoff. [LB242]

SENATOR BLOOMFIELD: Okay. I'll take that as an answer. Thank you. [LB242]

DEAN KEENER: Okay. [LB242]

SENATOR JOHNSON: I might follow up. Were they asked the same question about the checkoff being voluntary or their refund? Do you communicate that part of it or is it primarily the checkoff amount? [LB242]

DEAN KEENER: I know the board did, but I don't know as if we talked about that at our bean day or at the bean field tour. [LB242]

SENATOR JOHNSON: Okay. Thank you. Any other questions? Thank you for your testimony. [LB242]

DEAN KEENER: Thank you. [LB242]

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DAVID HOWELL: (Exhibit 2) Thank you, Senators. Good afternoon, Senator Johnson and members of the Agriculture Committee. Thank you for allowing me the opportunity to testify today before you in support of LB242. My name is David Howell, D-a-v-i-d H-o-w-e-l-l. I farm with my family in Sioux County. We grow approximately 500 acres of beans, 500 acres of wheat, 1,200 of corn, and 500 acres of alfalfa. I also custom plant, harvest, chop silage, and custom feed cattle. I currently serve on the Nebraska Dry Bean Growers Association, and I also served on the Nebraska Dry Bean Commission from 2000-2006. The bean checkoff rate is currently 10 cents per hundred with two thirds paid by the grower and one third paid by the processor. It was last increased from 7.5 cents to 10 cents in 2004. My family's operation pays approximately \$2 per acre in checkoff fees. The proposed increase would raise this cost to approximately \$3 per acre on gross revenue of approximately \$960 per acre. The checkoff funds are currently used for promotion, research, education, and administration. The Nebraska Dry Bean Commission does local, national, international promotion. The commission has also done joint promotions with the Nebraska Pork Board as well as national and international promotion with the U.S. Dry Bean Council. This has allowed Nebraska to leverage our dollars to reach beyond the state boundaries. By accessing Foreign Market Development funds and Food Aid funds, this sponsors trade, reverse trade, and foreign aid missions throughout the world. Nebraska also conducts important bean research at the Panhandle Research and Extension Center in Scottsbluff, Nebraska, which extends to the North Platte facility and the Lincoln campuses. At PREC, Dr. Carlos Urrea, Dr. Jeff Bradshaw, Dr. Robert Wilson, Dr. Gary Hergert, Dr. Bob Harveson, Dr. Jim Schild, Dr. John Smith, retired, and Dr. Dean Yonts, who is deceased, and from Lincoln, Dr. Jim Steadman, Dr. Sally Mackenzie, and Dr. Vicki Schlegel have all utilized funds provided by the bean checkoff. Dr. Carlos Urrea conducts a bean breeding program and others have conducted a broad range of basic research encompassing pests, impacts to yields, weed control, water usage, fertilizer, and disease concerns. This research has been critical to the production practices, water savings, yield, and quality increases the Nebraska growers have enjoyed over the past several years. These researchers have leveraged checkoff dollars with grant funds from many local and national sources to provide a very beneficial service to the growers. The Nebraska Dry Bean Commission and the Nebraska Dry Bean Growers Association also use the checkoff dollars to provide a publication, The Bean Bag. This publication is the main communication provided to the growers in the state and it disseminates important information to growers, landlords, and processors. In addition, the Panhandle Research and Extension Center and the Growers Association conduct a field day in August and an annual meeting in January to present information to all stakeholders. Inflation has eroded the purchasing power of the checkoff dollars currently received. All these important programs and promotion, research, education risk additional budget cuts unless we increase our checkoff rates. The Bean Growers Association started the process of raising the checkoff over a year and a half ago. We believe in the power of our checkoff and how it has positively impacted our industry and how it has been spent and leveraged to do more than we could individually. We ask the Legislature to consider

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our request for the authority to increase the bean checkoff through LB242. Thank you for your time. And if I have time, I'll answer a question for Senator Larson. [LB242]

SENATOR JOHNSON: I will yield, Senator Larson, proceed. [LB242]

DAVID HOWELL: Your question about who actually does the checkoff. I used to serve on the commission. The growers ask for a raise, but the commission actually votes for it. [LB242]

SENATOR LARSON: That's the exact answer I thought and was looking for. Thank you. [LB242]

