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Agriculture Committee
February 23, 2016

[LR378CA]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 23, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR378CA. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Burke Harr; Tyson Larson; and Merv Riepe. Senators absent: Ken Schilz.

SENATOR JOHNSON: We are waiting for at least two more senators. We have to have a quorum in order to start the hearing. We hope that they...two more will be here. We have senators that are introducing...one is introducing a bill in another committee, and one has been sick today, and I'm not sure what his status is. We hope the others will be here. But before we start the hearing, I will go through some of the proceedings. Most...some of you have been here before, some familiar faces. I'm Senator Jerry Johnson, Chair of the Ag Committee. I ask you to turn off your cell phones and/or turn them to vibrate while you're in the hearing room. We also ask you to refrain from taking a call. If you do, please go out into the hallway to continue your phone call. Refrain from any stating of opposition or support of the testimony that might disrupt the hearing, we ask you to avoid that. If you're going to testify today, we ask that you pick up a green sheet and fill it out and you present to our committee clerk when you come to testify. If you are not testifying, but want to fill out a sheet and state your position, there's a sheet back there for you to sign in. The agenda is posted out there, but we only have one hearing today, so we won't have to do anything with that. When you come forward to testify, we ask that you give your name, then spell your name, first name and last name. We need to make sure that it's on the record properly. If you have handouts, we ask that you have 12 handouts today. If you don't have that many, give it to our page, and we will take care of getting additional copies for the committee and for the records. We do have a quorum. Okay. We will formally start the hearing, and I'll ask first for introductions, starting over here. If you would introduce yourself.

SENATOR RIEPE: I'm Merv Riepe, I represent the people of Millard and Ralston in Omaha.

SENATOR HARR: I am Burke Harr, from Legislative District 8, representing the people of the great state of Nebraska.

SENATOR KOLTERMAN: I'm Senator Mark Kolterman, from Seward, representing the 24th District: Seward, York, and Polk Counties.

SENATOR LARSON: Tyson Larson, O'Neill.

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

Agriculture Committee
February 23, 2016

SENATOR JOHNSON: Okay. And again, I'm Senator Jerry Johnson, from Wahoo, representing the 23rd District, and Chair of the committee. I believe we will begin our hearing. I don't see any other senators coming in right now. But we'll begin the hearing with the opening by Senator Kuehn, if you will come forward. Welcome, Senator Kuehn.

SENATOR KUEHN: (Exhibit 1) Thank you. Thank you, Chairman Johnson and members of the Agriculture Committee. I'm Senator John Kuehn, J-o-h-n K-u-e-h-n, representing District 38, which is seven counties in south central Nebraska. Today, I bring for your consideration LR378CA, also known as the Constitutional Right to Farm Amendment. This is a deeply personal policy issue for me, both as a fourth generation livestock producer, and as a large animal veterinarian. At a local community picnic, when I was eight years old, I was the winner of the children's greased pig catching contest. When I was asked to turn over the pig in exchange for the \$10 prize, I asked if I could keep the pig. Reluctantly, the trade was permitted, and a Montana Duroc gilt that I later named Christy became my first sow and my introduction to production agriculture. Agriculture is the undisputed foundation of Nebraska, the economic engine of our state. Nebraska agriculture represents one in every four jobs, and over \$25 billion in economic impact. The vitality of our rural communities, the conservation of our natural resources, and the protection of our defining culture as Nebraskans is inextricably linked to the success of the nearly 50,000 Nebraska farm families who provide food, fiber, and fuel for every Nebraskan, and millions more globally. Advocacy for the future of Nebraska agriculture is my highest priority. It is for that reason today, that I bring you LR378CA, the resolution to establish a constitutional right to farm and ranch in Nebraska. Nebraska's farm and ranch families are producing higher quality crops and meats with greater sustainability and a smaller environmental footprint than ever before. Using less land, water, and chemicals, modern stewardship practices, and the use of technology for crop protection and the promotion of animal health, have enabled family farms and ranches of every size to thrive in a competitive, global commodity market. As a national leader in agriculture and natural resources research, the opportunities for Nebraska to be home to new agricultural innovation are limitless. Unfortunately, as fewer and fewer consumers have a direct connection to agriculture and to food production, misconceptions about modern agriculture, created by activist groups, take root. Even within the Nebraska Legislature, people I consider friends and colleagues are so removed from food production and Nebraska's largest industry they unintentionally perpetuate anti-agriculture sentiment and statements. In the social media, anyone with an anti-agriculture agenda can quickly undermine Nebraska's farm families, even using the guise of pro-farmer or pro-food groups. Activist groups can promote increasingly restrictive legislation and regulation that impairs the rights of family farmers and livestock producers to use accepted, safe, and approved practices on their farms and ranches. LR378CA is a proactive step to prevent the undue influence of advocacy groups, such as the Humane Society of the United States, U.S. Right to Know Coalition, the Environmental Working Group, and many others, from sponsoring legislation and exerting undue influence on the political process, and in doing so, restricting agricultural practices and private property rights, with the ultimate

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

Agriculture Committee
February 23, 2016

goal of ending the use of animals for livestock, and inhibiting modern crop production. Nebraska's farm families do not have the resources to defend legal challenges in response to wealthy, anti-agriculture activist groups. Even an incremental adoption of their agenda is crippling to Nebraska's rural communities and to our entire state. With constitutional protection of property rights provided by LR378CA, Nebraska's family farmers and ranchers will have certainty as they build their operations and invest in our rural communities. This resolution has been mischaracterized as a concept to promote or protect corporate agribusiness. Right to farm is a private property right that grants equal protection to all of Nebraska's farm and ranch families, whether that farm is 5 acres or whether it is 1,000; farm and ranch families who do not have the resources to pay lobbyists or engage in donor-sponsored media advocacy campaigns, ultimately protecting their livelihood from increasingly frequent and sophisticated campaigns of misinformation that target agriculture. The large corporate interests can take care of themselves. It's the young, beginning farmers, like my neighbor in Kearney County, Dan Christensen of Minden, who are most at risk, as they build their farms and ranches. LR378CA reinforces the right for Dan and his generation of farmers to use their land for safe, approved farming and ranching practices. In the past year, Nebraska has seen the disruption that can be caused by anti-animal agricultural extremists targeting our producers. Misinformation about the use of genetically modified organisms, commonly referred to as GMOs, in crops, and misinformation about accepted animal health practices is rampant in the media. Activist anti-agricultural legislation in California, Ohio, Rhode Island, and other surrounding states has been crippling to agriculture, not only there, but has had far-reaching impact on states nationally due to the interconnected nature of agriculture. The threat is real. It is time that we proactively protect Nebraska agriculture. I think it is important to underscore several things that LR378CA does not do. We're going to be talking today a lot about misinformation, and there already has been significant misinformation. LR378CA does not give farmers and ranchers carte blanche to be whatever they want. The right-to-farm amendment does not restrict local municipalities or zoning boards from establishing and enforcing community standards. The restriction is on the Legislature. Every right is subject to reasonable restrictions, and LR378CA clearly allows legislative action to protect a compelling state interest. Additionally, Nebraska's sacred initiative and referendum processes, critical mechanisms to provide voice to Nebraska's second house, its voters, remain fully intact. In addition, you have some handouts which I have provided for you, the committee, and included in that is an amendment for consideration by the committee, AM2251, that I have developed working with the Department of Natural Resources and the Department of Environmental Quality. The amendment further specifies and makes sure that the LR378CA gives the state the ability to protect and manage its vital water resources, and to comply with all federal environmental guidelines. Additionally, we have included a clause which will keep intact all current statutes put in place by previous Nebraska Legislatures, prior to December 31 of 2015. LR378CA does not grant any new protections, but preserves the current state of operations, and protects property rights for future generations. You also have enclosed in that packet of information, a letter from the director of the Department of Natural Resources,

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

Agriculture Committee
February 23, 2016

stating his position with the amendment. One other issue I just want to address and clear up as well, that regarding animal welfare. As a veterinarian, I have taken a solemn oath, which I hold dear, to promote animal welfare and protect the conservation of livestock resources. Nebraska has existing animal welfare statutes, and nothing in LR378CA deters, detracts from those statutes, or allows for animal abuse. Proposing an amendment to the Nebraska Constitution is no trivial matter, and not one which I take lightly. The significance of Nebraska agriculture, economically and culturally, raises it to the level of inclusion in the guiding principles of our state. At the time of our constitution's adoption in 1875, agriculture was the driving and stabilizing force in Nebraska--141 years later, agriculture retains that undisputed number one role in our state. Establishing this constitutional protection clearly codifies the role and significance of agriculture as that foundation and stabilizing force of Nebraska throughout its history. Placing the right to farm only in statute, which can be amended, fails to provide adequate protection for Nebraska's farmers and ranchers. The objective of LR378CA is to protect family farmers and ranchers and their property rights from the undue influence of advocacy groups who can drive legislation and regulation. Nebraska's existing right to farm statute is little more than a nuisance law, and can be gutted at any time by the Legislature. Advocacy groups, such as HSUS, have already effectively pushed the passage of laws to restrict accepted farming and ranching practices in surrounding states. Statutory approaches to the right to farm are simply ineffective. Additionally, in the era of term limits, institutional memory of senators within this body has a finite span of eight years. It is for that reason that constitutional protection of our number one industry is imperative. Only one senator currently in the 104th Legislature was present in this body in 2008 when LB1148 was introduced to the Nebraska Legislature to ban the use of gestation crates for pigs. Our memories are pretty short. The bill was introduced by a Lincoln senator with little or no connection to agriculture production, at the request of the Humane Society of the United States. The introducer later stated in the Omaha World Herald, "I had no idea that this was such a big issue nationally," clearly unaware of the impact the legislation would have. We can only speculate that in today's era of social media misinformation and national lobbying efforts, whether or not a similar bill introduced in today's Legislature would meet the quick fate of LB1148, which was withdrawn five days after its introduction. Since its adoption, the Nebraska Constitution has been amended 228 times. Since 1990 alone, 37 amendments, referred by the Nebraska Legislature, and 6 referred by the initiative process have been adopted by the voters of Nebraska. Our constitution is sacred, but it is also a living document that reflects the priorities of Nebraska citizens. With regard to Nebraska's identity as a state, and its role in providing food to the nation and the global community, there is no topic of greater significance than agriculture for Nebraska. Constitutional right to farm already exists in North Dakota and Missouri, and the Oklahoma legislature has placed this issue before their voters in November. As the national leader in crop and livestock production, Nebraska needs to step forward and provide a similar level of protection for our farm families, to preserve Nebraska's place as a national and global leader. So what makes agriculture of merit for constitutional protection, and why a right to farm and ranch, as opposed to other professions?

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

Agriculture Committee
February 23, 2016

Aside from its clear importance to Nebraska, farming and ranching is unlike any other occupation. There exists no other business enterprise, profession, or industry that is as multigenerational, or that has its roots in the succession of family property as does agriculture. The capital investment in farm and ranch land alone sets it apart from all other occupations. As any ag producer will tell you, buying soil that turns sun and water into food, fiber, and fuel is not a 10 or a 15-year capital investment that is easily measured by a cash flow statement. It is an investment in the future. The future of a family and a community, beyond the single life of a farmer or rancher, but for generations. No single other business or occupation is so dependent upon this magnitude of capital investment over multiple generations, with an absolute dependence on private property rights that are inseparable from farming and ranching. I would like to conclude today on my introduction with a very real illustration for the committee of why LR378CA is a critical tool to protect Nebraska agriculture. As you may expect, the Humane Society of the United States has been opposed to the right to farm concept, including that as introduced in Nebraska, as it disrupts their ability to accomplish their anti-animal agricultural agenda through misinformation. Using out of state dollars to manipulate the affection of pet owners and the affection they feel for their companions. Two weeks ago, an email signed by HSUS CEO Wayne Pacelle claimed that LR378CA could hinder the regulation of puppy mills in Nebraska, claiming that Nebraska considers dog and cat production "livestock." The concept spread quickly on social media and HSUS initiated patch-through calls to senators' offices magnifying that claim. This statement is false. You have before you, in the information I have provided, 14 references in Nebraska statute to the term "livestock", all of which clearly and unambiguously list the species considered livestock in Nebraska. Dogs and cats are not included in any of them. In addition, the Nebraska State Supreme Court in the City of Beatrice v. Goodenkauf stated, "We hold that dogs are not livestock, and the care or production of dogs cannot be included in the term "animal husbandry"." Given these clear facts, the claim that LR378CA has any effect on the state's identification and enforcement of statutes against the inhumane conditions in puppy mills is false. Dogs are clearly outside the purview of livestock production that is listed in this resolution. Yet, even when presented with clear statutory definition and a state supreme court ruling, some animal activists have continued to perpetuate that false claim to media outlets and on social media. What is so disingenuous about this assertion is that members of this committee will recall that last year I introduced to this committee LB389, which imposed greater fines and greater inspection fees on puppy mills than what was eventually adopted by this committee and advanced to this Legislature. I have been a constant advocate for animal welfare in this committee and on the floor of the Legislature, as well as the identifying and eliminating puppy mills in the state of Nebraska on record throughout my time in the Legislature. Nevertheless, when faced with reality, an untrue claim that promoted an extremist goal was perpetuated. The facts have not supported their agenda, so they have simply ignored them. The campaign of misinformation has continued to spread. What are voters to believe? What are we as policy makers to believe when misinformation is passed as fact? When facts don't matter, and emotionally-laden falsehoods are used to influence public policy,

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

Agriculture Committee
February 23, 2016

backed by outside dollars to expedite and grease the wheels of the political process, the threat to agriculture and the livelihood of Nebraska's farmers and ranchers is in jeopardy. We all recognize the unfair advantage that wealthy advocate groups have to influence public perception and the public policy process. Once we as lawmakers are embroiled in an emotionally-laden, politically charged debate on a specific piece of legislation, it becomes very difficult for us to have a rational, fact-based discussion about the role of agriculture in Nebraska. It is our responsibility as lawmakers to rationally and dispassionately establish a policy that protects the stabilizing economic and cultural forces of our state. Allow Nebraska voters the opportunities to provide for the right of Nebraska farmers and ranchers to work their private property unobstructed by extremist ideology, through law and regulation. Coming back full circle, my pig Christy's first litter was eight gilts, and by the time I was 10, I was a full-fledged hog producer. At 12, using the money from my hogs, I bought my first bred heifer, which was the start of my personal cattle herd, that I still operate today. It was my foray into the livestock industry and livestock production that literally put me through college. As the fourth generation of John Kuehn to be raised on the same section of land in Eaton Township of Kearney County, Nebraska, production agriculture is not only a part of life, it's our way of life. This past weekend, while we were on recess, I spent the time doing the precalving work--vaccinations and tagging, for my cow herd, alongside my dad, John, who is 76, my brother Joel, and my 11-year-old nephew Isaac. LR378CA secures the future of agriculture for my family, and for all other Nebraska farm families for generations to come. With that, I thank you for your attention to this critical resolution, and welcome any questions the committee may have. [LR378CA]

SENATOR JOHNSON: Thank you, Senator Kuehn. Questions? Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Senator, thank you for coming. [LR378CA]

SENATOR KUEHN: Thank you, Senator Chambers. [LR378CA]

SENATOR CHAMBERS: I believe in looking at the language of a proposal that's before us, so I'm sure you have a copy of it with you. [LR378CA]

SENATOR KUEHN: I do. [LR378CA]

SENATOR CHAMBERS: In line 8, what are the health benefits produced or provided by agriculture? [LR378CA]

SENATOR KUEHN: A healthy population is a population that has adequate access to healthy and sustainable food. So certainly, there continues to be thousands of Nebraska families who

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

Agriculture Committee
February 23, 2016

struggle to meet their needs for food, but there's also 50,000 Nebraska families working 365 days a year to produce food in a sustainable and cost-efficient manner. [LR378CA]

SENATOR CHAMBERS: And you think that if a court were looking at this, that's how the court would interpret the term "health benefits", when wherever else it's used, it doesn't relate to food, it relates to...well, I'm not going to say, but there are so many things: exercise, activities, going to the doctor, and doing the various things that will keep you healthy. But anyway, that's what you mean by health benefits, the production of healthy food? [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: Then why don't you just strike this and just leave food, because you already say food, "economy which provides food." Now, when words appear in the constitution, each is supposed to have a meaning. If food means health benefits, and health benefits means food, one of them should be eliminated. Which one would you eliminate? [LR378CA]

SENATOR KUEHN: I would probably eliminate the health benefits and go with food, but I think that is an excellent suggestion. [LR378CA]

SENATOR CHAMBERS: Okay, now when it comes to...by the way, you didn't originate this language did you? [LR378CA]

SENATOR KUEHN: No, this is language which has been looked at originally with several other states that have looked at and moved forward a right to farm amendment. [LR378CA]

SENATOR CHAMBERS: Were any of them (inaudible) states like Alabama, Georgia, Florida, Mississippi? [LR378CA]

SENATOR KUEHN: No, they were not. No. [LR378CA]

SENATOR CHAMBERS: Which ones? [LR378CA]

SENATOR KUEHN: This one specifically is looking at Oklahoma's process and the Oklahoma language. So the other states which have passed this and used very similar language are Missouri and North Dakota. [LR378CA]

SENATOR CHAMBERS: Those are the only ones? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: Um-hum. Correct. [LR378CA]

SENATOR CHAMBERS: Okay. Now, what does "security" mean, that agriculture provides? What security does it provide? [LR378CA]

SENATOR KUEHN: Certainly in terms of economic security. The security of our state is dependent upon the ability of our citizens to have an income, to maintain economic stability. And so the security looks at the economic security and economic stability of the citizenry of Nebraska. [LR378CA]

SENATOR CHAMBERS: But it doesn't say economic security, does it? [LR378CA]

SENATOR KUEHN: No, it does not. [LR378CA]

SENATOR CHAMBERS: The word standing alone, if you put it to people in this society, they might talk about the military. Protection from invasion, protection from violence--foreign and domestic, having metal detectors at entrances to...entryways to school. But none of that is what you mean by the word security here? [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: A word is considered vague or ambiguous if rational people could look at it and come up with entirely different meanings for it. If a court looked at that word, do you think that it would come up with what you said? Or would it come up with what the court would perceive people in society would generally think? Because that's how they deal with words if they're going to construe them and it's not defined. Do you think maybe you ought to define what you mean by security? [LR378CA]

SENATOR KUEHN: I certainly could. I think in the context in which the language was intended, which was to establish where, and the significance of the role of agriculture in Nebraska. And so I think contextually...but I certainly do not disagree with your assessment that that may be an ambiguous word, and one which certainly could be given greater clarity or precision. [LR378CA]

SENATOR CHAMBERS: And kind of touching on health benefits and security, what's the most dangerous pursuit in America? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: Farming. [LR378CA]

SENATOR CHAMBERS: And that's a part of agriculture. [LR378CA]

SENATOR KUEHN: It absolutely is. [LR378CA]

SENATOR CHAMBERS: So if you work...the work itself may not be helpful to your health. It could be detrimental to your health. [LR378CA]

SENATOR KUEHN: I have a number of broken bones and a lot of scars that will reinforce that concept (inaudible). [LR378CA]

SENATOR CHAMBERS: And a very good friend that I developed in the Legislature, former Senator Raikes, died in a farming accident. So...and I'm trying to just stick to these words. And then, others then will answer questions then I might come back. In line 12, "the Legislature shall pass no law which abridges." What does that word mean? [LR378CA]

SENATOR KUEHN: In terms of abridges, which would take that property right that citizens who engage in farming and ranching have, and dilutes it, compromises it. So for example, abridges it by saying you can plant corn, but you cannot plant corn that has a genetically modified organism. You can raise cattle, but you cannot use antibiotics to treat them for disease. [LR378CA]

SENATOR CHAMBERS: Well, any regulation then by the Legislature could be considered, based on how you define it, to be an abridgement, whether it relates to trespass, eminent domain, dominance in mineral interest. Or do all these words down here, starting in line 16, take their meaning from whatever the Legislature gives as a definition? [LR378CA]

SENATOR KUEHN: Those go from there, and the Section shall not modify any of those. So those remain intact as established by the Legislature. So certainly, if we're dealing with a provision of trespass, eminent domain, mineral interest, easements, rights of way, and also I've included an attachment with some proposed amendment language to ensure water and protection of environmental quality would not fall under the purview of Nebraska's right to farm. The Legislature maintains complete control and authority over those defined activities. [LR378CA]

SENATOR CHAMBERS: So if a project were to be done that would destroy a farm and eminent domain were employed, this would not stop eminent domain from taking the farm? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: The eminent domain is a separate issue and not...this does not supersede the other eminent domain laws. [LR378CA]

SENATOR CHAMBERS: Okay. And if the Legislature should determine, through scientific investigation, that some of these additives that farmers use are harmful to the health of the citizens, in the exercise of its police powers it could abridge that and it could ban it. [LR378CA]

SENATOR KUEHN: Anything that would certainly be detrimental to the common good of Nebraska or a compelling interest, absolutely. And I think that that is a key element, is that what agriculture is looking for is a science-based, fact-based discussion of what we do and how we... [LR378CA]

SENATOR CHAMBERS: I don't think you were fact-based, pardon me, when you used the inflammatory language you used about the Humane Society. There was a lawyer in court in Lincoln who did argue that pet animals are livestock, so there are people in that environment who do call them livestock. But anyway, and you cited a court opinion, but that can be changed. So if the court changed its opinion and said that pet animals are livestock, then this would automatically protect the puppy mills, wouldn't it? [LR378CA]

SENATOR KUEHN: It would have to be a Supreme Court opinion. We have some Supreme Court language. [LR378CA]

SENATOR CHAMBERS: That's what I'm saying. If the Supreme Court change... [LR378CA]

SENATOR KUEHN: So I think that's always a possibility. The Judicial Branch has their ability to exercise their belief, yeah. [LR378CA]

SENATOR CHAMBERS: So they can expand or contract the reach of this language without even dealing with the language itself? [LR378CA]

SENATOR KUEHN: Within the confines of the statute. I think, as the Supreme Court referenced, they referenced existing definitions of livestock. And again, we have throughout Nebraska statute a number of explicit definitions of livestock. [LR378CA]

SENATOR CHAMBERS: All right. Because I don't want you to go further than you have to, because I don't want take all the time. But I think this is essential. You're relying on legislative definitions, so the Legislature can define these pet animals as livestock. Then they would be covered by this constitutional provision, wouldn't they? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: If that's what the Legislature of the state of Nebraska deemed appropriate, yes. [LR378CA]

SENATOR CHAMBERS: So on the one hand, the Legislature could make it something that conflicts with this constitutional provision, and then the constitutional provision could not undue what the Legislature had done. [LR378CA]

SENATOR KUEHN: It would be a significant policy shift on the part of the Legislature, but yes. But on the other alternative, the initiative and referendum process remains intact. So if the people of Nebraska did not agree with that legislative decision, nothing in this statute inhibits the referendum process, that would allow that to be reversed. [LR378CA]

SENATOR CHAMBERS: But that doesn't deal with what we're talking about. We're talking about this and not how do you rectify errors that are in this. What does agricultural technology include? Does it include only what might be embraced with that term, whatever it means, what exists now, or anything in the future that may be created? [LR378CA]

SENATOR KUEHN: Things forward into the future. The adoption and innovation of technology. [LR378CA]

SENATOR CHAMBERS: So then cloning could be covered by this? You could not...this Legislature could not regulate cloning? [LR378CA]

SENATOR KUEHN: If legally allowed by the FDA, cloning does exist. [LR378CA]

SENATOR CHAMBERS: No, not the FDA, the state. [LR378CA]

SENATOR KUEHN: Correct, but the state could not abridge...no, could not abridge cloning. That's correct. [LR378CA]

SENATOR CHAMBERS: Okay. Now livestock production...if somebody felt that in order to raise their livestock, they put them in a little enclosure like a box, where there would be a quarter-inch of movement to the left, a quarter-inch of movement to the right, three inches to the front, and three inches in the back. The Legislature couldn't change that, could it? [LR378CA]

SENATOR KUEHN: No. If they are referring to something like a gestation crate, or a farrowing stall, or a laying stall, no. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: And those terms are fluid. They could mean different things to different people. Whatever use you put to this enclosure is what it becomes. So each farmer, each rancher, each person who produces livestock would determine what this term means in the constitution. Now by simply doing it and say this that I'm doing is the way I produce livestock, and it could not be considered cruelty to animals, could it? [LR378CA]

SENATOR KUEHN: Nebraska has an existing cruelty statute, and certainly we want to ensure that animal welfare. There also is... [LR378CA]

SENATOR CHAMBERS: But let me ask you this, if there's a conflict between a constitutional provision and a statute, which one trumps? [LR378CA]

SENATOR KUEHN: Constitutional provision, you bet. [LR378CA]

SENATOR CHAMBERS: Right. So if a person says what I'm doing is livestock production, then that's it. And it's protected by this provision against the Legislature doing anything about it. A sheriff couldn't go in there and do anything about it. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: And nobody could. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: All right. Now, ranching practices. We don't define ranching, I mean, practices do we? So it could mean...it could pertain to branding? [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: You could brand on the nose, couldn't you? [LR378CA]

SENATOR KUEHN: In theory, yes. [LR378CA]

SENATOR CHAMBERS: And you could mark animals by clipping the top lip off, couldn't you? You could remove one leg? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: In theory. [LR378CA]

SENATOR CHAMBERS: Anything you did that would be considered a practice on your ranch would be allowable under this and the Legislature could not enact a law to affect it. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: Is that what you intended? [LR378CA]

SENATOR KUEHN: You know, again, there are additional issues... [LR378CA]

SENATOR CHAMBERS: I'm going to say it like the court. Your honor, I think that's a yes or no question. Is that what you intended? Because you know what you intended. [LR378CA]

SENATOR KUEHN: Yes, certainly. I intend that certainly ownership of animals comes with a responsibility, and there are obligations to do so. [LR378CA]

SENATOR CHAMBERS: But that's not what this says. It doesn't talk about any of that. It just talks about your practices. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: Whatever you practice on the ranch are ranch practices. Wouldn't that be true? [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: And the Legislature could not affect that, the sheriff could not affect it, nobody could. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: So if you wanted to cut the hoofs off your animals so they couldn't run away, you could do that, couldn't you? That's your practice. It's a ranching practice. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: It's not a ranching practice. But at that point, I mean, there's no accepted animal production reason for doing so. [LR378CA]

SENATOR CHAMBERS: No, that's not in here. You don't define any of these words. And when you take something from another state, where they don't have people in their legislature who can think, then because the other state did it, state b will say we'll do it because state a did it, and it goes right down the line. And it started with something that wasn't thought through. Do you think that in an agricultural state it's necessary to protect farming in that state's constitution? [LR378CA]

SENATOR KUEHN: I do. [LR378CA]

SENATOR CHAMBERS: Or you wouldn't do this. I'm going to let others...and then if I have other questions, I'll ask, because I don't want to take all the time, although I easily could. [LR378CA]

SENATOR KUEHN: I appreciate it, thank you. [LR378CA]

SENATOR JOHNSON: Thank you, Senator Chambers. Somebody over here? Senator Riepe. [LR378CA]

SENATOR RIEPE: Thank you. And Senator Kuehn, thank you for being here. I guess that I've always thought of dogs not as livestock, but as members of the family. I also...I'm not going to ask you the fate of Christy, your pet pig. I don't know what happened to her, but it's probably a story in and of itself. Why now? Why are you bringing this legislation before us now? [LR378CA]

SENATOR KUEHN: To be clear, this was not legislation that I was asked to bring, or am bringing on behalf of any group. It's a personal conviction of mine, and certainly, when we think about the ability of farmers and ranchers to express to the community, and understand and have a fact-based discussion about what happens on the farm and ranch, it becomes complicated by misinformation. As we see a growing sentiment and a growing disconnect, I do believe that with each passing year we have fewer and fewer individuals who understand what is happening on the farm. So why this year, is there something magical? No. But I do believe that as we continue to see a greater and greater disconnect from agricultural practices, and an explosion of misinformation on social media, the opportunity for lawmakers to have a fact-based discussion about these laws becomes more complicated. And so my time imperative or my sense of urgency

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

Agriculture Committee
February 23, 2016

comes in that with every passing year, we see a greater and greater risk of this kind of activist legislation. [LR378CA]

SENATOR RIEPE: Okay, thank you. [LR378CA]

SENATOR JOHNSON: Thank you. Senator Harr. [LR378CA]

SENATOR HARR: Thank you, Mr. Chairman. I guess I have a couple questions. I'm going to piggyback off of Senator Chambers and maybe go in a little different direction as well, though. But looking at the language on line 12, you say...or the resolution says, more specifically, "the Legislature shall pass no law." What is the...so for every right there has to be an enforcement. What happens to the Legislature if they do? [LR378CA]

SENATOR KUEHN: The law would be found unconstitutional, so... [LR378CA]

SENATOR HARR: So the Legislature could? [LR378CA]

SENATOR KUEHN: Yeah, they could pass the law, but it would not stand the constitutional test, if challenged. [LR378CA]

SENATOR HARR: But they wouldn't know until after they've passed it probably, right? [LR378CA]

SENATOR KUEHN: As I think any law that we might potentially pass, that may or may not be within the confines of the constitution. I do not doubt that there have been, there certainly have been, unconstitutional laws passed by the body, that were overturned upon challenge. [LR378CA]

SENATOR HARR: So we have a constitutional amendment where we the Legislature may or may not be violating the constitution, and we wouldn't know it? [LR378CA]

SENATOR KUEHN: Could you rephrase your question or give me a... [LR378CA]

SENATOR HARR: Well, it says "the Legislature shall pass no law which abridges the rights of the citizens and lawful residents of Nebraska." If we don't, I mean, we would be doing something unconstitutional if it was later found by the courts to be unconstitutional. But at the time, we wouldn't know it, is that correct? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: I think certainly when we've seen in debate, we've had multiple opportunities in this session alone to debate matters of law where the constitutional interpretation of that terminology is up for discussion. I think we as a body have deliberated over what that is, we've sought opinions from the Attorney General. And that's the role of the courts, is to test and determine that constitutionality. [LR378CA]

SENATOR HARR: Okay. You state that this does not create any new protections, is that correct? [LR378CA]

SENATOR KUEHN: Um-hum. [LR378CA]

SENATOR HARR: And yet, if we want to...you also state at the same time this is protecting our farms. How is it not creating new protection, if it makes it more difficult for, let's say HSUS, to come in? [LR378CA]

SENATOR KUEHN: Okay. Rather than saying we are now going to give protections which were previously not there, in terms of freedom to do things which are already not protected by law, we're simply saying this is the line, this is the point going forward, in which we are not going to impinge upon that right to farm and ranch, or impinge upon those practices. [LR378CA]

SENATOR HARR: So they have more protection than say...a farmer had more protection from new laws, rules, and regs, than say, I, a state senator? [LR378CA]

SENATOR KUEHN: We've got a lot of protections for what we do. But in terms of what you do on your property, yes. So as a state senator, we don't do anything on our property. The fundamental issue with right to farm is engaging in the practice on your property. It does not give you the ability to do anything outside of how you manage the property on which you farm and ranch. [LR378CA]

SENATOR HARR: Which leaves me to the follow up question. If I own an apartment building, and I have, generations have owned the same apartment building, it takes a lot of capital to start an apartment building. Why does a farmer have more rights on their property than the commercial owner of an apartment building, or me, the owner of my home? [LR378CA]

SENATOR KUEHN: I think the fundamental difference, in terms of ownership of your home, it's not a business. So distinctly different in that agriculture is fundamentally a business, it's a livelihood. When we're talking about an apartment building, we're talking about reasonable

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

Agriculture Committee
February 23, 2016

legislation allowed on regulation, that protects the interest of the individuals who live there. So, certainly, health code... [LR378CA]

SENATOR HARR: And animals don't have interests? [LR378CA]

SENATOR KUEHN: Animals have interests, but animals do not have the same interests and/or rights as do human occupants. So animals still have an owner, they exchange ownership, they... [LR378CA]

SENATOR HARR: What if the new laws are to protect the ranch hands. As you know, ranches and farms are getting larger and larger. And the ownership, you know...so you need more ranch hands. Would this prevent, say, work comp laws? [LR378CA]

SENATOR KUEHN: No. Workmen's comp laws would certainly be...it is a compelling state interest, it is the interest of the state to protect its workers and to protect its residents from unsafe working conditions. So... [LR378CA]

SENATOR HARR: Well, what is your definition of compelling state interest? [LR378CA]

SENATOR KUEHN: So when we look at compelling state interest, it is a multitiered approach which looks at the concept of intermediate and strict scrutiny. So in terms of the legal definition, it would be that in which the state has a definitive interest in pursuing, but is also handled in the least restrictive way possible. So the state cert...what? [LR378CA]

SENATOR HARR: I said good memorization. [LR378CA]

SENATOR KUEHN: I'm not an attorney. And I didn't stay in a Holiday Inn Express last night, either. So in terms of the ability to protect the interests of the state, certainly those which are deemed interests of the state, and are done in the least restrictive way possible, would certainly be allowable legislation. [LR378CA]

SENATOR HARR: But that would be up to a court to interpret. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR HARR: And so we couldn't say today whether work comp law would or would not, if we had something more stringent, would or would not apply on a farm versus... [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: It would have the potential to be interpreted by a court and undergo a court challenge, yes. [LR378CA]

SENATOR HARR: Okay. And let's say I have an acre of land in the middle of a city, and I decide I want to raise...I want to have a community garden on there. And we're going to take the proceeds of that community garden, we're going to sell it at a farmer's market. There's already municipality protection, right, that says zoning and all that. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR HARR: But going forward, if the city finds out that they don't want some chemical, whatever that may be, within their city limits, because it's hazardous...maybe it's okay in a rural area because it can dissipate, but in an enclosed area it can't. So they say we don't want that in here, it pollutes our ground, runs into our water, our kids that take it in. As I read this, a city may or may not be able to write that law, is that correct? [LR378CA]

SENATOR KUEHN: It is my understanding, and certainly, that that's not the case. That the only lawmaking body which is restricted by this CR is the Nebraska Legislature. There is nothing with regard to city municipalities or counties that would impinge upon their ability to regulate within themselves. Only the Legislature shall make no law. [LR378CA]

SENATOR HARR: So the Legislature, we would tie our hands and make laws, yet, we could allow political subdivisions...something that would be unconstitutional for us to do, would be constitutional for a city to do? [LR378CA]

SENATOR KUEHN: I think that when we talk about local management of local conditions, that maintaining local control by a municipality, it's within their right and their ability to determine what should happen within the confines of their city. [LR378CA]

SENATOR HARR: So we could not pass a law, we the elected people of the state by our citizens, could not pass a law, but the Nebraska Department of Agriculture could make a rule or reg that would outlaw something that we can't do. If we did it, it would be unconstitutional, but it would be constitutional for a rule or reg? [LR378CA]

SENATOR KUEHN: The rule or reg from the Department of Agriculture would have to have a statutory basis. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR HARR: Not necessarily, and it could be a rule or reg based on something we passed previously. [LR378CA]

SENATOR KUEHN: Which would still be present and enabled to be done. So the existing statutory authority remains, so there would be no alteration of existing statutory authority. But for the state agency to undergo that rule and regulatory process, they will have to have statute for it. [LR378CA]

SENATOR HARR: All right, let's say it's, you know, we allow the Department of Ag to regulate the use of chemicals, right? We couldn't come in and say you can't use chemical x, y, z, but we would allow a rule or reg, because we previously passed a legislation, to say yeah, we are outlawing the use of drug a, b, c...or x, y, z? [LR378CA]

SENATOR KUEHN: Well, certainly I think if the existing statutory authority of the Department of Agriculture said unapproved or, you know, compounds...let's just use the example of a herbicide, that a herbicide represents a scientific threat or a medical threat. It would not have licensure of clearance and not be an approved product. So if we gave the Department of Agriculture statutory authority to ban the use or restrict the use of pesticides based on scientific data, that exists. Now if we are going to say as a Legislature, I don't like...come up with any new chemical you want...Trailblazer, and there is no scientific evidence to support the concept that Trailblazer is a dangerous chemical, I don't believe that the Legislature should be able to act upon nonfactual information. [LR378CA]

SENATOR HARR: But the department could, through its rules and regs, outlaw Trailblazer. [LR378CA]

SENATOR KUEHN: If it meets the statutory authority that was granted to them by the Legislature. [LR378CA]

SENATOR HARR: All right, that seems a little bizarre. Let me ask you one more question. Do you believe in...I heard you talk that you're okay with...you want local control for local areas. Okay. To a certain degree I agree with that. So, federal rules or regs come down and say Trailblazer can't be used, would you rather have the EPA enforcing that, or the Nebraska Department of Agriculture enforcing the nonuse of Trailblazer? [LR378CA]

SENATOR KUEHN: Well, in that case, it would be the Nebraska Department of Environmental Quality. And in the amendment language that I gave to you, we clearly identify that the federal...so "any statute enacted by the Legislature to implement or maintain federally delegated

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

Agriculture Committee
February 23, 2016

environmental protection programs." So if the EPA were to determine that our hypothetical herbicide Trailblazer were to be eliminated under this proposed language, the Department of Environmental Quality would be within its authority to act appropriately and accordingly. [LR378CA]

SENATOR HARR: All right. I'm going to have to read the...I don't know if I agree with what you're saying. I don't know if that says what you're saying here. [LR378CA]

SENATOR KUEHN: Okay. And this was language that... [LR378CA]

SENATOR HARR: But...and unless it is not environmentally related, then. Let's say the feds come down and say you can't have this, whatever, the crating of pigs, all right? Would you rather have federal agency enforce that or state agency enforce that? [LR378CA]