DAVID HOWELL: Okay. And, Senator Bloomfield, may I answer your previous question? The market for the...supply and demand on beans is what controls the acreage. And beans, unfortunately, the consumption of beans has decreased over the years. It's considered poor man's food unfortunately. [LB242]

SENATOR BLOOMFIELD: (Inaudible). [LB242]

DAVID HOWELL: Yeah. And I love beans and we have had some researchers we had at our bean day in January, Dr. Henry Thompson from CSU. And he said we need to get rid of the poor man's food and make it the smart man's food because he believes between heart disease, diabetes, obesity that dry beans could be the cure for those diseases so. [LB242]

SENATOR JOHNSON: Senator Bloomfield. [LB242]

SENATOR BLOOMFIELD: Thank you. You said the amount that we consume has gone down. How much of that is affected by what we import versus what we produce? [LB242]

DAVID HOWELL: We actually produce more than we can consume nationally so our export market is very important to us. [LB242]

SENATOR BLOOMFIELD: Do we import any dry beans? [LB242]

DAVID HOWELL: I believe we do. I don't know the exact numbers, but I believe we do. But we actually can produce more than we can consume in this country. [LB242]

SENATOR BLOOMFIELD: Okay. And one more question. You said you used to serve on the commission. How many members are there on the commission? [LB242]

DAVID HOWELL: There's nine members on the commission; six are growers and three

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are processors. Each member of the commission serves a district. The state is in four districts: Sioux County, Box Butte County, Dawes County, and Sheridan County is District 1. District 2 is Scotts Bluff County. District 3 is Banner, Cheyenne, Kimball; and then the rest of the state (laugh). So as you can see by that, Scotts Bluff County grows the most beans of any district. So there's two processors, there's one from each of those districts, and then there's an at-large from District 1 and 2 and an at-large from District 3 and 4 and then three processors. The four districts and the three processors are appointed by the Governor. The at-large position for 1 and 2 and 3 and 4 are appointed by the commission. [LB242]

SENATOR BLOOMFIELD: Okay. The processors I think are pretty all well (inaudible) Scottsbluff. [LB242]

DAVID HOWELL: Primarily. There's some others in the state but primarily, yes. [LB242]

SENATOR BLOOMFIELD: All right. Thank you. [LB242]

SENATOR JOHNSON: Any other? Senator Chambers. [LB242]

SENATOR CHAMBERS: Could a grower be a processor also? [LB242]

DAVID HOWELL: Yes. [LB242]

SENATOR CHAMBERS: Has there ever been a situation like that? [LB242]

DAVID HOWELL: Yes. [LB242]

SENATOR CHAMBERS: What would the commission recommend to persuade people in the city to eat more beans? [LB242]

DAVID HOWELL: The commission is a member of the U.S. Dry Bean Council. And the U.S. Dry Bean Council has done promotions to try to increase bean consumption and... [LB242]

SENATOR CHAMBERS: Could you just give me an idea of what they do because I'm not aware of any promotional work on beans. [LB242]

DAVID HOWELL: Could I defer to Cindi? [LB242]

SENATOR CHAMBERS: Oh, sure. [LB242]

DAVID HOWELL: She serves on that council and she might be able to answer that more than myself. [LB242]

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SENATOR CHAMBERS: With all due respect, when it comes to guns, I, in my mind, I nicknamed him Mr. Smith and Senator Kintner, Mr. Wesson (laughter) So I'm going to dub you Mr. Pork and we'll hear from Ms. Beans. (Laughter). [LB242]

DAVID HOWELL: Thank you. [LB242]

SENATOR JOHNSON: Any other questions? Senator Schilz. [LB242]

SENATOR SCHILZ: Senator Johnson, thank you. Mr. Howell, thanks for coming in today. How far did you have to travel to get here? [LB242]

DAVID HOWELL: I actually traveled 20 miles farther than Dean because I picked him up on the way in, 465 miles I think. [LB242]

SENATOR SCHILZ: That's quite a ways, but thank you for coming in. I just wanted to talk to you a little bit. We heard a little discussion earlier about the refundability part. And I see that you served on the commission and on the growers as well. Can you give us some idea of how many people opted to take the refund in your experience, if you have any of that knowledge. [LB242]