SENATOR KUEHN: I think that if we were to talk about a federal regulation with something like gestation stalls, I would certainly say that that is a case for federal overreach. And that in the case of a constitutional protection for that practice, that certainly gives our state an ability to push back against the federal government for that baseless or not fact-based finding. [LR378CA]

SENATOR HARR: It's in federal law. A law against gestation, would you rather have a federal agency enforce it or a state agency enforce it? [LR378CA]

SENATOR KUEHN: I would rather have the state exert its rights on behalf of its citizens and challenge that in the federal court system. [LR378CA]

SENATOR HARR: Okay. It's been challenged and it's shot down. Now which would you rather do, the federal agency or state agency? [LR378CA]

SENATOR KUEHN: It is the law of the land, and the state agency would have to be in compliance with the federal law. [LR378CA]

SENATOR HARR: But they can't enforce it. [LR378CA]

SENATOR KUEHN: They could enforce it in the sense that they still have to...they would still have to meet their statutory authority to adhere to federal... [LR378CA]

SENATOR HARR: Which we can't get that. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: ...if they have existing statutory authority to implement federal law or federal programs, federal preemption would apply. [LR378CA]

SENATOR HARR: Does that exist right now? [LR378CA]

SENATOR KUEHN: I can't give you an example of...and I can't think, quite frankly, of a single case in which there is a federal policy or law which... [LR378CA]

SENATOR HARR: Donald Trump could. [LR378CA]

SENATOR KUEHN: Well, I'm not Donald Trump, for better or worse. I can't think of an example in which that would actually be an issue in which a state agency would require to, without previous statutory authority, enforce a federal law. [LR378CA]

SENATOR HARR: Okay, thank you. [LR378CA]

SENATOR JOHNSON: Senator Bloomfield. [LR378CA]

SENATOR BLOOMFIELD: Thank you, Senator Johnson. I just need to clarify something for my own mind that was said here by Senator Riepe, that he doesn't consider dogs livestock, they are family members. I want it on the record that in certain conditions, dogs are, in fact, predators. Anyone who has ever raised sheep in an area where dogs have been kicked out into the country and then form packs, that's not a family member, and they do need to be controlled. So I just wanted that on the record to go with this animal. [LR378CA]

SENATOR RIEPE: We have different family members. [LR378CA]

SENATOR BLOOMFIELD: We do indeed. [LR378CA]

SENATOR RIEPE: I have some predatory family members. [LR378CA]

SENATOR JOHNSON: Any other questions of Senator Kuehn? Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Kind of to pull together something here. You keep talking about existing legislative authority. This would not take priority over anything that is currently in law? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: Correct. With the clause in the proposed amendment language that I have brought to you with AM2251, correct. [LR378CA]

SENATOR CHAMBERS: So if we were talking about slavery, from this point on, slavery is prohibited, but where slavery exists, it continues to exist? When they adopted the constitutional provision abolishing slavery, it didn't say from this point onward. It was over. So if this constitutional amendment that you're offering prohibits the Legislature from doing certain things, whatever is numbered among those things that the Legislature had done before, the constitutional provision would wipe it out. And if it didn't, you've got two classes, exactly the same, but treated differently, and that would violate the constitutional provision of equality before the law. Does this...this makes obviously a lot of sense to you, doesn't it? [LR378CA]

SENATOR KUEHN: It does. And I'm trying to digest your comment, and I want to make sure I understand it and reflect on it before... [LR378CA]

SENATOR CHAMBERS: All right. Let's do it a different way that might not make you nervous. It's illegal to...tell me something in here, specifically, that would be prohibited in terms of the Legislature passing a law, with reference to it. Give me something specific. [LR378CA]

SENATOR KUEHN: You know, let's...we can look at a specific bill which had previously been introduced in 2008, when you were in the body, so a bill that would ban the use of gestation stalls. Currently, gestation stalls...there's no law prohibiting gestation stalls, and the adoption of this amendment would prevent the Legislature from enacting a law that would prohibit gestation stalls. [LR378CA]

SENATOR CHAMBERS: But if there was a law already that allowed it? [LR378CA]

SENATOR KUEHN: If there was a law already that allowed, that existing legislation would remain. If we had a law that prohibited at current time, it would remain. So the current status of statute as it is, as of December 31 of 2015, is that part from which it is not changed. Things are neither allowed nor disallowed. [LR378CA]

SENATOR CHAMBERS: So this provision you're talking about...and I want it clearly on the record, and I want to get it from you, if laws a, b, and c are currently in place, but those laws as they exist would abridge ranching practices, agricultural technology, and livestock production, those laws could continue in existence and they could abridge agricultural technology, livestock production, and ranching practices. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: If they exist as of December 31, 2015. [LR378CA]

SENATOR CHAMBERS: For how long a period could they exist, forever? [LR378CA]

SENATOR KUEHN: Indefinitely. [LR378CA]

SENATOR CHAMBERS: So then you do have two categories, two classes? You have activities that are specifically prohibited by this constitutional provision, but if they were there at the time it came into existence, they're not prohibited, even though their action continues beyond the date when this is enacted, this provision. [LR378CA]

SENATOR KUEHN: That is correct. [LR378CA]

SENATOR CHAMBERS: And you don't see two distinct classifications? [LR378CA]

SENATOR KUEHN: I see two distinct classifications. The reason for the effective date is that I have no intention to undo the work of our predecessors. That our previous legislators have worked hard to establish a workable policy, and by no means am I purporting that current Nebraska law restricts or impedes the ability of farmers and ranchers to do their work. [LR378CA]

SENATOR CHAMBERS: It doesn't matter what other legislators have done. If we pass a bill that prohibits genetic engineering of crops, this provision, if you pass this, this would not undo that, would it? You could not ever use genetic engineering, could you? Because that law is protected now by the constitution, because the Legislature itself cannot pass a law that would undo that law. [LR378CA]

SENATOR KUEHN: The Legislature could not. [LR378CA]

SENATOR CHAMBERS: So the Legislature on the one hand did something, which after the passage of this it would like to undo, but it can't... [LR378CA]

SENATOR KUEHN: No. [LR378CA]

SENATOR CHAMBERS: ...because this constitution protects that bad activity. [LR378CA]

SENATOR KUEHN: I would...making the assumption it's bad for activity, yes. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Okay. That makes no sense to me. [LR378CA]

SENATOR KUEHN: That's fair. [LR378CA]

SENATOR CHAMBERS: But that's all that I will ask. [LR378CA]

SENATOR JOHNSON: Any other questions? Before...will you be here for closing? [LR378CA]

SENATOR KUEHN: Absolutely. [LR378CA]

SENATOR JOHNSON: Okay. So if we might have some questions later. Seeing... [LR378CA]

SENATOR CHAMBERS: Oh, may I ask one? [LR378CA]

SENATOR JOHNSON: Yes. [LR378CA]

SENATOR CHAMBERS: It's specific. Would you look at line 7? It says "to protect agriculture as a vital sector of Nebraska's economy." This is not intended to protect the entire economy is it? [LR378CA]

SENATOR KUEHN: No. [LR378CA]

SENATOR CHAMBERS: Only agriculture. [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: There could be another sector that has as much impact on the economy as you describe it here as agriculture? [LR378CA]

SENATOR KUEHN: In the future, potentially, yes. [LR378CA]

SENATOR CHAMBERS: But it doesn't get that protection? [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: It sets agriculture apart from every other thing, even if the other thing is similarly situated in its impact on the economy? [LR378CA]

SENATOR KUEHN: Correct. [LR378CA]

SENATOR CHAMBERS: Okay. [LR378CA]

SENATOR JOHNSON: Thank you. Thank you, Senators. Thank you, Senator Kuehn. Okay, a couple things before we move forward. Two people I didn't introduce that are critical to our hearing process: Christina Estrada is our committee clerk. So when you come up, give your paperwork to her. Rick Leonard is our research analyst for the Ag Committee, and he's on my right. And Brianne Hellstrom, from Simi Valley...is that...in California, she's a student at UNL. Just so we got a little calculation of time here. How many people do we have that are going to be testifying as a proponent? Okay. How many opponents? Okay. I think we'll be all right without a clock on the wall, as far as setting things off. But we will use the lights. We will have a five-minute light. The introducer does not work under the light system in our hearings, so that's why we didn't have the lights on. Five minutes, it will stay green until you've used up four minutes, it will turn yellow, and then at the end of the five minutes it will turn red, and we ask you to conclude your testimony and wrap it up as soon as you possibly can. So with that, we will move to proponent testimony. Would you please come forward, proponents? And if others are proponents, there's three seats up here in front. It might help move things along. Welcome. Please state your name and spell your name, first and last, thank you. [LR378CA]

WILL COGGIN: (Exhibit 2) Sure. Thank you for the committee, for having me here today, and especially to Senator Kuehn for inviting me here to testify. My name is Will Coggin, that's spelled W-i-l-l C-o-g-g-i-n, and I serve as the director of research for the Center for Consumer Freedom. And the center is a nonprofit based in Washington, D.C., that exposes radical activist groups that are trying to interfere with consumer free choice in the food marketplace, and educates the public about their agendas. So I offer testimony today on the radical animal rights threats that show why right to farm is needed. The major threat that I will talk about comes from the Humane Society of the United States, or HSUS, from which the committee will also hear testimony later. HSUS is a radical group that has the goal of putting all animal agriculture out of business. HSUS deceptively raises over \$100 million a year with pictures of dogs and cats, we've seen the commercials, and yet spends very little of the money on the care of those animals. Instead, it has spent tens-of-millions of dollars on lobbying and propaganda efforts designed to squeeze farmers economically. This year for instance, HSUS is pushing a ballot measure in the state of Massachusetts that would ban the sale of most eggs and pork from supermarkets. So to understand the HSUS agenda and the threat, I say we need to consider only the words of its leaders. HSUS senior food policy director, Matt Prescott, was a longtime campaigner for PETA,

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

Agriculture Committee
February 23, 2016

or People for the Ethical Treatment of Animals. Prescott designed a publicity campaign for PETA called Holocaust on Your Plate, which put pictures of modern farms alongside pictures of Nazi concentration camps. The slogan of the campaign was "to animals, all people are Nazis." Now Prescott told the media at this time, "anybody who eats meat is guilty of holding the same mindset that allowed the Holocaust to happen." HSUS vice president for farm animal welfare, Paul Shapiro, meanwhile has said "eating meat causes animal cruelty," and "the meat industry equals systematic murder." His predecessor at HSUS gave a speech clarifying HSUS's goals. She said, "we don't want any of these animals to be raised and killed. And so because of that, a number of organizations, including the Humane Society of the United States, we work on promoting veganism." HSUS leaders have also made startling statements in support of terrorist activity. John Goodwin, an HSUS senior director, is a former spokesperson for the Animal Liberation Front, which is an FBI designated terrorist group. Meanwhile, Mike Markarian, who's the chief operating officer at HSUS has stated, "a perfect example of effective rebellion is an Animal Liberation Front raid on a laboratory." Compounding these radical statements, is the fact that HSUS paid close to \$6 million to settle a bribery lawsuit a couple of years ago in 2014. In that same year, HSUS came under investigation by the Oklahoma Attorney General in regards to its fund-raising. Now, HSUS will no doubt tell this committee and others in the Legislature that it supports small farmers or family farmers who do things the right way. But it is clear the HSUS leadership does not really believe that. HSUS CEO, Wayne Pacelle, instituted a vegan only office policy in 2004 when he took over, and he said that "no HSUS money would go to the purchase of food that came from animals, whether that's a large farm, or a small farm, or the most organic farm you could find." Further, of all the farmers and ranchers we have in Nebraska, HSUS could only find seven people to join its Agriculture Advisory Council for the state. There are probably more card-carrying communists in the Cornhusker State. Just as the committee would not take activists from PETA seriously, who are often seen in lettuce bikinis, they should not take seriously HSUS's claims to be mainstream and moderate, or to represent anybody but a small sliver of diehard animal liberation activists. I thank you for your time and for your consideration. And I'm happy to answer questions from the committee. [LR378CA]

SENATOR JOHNSON: Thank you. Senator Bloomfield. [LR378CA]

SENATOR BLOOMFIELD: Thank you. Mr. Coggin, you made a statement...or read the statement that there's a ballot measure in Massachusetts that would ban the sale of most eggs and pork. Can you explain that ballot measure a little bit, and what it entails? [LR378CA]

WILL COGGIN: Sure. Well, you know, in the past we've seen ballot measures that might ban a specific practice that HSUS have pushed. It might ban, for example, cages for hens, or certain cages for hens, or maybe ban gestation stalls. We've seen ballot measures and lobbying efforts. But what this does a little bit differently is it not only bans the production practice in Massachusetts...and no farmers really use those practices in Massachusetts...but it also bans the

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

Agriculture Committee
February 23, 2016

sale of products produced using those methods. So it's an expansion of past campaigns. So you know, for example, it bans the sale at supermarkets if the...let's say your pork chop came from Nebraska or another state. It was produced somewhere along the line of supply chain that there was a gestation stall used, it would ban the sale of that product in Massachusetts. And so just to be clear, you know, I think 80 or 85 percent of pork would be banned by that measure, as well as about 90 percent of eggs. [LR378CA]

SENATOR BLOOMFIELD: Thank you. [LR378CA]

SENATOR JOHNSON: Senator Chambers. [LR378CA]

SENATOR CHAMBERS: You make a lot of accusations and assertions without any facts whatsoever. You use very accusatory, radical, inflammatory language. Does your organization exist primarily as a foil or counterweight to the Humane Society of the United States? [LR378CA]

WILL COGGIN: No, not exclusively. We run a number of projects. Our general focus is to protect consumer choice in the marketplace, and so, that not just comes with food, right? Primarily it started with food, when my organization was founded about 20 years ago. But food is very broad. You know, HSUS is one campaign we have going, it is certainly a major campaign, but in the past, we've advocated against, for example, the ex-mayor of New York, Michael Bloomberg tried to pass a law saying that adults can't buy large soda when they go out to eat at a restaurant. [LR378CA]

SENATOR CHAMBERS: But here's what I'm asking you. If you can break it down into a percentage, and I can only take your word for it, whatever that's worth, what percentage of the time that your organization spends is spent attacking HSUS? [LR378CA]

WILL COGGIN: You know, I couldn't give you an estimate. [LR378CA]

SENATOR CHAMBERS: Okay. And you were invited...did you contact the senator or did he contact you, inviting you here? [LR378CA]

WILL COGGIN: He contacted us, invited us here to testify. [LR378CA]

SENATOR CHAMBERS: And he knew that you would attack HSUS, didn't he? I knew it too. Now, are you aware that there are some farmers in Nebraska who are working with HSUS, and

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

Agriculture Committee
February 23, 2016

they're not card-carrying communists? Are you aware of that? Either you are or you're not.
[LR378CA]

WILL COGGIN: I am aware of that. Certainly they have an advisory council that has a couple of people on it, as I mentioned. But frankly, it's not many. They could only find seven people to join this council. [LR378CA]

SENATOR CHAMBERS: Well, Jesus said where two or three of you are gathered together in my name, there am I. So then what Jesus said means nothing, because you judge the quality by the number, is that correct? [LR378CA]

WILL COGGIN: Well, my point was they don't represent many farmers and ranchers in Nebraska. [LR378CA]

SENATOR CHAMBERS: How many people are in your organization? [LR378CA]

WILL COGGIN: In what sense? We don't have a membership in the traditional sense. We're not a membership organization. [LR378CA]

SENATOR CHAMBERS: So then you're the only one in the organization as such? [LR378CA]

WILL COGGIN: No, we have other people. We have an executive director, we have other people who do work with the organization. [LR378CA]

SENATOR CHAMBERS: Well, when you say organization... [LR378CA]

WILL COGGIN: I mean the nonprofit. [LR378CA]

SENATOR CHAMBERS: ...you have people who are...how many people are in your organization? [LR378CA]

WILL COGGIN: There's probably 9 or 10 people who do work with this organization.
[LR378CA]

SENATOR CHAMBERS: Okay, so HSUS was able to gather together seven people in Nebraska, and you have eight or nine in your organization. That's not a very big point spread to me.
[LR378CA]

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

Agriculture Committee
February 23, 2016

WILL COGGIN: Well, the organization is in terms of employees, that's what I'm talking about. We don't have a membership. We're not a membership organization. [LR378CA]

SENATOR CHAMBERS: Well, just in the interest of complete...what do they call it, disclosure? I received a lifetime award from HSUS, and I'm very proud to have received it. And I think some of the things that are said in these kind of blurbs, and what you're saying, are unsupported. Now, it would be one thing...even if you could give us newspaper articles from a credible source, but for you to just say it doesn't really mean anything other than the expression of one person's opinion, which you definitely have the right to do, and you've exercised that right. But by you speaking for us, and saying we wouldn't take anything PETA said seriously, you don't know that to be a fact, do you? [LR378CA]

WILL COGGIN: Well, maybe not in your case. [LR378CA]

SENATOR CHAMBERS: You don't know we wouldn't take it seriously, do you? [LR378CA]

WILL COGGIN: A lot of people don't take PETA seriously, so it was an assumption, but probably an educated guess. [LR378CA]

SENATOR CHAMBERS: But you said, in the same way we wouldn't take PETA seriously, we shouldn't take HS...did you say something like that in here? [LR378CA]

WILL COGGIN: I did. [LR378CA]

SENATOR CHAMBERS: But you don't know that to be a fact that we don't take PETA seriously, do you? You're drawing a conclusion and making a judgment about people you don't even know, isn't that true? [LR378CA]

WILL COGGIN: Well, I would say, with regards to my testimony, I've offered quotes from HSUS personnel themselves. They speak for themselves. [LR378CA]

SENATOR CHAMBERS: No, I'm talking, if you'll answer...you brought up PETA, that's what I'm talking about. The statement you made about PETA, and stated that we wouldn't take that seriously, so we shouldn't take the other thing seriously. You don't know whether PETA is taken seriously here or not, do you? [LR378CA]

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

Agriculture Committee
February 23, 2016

WILL COGGIN: Well, it was an educated guess that people who wander around in lettuce bikinis and advocate for veganism are very radical and crazy mannered, as PETA does, in my opinion. [LR378CA]

SENATOR CHAMBERS: That has nothing to do with whether we take them seriously. There are women on television, in movies, who dress in less than that, and they have huge followings and they are taken very seriously. So the fact that somebody exposes a certain amount of flesh means nothing, and it has no bearing on the issues. And if that's the way you make your point, you must not have anything very substantive. That's my opinion, and those are all the questions that I have, thank you. [LR378CA]

SENATOR JOHNSON: I have a question. Have you testified in other states on right to farm act in your organization? [LR378CA]

WILL COGGIN: No. [LR378CA]

SENATOR JOHNSON: So this is the maiden voyage for you personally? Or how about your organization? [LR378CA]