DAVID HOWELL: It's supposed...it's not supposed to be...it's not what...the Ag Department does not give us that information. We estimate based on the dollar figure that it's somewhere around 10 to 15 growers just based on how many dollars have been asked back. [LB242]

SENATOR SCHILZ: Right. And when you say 10 to 15 growers, can you extrapolate that into the number of acres that that would represent? [LB242]

DAVID HOWELL: Well, I brought my calculator. [LB242]

SENATOR SCHILZ: And you don't have to get that. [LB242]

DAVID HOWELL: I think there's been about \$4,000 asked back. So if you divide that by 10 cents, that's 40,000 bags. And if you say a grower raises 2,000 bags, that would be 20 growers. [LB242]

SENATOR SCHILZ: Okay. [LB242]

DAVID HOWELL: And 2,000 bags at 20 bags an acre would be 100 acres. [LB242]

SENATOR SCHILZ: Right. [LB242]

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DAVID HOWELL: Okay. [LB242]

SENATOR SCHILZ: So then the next question is, as you looked at the refundability part, what were the discussions that went on about why that would need to be removed? [LB242]

DAVID HOWELL: While we agree that it's a low percentage, we felt that the growers that are...the research and the things that are being done with the dollars were important; and we felt that people needed to contribute to that. That we needed to, you know, we were concerned that, you know, people were sharing in that and not necessarily paying for that. [LB242]

SENATOR SCHILZ: Was there any concern that if you raised this that those numbers would increase? [LB242]

DAVID HOWELL: That's a possibility obviously because we'll raise the number. The Growers Association has brought the increase to, you know, our...we're asking for the increase so we felt like and we tried to communicate that to all our growers. And so we, you know, but that is always awfully or is a possibility, excuse me. [LB242]

SENATOR SCHILZ: Thank you. [LB242]

SENATOR JOHNSON: Any others? Senator Bloomfield. [LB242]

SENATOR BLOOMFIELD: Thank you. To follow up on Senator Schilz's question just a little bit, it has always been my argument on these that the big producers are the ones that are going to make the request for the refund and that leaves the little guy holding the bag. Is that your thought as well? [LB242]

DAVID HOWELL: That's our concern. [LB242]

SENATOR BLOOMFIELD: Okay, thank you. [LB242]

SENATOR JOHNSON: Other questions? Seeing none, thank you for your testimony. [LB242]

DAVID HOWELL: I have some written testimony from two other people that I'd like to present. [LB242]

SENATOR JOHNSON: Okay. [LB242]

DAVID HOWELL: I'll just give that... [LB242]

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SENATOR JOHNSON: Bring that forward and we'll enter it into the record. [LB242]

DAVID HOWELL: (Exhibits 3, 4, 5) All right. One is from Kevin Kelley who is one of the processors, Kelley Bean Company, a large processor in the state. The other is Terry Terrell, who is a grower and a former member of the commission that's from Hay Springs. And then last is some information that Lynn Reuter asked us to bring with some facts about the dry bean industry. So I have copies of all three. [LB242]

SENATOR JOHNSON: Okay. We'll enter those into the record. Thank you. [LB242]

DAVID HOWELL: Thank you. [LB242]

SENATOR JOHNSON: Next testifier, proponent. Good afternoon. [LB242]

KENNETH RHOADES: (Exhibit 6) Good afternoon, Senator Johnson, committee members. My name is Kenneth Rhoades, K-e-n-n-e-t-h R-h-o-a-d-e-s, and I am a dry bean producer from Big Springs, Nebraska. I am here to testify in support of LB242. We need to be able to increase our checkoff because simply put, the cost of implementing a checkoff continue to increase. And without an increase, it will be difficult to continue funding adequate research and promotion projects for a viable dry bean industry in Nebraska. In the past, I have served on the Bean Commission as a grower representative. And while serving on the commission, I had the opportunity to represent the Nebraska Dry Bean Commission as a member of the executive committee of the U.S. Dry Bean Council. The U.S. Dry Bean Council is a private trade association comprised of leaders in the bean industry with the common goal of promoting dry bean trade, both domestic and abroad. The U.S. Dry Bean Council is a voice to the bean industry and provides information to consumers, health professionals, buyers, suppliers, and media about the nutrition value and versatility of dry beans. Through a partnership with USDA Foreign Ag Service, U.S. Dry Bean Council is able to access the market access program and foreign market development program funding, which allows the Nebraska Bean Commission to bring foreign buyers to the dry bean growing region so they can see all facets of the bean industry by visiting producers' fields, processing facilities, and learn about research projects funded by the Nebraska Dry Bean Commission. And we at times struggle for funding to keep our dues up with the U.S. Dry Bean Council. Nebraska is nationally viewed a leader not only in production but also in research. And in '05 we hired Dr. Carlos Urrea, a bean breeder, located at the Panhandle Research Center. And he has become not only nationally recognized as a leader in the bean breeding community but is also recognized internationally by his peers. Urrea has released a great northern variety, Coyne, which was developed specifically for the western Nebraska area and has demonstrated excellent disease-resistance package. In 2015, Dr. Urrea has plans for more variety releases: two pintos and one great northern. Nebraska's growers and processors have invested their checkoff dollars to develop these varieties and are asking for the provision to reap the

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return on their investment by receiving royalties realized from the sale of public varieties released by Urrea's bean breeding program. It has been a successful program with a bright future. While serving as chairman of the Bean Commission, I realized the challenges faced by the commission to invest checkoff dollars in programs of research, domestic, and international promotion and opportunities for Nebraska's dry bean industry. Thank you for allowing me the opportunity to testify before the Ag Committee today and encourage your support of LB242. [LB242]

SENATOR JOHNSON: Thank you for your testimony. Questions of Mr. Rhoades? Seeing none, thank you. Appreciate you coming in. [LB242]

KENNETH RHOADES: Thank you. [LB242]

SENATOR JOHNSON: Next testifier, proponent. Welcome. [LB242]

CINDI ALLEN: (Exhibit 7) Thank you. This chair is a lot more comfortable. Chairman Senator Johnson and members of the committee, thank you for giving me this opportunity to come and speak with you today in favor of LB242. My name is Cindi Allen, C-i-n-d-i A-l-l-e-n. My husband and I are agriculture producers in Ogallala, and we grow dry edible beans as a major crop. In addition to production agriculture, I am currently serving my second term on the Nebraska Dry Bean Commission representing District 4, which covers the eastern part of the state and also part of the Panhandle. Today I am representing myself as a dry bean grower as well as addressing how checkoff dollars relate to the Nebraska Dry Bean Commission and farmers. Nebraska Dry Bean Commission is the voice of the dry bean growers and the processors. We have the highest priority given to increasing the consumption of dry beans. We recognize that dry beans as a specialty crop are different than other commodity crops in production agriculture. Consequently, dry beans are not traded by the Commodity Board of Trade. Therefore, dry bean production and consumption is purely based upon supply and demand. Checkoff dollars collectively provides farmers an avenue to increase the consumption of dry beans in the market. Dry bean consumption is dependent upon export markets. For this reason, Nebraska checkoff dollars fund membership within the U.S. Dry Bean Council. Through the USDDB, Nebraska has preserved markets in South America, Europe, Asia, Africa, as well as maintaining a humanitarian presence in underdeveloped and developing countries through food aid programs. I recently returned from Congo and Ethiopia about two months ago where we visited with the International Partners for Human Development in incorporating dry edible beans into school lunch programs for children in Africa. And we also visited the U.N. World Food Programme. Still, Nebraska has relinquished their majority vote on the U.S. Dry Bean Council due to a lack of funds. The reduction in our dues and loss of a majority vote has minimized Nebraska's influence on a national level and has also polarized the U.S. Dry Bean Council. In addition to the U.S. Dry Bean Council, because of a lack of funds, Nebraska has been forced to reduce involvement in some of the