WILL COGGIN: That's correct, Senator. We've offered testimony before on different issues, such as menu labeling, and there was a federal bill about 10 years ago related to animal rights terrorism that our predecessor testified in Congress. But in terms of right to farm, this is, yes, the maiden voyage. [LR378CA]

SENATOR JOHNSON: Okay. So you haven't been exposed to some of the questions that have come up here as to how Oklahoma challenged or failed to challenge some of the wording in a constitutional amendment? [LR378CA]

WILL COGGIN: No, no. [LR378CA]

SENATOR JOHNSON: Thank you. Senator Harr. [LR378CA]

SENATOR HARR: But your focus is on animal rights and environmental issues? [LR378CA]

WILL COGGIN: Animal rights, environmental issues, as well as we also have a project dealing with chemical issues. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR HARR: Okay. And I was trying to find your Form 990 on-line here. Are you guys aligned with the Alliance for Consumer Education? [LR378CA]

WILL COGGIN: No. [LR378CA]

SENATOR HARR: Where are you guys...what state are you guys out of? [LR378CA]

WILL COGGIN: We're out of Washington, D.C. [LR378CA]

SENATOR HARR: And is that where you're incorporated? [LR378CA]

WILL COGGIN: I believe so, but I'm not sure. [LR378CA]

SENATOR HARR: Are you guys...would you say you're a non...your category would probably be an educational, would you argue? [LR378CA]

WILL COGGIN: Yes. In fact, I'll tell you the name you should look under. It's Center for Organizational Research and Education. [LR378CA]

SENATOR HARR: So it's not...okay. Center for...what is it, Organizational what? [LR378CA]

WILL COGGIN: Organizational Research and Education. [LR378CA]

SENATOR HARR: Okay. Okay, thank you. And who funds...if you're a nonmember organization, how are you funded? [LR378CA]

WILL COGGIN: We get funding from the food industry, as well as some foundations and individuals. [LR378CA]

SENATOR HARR: Okay. And what food foundations and what agencies? Who are they? [LR378CA]

WILL COGGIN: Well, we don't reveal specific donors for privacy reasons. [LR378CA]

SENATOR HARR: Okay. Well, that kind of goes at...I mean, all right. And you don't want to tell us either, do you? [LR378CA]

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

Agriculture Committee
February 23, 2016

WILL COGGIN: Well, frankly, I don't do development. I really don't know. [LR378CA]

SENATOR HARR: Okay. Okay, all right. That's all I have, thanks. [LR378CA]

SENATOR JOHNSON: Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Could you be funded by the communist party, as far as you know? I'm not trying to be facetious. I want to get at something, because he has made some very serious charges. Could you be funded by the communist party? [LR378CA]

WILL COGGIN: I think I can say with confidence that we're not. [LR378CA]

SENATOR CHAMBERS: But you don't know, do you? [LR378CA]

WILL COGGIN: You're right. [LR378CA]

SENATOR CHAMBERS: Could you be funded by a terrorist front organization, as far as you know? [LR378CA]

WILL COGGIN: Well, I think that would be illegal. [LR378CA]

SENATOR CHAMBERS: Well, a lot of things are illegal. But you don't know that, do you? You don't know it, you already said you don't know. So on the one hand you don't know, but now you do know. [LR378CA]

WILL COGGIN: Well, Senator, there's a difference between making an educated guess and making a wild guess. [LR378CA]

SENATOR CHAMBERS: Okay, so it has no real value, would it? [LR378CA]

WILL COGGIN: That's to you to decide. [LR378CA]

SENATOR CHAMBERS: Now, I want to phrase this right. This is not an accusation. Are you aware that not everybody would agree with the kind of statements you made, or the direction that your organization takes? Are you aware that there are people who would disagree with that? [LR378CA]

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

Agriculture Committee
February 23, 2016

WILL COGGIN: Certainly. [LR378CA]

SENATOR CHAMBERS: So if I wanted to create divisions in this country, and I was a member of a terrorist organization, and I'm very savvy, I'm very sophisticated, and if I want you to drink poison, I'm not going to put it in a bottle with the picture of skull and crossbones on it. So I would encourage you to do what you're doing, knowing that wherever you go, you're going to sow division, divisiveness, contention, accusations, and so forth. That would play into my hands, if that's what I wanted to achieve, wouldn't it? [LR378CA]

WILL COGGIN: I'm not sure where you're going with this. [LR378CA]

SENATOR CHAMBERS: You don't need to know, just answer the question. You're scared about where I'm going aren't you? You don't want to go there, do you? Or you think you know where I'm going, because you're a mind reader now. Where am I going with it? [LR378CA]

WILL COGGIN: I just said I don't know. [LR378CA]

SENATOR CHAMBERS: So then go with me and learn. That's all I have. [LR378CA]

SENATOR JOHNSON: Any other questions? Thank you. Next proponent. Welcome to the Ag Committee. [LR378CA]

DENNIS FUJAN: (Exhibit 3) Thank you, Senator. Chairman Johnson and members of the Agriculture Committee, good afternoon. I'm Dennis Fujan, D-e-n-n-i-s F-u-j-a-n, and I'm a corn and soybean producer from Prague, which is in Saunders County. I'm here today representing the Nebraska Soybean Association in support of protecting Nebraska's number one economy, agriculture. Nebraska farmers and ranchers provide food, energy, and security to our state and around the globe. We appreciate Senator Kuehn bringing this legislation forth, in his efforts to see to it our producers have the freedom to operate and provide food for a growing population. The right to farm is a way to protect agriculture and consumer choice. Farming and ranching is a way of life for generations of Nebraska families. We not only raise food and fiber for our own families, but help feed the world. In the soybean industry, for example, we depend highly on export markets around the world. We sell whole soybeans, corn...excuse me, soybeans, soybean meal, soybean oil, and pork that consumed our soybeans to many worldwide countries. These sales bring economic benefits back home to Nebraska farmers, ranchers, and local communities. It's unfortunate that very well-funded animal rights groups and other critics of modern crop and livestock production have succeeded in recent years in enacting laws that make farming and ranching more difficult by imposing costly and unnecessary restrictions. This could have a

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

Agriculture Committee
February 23, 2016

devastating effect on our local communities if that right was taken away. Having safeguards in place, like the right to farm, would provide farm families with a greater standing, if they need to challenge it in court later. The freedom to operate is and always will be under attack. Anything we can do, through legislation, to protect that freedom, we are in full support. Thank you for your time. If you have any questions, I... [LR378CA]

SENATOR JOHNSON: Any questions? [LR378CA]

SENATOR CHAMBERS: I just have two questions. [LR378CA]

SENATOR JOHNSON: Yes, sir? [LR378CA]

SENATOR CHAMBERS: The first one, name one animal rights group which is in a position to enact laws. [LR378CA]

DENNIS FUJAN: I don't believe there is any. [LR378CA]

SENATOR CHAMBERS: Well, you said well-funded animal rights groups and other critics have succeeded in recent years in enacting laws. So which ones... [LR378CA]

DENNIS FUJAN: And that's probably an incorrect way to state it. But they have succeeded in getting laws passed through legislation. [LR378CA]

SENATOR CHAMBERS: And how did they do it? Did they hold a gun to the hands of senators? Or how did they get legislatures to do that? [LR378CA]

DENNIS FUJAN: I have doubts they used a gun, no. [LR378CA]

SENATOR CHAMBERS: Are you aware that the constitution gives people the right to petition government and to exercise freedom of speech to influence government? [LR378CA]

DENNIS FUJAN: Yes. [LR378CA]

SENATOR CHAMBERS: And that the U.S. Supreme Court said expenditures of huge amounts of money equate to speech used for the purpose of influencing government? [LR378CA]

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

Agriculture Committee
February 23, 2016

DENNIS FUJAN: And I guess what we're trying to do here, then... [LR378CA]

SENATOR CHAMBERS: But are you aware of that, because I don't want to take you far afield? [LR378CA]

DENNIS FUJAN: Yes. Okay. [LR378CA]

SENATOR CHAMBERS: So are you aware that what you're dealing with really, that I see in here, is speech that you don't like. You haven't said these people have come and torn your farm down, have poisoned your animals. You said they've succeeded...and I won't take the language here, but they've succeeded in persuading legislatures to pass laws. That's protected by the U.S. and the state constitution. Are you aware of that? [LR378CA]

DENNIS FUJAN: Yes. [LR378CA]

SENATOR CHAMBERS: And you want to stop that from happening? I'm asking is that your...let me phrase this... [LR378CA]

DENNIS FUJAN: That's not my intent. [LR378CA]

SENATOR CHAMBERS: Okay. If this bill... [LR378CA]

DENNIS FUJAN: Our intent, I guess. [LR378CA]

SENATOR CHAMBERS: I understand. If this resolution becomes law, it could not prevent that kind of speech from occurring, could it? [LR378CA]

DENNIS FUJAN: No. [LR378CA]

SENATOR CHAMBERS: The criticism would still exist. [LR378CA]

DENNIS FUJAN: Right. [LR378CA]

SENATOR CHAMBERS: Okay. That's all that I have, thank you. [LR378CA]

Agriculture Committee
February 23, 2016

SENATOR JOHNSON: Any other questions? I guess I have one. What you have stated today, and what you have heard today with questions on the introducer and the previous testifier, do you have any concerns with what's not in the language that Senator Chambers and Senator Harr...I'll protect you a little bit. One point that I'm making, there's been some discussion, and the introducer has said does not want to go to statute. But do you feel it might be better to go to statute instead of putting this in the constitution? [LR378CA]

DENNIS FUJAN: It's possible, but I'm probably not educated enough on legal matters to know whether it should be in statute or in constitutional amendment. What I have seen or what I have heard, it's a lot broader thing than I thought it was. [LR378CA]

SENATOR JOHNSON: Okay. That's fine. Any other questions? Seeing none, thank you. Next testifier. Welcome. [LR378CA]

AL JUHNKE: Thank you, Mr. Chair, members of the committee. My name is Al Juhnke, A-l J-u-h-n-k-e, and I'm the executive director of the Nebraska Pork Producers Association. And I appreciate the opportunity to come on behalf of our organization and give you our position on the work that Senator Kuehn is trying to accomplish here. Our board met last week--our full board, and we had a fairly broad and lengthy discussion on LR378CA. And at the end of the day, the motion was made and passed, and it read like this: the Nebraska Pork Producers Association supports the concept of the right to farm amendment. And that was passed unanimously by the people that were in the room. So, you know, pork producers are no different than any other group of farmers. In fact, pork producers, many times, are corn and soybean production people, and many other sectors of the agriculture economy. And basically all that we're looking for is to farm, to raise our livestock, to do it in an environmentally sound and a sustainable way. And that's what we believe we do as family farmers in the pork industry. But too often, public policy, we've seen, is driven by emotion, by something that happens in the day or in the moment, and then all of a sudden it lands on our desks at the State Capitol or the federal congress, and things maybe get done more hastily than science would dictate. And that's where we look back at science and approved practices. So if science and approved practices and...Senator Kuehn is a veterinarian...what's approved for us by national veterinary associations and others, we look at that as sound practices and something that we should be able to do without interference by something that may be driven emotionally and not science on a state level. So, you know, and that holds for other things besides animal husbandry or animal health issues. Certainly our farmers use GMO seeds, we spray with ag chemicals, and all those things, at one point or another, have been under discussion in many legislatures around the country. And we feel that the protections that would be provided by the concept of a right to no farm, for our farm producers and our family farmers here in the state, would be very beneficial to them in preserving the way that they need to go about their activities in a sound and scientific way. So again, we're just looking for protections to do legal things, and any enterprise that we undertake

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

Agriculture Committee
February 23, 2016

ought to have that protection as a small business and a family farm. So on behalf of the pork producers, I just wanted to relay where we were at as an organization on Senator Kuehn's bill. [LR378CA]

SENATOR JOHNSON: Thank you. Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Mr. Juhnke, welcome to the... [LR378CA]

AL JUHNKE: I've been looking forward to meeting you, Mr. Chair, Senator Chambers. I've been looking forward to meeting you. [LR378CA]

SENATOR CHAMBERS: The pleasure is all mine, I assure you. And I'm not being sarcastic. [LR378CA]

AL JUHNKE: Okay. [LR378CA]

SENATOR CHAMBERS: And I like people who are careful with their language, and I listen to what people say. Your group didn't back this proposal, your group backed what? The concept. So you're not here backing this proposal based on what...were you authorized by your group to represent them when you read that? [LR378CA]

AL JUHNKE: Mr. Chairman, Senator Chambers, I read exactly what we passed. And you're right, words do make a difference. Full disclosure, I sat on the state legislature in Minnesota for 14 years, and I chaired the ag committee, and I sat where you sat. And one of the things that our group knows, under my direction anyway, is once a piece of legislation is introduced, once I introduce something in Minnesota or you introduce something here, by the time it's done at the end of the day, it many times looks a lot different. In fact, we've already...I was not aware, but there's already an amendment apparently, within the committee, to discuss. So our group supports the basic concept of right to farm, as we've seen in other states, and as we've seen trying to be accomplished here, but we reserve a right to look at that final language that may be showing up or coming out after third reading on the floor. [LR378CA]

SENATOR CHAMBERS: Well, I agree in the right to farm. That's why it doesn't need to be in the constitution. Everybody up here and everybody in the Legislature, I can guarantee you. Or as the guy from New Orleans said, I gerahntee (phonetically). You won't find a person in this Legislature who's opposed to the right to farm, and putting something like that in the constitution is similar to saying that corn grows out of the ground. It's a self-evident fact. And for my purposes, since you're from a legislature, I'm not picking on somebody, the constitution is the

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

Agriculture Committee
February 23, 2016

organic or basic law of the state. It should not be cluttered, it should not be polluted, it should not be weighted down to useless, meaningless, unnecessary verbiage, which only makes some people feel good, but it doesn't do anything based on what a constitution should be. You don't even have to respond to that, but that's my view. And that's the way I view this particular piece. And already, as you point out, there's one amendment. And the reason I spent time questioning the introducer in a way that I won't question anybody else, unless a paid lobbyist comes, because they're paid, you know, to do what they're doing, is to show that even the one bringing it hasn't thought through it all, cannot tell us what these terms actually mean. So if the one bringing it is unclear, we as a Legislature would be wrong to present something like that to the public to vote on it, when we don't even know what we're asking them to vote on, or the significance or the ramifications of it. And when you were in the Legislature, as stately and dignified as you look, I think you take as much attention with your brain as you do combing your hair and trimming your mustache...I notice things like that, because I was a barber...I think you would expect us to give the same kind of consideration to what we would present to the public. And you don't have to respond to that, that's an opinion that I'm expressing. [LR378CA]

AL JUHNKE: Well, Mr. Chair and Senator Chambers, thank you for that. And again, for full disclosure, I do not have a local barber yet, so if you have any suggestions, I will take them. [LR378CA]

SENATOR CHAMBERS: I don't do it anymore. [LR378CA]

SENATOR JOHNSON: Senator Harr. [LR378CA]

SENATOR HARR: Thank you. And I guess my question is...it goes back to property rights. Why does ag land deserve higher property rights than any other land? [LR378CA]

AL JUHNKE: As far as...I guess, Mr. Chair and Senator Harr, I don't quite understand the question. [LR378CA]

SENATOR HARR: Well, this bill creates rights that ag land would have that I wouldn't have in an apartment building, that I would not have in my own home, but yet, they apply to ag. So if property rights...this is based on property rights, why do agricultural property rights take a higher value? Because where I come from, rights come from on high, right? That's natural law and that's natural rights. And then there are laws that man made. Why does ag land deserve a higher right than homeowners or commercial? [LR378CA]

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

Agriculture Committee
February 23, 2016

AL JUHNKE: And Mr. Chair, Senator Harr, I guess I'm...looking at the bill and listening to the other testifiers, my testimony is based on the ag practices, not on the use of the land. Ag practices again, including the use of GMO seed, the spraying of, say, Atrazine chemical, the use of equipment on the farm, gestation crates or farrowing stalls have been mentioned earlier. Those types of things do not preclude any land rights that you or anyone else may have. Those are statutory and/or constitutional in many cases. So I'm referring to the ag practices, and really, our discussion, at least on our board, had nothing to do with land rights. [LR378CA]

SENATOR HARR: Okay. And this may be irrelevant and you may not be able to answer it, but I'll ask it anyway. If the purpose of an organization is to educate the public on consumer issues, including those related to government regulations, especially those related to product choices, educating the public about the organizations that work on issues related to public policies, do you think spending over \$1 million of your \$1.2 million budget on management, legal fees, and advertising is just? You can answer that or you can choose not to. [LR378CA]

AL JUHNKE: If you're referring to our budget... [LR378CA]

SENATOR HARR: I'm not referring to your budget. [LR378CA]

AL JUHNKE: Oh, you're not referring, okay. [LR378CA]

SENATOR HARR: And I'm sure you're underpaid. [LR378CA]

AL JUHNKE: Thank you. Mr. Chair, Senator Harr, thank you for that last comment. And you know, you're referring to some budget...I could certainly speculate, but not knowing what you're talking about, I certainly wouldn't go there. [LR378CA]

SENATOR HARR: Well, not knowing what I'm talking about, do you think that's fair? Since you don't know who it is. [LR378CA]

AL JUHNKE: Mr. Chair, Senator Harr, I'm with you if you think it's fair. I'm not sure where you're at. [LR378CA]

SENATOR HARR: All right. Thank you, I appreciate your candor. [LR378CA]

SENATOR JOHNSON: Thank you. Any other questions? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: He must come back again, sometime. [LR378CA]

SENATOR JOHNSON: Thank you. [LR378CA]

AL JUHNKE: Mr. Chair, members of the committee, thank you. [LR378CA]

SENATOR JOHNSON: You bet, thank you. Thank you for coming to Nebraska with your expertise. Next proponent. Dave. [LR378CA]

DAVE McCracken: Thank you. Good afternoon, Senator Johnson, members of the Agriculture Committee. My name is Dave McCracken, D-a-v-e M-c-C-r-a-c-k-e-n. I'm the immediate past president of the Nebraska Cattlemen, and I'm here today to testify on behalf of that organization, in support of LR378CA. And I have written down here, go slow, okay. In January, the Nebraska Cattlemen's board of directors voted to support this measure as presented, and made it one of their priority issues for this year. I volunteered to speak on this, and I'm not much of a public speaker, but I'm very, very passionate, and care a lot about the rights of ranchers and farmers being protected as their daily work is threatened by outside activists. The Nebraska Cattlemen policy is directly in line with this. It's uncanny how close this is to the language in LR378CA, that Nebraskans have the right to engage in farming and ranching, and that those rights should forever be guaranteed. Agriculture is the number one business in this state, \$12.1 billion of that is livestock and cattle. That's pretty important to this state's economy, and I think that should be protected in any way we can. Every day, the livelihoods of Nebraska farmers and ranchers are threatened by misinformation circulated by extremist groups with agendas far beyond improving the environment or improving animal welfare. This makes agriculture unique. Everyone works hard, but not everyone is a target. This measure will provide more certainty, which is good for family farms and good for economic development. The Nebraska farmers and ranchers make a living by taking care of their animals and taking care of the land. It is imperative for us to be good stewards of our land and take care of our livestock. These family farms and ranches are of all sizes that produce a variety of crops and livestock. This is a not big versus small. I was a very small operation in Saline County. It is about all of those engaged in farming and ranching now and in the future. Adding to the right to farm provision to the state's constitution will help us ensure that Nebraska farmers and ranchers continue to make business decisions that are based on facts and sound science, and not on emotion on some floor or on some Facebook page. It is those emotions that can result in ill thought out legislation that could have devastating impacts on the industry. This is a proactive measure looking forward to protect this state's number one industry. Thank you. [LR378CA]