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Nebraska trade mission opportunities. Equally, to keep dry bean industry profitable, it's imperative that we maintain a resilient voice on a federal level. Recently a delegation of growers and processors traveled to Washington, D.C., where we supported one-half cup...a continuation of one-half cup of beans in school meals through the First Lady's Child Nutrition Reauthorization Act in the school lunch program as well as the Healthy Hunger Free Kids program. We also requested an authorization of canned beans in all WIC packages and to expand the definition of canned beans to include meat and sauces, in other words, baked beans. Many children like protein and fiber in their diet. Therefore, we have to hide it. We also showed support for trade expansion in the Trade Promotion Authority as well as trade with Cuba. I was one of the delegates who did travel to Cuba with Lieutenant Governor Rick Sheehy several years back to promote dry beans. We encourage research through the National Institute of Food and Agriculture. And we also depend heavily upon the Market Access Program and Foreign Market Development appropriations. I have gone to several countries: Turkey, Barcelona, Spain--I'll be leaving for Dubai Friday--in order to promote dry beans and dry bean industries, our dry bean industries in Nebraska around the world to increase the consumption of dry beans. We also voice support for the United Nations International Year of the Pulse which will be coming in the year 2016. This is a worldwide health and nutrition initiative comprised of four different themes, of which the United States will be building awareness for the theme of health and nutrition. Nevertheless, our input on a national or federal level is really unsustainable without adequate funds. Checkoff dollars also fund research and education as you've already heard in past testimonies. Dry bean research for growers comprises water conservation practices, methods of increasing yield, chemical and fertilizer applications. We research projects focusing on breeding, pest and disease management, and those are just a few. We've also fund research through UNL Food Science Division and incorporating dry bean powder into Chinese noodles, which I did travel to Beijing, China, and we had the opportunity to speak with owners and CEOs of the largest noodle manufacturing company in the world. The aforementioned is just a short list of the benefits of checkoff dollars that return to the farmer, not to mention the benefits of education urging consumers to incorporate beans in daily diets. Dry beans are a super food that prevent heart disease, promote brain growth, and combat diabetes. Consequently, both research and education contribute to the advancement of our industry and in turn the overall human condition. Even so, lack of funding has resulted in research diminished and left unfinished and put on the shelf because most of our research extends beyond one year. Some are three to five to ten years of research. To sum it up, it's imperative that Nebraska maintain a competitive edge advantage in the marketplace. Increasing the consumption of dry beans is one way that we influence the price, which benefits the local farmer. Likewise, research and education benefits the consumer. However, without proper funds the dry bean development is really restricted. Therefore, as a farmer, I urge your support of LB242. Thank you for the opportunity to testify before you today, and I will be happy to answer any questions. [LB242]

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SENATOR JOHNSON: Are there any questions of Ms. Allen? Senator Bloomfield.
[LB242]

SENATOR BLOOMFIELD: Yeah. Senator Chambers originally brought up the question I think that you've been to China and everywhere else producing this. How come we don't see anything in Omaha or Chicago? The pork producers had "the other white meat" that...Chick-Fil-A has "eat more chickens." [LB242]

CINDI ALLEN: Sure. [LB242]

SENATOR BLOOMFIELD: You don't see any of those advertisements. [LB242]

CINDI ALLEN: There are two reasons for that. First is that we use a lot of social media which is free. We are not as wealthy or have deep pockets like pork producers do; "the other white meat"; "beef, what's for dinner?"; milk. We don't have that type of funding to go to mass media. However, what we do is that we speak with different organizations, for instance, the Heart Association, diabetics...diabetes associations, school lunch programs. And for a while we did have a chef on the radio who incorporated dry beans into their recipes and was broadcasted on the radio. [LB242]

SENATOR BLOOMFIELD: I don't pretend to understand international trade, but it would seem to me like it would be more productive to reach out to our American housewives than it would housewives in China. I realize there are a lot more of them. But it seems to me like maybe we ought to be reaching out here at home a little more. [LB242]

CINDI ALLEN: Senator Bloomfield, you really bring up an excellent point and I do agree with you. Fifty-one percent of our northern beans are exported right now. The American consumer, the average housewife doesn't know how to soak beans and serve them or even how to hide them in different foods. So we do quite a bit as far as putting out those recipes to show women what to do in the kitchen. We're also developing dry beans into snack foods which would be more readily available to housewives in quick preparation of beans. So at UNL we have been developing some of these products that make it a little bit easier for the housewife to incorporate beans into meals in the kitchen. [LB242]

SENATOR BLOOMFIELD: Thank you. [LB242]

SENATOR JOHNSON: Questions? Senator Chambers. [LB242]

SENATOR CHAMBERS: It might be more than just a whimsical joke to have pork and beans come together in a promotion and benefit both of them. Or if you could get somebody...I don't know if any of you know Jim Pappas. He cooks beans that are good enough to eat (laughter). And by that I mean it's not like you're eating health food.
[LB242]