SENATOR JOHNSON: Thank you, Mr. McCracken. Questions? Senator Chambers. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Mr. McCracken, as I listen, you all are concerned about people's opinions, words, and emotions. The constitution can't change any of that. You can't change anything that's on Facebook. You cannot make somebody accept your theory as opposed to their own. So if you think that's what this is going to do then you're mistaken. So tell me how, if this proposition that you came to support were voted on by the public and put into the constitution, what would that do to stop all of the things you've criticized here, which is misinformation, decisions made on something other than facts, facts as you interpret them, but as somebody else interprets them differently? How does this change all of those or any of those things you mentioned? [LR378CA]

DAVE McCracken: Well, I feel that it would perhaps stop the misinformation from making bad laws being implemented. [LR378CA]

SENATOR CHAMBERS: The one who... [LR378CA]

DAVE McCracken: And it might... [LR378CA]

SENATOR CHAMBERS: Go ahead. I'm sorry. [LR378CA]

DAVE McCracken: That's my feeling and that's my personal feeling. I am speaking for the Cattlemen but if we stop...if we can't...you're right. We can't stop Facebook. We can't stop Twitter. We can't stop any of those things. But we can stop the misinformation from making bad laws. [LR378CA]

SENATOR CHAMBER: Well, who makes laws in this state or any state? [LR378CA]

DAVE McCracken: The Legislature makes the laws and the people pass them and they elect the Legislature. [LR378CA]

SENATOR CHAMBERS: How is that going to stop us from passing bad law? I stop more bad laws in this Legislature than anything you'd put in the constitution. So how would that being in the constitution stop a Legislature from enacting bad laws? It wouldn't. [LR378CA]

DAVE McCracken: Because the way I read it, it says that it shall pass no laws unless it's detrimental to the state. [LR378CA]

SENATOR CHAMBERS: We can pass anything we want to. [LR378CA]

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

Agriculture Committee
February 23, 2016

DAVE McCracken: Yes. [LR378CA]

SENATOR CHAMBERS: We can even pass a law that says the United States hereby is abolished. We can pass that law. It just has no effect, no legal effect, but we can pass the law. So, I'll get away from that. You and others have talked about how much importance agriculture has to this state. You even mentioned the amount of money, a tremendous amount of money. That money is...first of all, agriculture is not a charitable activity, is it? [LR378CA]

DAVE McCracken: Well, hopefully not, no. [LR378CA]

SENATOR CHAMBERS: And it's for profit. Whether they make it or not, the intent is to make profit. [LR378CA]

DAVE McCracken: Yes, sir. [LR378CA]

SENATOR CHAMBERS: You don't care whether I in the city am homeless or hungry. I don't mean personally, but agriculture isn't concerned about homelessness, hunger, poverty, or anything else in pursuit of what they are after. They don't care about those things, do they? That's not what drives them. Profit is what drives them, isn't it, like any other business? Isn't that true? [LR378CA]

DAVE McCracken: Some of that. I disagree with the part that they don't care about the homeless folks or the folks who don't have food, because we produce food for people to eat. [LR378CA]

SENATOR CHAMBERS: Well, do you? Do you give that food away? How...what percentage of... [LR378CA]

DAVE McCracken: No, no, we don't give it away. [LR378CA]

SENATOR CHAMBERS: So then you don't care. You want money. [LR378CA]

DAVE McCracken: Yes. [LR378CA]

SENATOR CHAMBERS: Okay. So it's money-driven. So when you talk about how much benefit agriculture is and how much profit it's making, it is not for the people or the state. It's for

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Transcriber's Office

Agriculture Committee
February 23, 2016

those who are involved in the business of agriculture. And agriculture is a business. Do you agree with that? [LR378CA]

DAVE McCracken: Agriculture is a business... [LR378CA]

SENATOR CHAMBERS: Now if I say I... [LR378CA]

DAVE McCracken: ...and a lifestyle. [LR378CA]

SENATOR CHAMBERS: If I say I hate farmers, would that stop you from farming? [LR378CA]

DAVE McCracken: No, sir. [LR378CA]

SENATOR CHAMBERS: I hate cattle growing. If he's a cattle raiser, will that stop him from raising cattle? [LR378CA]

DAVE McCracken: No, sir. [LR378CA]

SENATOR CHAMBERS: All I'm doing is raising Cain verbally. [LR378CA]

DAVE McCracken: Yes, sir. [LR378CA]

SENATOR CHAMBERS: This provision will not stop that. Name one thing that is going on right now as a result of a law this Legislature passed that would be stopped if this provision were in the constitution. [LR378CA]

DAVE McCracken: Well, like I said before, I think it would stop the social media and all the things we hear from encouraging people to make bad laws, sir. [LR378CA]

SENATOR CHAMBERS: What you want to do is restrict speech. That's free speech, protected by the constitution. You want us to put something in the constitution to protect your moneymaking while, at the same time, wanting to abolish the protection of the First Amendment to the U.S. Constitution and a similar amendment in the Nebraska Constitution. Maybe the next speakers will stop talking about, I don't like what's said on Facebook, I don't like improper or inaccurate information. That has nothing to do with anything that this proposal before us should have to do with. And if that's what it's about, it should be torn up and thrown away right now, because we cannot abolish freedom of speech. And in America, you have the right to be

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

Agriculture Committee
February 23, 2016

ignorant. It's right there in the constitution. You have the right to spread misinformation. That's in the constitution. And what those who defend free speech say is that if you have error articulated, the best way to counteract it is not by prohibiting that person from speaking, but by countering that error with facts and the truth and your ability to persuade. And this thing that we have before us now which Senator...oh, I don't know if I'm getting some bad news. [LR378CA]

CYNTHIA GRANDBERRY: No, no, that's okay. I'll just wait until you're finished. [LR378CA]

SENATOR CHAMBERS: Okay. I don't know whether or not we should say that when the introducer doesn't understand it, it's fair for me to criticize people who support it for not understanding it. I'll ask the question more simply. Tell me one thing that this Legislature does...how long have you lived in Nebraska? [LR378CA]

DAVE McCracken: Sixty-nine years. [LR378CA]

SENATOR CHAMBERS: Okay, Sonny. (Laughter) I can call you that, or even Junior. But name one thing that the Legislature has done which this proposal would have stopped the Legislature from doing because it hurt what you're trying to do to make money? Name me one thing. [LR378CA]

DAVE McCracken: I don't think it has done any yet. We're trying to prevent it from doing something that we don't want. [LR378CA]

SENATOR CHAMBERS: Would you support a law, if I offer it, to prevent a herd of elephants from running this Capitol building into the ground? It hasn't happened yet, but who knows what's out there? But that's all I have. Thank you. [LR378CA]

SENATOR JOHNSON: Any other questions? Seeing none, thank you. [LR378CA]

DAVE McCracken: Okay. [LR378CA]

SENATOR JOHNSON: Next proponent. [LR378CA]

TROY BREDENKAMP: Chairman Johnson, members of the committee, my name is Troy Bredenkamp, spelled T-r-o-y B-r-e-d-e-n-k-a-m-p. I'm general manager of the Nebraska Rural Electric Association. Our organization comes before you on the record in support of LR378CA. We are the trade organization for rural electric systems across Nebraska. We serve electricity to

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

Agriculture Committee
February 23, 2016

about 90 percent of the state's land mass and my members average about 2.6 meters per mile. And it's important to have a vibrant, well-going agricultural economy for Nebraska. When we saw this resolution, we certainly saw that it's protective of Nebraska agriculture. That's not only good for rural electricity, it's good for Nebraska's economy and that's why we wanted to come on the record and be in favor of this, this resolution. So that's what I'm here for and I appreciate the opportunity. [LR378CA]

SENATOR JOHNSON: Questions? Senator Harr. [LR378CA]

SENATOR HARR: Do you think homes are a good thing in rural Nebraska? [LR378CA]

TROY BREDENKAMP: They are. They're a really good thing. [LR378CA]

SENATOR HARR: All right. Good. Would you support an amendment to give greater...the same rights to homeowners as to farmers? [LR378CA]

TROY BREDENKAMP: If I saw people trying to take people's homes away, I absolutely would. [LR378CA]

SENATOR HARR: Okay. And do you see people trying to take farms away? [LR378CA]

TROY BREDENKAMP: I do. [LR378CA]

SENATOR HARR: Okay. [LR378CA]

TROY BREDENKAMP: The kinds of things that are being talked about that were the reasons why this legislative resolution came forward, we've certainly seen it in other states. The measures to try and eliminate modern practices for the production of animal agriculture, they've gone on in other states. And so this is a preventative-type measure to try and keep that from happening here. [LR378CA]

SENATOR HARR: Okay. And, you know, I hear what's going on. I mean I understand it's...there's Facebook, there's Internet out there, and we want to be able to...if we can't control what's on the Net, we want to control it other ways. Is that what we're trying to do here today? [LR378CA]

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

Agriculture Committee
February 23, 2016

TROY BREDENKAMP: I think we're trying to be preventative and trying to protect from what, again, what we've seen happen in other states, the attacks toward animal agriculture. I think what we're trying to do with this is be protective of the number one industry in the state of Nebraska, not only the number one industry but the number one segment of that, of that sector, and that is animal agriculture. [LR378CA]

SENATOR HARR: Okay. So getting back to the base question, do you believe agricultural land has greater rights...should have greater rights than residential or commercial? [LR378CA]

TROY BREDENKAMP: I don't think it should have greater rights, but I do believe that the practices of agriculture, which we've seen attacked in other states, should be protected here. [LR378CA]

SENATOR HARR: Well, but it is a greater right because it's harder for the state to come in and say what you can or can't do on that property than it would be on my home or my commercial business. [LR378CA]

TROY BREDENKAMP: Potentially, yes. [LR378CA]

SENATOR HARR: Not potentially. It would. [LR378CA]

TROY BREDENKAMP: Okay. I think agriculture should be protected higher. [LR378CA]

SENATOR HARR: So it is a greater right. So you do think farms should have a greater protection than farms...or than residential or commercial? [LR378CA]

TROY BREDENKAMP: I don't think it's as easy as comparing houses to business. I mean, this is someone's business. This is someone's livelihood. [LR378CA]

SENATOR HARR: So is commercial. [LR378CA]

TROY BREDENKAMP: There...your house is not your livelihood. [LR378CA]

SENATOR HARR: So is commercial. So should commercial have great...the same rights as ag? [LR378CA]

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

Agriculture Committee
February 23, 2016

TROY BREDENKAMP: To some extent, absolutely. If someone is trying to take that commercial business away from you, sure, absolutely the state should protect it. [LR378CA]

SENATOR HARR: Well, this prohibits eminent domain, so they can't take it. [LR378CA]

TROY BREDENKAMP: Well, there's other ways of taking someone's business away from them than just condemnation. [LR378CA]

SENATOR HARR: So, overregulation perhaps. [LR378CA]

TROY BREDENKAMP: Sure. Absolutely. [LR378CA]

SENATOR HARR: Okay. So why wouldn't we have commercial involved in this too? Should we amend this to add commercial property? [LR378CA]

TROY BREDENKAMP: If you can get some folks together that want to add that, then that's probably something that should be looked at. But right now we see agriculture being attacked in other states and that's why this measure came forward. [LR378CA]

SENATOR HARR: Would you support it, though? [LR378CA]

TROY BREDENKAMP: Absolutely. If it was egregious, if it was causing overregulation of commercial businesses, absolutely. [LR378CA]

SENATOR HARR: So the poor homeowner is left there in the wind. [LR378CA]

TROY BREDENKAMP: (Laugh) Hopefully, no one is trying to take their home away from them as directly as we see this happening in animal agriculture. [LR378CA]

SENATOR HARR: All right. Thank you. [LR378CA]

SENATOR JOHNSON: Any other questions? I have one. You commented we don't want this to happen as it might have happened in other states. Is there a state out there where the opposition to this has totally shut down the right to farm or...? [LR378CA]

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

Agriculture Committee
February 23, 2016

TROY BREDEKAMP: Not so much the right to farm but certain practices. I think, again, I'm going back to my previous life when I actually was working directly with agriculture. I don't think you need to look any further than California and to see what happened with cage production of eggs. That was basically driven out of the state by a ballot measure. And frankly, it was a lot of people not necessarily understanding what was going on there. So we have seen it in other states and would certainly want to prevent that from happening here. [LR378CA]

SENATOR JOHNSON: Okay. Thank you. [LR378CA]

TROY BREDEKAMP: Thank you. [LR378CA]

SENATOR JOHNSON: Any other questions? Seeing none, other proponents? How many other proponents do we have? Two? Okay. Welcome. [LR378CA]

LARRY MUSSACK: (Exhibit 4) Thank you, Senator. Mr. Chairman and members of the Agriculture Committee, my name is Larry Mussack, L-a-r-r-y M-u-s-s-a-c-k. I grow corn and soybeans near Decatur, Nebraska, and I currently serve as president of the Nebraska Corn Growers Association, which I am here representing today. We're here asking you to advance LR378CA. We'd certainly like to thank Senator Kuehn for bringing this issue forward and for starting the conversations in this area. We see two potential needs for this type of amendment. The first one would be to protect farmers and ranchers from the complaints resulting from issues inherent in production agriculture. Nebraska's farmers and ranchers using acceptable industry standards and practices should not be subject to harassment from those that do not understand or perhaps are not knowledgeable of those practices. As we see more urbanization of rural areas, we believe that this will continue to be an ongoing problem. We also see the need to address out-of-state interests and perhaps advocacy groups that would like to influence how we produce food and how we care for our land and our livestock, and perhaps take away consumer choice in their effort. For those reasons, we are here today and would ask you to advance LR378CA. Again, thank you to the committee. Are there any questions? [LR378CA]

SENATOR JOHNSON: Thank you. Any questions? Senator Bloomfield first. [LR378CA]

SENATOR BLOOMFIELD: Thank you. Thank you, Mr. Mussack. A couple years ago we had...a bill came through here that wanted to prohibit certain weed sprays from being used too close to a vineyard. Whose rights are going to prevail there: the guy that's got the vineyard that won't tolerate 2,4-D or the guy that's got the corn that won't tolerate cocklebur? [LR378CA]

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

Agriculture Committee
February 23, 2016

LARRY MUSSACK: That's a thorny issue, I agree, Senator. If I had to handle that, I would hope that the vineyard owner and the operators of the surrounding land would come together and find an agreement. [LR378CA]

SENATOR BLOOMFIELD: You would hope that but... [LR378CA]

LARRY MUSSACK: Maybe I'm naive. [LR378CA]

SENATOR BLOOMFIELD: ...but one of them has got a constitutional right under this bill if we move it forward. [LR378CA]

LARRY MUSSACK: Okay. [LR378CA]

SENATOR BLOOMFIELD: I'm just questioning which one it might be. [LR378CA]

LARRY MUSSACK: A fair question. [LR378CA]

SENATOR BLOOMFIELD: Thank you. [LR378CA]

SENATOR JOHNSON: Okay. Senator Chambers. [LR378CA]

SENATOR CHAMBERS: I think you should put the things together that are already existing in Nebraska to solve that problem. People love guns in Nebraska, so have them stand back to back, take ten paces, and turn around, and whoever shoots fastest and straightest wins the argument. But here's what I want to ask you. You mentioned the word "harassment." What do you mean by "harassment" that farmers and these others that you had in mind are facing that this bill would stop, this constitutional provision would stop? [LR378CA]

LARRY MUSSACK: I don't know that I can put specific words to harassment, and maybe I should say potential. That opens it up wide open. I don't know that I can give you a good definition. I do believe that perhaps in defining that we would all end up in court. [LR378CA]

SENATOR CHAMBERS: So you're asking us to put before the public a proposal to change the constitution to address something that we don't even know what we're talking about. You came to defend this and support it, but you don't even know what the word refers to that you told us is what you're trying to guard against. So let's take a different word from "harassment." There's something you're afraid of. Let's not call it harassment. Call it what it is that this constitutional

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

Agriculture Committee
February 23, 2016

provision would prevent from happening, or can't you think of anything and that was the word that you thought you'd use? [LR378CA]

LARRY MUSSACK: I am not prepared to give you a different word today, Senator. [LR378CA]

SENATOR CHAMBERS: Okay. Now you mentioned out-of-state interests coming here to try to tell farmers and producers how to do what they're doing. Are you aware that there are corporations owned by other countries that come into this state to tell how livestock is to be produced, how it should be owned, how it should be processed? Are you aware of that? So you're only speaking of certain out-of-state interests spending large amounts of money to say how things should be run in this state. Isn't that more accurate? You're not against all out-of-state interests, are you? [LR378CA]

LARRY MUSSACK: No. No. [LR378CA]

SENATOR CHAMBERS: So which ones are you against? [LR378CA]

LARRY MUSSACK: And maybe I should have said, well, I'm not sure what the proper wording would be. Again, I think this is the place to start the conversation, as I mentioned earlier, Senator. I have no... [LR378CA]

SENATOR CHAMBERS: But, my friend, how are we going to have a conversation if you don't know what you're talking about when you tell me things? [LR378CA]

LARRY MUSSACK: Well, that's what we're doing right now, Senator, I believe. [LR378CA]

SENATOR CHAMBERS: Okay. Now... [LR378CA]

LARRY MUSSACK: And I believe that will continue. [LR378CA]

SENATOR CHAMBERS: ...we don't know what "harassment" means. We can't talk about that. [LR378CA]

LARRY MUSSACK: Okay. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: We don't know which out-of-state interests you mean, so we can't talk about that. Okay. I guess there's nothing we have to talk about. Thank you. (Laughter) [LR378CA]

LARRY MUSSACK: Thank you. Thank you, Committee. [LR378CA]

SENATOR JOHNSON: Thank you. Proponent? Any other proponents? I think this might be...welcome, Director. [LR378CA]