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CINDI ALLEN: Sure. [LB242]

SENATOR CHAMBERS: You know how people think of it as maybe it has fiber, but it's not going to taste like anything. It's a medicine but it's not too bad tasting. He flavors them and he does use pork, a lot of ham. And then you can put the amount of onion in it, if you want a little bit of hot sauce to liven it up if you choose. And I do like beans. But it's because of maybe word of mouth in a way because I grew up eating them. I mentioned Jim Pappas who cooks them now. But as far as any advertisements I've seen anywhere there just are not any things out there that would draw your attention if you don't already belong to the club. [LB242]

CINDI ALLEN: I agree. And actually, the Nebraska Dry Bean Commission has allocated funds to cooperate or not cooperate but go together with pork in some of their ads. [LB242]

SENATOR CHAMBERS: Find Jim Pappas, have him make a big pot of beans... [LB242]

CINDI ALLEN: Yeah. [LB242]

SENATOR CHAMBERS: ...and get some little glass jars with a screw on top like that baby food... [LB242]

CINDI ALLEN: Sure. [LB242]

SENATOR CHAMBERS: ...and sell those. [LB242]

SENATOR BLOOMFIELD: Maybe he (inaudible). [LB242]

SENATOR CHAMBERS: Give one and sell one. [LB242]

CINDI ALLEN: That's a great idea. [LB242]

SENATOR CHAMBERS: Charge twice what it's worth and make them think you're getting one of them free. [LB242]

CINDI ALLEN: That's such a great idea I think I'm going to bring that up to the commission next time we meet. Another avenue that we've also had is that we've contributed to the new State Fair building, the ag building, to bring awareness to the public in beans. And then in 2016 when the U.N. has the International Year of the Pulse--pulse are beans, peas and lentils--and they've established a logo which is quite beautiful and also a tag line which says, "Eat clean, think lean" and is to promote the consumption of dry beans. So through the U.S. Dry Bean Council, we're also a big part

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and I'm on that committee with the U.N. Year of the Pulse. So maybe...and I will bring that up too. Thank you. [LB242]

SENATOR JOHNSON: Senator Bloomfield. [LB242]

SENATOR BLOOMFIELD: Thank you. [LB242]

SENATOR JOHNSON: This is your third question. [LB242]

SENATOR BLOOMFIELD: Oh, okay. (Laughter) There may be more. I would encourage you to go a little further than the pork people. Everybody eats chili--beef and beans. Get the Beef Board on board with you a little bit if you're short of funds. [LB242]

CINDI ALLEN: We also do that too. [LB242]

SENATOR BLOOMFIELD: Okay. [LB242]

CINDI ALLEN: We allocate funds for the chili cookoff here in Lincoln. [LB242]

SENATOR BLOOMFIELD: Okay, but nobody knows that. [LB242]

CINDI ALLEN: Yeah, I agree. [LB242]

SENATOR BLOOMFIELD: And I thought maybe after Senator Chambers said we would get these jars of beans put together that you would bring them in and serve them to senators at late-night sessions. [LB242]

SENATOR CHAMBERS: Well, I don't know about that. (Laughter) You know the old joke about the Thunderbirds. That's what we don't need late at night. [LB242]

CINDI ALLEN: But you know, to comment on that is that when that happens is the air in your metabolism because that's not the food that you always eat. If you always ate beans, your metabolism would not air in that way. [LB242]

SENATOR JOHNSON: Other questions? Thank you. [LB242]

CINDI ALLEN: Thank you. [LB242]

SENATOR JOHNSON: Other proponents? [LB242]

JAY REMPE: Good afternoon, Senator Johnson, members of the Agriculture Committee. My name is Jay Rempe, J-a-y R-e-m-p-e. I'm here on behalf of Nebraska Farm Bureau in support of LB242. And I want to express our appreciation to the dry