GREG IBACH: (Exhibit 5) Thank you. Senator Johnson, members of the Agriculture Committee, my name is Greg Ibach, G-r-e-g I-b-a-c-h. I'm the director for the Nebraska Department of Agriculture. I am here today to testify in favor of LR378CA along with Senator Kuehn's amendment. My positive testimony on this legislation comes from two perspectives, as a farmer and rancher myself, and as director of Agriculture for the state, I appreciate the concept behind LR378CA. Farming and ranching is the fabric of Nebraska and it has been that way since the settlers began moving here in the mid-1800s. For this very fact, the idea of publicly recognizing and permanently protecting agriculture is most certainly worthy of consideration. Beyond the important cultural heritage that farming and ranching has brought to our state are numerous other reasons that we should have the discussion that LR378CA introduces. These are facts that I'm sure you are all aware of but which bear repeating. For example: one in four Nebraska jobs is somehow connected to farming and ranching; just over a quarter of the state's overall economic activity is attributed to agriculture, making it the largest segment of our economy; of the 49 million acres of land in Nebraska, 45 million, or 92 percent, is used for agriculture; and Nebraska is the fourth largest agricultural state in the nation based on the value of ag products sold, behind only California, Iowa, and Texas. As much as farming and ranching gives to Nebraska, I believe our farmers and ranchers give even more back. They understand the importance of implementing sound stewardship practices on the land that gives them their profession. They are true community members who lead our school boards, economic development organizations, serve as county commissioners and supervisors, in church parishes, and lead 4-H groups. That is why over 150 years after the state first became a territory, Nebraska is a leader in agriculture. It is a symbiotic relationship that has stood the test of time. With that all said, you may wonder why we even need to have a conversation about protecting farming and ranching for future generations. As you know, times have changed. Folks in our communities are less directly connected to agriculture. They often don't have an understanding of technology that is in place and the tools and practices that are used in modern agriculture. It is up to us as farmers and ranchers to better inform the public about these things. And we are. That brings me back to my initial statement that I support the idea behind LR378CA. There are two additional factors that I believe are important to consider in this discussion. There needs to...number one, there needs to be broad support from across the agriculture industry for the effort. This includes everyone, from commercial to organic and niche farmers and ranchers. And two, there needs to

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

Agriculture Committee
February 23, 2016

be broad support from outside the agriculture sector, including our business community and chambers of commerce, to ensure success at the ballot box. We cannot afford to fail and send a mixed message about Nebraska's support for agriculture. This is particularly important as we try to grow value-added agriculture through livestock development and ag processing expansion within Nebraska, as well as recruiting from outside the state's borders. In closing, I understand that there has been significant discussion and meaningful consideration about how LR378CA would work from an operational standpoint, should it be passed by the Legislature and approved by the citizens. As the director of Agriculture and, frankly again, as a farmer myself, I am pleased with this conversation because I recognize there are many laws in place at the state level that create a structure for our farmers and ranchers to operate within, while providing important protections for the citizens of Nebraska. It is my understanding that these types of conversations have already begun and I would offer the assistance of the department should there be any questions about laws that regulate farming and ranching that are under the Nebraska Department of Agriculture's authority. Thank you for my consideration...or for your consideration of my comments. [LR378CA]

SENATOR JOHNSON: Thank you, Director. Questions? Senator Harr. [LR378CA]

SENATOR HARR: Thank you, Director Ibach. I guess I take exception to some of the things you said. You state, "we can't afford to fail and send a mixed message about Nebraska's support for agriculture." Well, it's not as though this was brought...I mean, this was brought by, you know, the people...excuse me, was brought by Senator Kuehn. He's the one who started this. He should have made sure he could have it. I don't think this sends a mixed message and, if it does, it wasn't introduced by those. I still support agriculture. I just don't support this. [LR378CA]

GREG IBACH: I think that references failing in the election this fall, if it ends up on the ballot. [LR378CA]

SENATOR HARR: Well, but it has to get through us first. [LR378CA]

GREG IBACH: Right. [LR378CA]

SENATOR HARR: And if it fails here, I'm not the one sending the mixed message. I'm saying I don't like...I mean, your own words were, "I support the idea behind LR378CA." I mean it's not even I support this; it's I support the idea. Is that correct? [LR378CA]

GREG IBACH: That's correct. And I don't think that the "afford to fail," that references at the...in November, not as part of the deliberation here. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR HARR: Okay. And would you agree with me that government employees also lead our school boards, work on economic development organizations, county commissions, church parishes, and 4-H groups? [LR378CA]

GREG IBACH: Yeah, I think that, as you look at...yes. [LR378CA]

SENATOR HARR: Okay. [LR378CA]

GREG IBACH: And all citizens in all walks of life serve on those. [LR378CA]

SENATOR HARR: Do the same. So should we afford all of them the same protections we afford farmers and ranchers in this bill? [LR378CA]

GREG IBACH: So I think that, you know, as you look at individual citizens, and we already protect their rights through, you know, provisions in the constitutions that protect individual citizens' rights. I think maybe what the answer that you've been...you've been asking this question, maybe the answer that I would offer to answer your question is that we're looking at providing a protection for a business that is very important to Nebraska economically as well as culturally. And so that this was put forward to not...you know, to protect all facets of agriculture as well and not just... [LR378CA]

SENATOR HARR: Do you think banking is important to the state? [LR378CA]

GREG IBACH: Yes. [LR378CA]

SENATOR HARR: Do you think we should have a right to bank constitutional amendment? [LR378CA]

GREG IBACH: I think that would be up to the...to you as senators. That's not necessarily my sector to represent. [LR378CA]

SENATOR HARR: Well, but you're here today because you think your opinion is important and that's why you want us to know what it is, correct? So... [LR378CA]

GREG IBACH: I'm here today to be a voice for Nebraska's farmers and ranchers where they're... [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR HARR: And are you testifying on behalf of the state of Nebraska? Excuse me. In your role as... [LR378CA]

GREG IBACH: Director of Agriculture. [LR378CA]

SENATOR HARR: Okay. And you've spoken with the Governor about this bill, about this resolution? [LR378CA]

GREG IBACH: We...yes, the Governor has spoke publicly about his support for the concept... [LR378CA]

SENATOR HARR: Okay. [LR378CA]

GREG IBACH: ...of LR378CA. [LR378CA]

SENATOR HARR: Okay. And you're somewhat of an expert in agriculture issues, you'd agree? [LR378CA]

GREG IBACH: Somewhat of an expert,... [LR378CA]

SENATOR HARR: Okay. [LR378CA]

GREG IBACH: ...I think. [LR378CA]

SENATOR HARR: Okay. Can you tell me what agricultural technologies are? [LR378CA]

GREG IBACH: I think agriculture technologies would be a broad word. It would define the research and developments that go into producing crops or livestock. [LR378CA]

SENATOR HARR: Okay. So...would it be DNA testing to create the blue rose? [LR378CA]

GREG IBACH: I think that that could be a technology, yes. [LR378CA]

SENATOR HARR: Okay. [LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: It could also, you know, refer to practices that promote organic or natural production methods. [LR378CA]

SENATOR HARR: Okay. And can you...well, I'll leave it at that. It's broad. Can you tell me what farming and ranching practices are or are not? [LR378CA]

GREG IBACH: So you know, that's again probably a broader term that defines the best management practices that are employed on farms and ranches across Nebraska. [LR378CA]

SENATOR HARR: So when a constitutional amendment is passed, we usually have enacting language passed by the Legislature. Is that correct? [LR378CA]

GREG IBACH: I don't know... [LR378CA]

SENATOR HARR: Okay. [LR378CA]

GREG IBACH: ...the answer to that question. [LR378CA]

SENATOR HARR: Okay. Well, and you made me a lawyer. Let's just assume it is. I mean, here's the problem I run into. You have to have enacting...you have to have statutes to interpret. For instance, earlier you heard the testimony about livestock. Livestock does not, at this point, include dogs, correct? You heard that (inaudible). [LR378CA]

GREG IBACH: That's correct. [LR378CA]

SENATOR HARR: Okay. [LR378CA]

GREG IBACH: That's statutory. [LR378CA]

SENATOR HARR: That's enabling language and it defines what these words mean. We have to have somewhere...something that interprets what these words mean, correct? [LR378CA]

GREG IBACH: Right. [LR378CA]

SENATOR HARR: ...or how else we going to know? [LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: Right. [LR378CA]

SENATOR HARR: Right? Here's the problem. If we introduce any legislation that limits what these words mean, we're abridging rights. So therefore, this means I can say anything means farm technology. I can say starting...a new starter for my car is farm technology because we can't define it, because once we define it, we're limiting what it is. And we limit what it is, we're abridging it and it says the Legislature shall pass no law which abridges the rights. [LR378CA]

GREG IBACH: So I think that... [LR378CA]

SENATOR HARR: So it has this internal contradiction. I mean, there's no way we could ever limit the rights because we're limiting. [LR378CA]

GREG IBACH: You know, and what my testimony has been today is that we support the concept and the discussion and the conversation that this constitutional proposal has started. [LR378CA]

SENATOR HARR: Okay. And you've run this by your legal counsel? [LR378CA]

GREG IBACH: Huh? [LR378CA]

SENATOR HARR: You've run this by your legal counsel within your department? [LR378CA]

GREG IBACH: Yes, we have looked at...into, you know, what some of the impact of the constitutional... [LR378CA]

SENATOR HARR: Okay. And you believe it's allowable within the federal constitution, due process and equal protection? [LR378CA]

GREG IBACH: So with the amendments that Senator Kuehn has brought forward, we think that that addresses many of the concerns that the department had at the time that we first looked at it. [LR378CA]

SENATOR HARR: And if I can quote Senator Chambers, words matter. "Many" is not "all." [LR378CA]

GREG IBACH: I don't...I'm not...you know, I'm not aware of any additional concerns that I could delineate at this point in time. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR HARR: Okay. Okay. Thank you. [LR378CA]

SENATOR JOHNSON: Questions? Senator Bloomfield. [LR378CA]

SENATOR BLOOMFIELD: Thank you. And, Director, this is a little bit to bounce off of you back over to the good senator for his closing. Is there anything in, to your knowledge, in LR378CA that would prohibit new crops from coming in? If they're not in existence the 1st of December or the 1st of January, could a new crop that is currently illegal or not currently grown here be introduced? [LR378CA]

GREG IBACH: So I'm going to assume that you're referring to hemp maybe? [LR378CA]

SENATOR BLOOMFIELD: I am in fact possibly referring to industrial hemp. [LR378CA]

GREG IBACH: And so I, you know, I don't see where this constitutional amendment would affect whether or not we can bring in new crops or new livestock species or breeds. [LR378CA]

SENATOR BLOOMFIELD: Okay. What about water restrictions? [LR378CA]

GREG IBACH: So in the amendment, that's addressed. [LR378CA]

SENATOR BLOOMFIELD: Okay. I missed a little bit of the opening, so. Thank you. [LR378CA]

SENATOR JOHNSON: Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Mr. Ibach, we passed legislation which put requirements on the Department of Agriculture with reference to enforcing certain laws related to animals. And I don't like the way the department is doing it. And I don't like the fact that you've told certain employees not to carry out certain duties that would be necessary to enforce that law. So now let's get down to this. Do you believe that something that is a law should be enforced? [LR378CA]

GREG IBACH: Yes, and I also... [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Do you...if this is passed by the public, do you think that the Legislature should abide by it and not pass any law that abridges any of these activities? [LR378CA]

GREG IBACH: I would think that that's, you know, the point of the constitutional amendment and if... [LR378CA]

SENATOR CHAMBERS: I'm asking you what do you think. Do you think the Legislature should abide by that? [LR378CA]

GREG IBACH: Yes. [LR378CA]

SENATOR CHAMBERS: But a director doesn't have to abide by legislation, correct? [LR378CA]

GREG IBACH: No, that's not true, and I really... [LR378CA]

SENATOR CHAMBERS: Okay. Well, we'll talk about that later. But I want you to be aware, because your coming here today has given me an entirely different attitude toward you and the way I've talked to you in the past. Have you read this proposition,... [LR378CA]

GREG IBACH: The constitutional amendment? [LR378CA]

SENATOR CHAMBERS: ...LR378CA? Yes. [LR378CA]

GREG IBACH: Yes. [LR378CA]

SENATOR CHAMBERS: Do you have a copy with you? [LR378CA]

GREG IBACH: Yes, I do. [LR378CA]

SENATOR CHAMBERS: I want you to look at line 8. [LR378CA]

GREG IBACH: Line 8? [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Line 8, e-i-g-h-t, which follows 7 and precedes 9. (Laughter) Now you said to Senator Harr that you're somewhat of an authority on agricultural matters. Do you want to amend that? Are you any kind of an authority on agricultural matters or are you somewhat of an authority? [LR378CA]

GREG IBACH: I think I have an understanding of the agriculture industry in Nebraska. Whether or not that makes me an expert is probably in the eyes of the beholder. [LR378CA]

SENATOR CHAMBERS: I didn't use the word "expert." You don't even listen to what I say. [LR378CA]

GREG IBACH: Author... [LR378CA]

SENATOR CHAMBERS: Do you deem yourself to be somewhat of an authority on agricultural matters, or you're not sure now? [LR378CA]

GREG IBACH: Well, my humble nature, if that's fair to say, would... [LR378CA]

SENATOR CHAMBERS: It's not. [LR378CA]

GREG IBACH: ...would prevent me from wanting to... [LR378CA]

SENATOR CHAMBERS: It might be fair, but it's not accurate. All right. [LR378CA]

GREG IBACH: So I would say I'm somewhat of an authority on agriculture matters, yes. [LR378CA]

SENATOR CHAMBERS: Okay. Now in line 8, what do the two words "health benefits" refer to as far as something that is produced and provided by agriculture? What health benefits are provided to society by agriculture? [LR378CA]

GREG IBACH: I think that would have to be, you know, nutrition and vitamins and minerals and stuff that are present in the food that agriculture produces and people consume. [LR378CA]

SENATOR CHAMBERS: Okay. Now go back on that line to the word "food." If nutrition has to do with food, why do you have both the word "food" and the term "health benefits" when the

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

Agriculture Committee
February 23, 2016

courts have said if the constitution contains words they all mean something different? So is food different from health benefits? [LR378CA]

GREG IBACH: Well, food would be, I think, different than health benefits, but these aren't my words. [LR378CA]

SENATOR CHAMBERS: So how is it different? [LR378CA]

GREG IBACH: I didn't write this, so. [LR378CA]

SENATOR CHAMBERS: Oh, so then...I thought you supported this as it's introduced. [LR378CA]

GREG IBACH: Support the concept of and the discussion that it has brought forward. [LR378CA]

SENATOR CHAMBERS: But there might be places where changes would be in order to clarify? [LR378CA]

GREG IBACH: Yes, and I think that's the responsibility and the opportunity for the Legislature to work through that. [LR378CA]

SENATOR CHAMBERS: Well, what did you come to testify for, just to tell us you're for this or to make suggestions about how to make this say what you think it ought to say? [LR378CA]

GREG IBACH: I came forward to support the concept of LR378CA. [LR378CA]

SENATOR CHAMBERS: When you say "the concept," tell me what you're supporting. What is embraced by that term "concept"? [LR378CA]

GREG IBACH: That it's important to support the largest industry in our state, which is agriculture. [LR378CA]

SENATOR CHAMBERS: And isn't that done right now? Don't I support it when I pay \$6 or \$8 for a pound of ham? [LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: Yes, you support it when you purchase agriculture commodities. You know I think we also are looking... [LR378CA]

SENATOR CHAMBERS: So if that's already being done, what do we need this for? [LR378CA]

GREG IBACH: We're looking at the right to...or the opportunity to support farmers and ranchers from outside pressure and interests that may affect their ability. [LR378CA]

SENATOR CHAMBERS: Why is that the Legislature's responsibility toward farmers and ranchers but not toward all the citizens of this state, such as obscene movies or illegal guns and all these other things? There's nothing in the constitution about those things. [LR378CA]

GREG IBACH: Well, we have laws about illegal guns. That's why they're illegal. [LR378CA]

SENATOR CHAMBERS: Then why don't you just have laws about this? You don't need a constitutional amendment to do what you're talking about, do you? [LR378CA]

GREG IBACH: I think a constitutional amendment provides different mechanisms and different protections than a statute does. But that's not my... [LR378CA]

SENATOR CHAMBERS: So give me an example. [LR378CA]

GREG IBACH: That's not my...well, a constitutional... [LR378CA]

SENATOR CHAMBERS: Give me an example of a protection. [LR378CA]

GREG IBACH: A constitutional amendment would be harder to change than a statute. [LR378CA]

GREG IBACH: Well, what does a constitutional amendment deal with in a way that a statute could not deal with? [LR378CA]

GREG IBACH: I'm not sure I'm enough of an expert to...in legislation or constitutional law to be able to answer that question. [LR378CA]

SENATOR CHAMBERS: But you came here to support this. [LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: Yes. [LR378CA]

SENATOR CHAMBERS: Okay. So going farther along on line 8, what does the word "security" mean, in your opinion, in the context of agriculture? [LR378CA]

GREG IBACH: I would think that that means food security and having enough food available for the citizens of Nebraska, in this context. [LR378CA]

SENATOR CHAMBERS: So this goes back to the word "food." [LR378CA]

GREG IBACH: Yeah. [LR378CA]

SENATOR CHAMBERS: So these would be descriptive of the word "food." Well, "food" by itself would do enough though, wouldn't it? Wouldn't it include all these things? [LR378CA]

GREG IBACH: Could be. [LR378CA]

SENATOR CHAMBERS: Now why should the Legislature be concerned about one sector of Nebraska's economy and not the entire economy? [LR378CA]

GREG IBACH: I think that the suggestion that I bring forward is that because of the importance that agriculture plays in our economy, the percentage of the economy that is driven and supported by agriculture, that it is in the state's interest to do things that will guarantee that agriculture remains a healthy and productive industry. [LR378CA]

SENATOR CHAMBERS: And didn't you say that you're a farmer? [LR378CA]

GREG IBACH: Yes. [LR378CA]

SENATOR CHAMBERS: So there's self-interest that you're talking about. We should change the constitution to protect your self-interest. Isn't that what you're here for? [LR378CA]

GREG IBACH: I'm not here for myself. I'm here on behalf of agriculture. But being a member of agriculture myself, so, yes,... [LR378CA]

SENATOR CHAMBERS: You would benefit. [LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: ...I would have self-interest. [LR378CA]

SENATOR CHAMBERS: So because you make your money out of agriculture, you'd feel a greater attachment, kinship, or affinity for that than you would for those who work building automobiles, wouldn't you? [LR378CA]

GREG IBACH: And I think that that's also my responsibility as the director of Agriculture to have more of a kinship for agriculture than other sectors (inaudible). [LR378CA]

SENATOR CHAMBERS: And I think it's your responsibility to obey laws, too, but that's a discussion we are definitely going to have. When you talked to the Governor, did you tell him you're going to come and speak in behalf of this and put his administration behind this proposal? [LR378CA]

GREG IBACH: He's aware that I was testifying today, yes. [LR378CA]

SENATOR CHAMBERS: You talked to him about this specific thing. [LR378CA]

GREG IBACH: Yes, we've had conversations. [LR378CA]

SENATOR CHAMBERS: And what did he tell you? [LR378CA]

GREG IBACH: Mirrors my testimony, that we support the concept of the constitutional amendment. We think it's important to protect our farming industry and...but that there are...it's important also that we have broad support from agriculture and that we have support from the business community as well. [LR378CA]

SENATOR CHAMBERS: And the Governor told you that. That's what the Governor told you when you talked? [LR378CA]

GREG IBACH: That's what we discussed, yes. [LR378CA]

SENATOR CHAMBERS: Then why didn't he write a statement and have you deliver it for him, because this says you delivered this statement, not the Governor? [LR378CA]

GREG IBACH: That's correct. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: So you're not speaking for the Governor, are you? This is your opinion that we're reading. [LR378CA]

GREG IBACH: I'm speaking as the director of Agriculture and I am, you know, a member of the Governor's cabinet. [LR378CA]

SENATOR CHAMBERS: If you were not the Department of Agriculture director, would you be here speaking for this, if you can speculate that far? [LR378CA]

GREG IBACH: I would probably be represented by other agricultural groups that have come before the Legislature and to represent me as a member of those organizations. [LR378CA]

SENATOR CHAMBERS: There was some talk of the Governor giving job descriptions for people in his administration. Do you have a job description? [LR378CA]

GREG IBACH: Yes, I do. [LR378CA]

SENATOR CHAMBERS: Is speaking on legislation part of one of those? [LR378CA]

GREG IBACH: Yes. [LR378CA]

SENATOR CHAMBERS: So then you're here as a part of your duty, whether you talked to the Governor or not. But you should clear... [LR378CA]

GREG IBACH: But I did talk to the Governor about this matter. [LR378CA]

SENATOR CHAMBERS: ...and you should clear what you're going to say, as the head of that department, with the Governor. [LR378CA]

GREG IBACH: Yes. [LR378CA]

SENATOR CHAMBERS: And did he point out any difficulties that he saw with any of the language in here, or was he just talking about the concept also? [LR378CA]

GREG IBACH: So this...my testimony is...was written originally by me... [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Okay. [LR378CA]

GREG IBACH: ...and then...and my staff, and then it was submitted to the Policy Research Office for their review, and there were edits made as a result of developing the testimony that was presented today. [LR378CA]

SENATOR CHAMBERS: Give me one editorial change they made so I have an idea of the direction you were going before it was changed by the Governor's people. [LR378CA]

GREG IBACH: So I think the purpose of working together with them to present, you know, the testimony that I did today was to pull out any verbiage that they didn't think was appropriate, so I don't think it would be appropriate for me to tell you what is pulled out. But I also would like to... [LR378CA]

SENATOR CHAMBERS: Why wouldn't it? [LR378CA]

GREG IBACH: ...tell you that there were not significant changes made to my testimony. [LR378CA]

SENATOR CHAMBERS: Then if it's not significant tell me. Give me an idea. Whose confidence would be betrayed, yours or the Governor's? [LR378CA]

GREG IBACH: I would need the editing because I think that one of the changes...and I can think of one of the changes, I think on...where I say, "as much as farming and ranching gives to Nebraska, I believe our farmers and ranchers give even more back." I did not have "even more" in my original testimony. [LR378CA]

SENATOR CHAMBERS: You just said "give back." [LR378CA]

GREG IBACH: Yeah. [LR378CA]

SENATOR CHAMBERS: And they put in the word "more." [LR378CA]

GREG IBACH: "Even more." [LR378CA]

SENATOR CHAMBERS: Wow! How much does that person make a year? (Laughter)
[LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: Yeah. [LR378CA]

SENATOR BLOOMFIELD: (Inaudible) more than you do. [LR378CA]

SENATOR JOHNSON: Can we wrap up here? [LR378CA]

SENATOR CHAMBERS: Maybe. [LR378CA]

SENATOR JOHNSON: Yeah. One more. [LR378CA]

SENATOR CHAMBERS: Okay. See, he's going to infringe on my freedom of speech and as a member of the committee, but I will honor that. [LR378CA]

GREG IBACH: And I appreciate that too. (Laugh) [LR378CA]

SENATOR CHAMBERS: When it says "ranching practices," that word "practices" could apply to anything that's done on a ranch, couldn't it? [LR378CA]

GREG IBACH: Yeah, I think we're, you know, we're taking like "practices" is a... [LR378CA]

SENATOR CHAMBERS: No, not what you....go by the words because the court would look at the words. [LR378CA]

GREG IBACH: Right. [LR378CA]

SENATOR CHAMBERS: "Ranching practices." [LR378CA]

GREG IBACH: I think that's the common... [LR378CA]

SENATOR CHAMBERS: "Ranching" is an adjective. [LR378CA]

GREG IBACH: Right. [LR378CA]

SENATOR CHAMBERS: So whatever practices are done on a ranch are ranching practices. So whatever practices are there are protected by this from any abridgment by the Legislature. Isn't that true? [LR378CA]

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

Agriculture Committee
February 23, 2016

GREG IBACH: When I use the term "ranching practices," I'm referring to best management practices, generally accepted. [LR378CA]

SENATOR CHAMBERS: Not you. The... [LR378CA]

GREG IBACH: But this is the testimony I'm presenting. [LR378CA]

SENATOR CHAMBERS: Show me in this constitution where that's stated about best... [LR378CA]

GREG IBACH: Oh, you're...are you back to my testimony or are you on... [LR378CA]

SENATOR CHAMBERS: No, the constitution. [LR378CA]

GREG IBACH: ...the constitutional amendment? [LR378CA]

SENATOR CHAMBERS: Show me where in this constitutional provision. We're not submitting your testimony for a vote. [LR378CA]

GREG IBACH: Right. [LR378CA]

SENATOR CHAMBERS: You came here at the Governor's behest to tell us to put this to the public to vote on. I think we'd look like fools and jackasses. So help me to see what I can't read. [LR378CA]

GREG IBACH: No, I (inaudible). [LR378CA]

SENATOR CHAMBERS: You said that you're talking about best practices. Show me on here where it says "best practices." [LR378CA]

GREG IBACH: I don't think anywhere in my testimony... [LR378CA]

SENATOR CHAMBERS: Not your testimony. [LR378CA]

GREG IBACH: ...I'm asking you to adopt this word for word. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Oh, so you're not supporting this. [LR378CA]

GREG IBACH: We respect the...we respect the role that the Legislature plays in deliberating this measure that was brought forth by Senator Kuehn and making a decision on how it will look at the end of the process. [LR378CA]

SENATOR CHAMBERS: So you're not...you're not supporting what I'm holding up, which is what Senator Kuehn brought to us. You're not supporting this, are you? [LR378CA]

GREG IBACH: We're supporting the concept of this, behind what he is considering. [LR378CA]

SENATOR CHAMBERS: In the same way, though, that your document, your testimony was modified, this should be modified, shouldn't it? [LR378CA]

GREG IBACH: I think there's an opportunity to make it even better. [LR378CA]

SENATOR CHAMBERS: Thank you. It's so hard to get money...words from these bureaucrats. That's all that I have,... [LR378CA]

SENATOR JOHNSON: Okay. [LR378CA]

SENATOR CHAMBERS: ...that you will allow me to say. [LR378CA]

SENATOR JOHNSON: (Laugh) Thank you. Any other questions? Thank you, Director. [LR378CA]

GREG IBACH: Thank you. [LR378CA]

SENATOR JOHNSON: (Exhibits 6-15) Any other proponents? If not, while somebody is coming up, I do have some letters of support I need to read into the record: Bill Schuster from Phillips; a Mike Gatzemeyer signed the letter but it's on the stationery of Pender Implement, Pender, Nebraska; Dawn Caldwell from Edgar, Nebraska; Nebraska Nursery and Landscape Association; Nebraska Cooperative Council; Nebraska Wheat Growers Association; Nebraska Grain and Feed Dealers; Nebraska State Dairy Association; and Nebraska Agri-Business Association; and Nebraska Dry Bean Growers Association. Those are the letters that I have for the record. Opponents? [LR378CA]

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

Agriculture Committee
February 23, 2016

VERN JANTZEN: Yes, sir. [LR378CA]

SENATOR JOHNSON: Thank you. [LR378CA]

VERN JANTZEN: Ready? [LR378CA]

SENATOR JOHNSON: You may begin. [LR378CA]

VERN JANTZEN: Okay. Good afternoon, Mr. Chairman and members of the committee. My name is Vern Jantzen, V-e-r-n J-a-n-t-z-e-n. I am a farmer from Plymouth and I thank you for the opportunity to visit with you this afternoon about LR378CA. I am opposed to LR378CA, but I wish to express my admiration to Senator Kuehn for expressing his proposal in such a concise manner. Given the ramifications that this proposal could have for the agricultural community, I am concerned that being a short proposal the question of interpretation of wording and intention is problematic for me and I believe will be problematic for the citizens of Nebraska in the future if it is added to the state constitution. We would be forever guaranteeing rights to engage in agricultural pursuits without defining these rights. Protecting these rights for Nebraska citizens I understand, but also protecting the rights of lawful residents makes me wonder what lawful residents of Nebraska would need this protection. If I am not happy with the agricultural practices my neighbor is using or is proposing to use in their business, is my unhappiness a compelling state interest or must injury occur before action is allowed? I would suggest that we have many statutes, state statutes, in place to provide direction for agricultural pursuits in our state, and if more are needed, proposals can come before the Legislature for debate and action. Language in the state constitution is difficult to change if necessary and often requires the involvement of the court system to determine definitions and intent. Using the legal system to solve problems requires time and money. In conclusion, I have the feeling this resolution is a solution looking for a problem that does not exist at this time. And I would encourage the Legislature to investigate the lack of market transparency and market access for agricultural products if they are interested in keeping agriculture a vital sector of Nebraska's economy. I am no longer involved in livestock agriculture because of structural problems that exist in today's agricultural marketing system. Thank you, and I would be happy to try to answer any questions you have. [LR378CA]

SENATOR JOHNSON: Thank you, Mr. Jantzen. Questions? Seeing none, thank you. [LR378CA]

ROBERT BERNT: Mr. Chairman, committee, thank you for the time. My name is Robert, R-o-b-e-r-t, Bernt, B-e-r-n-t, and I am a farmer and a rancher from north-central Nebraska. I brought my four boys, four of my seven boys, with me today, and I'm here to oppose this bill based on

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

Agriculture Committee
February 23, 2016

what I've seen in history. All right, the pendulum swings. I've seen regulation; I've seen no regulation. In the '70s, when I started, I went to a meeting with a fertilizer company and he was approaching the farmers saying, hey, it's off-season, January, February, we can purchase liquid nitrogen at a cheaper rate, take it out to irrigation wells, pour it down the well, it will be there next summer when you pump it out. I asked him if this was acceptable practice. I've heard that today several times, "acceptable farming practice." And he says, it most certainly is. And I would have been considered a card-carrying Communist at that time because I screamed and hollered and bellowed, but I've seen tanker-loads of liquid nitrogen poured down those irrigation wells. And that's determining the problem you have today in this part of the state. It has stopped. I hear about these farmers, how concerned they are for their children, how concerned they are for their environment. All right. I farm 1,000 acres. I dairy. I swine. I beef. These farmers at times of stress are no longer concerned about the environment. I've seen farmers out there along the Cedar River that I live on drain their motor oil directly into the river, but sit at the coffee shop and talk about how proud they are of that country and how we want to save and protect the environment so their children have it. Yet they'll go right out there and do that same thing. We need to have these in place so we don't have that sort of destruction. These people speak out of one side of their mouths and do the opposite. I don't. My family is going to have a place to operate on. I wasn't aware that I didn't have a right to farm. I've been farming since 1974. And when we leave here today we're going to go home and one of them boys is going to be milking cows and one is going to be haying the beef cows and one of them is going to be feeding the chickens, one of them is going to be feeding the hogs. And I continue to farm and I will continue to farm, and I'm going to do it in a safe manner that's going to protect the environment and raise nutritious foods for our citizens of this state and for other states to eat. Thank you. Any questions? [LR378CA]

SENATOR JOHNSON: Thank you, Mr. Bernt. Any questions? Seeing none, thank you.
[LR378CA]

MELISSA MONEY-BEECHER: My name is Melissa Money-Beecher, M-e-l-i-s-s-a M-o-n-e-y hyphen B-e-e-c-h-e-r. I've created two nonprofits in Lincoln. I live in Lincoln. And I came here to oppose this bill. I think I speak for everybody that cares about animals. I guarantee you constituents are not in favor of harming animals and protecting animal abusers that this bill sets out to do. My grandparents were farmers. I have several friends that are ranchers and farmers. I fully support local farms. I buy all of my beef from a local farm. But this, the name of this bill doesn't fool anyone. People that are just...I'm a common person. I live in Lincoln. I do the best I can do. But we know what this means. It's not the right to farm. This is the right to harm. Everybody knows that farmers have the right to farm in this state and, I mean, there's no doubt about that. But the real reason for this bill is not the right to farm and it's how it will affect the animals in our state, from puppy mills to research centers to corporate farms, that are all under the ag umbrella. And we know they're all going to be under the ag umbrella. There's just no way

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

Agriculture Committee
February 23, 2016

around it. And so I'm really fearful for what this will do. This bill will allow anybody under that ag umbrella to harm an animal and be free of regulation of the Legislature. So in essence, it ties the Legislature's hands. If they want to prevent any abusive farming practice or technique from being implemented, they can't. And why would anybody support to introduce a bill like this that gives puppy mills, animal research centers, corporate farms the right to harm or abuse or torture an animal? I don't understand why this would even be introduced. It's just baffling. And why would you ever want to cover up mistreatment that might occur or whistle-blowers that are trying to do the right thing to prevent innocent animals from being abused in any of these different areas? And Bob Downey from CHS here in Lincoln, he's the Capital Humane Society director, he went out to the U.S. Meat Animal Research Center in Clay Center and he said that those conditions were deplorable. Now if we instituted a bill like this, nothing could be done. These conditions would just get worse. I mean absolutely there's no reason to have a bill like this when we have conditions that are bad now. And I just hope you guys do the right thing and oppose this bill. When I read this, the only thought I thought is a quote by Burke: The only thing necessary for triumph of evil is for good men to do nothing. And I, for one, vow I'm going to do something because we cannot allow something like this to happen. I have rescued numerous animals and a lot of them have been abused, they've been in puppy mills. If we allow people to abuse animals, it's just horrible. I mean this society is, you know, another quote by Gandhi is: The greatness of our nation and its moral progress can be judged by the way our animals are treated. We have got to move to a society that treats animals okay. It's not okay if they're in gestation crates. It's not okay. I mean even the Bible says, Proverbs 12:10 says: He should take care of the animals and have regard for their life. And this bill would make it so the Legislature cannot stop any abuses from occurring. Thank you. [LR378CA]

SENATOR JOHNSON: Thank you. Just a minute. Any questions? I have just a couple comments. We had legislation last year that the Ag Committee worked on, Senator Kuehn worked on, dealing with puppy mills and that's not in the constitution. That is by statute. [LR378CA]

MELISSA MONEY-BEECHER: Right, but I'm just afraid with the wording, and this is so general, with the wording those puppy mills are going to fall in there. And you know, honestly, it doesn't matter if you're abusing a cow or a puppy or a kitten. It's still abuse. It's still not okay. I mean it's not okay for the Legislature to not be able to stop that because we elect you guys to stop that. [LR378CA]

SENATOR JOHNSON: Are you willing to respond to a question or a comment that putting into the constitution would go too far; leave it back, if we do something, back to statute where we could maybe better monitor it, maybe pass different legislation if... [LR378CA]

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

Agriculture Committee
February 23, 2016

MELISSA MONEY-BEECHER: Yes. [LR378CA]

SENATOR JOHNSON: ...certain situations need it? [LR378CA]

MELISSA MONEY-BEECHER: Yes. [LR378CA]

SENATOR JOHNSON: Okay. Thank you. Next opponent. [LR378CA]

DON GOEBEL: Yeah. Don Goebel, G-o-e-b-e-l, Fairbury. [LR378CA]

SENATOR JOHNSON: Okay. Thank you. [LR378CA]

DON GOEBEL: I was listening to the proponents and, boy, I mean it was all just milk and honey and on the farm and when they got done with that then they beat up on PETA and they were done. So that's the way it seemed to me. But the thing is that, really my question I got is who brought this thing? I mean, I know the proponent and everything, but, I mean, he surely didn't...he surely didn't spend all this time writing this up and thinking it through himself. It had to come from someplace and I'd like to know where it did. I mean, I don't know, but I understand a couple of the proponents of it are ALEC and the Koch brothers. If that's true, I'd like to know what business they have of showing up here with something like this. So I don't know if that's true. That's just what I heard. But you know, it's just that, I mean, there's been a lot of...on the proponents, every one of them, I mean, I don't understand why they're for it, frankly. There's the paid lobbyist or paid guy out of Washington, D.C. He was paid to be here. But then you get the Soybean Association, the Pork Producers, the Cattlemen, Rural Electric, Corn Growers, and even the Department of Agriculture. Every one of them stumbled around on some stuff, they couldn't be very specific on a lot of things on why they, you know, what good this is going to do. But they all say this is going to help the farmer. Everybody is just for the farmer on this. Well, I don't think this is for the farmer at all. I think what matters is to get the Legislature out of the way so, you know, guys like Smithfield and everybody else can do whatever they want to and not be impeded. That's the way it looks to me, so. But if these guys really want to help the farmer, what they need to do is actually not take the farmers' markets away from them, which is what LB176 did, took the hog market away from them. We don't have any market anymore, not on hogs. And what they could have said then, what the Legislature could have done was actually told these guys we can show you how to market these things and help you do this thing, and you know they could do that and still provide hogs for the processor, because the fact of the matter is that these farmers are price takers. They're not price setters, so. And everybody talks about food. They get everything mixed up with...they call us food producers. Well, we're not food producers. You know, I hauled two truckloads of grain to the elevator yesterday and on the scale ticket it did not say one word on there where this is any food product at all. We raise commodities. If it's food, it

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Agriculture Committee
February 23, 2016

turns out to be that it's either bread, Wheaties, some ingredient, somewhere it goes through a processor. And if they talk about...if people talk about food and farming, you know, after a while people are going to think that we're kind of the production line of some processor somewhere. That's not it. We don't get paid by a processor. We get paid by the market and that's the way it should be. So you know, kill this thing. And if we want to do something for a farmer, the best thing we can do is actually have you guys call up and tell the Governor not to sign LB176. That would be a step in the right direction, because this thing follows LB176. So you know, in my opinion, LB176 should have never made it out of committee, but it did. So I don't know, I'm just against this. That's all I wanted to say. [LR378CA]

SENATOR JOHNSON: Okay. Any questions? Thank you for coming in, testifying. Next opponent. Welcome. [LR378CA]