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bean growers that reached out to us and talked to us about this bill a couple of weeks ago and we've had some conversations about it. We're supportive of the bill. We think...Farm Bureau has had a long history of supporting checkoff programs and their efforts in market development and education and research, and it's no different on this bill. Our policy supports those checkoff commodity boards having the adequate resources that they need to carry out their responsibilities. And in this case, it appears to us that some more research is needed. And our policy also supports reaching out to the producer groups, seeking their input on it. And the dry bean growers have demonstrated to us that they've done that in this case and reached out over the last year and a half and sought producer input on that. And in this case they're supportive of the increase. So we're certainly supportive of that. We do have a couple issues with the bill that we'd ask the committee to consider. One is the refund provision, the repeal of that. Our policy also supports having the refund provision in there. And then also the other issue and it relates kind of back to the refund provision, but the other issue that this...we have been in front of this committee on before is the use of checkoff dollars for lobbying. Right now present law says no lobbying at the state level, no contributions to any elected races, which that's great. But it allows up to 25 percent of the funds to be used for lobbying purposes at the federal level. And our understanding to my knowledge, the reason that was put in there is to allow the commodity boards to work on market promotion efforts and legislation at the federal level related to their underlying objectives of market promotion, education, and research. And so we've offered an amendment to the dry bean growers and we shared it with Senator Stinner's staff and I've shared it with your committee counsel to refine that language as it relates to federal legislation to refine it in a way to try to limit it down to the underlying objectives of the checkoff. And because they're increasing the rate, right now it says 25 percent, we had suggested dropping it to 5 percent to limit that. In some discussions with the dry bean growers, we understand that they think the 5 percent might be a little too limiting. And we're certainly willing to have that discussion with them on what the proper percentage might be. But given the increase, we thought 25 percent was a little too much. With that, I will be quiet given the lateness of the hour. And, Senator Chambers, I've known Jim Pappas for a lot of years. I didn't know he had that hidden talent to cook dry beans so I'll have to ask him about that. I'd take any questions. [LB242]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you, Jay. Other proponents? [LB242]

SENATOR HUGHES: Good afternoon, Chairman Johnson, members of the Ag Committee. My name is Dan Hughes, D-a-n H-u-g-h-e-s. I come before you today as a dry bean producer in favor of this legislation. I do bring somewhat of a unique perspective to this as a producer of dry beans paying the checkoff. But I've also been in the seat where Cindi has, just in a different commodity, being wheat, where I've seen the good that checkoff funds can do for an industry. So I would encourage you to support this legislation. Basically inflation makes it very difficult to continue the research

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projects and the market promotion projects that are out there. So I would encourage you to support that, and I'll answer any questions. [LB242]

SENATOR JOHNSON: Any questions? Thank you, Senator. [LB242]

SENATOR HUGHES: Thank you. [LB242]

SENATOR JOHNSON: Other proponents? Are there opponents? Seeing none, anyone in a neutral position? Again, seeing none, Senator Stinner, you can... [LB242]

SENATOR STINNER: Thank you. [LB242]

SENATOR JOHNSON: ...present your closing. [LB242]

SENATOR STINNER: Thank you again, committee, for your comments, your questions, and your attention this afternoon. I do want to interject just a little bit about the pork and bean and putting together with the pork association. There was a recipe competition including recent pork and bean contest sponsored by the Pork Board. So there is some of that. I will tell you this, that one of the criticisms, and this is in the article by David Howell who testified here, and I'm just going to read this: An area of criticism for the commission may be in advertising. It is a difficult area as many companies are involved in the packaging and sale of dry edible beans. Advertising is expensive and difficult for the commission to manage so as not to take an unfair advantage of one company over another. However, the North Dakota and Minnesota dry bean growers, through their joint group, North Harvest Bean Growers, has bought billboard advertising in large cities such as Minneapolis and Chicago to promote dry beans. It has been discussed that Nebraska should consider that type of advertising in Omaha and Lincoln. However, North Harvest has a substantially larger budget, five to six times larger than Nebraska. So it has been looked at. I think the criticism and observations by the committee are well warranted. I do want to make my last final pitch that the dry bean industry obviously is important to western Nebraska, but it's important to Nebraska, period. This type of checkoff and what they've been able to demonstrate in research and development and the need for promotionals is...really correlates to their request to increase on the checkoff side of things. So I would ask and urge each of the committee members to look at and to discuss and to vote positively on the recommendations here or the bill changes. So thank you very much for your time. [LB242]

SENATOR JOHNSON: Thank you. Any questions in his closing? If not, that will conclude the hearing on LB242. Thank you. [LB242]

SENATOR STINNER: Thank you. [LB242]