JAMES CAVANAUGH: Thank you, Senator Johnson, members of the Ag Committee. My name is James Cavanaugh. I'm an attorney and registered lobbyist representing the Nebraska Chapter of the Sierra Club, appearing on their behalf today in opposition to LR378CA. It's hard to put it better than you just heard it. I've been around the Capitol for a long time, but I'm always edified by the simple truths that the citizens of Nebraska are able to put to you much better than paid lobbyists or fast-talking lawyers. What you've just heard, I think, pretty much encapsulates it. We have concerns that LR378CA would blow a big hole in needed and existing environmental regulations and water rights. And if you look at the language here, if you were compelled to do something as ill-advised as LR378CA, you might want to consider some of the language that you have, for instance, on page 1, lines 16 through 18, where it says, this section shall not be construed to modify any provisions, and it gives you a bunch of things they won't modify. But it doesn't mention anything about environmental regulations or water rights. And I have to think that if you're a farmer or rancher, for that matter, in Nebraska, water rights are pretty high up in your concerns for what's regulated, what's not regulated, and what you have a right to and what you don't have a right to. But I don't think that you can fix it. I think the previous testifiers who are in the business, and I'm not, said it best when they said this is a solution looking for a problem. And you have to ask yourself, well, how come it's here? Well, why do we have this in front of us? Who brought it, because it doesn't sound to me like it's the farmers and ranchers of Nebraska who brought this to you. It sounds to me like it came from someplace else. And it wouldn't take a lot of research to find out where that someplace else is. So for all of those reasons, we'd urge you not to advance LR378CA. And you know, we think that the problems in Nebraska farming, problems in Nebraska agriculture have a lot more to do with the fact that the announcement was made the other day there are 40,000-some family farms left in Nebraska, down a few hundred from the year before. And if you went back a year ago, it was a number down a few numbers from the year before and before that and before that and before that. That's what we should be concerned about is what's driving the family farm to extinction in Nebraska, because 40,000 family farms is a fraction of what was in Nebraska when we were growing up,

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

Agriculture Committee
February 23, 2016

when every person here was growing up. That's the thing that we should be concerned about: What's going on with the family farms, they're being driven to extinction. And I think you've heard some of the reasons from previous testifiers here today. So thank you for your consideration. I'd be happy to answer any questions you may have. [LR378CA]

SENATOR JOHNSON: Any questions of Mr. Cavanaugh? Seeing none, thank you. [LR378CA]

JAMES CAVANAUGH: Thank you. [LR378CA]

SENATOR JOHNSON: Welcome. [LR378CA]

JIM KNOPIK: (Exhibit 16) Thank you. Good afternoon, Senators. My name is Jim Knopik, J-i-m K-n-o-p-i-k. I am here today to let you know how disappointed I am that LR378CA has merit enough to be brought to your attention. Sixty-seven years old and I never knew anyone lacked a right to farm. So I asked myself, why do farmers need a right to farm now? It sounds dangerous to me and what does it mean? In reading this bill, I find out it is not really for farmers. It's about keeping production agriculture and technology from public observation. It's about chemicals and fertilizer companies, pharmaceutical companies, and genetically modified seed companies and how they, through producers, can produce (sic--pollute) and destroy our environment and make them untouchable. This bill is about taking away the rights of anyone that would question the actions of producers and agribusinesses. If passed, no one will be able to ask what is in our water or what is that smell or dust in the air or where it is coming from. We are at a time when most waters of our state are so full of nitrates, chemicals, and fecal material that we can't drink or swim in it without those downstream spending millions of dollars on filtering systems to clean it up. Something seems morally wrong with that. The lack of elected officials to protect the quality of life rights of citizens over the likes of Monsanto, Syngenta, Smithfield Foods, Tyson, JB Swift, and other large corporations does not fulfill their sworn duties. Do you know there is a difference between a farmer and a producer? The proponents will hold up their poster child, a young couple standing in a green pasture, and we buy it. Farmers are stewards of the land. They question everything they do to the land. They question what they feed and how they care for their animals. They take care of their natural resources and protect them, and they respect their neighbors. Producers, on the other hand, are people or entities who say they feed the world when they can't even feed themselves. They care only about the bottom line. Producers pump water from the aquifer like it will never run dry. They tear up grasslands that are highly erodible and develop them with technology. They apply chemicals, pesticides, and fertilizers to their crops, not knowing how much toxic waste is accumulated in the soil year after year. Producers take for granted, and with tunnel vision, that corporate agriculture is reliable and of sound science, corporate research is reliable and of sound science. The word "sound" makes the research trustworthy, I guess. Producers cram animals into...together into small pens, stalls, and cages.

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

Agriculture Committee
February 23, 2016

Then they feed them full of antibiotics in the name of technology and production. For years now large producers put up fences in the name of biosecurity, but yet they are allowed to contaminate everything downstream and downwind while driving neighbors back into their houses or completely away from their homes. Ten days ago, south of Fullerton, two days after the biggest snowfall this year, a 20,000-head feedlot operator was running effluent through his pivot by pumping out his lagoons. These are the best management practices and technology brought to you by the NDEQ and the state Department of Agriculture--livestock-friendly county designation at work. This bill is about taking away the rights of people to question what is in the air, what is in our water, and what is in our food. If adopted, no one, no department, not even the state will be able to question the activity of agriculture or agribusiness in this state. LR378CA is no good. It is a scheme to take away the watchful eyes of our citizens and hand our whole state over to corporate monopolies. Thank you for your time. [LR378CA]

SENATOR JOHNSON: Thank you. Questions? Seeing none, thank you. [LR378CA]

JIM KNOPIK: Thanks. [LR378CA]

SENATOR JOHNSON: Welcome to the Ag Committee. [LR378CA]

KEVIN FULTON: Good afternoon, Senators. Kevin Fulton, K-e-v-i-n F-u-l-t-o-n. I own and operate a diversified farming operation in Sherman County, and I support my family as a full-time farmer and rancher. Over the last 15 years, I've spent a great deal of effort educating farmers, consumers, university students, and activist groups nationwide on farming and food issues. My message is aimed primarily at building consumer trust. I also host visitors on my farm from all over the world. Most people want to trust farmers as long as they demonstrate accountability and transparency. This bill undermines that premise and will cause more consumers to question our integrity and create even more dissension and disconnect between rural and urban America. And those consumers are my customers. By listening to their concerns and demands, we've made improvements in my farming operation that benefit all of us. These are improvements that we likely wouldn't have made without their input. If agricultural practices are truly safe, humane, and environmentally sustainable, they don't need to be protected by our constitution. And just because a certain technology or practice is embraced by the majority in the industry, that does not guarantee that it's safe, humane, or even a good business practice. Farmers need to be held accountable for how our practices affect those people downstream, downwind, and the animals in our care and the land that we manage. We don't need or deserve special treatment. Sometimes the truth hurts, but because I'm a farmer doesn't mean I'm special, any more special than what you do, what you do, or what any of you do. Ill-conceived bills like this, when passed they send a condescending message to every consumer. That message is: This is the way we produce your food; you'll eat it and you'll like it. And don't you dare tell us how to

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

Agriculture Committee
February 23, 2016

produce a product that we are putting in our body three times a day, because in our world the customer is never right. And furthermore, we just legally took away your rights to ever question anything that we do. Our farming practices are now forever immune to regulation or litigation. We now have a legal right to pollute the air, water, and environment that we all live in, abuse farm animals, and compromise food safety in the name of "accepted practices." How do you like them apples? I wouldn't trust an industry with that kind of attitude. This bill is contradictory to our agrarian values and it gives the consumer every reason not to trust us. If this goes to a ballot, I mean it's going to further polarize ag groups and every problem ever associated with agriculture is going to be exposed. Is that the road we want to go down? Senator Kuehn has made it clear that one reason he was motivated to introduce this bill is because of scrutiny faced by the U.S. Meat Animal Research Center last year regarding alleged animal abuse. This bill would give entities such as the Meat Animal Research Center anonymity when it comes to practices that could be harmful to animals or even workers. I was part of the discussion group that was invited by the USDA to tour the facility, analyze protocols, and give input to USDA officials regarding livestock management practices. It was clear to me and to the USDA, admittedly, that they needed to make improvements, and we advised them on ways to do that. The American taxpayer deserves transparencies in situations like this and the animals deserve to be treated humanely. So if this is your idea of helping the traditional farm family that has made Nebraska such a great state, I'm here to tell you that this bill fails miserably and we don't need your help. And I came here today representing--I have a little more time, I want to make a couple more points--I came here today representing myself, Fulton Farms. But I heard a lot of, you know, bashing of the Humane Society of the United States. I happen to be the chairman of the ag advisory council for the HSUS and a lot of things were said today that were completely not accurate. I'll give you some information straight from the horse's mouth. I just talked to Wayne Pacelle on my drive down here today. He's the CEO and president of that organization. We talked about recruiting more farms. We talked about how we could develop more markets for farmers to market their animal products. He just came out with a new book that has cattle grazing in a pasture. Does that sound like someone who is antiagriculture or working against humane and sustainable farming? So you can't believe all the propaganda. And when you bring someone like that here to testify on your behalf, you know, I have to kind of question, you know, character of people that do that. That's all I have. [LR378CA]

SENATOR JOHNSON: Thank you. Questions? Senator Bloomfield. [LR378CA]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Mr. Fulton, do you believe if we would happen to pass the bill, this LR, that I'm going to run home and pick up a piece of pipe and go out and start beating on the cattle in the yard or that I'm going to kick the dog three or four times a day just because I feel like it? [LR378CA]

KEVIN FULTON: No, I don't. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR BLOOMFIELD: That's kind of what you're saying is that... [LR378CA]

KEVIN FULTON: I don't agree. I don't think so. [LR378CA]

SENATOR BLOOMFIELD: ...all the farmers want to do is abuse their animals, mistreat livestock. And anybody that does that is not trying to raise livestock, because if you mistreat them they don't do as well. Thank you. [LR378CA]

KEVIN FULTON: I don't...you misrepresented what I said. You can read the testimony and you'll see differently. [LR378CA]

SENATOR JOHNSON: Go ahead. Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Mr. Fulton. [LR378CA]

KEVIN FULTON: Yes. [LR378CA]

SENATOR CHAMBERS: I've talked to you in the past and I do respect what you're doing. I respect what the Humane Society is doing and we must never let the people who don't know what they're talking about deter us from doing what we know to be right. And when we say words and they are misconstrued and applied where we didn't apply them, it's not our words. And that sometimes is done because they don't have an argument against what we're saying. The feeling that I get is that those people who want this are the very ones who want to go out there with a pipe, to pen up these animals, to not feed them properly, to put too many nitrates into the environment. And the food that we buy in the supermarket, we're advised by those who are objective not to eat much of it if you eat any of it at all. So we have serious problems in the city, and we're consumers, and some of these farmers are going to recognize at some point that they're not in charge of anything. When they pass bills like LB176, they're turning it over to those who have no interest in us as consumers, no interest in the farmers, and they're making suckers out of everybody. So I hope you keep doing what you're doing, as I know you will. And I want you to know that there's somebody in this Legislature who will say that in this Legislature in front of whoever is in the room, and I will push for what I believe in the same way they push for what they believe, because I think they're wrong. If this gets on the floor, it's just another one of those bad bills that I'll have to fight. But I'll sing my theme song when it's over (singing): And another one's down, and another one's down, another one bites the dust. And that's what I'll do. And that's what I have to do. I have to spend so much time on bad bills that I cannot give the time to the constructive things I'd like to do. I'm on the floor longer and more than anybody fighting other people's bad bills. So if I'm going to tell you to keep pushing for what you're trying to do

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

Agriculture Committee
February 23, 2016

because it's right, I have to keep pushing for what I think is right in the Legislature or else everything I say is hypocritical and it has no meaning. But I think I've got colleagues who wish I wouldn't be so determined to do what it is that I must do. So if this gets on the floor, watch us on television. [LR378CA]

KEVIN FULTON: Can I respond to that? [LR378CA]

SENATOR CHAMBERS: Yes. [LR378CA]

KEVIN FULTON: I agree with you and I appreciate your leadership and appreciate you not putting words in my mouth because you don't have a good argument. [LR378CA]

SENATOR CHAMBERS: Thank you. [LR378CA]

SENATOR JOHNSON: Thank you. Other opponents. Welcome. [LR378CA]

GREGORY LAUBY: Thank you, Senator. Senators, good afternoon. My name is Gregory C. Lauby, G-r-e-g-o-r-y C. L-a-u-b-y, and I'm appearing on behalf of myself. Having grown up and returned as an adult to a small farm south of the Platte River in Dawson County, between Lexington and Cozad, I favor the right of real individuals to farm, free of state laws restricting their activities unless those restrictions are based on a compelling state interest. But I am utterly opposed to this constitutional amendment and this resolution. I had not seen the amendment that has been proposed by the introducer and discussed by him today. But based on his comments, it seems that his interpretation of that would result in a fundamental shift of legislative authority either to political subdivisions or departments of the executive branch to enact regulations of realistic crisis-types of problems. The term "compelling state interest"...or, yes, "compelling state interest" is a legal term and I'm not familiar with the exact definition but I know it sets a very high standard for a court to approve any statute that's passed without there being a clear compelling state interest for it, if that is the standard of review. What does that mean for Nebraska? Does that mean that all environmental contamination is to be controlled by either the NRDs or municipalities or the Environmental Protection Agency or the NDEQ? And if so, what enforcement powers do they have? If the Legislature can't act to make those possible criminal penalties or impose fines, they're left to the enforcement powers already existing in their own agencies. Unless, of course, you want to delegate state enforcement resources, both judicial and law enforcement, to the federal EPA and OSHA, those branches are going to be severely strained to try and enforce even reasonable and necessary restrictions that they may impose to ameliorate a state crisis that could emerge in the future. Secondly, by placing this in the constitution, you have a long, almost perpetual lasting limitation on your powers to legislate. What do you do when a problem emerges? What happens when a corporation develops, through GMO

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

Agriculture Committee
February 23, 2016

technology, a plant that is more hallucinogenic than LSD, more addictive and deadly than heroin, and calls it a "farming practice" to grow it and harvest it and process it and distribute it? Can you make that a criminal offense? Is that going to meet a compelling state interest test? Or who will you have to delegate some kind of restrictive practice on? Even farther into the future, what happens when livestock and crops are teleported to market? Is that not something that may require some regulation to protect the producers and the integrity of the items themselves? We can't even imagine what may develop over the term of a constitutional provision's effectiveness. The other thing that concerns me is that the focus, and other speakers have (inaudible) on it, the threat somehow is that there may be an unnecessary restriction imposed on agriculture. The USDA reported farm income fell by 38 percent last year after falling 16 percent the year before. That seems to me to be the problem. State tax revenues, I read, may be roughly \$150 million less than projected for this year. How much of that shortfall is due to a decline in rural Nebraska agriculture income, having less taxes that they must pay and less income that they can spend to generate taxes for other segments of our economy? That seems to me to be the serious problem that needs to be focused on by the Department of Agriculture and by the Governor and by this Legislature. I see my light is on. I won't go any farther. Thank you for your attention.
[LR378CA]

SENATOR JOHNSON: Thank you. Any other questions? No. Seeing none, thank you.
[LR378CA]

GREGORY LAUBY: Thank you. [LR378CA]

SENATOR JOHNSON: Other proponents (sic). Welcome, Mr. Hansen. [LR378CA]

JOHN HANSEN: (Exhibit 17) 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. Thank you for this opportunity to appear before the Agriculture Committee today. After careful consideration and a lot of research, Nebraska Farmers Union opposes LR378CA. This far-reaching proposal should not be put into our state constitution. Before we get to the legal issues, we do not believe family farm and ranch agriculture faces enough risks from society as a whole or from special interest groups to begin to justify putting such an enormously radical proposed constitutional amendment before the voters. This proposal is, in our view, a heavy-handed, inflexible, overly broad solution looking for a documented problem to solve. We've not seen that documentation. We've not seen the scope of that problem. LR378CA, in legal terms, boldly goes where no legal standard has gone before because it flips traditional constitutional analysis on its head. Most laws that are the basis for regulations are subjected to the rational basis standard to determine their constitutionality. If a citizen, for example, challenges the constitutionality of the law today, they would need to be able to prove that there is not a rational basis to the law. If this constitutional amendment were to

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

Agriculture Committee
February 23, 2016

pass, a citizen challenging the constitutionality of a law will force the state to prove it has a compelling state interest, which shifts the burden of proof from the citizen to the state. And it is a dramatically higher standard. It's a game changer. As a result, when that legal challenge comes, most laws, in our view, based on our research, regulating agricultural activities will fall. LR378CA changes the fundamental rules of engagement for laws impacting agriculture. For purposes of either unintended or intended far-reaching consequences, it is our view that under the definition of, quote, citizens and lawful citizens (sic--residents), unquote, domestic Nebraska corporations and foreign corporations registered to do business in Nebraska would be considered a "resident" entitled to the benefits of LR378CA. If that is the case, we believe, for example, that that well could put our state's existing beef ban on beef packer ownership of cattle squarely at legal risk. There are a lot of consequences that come with this change in legal standards. We believe that the proposed amendments attempting to grandfather in existing laws in groundwater management are extremely problematic. Grandfathered laws would be grandfathered only until they were in any manner whatsoever amended. Upon amendment, the laws would then have to satisfy the new and different compelling state interest standard. At best, this would create two distinct tiers of laws regulating agriculture at the same time, depending on when they were passed. At worst, LR378CA ties the hands of the Legislature and, in our view, local government as well for no good or compelling public policy reason or justification. Our research indicates to us that we believe that it is the case that state actions would in all likelihood include the actions of all state governmental subdivisions, including county governments, municipal governments, natural resources districts, public power districts, irrigation districts, etcetera. In addition to LR378CA, only...in addition, since LR378CA only benefits citizens and lawful residents of Nebraska, we believe it will run full speed into the Eighth Circuit Court of Appeals' unique buzz saw interpretation of the dormant commerce clause. My organization, unfortunately, has become painfully familiar with the dormant commerce clause thanks to years of litigation surrounding Initiative 300. In conclusion, LR378CA, in our view, is not justified, is not a reasoned and appropriate response to a perceived problem, should not be put in the Nebraska Constitution, and should not be placed on the ballot, and should be indefinitely postponed. Thank you for this opportunity to appear before the committee. And if you have questions, I would be more than glad to answer them. [LR378CA]

SENATOR JOHNSON: Thank you. Questions? Senator Bloomfield. [LR378CA]

SENATOR BLOOMFIELD: Thank you. Mr. Hansen, you mentioned putting our ban on packer ownership of cattle in jeopardy. Do you think we already did that with LB176? [LR378CA]

JOHN HANSEN: We sure didn't help it out much. [LR378CA]

SENATOR BLOOMFIELD: Thank you. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: That's right. [LR378CA]

SENATOR JOHNSON: Any other questions? I guess not. Thank you. [LR378CA]

JOHN HANSEN: Thank you very much. Good luck. [LR378CA]

SENATOR JOHNSON: Next opponent. Opponent? [LR378CA]

SCOTT JAPP: Neutral. [LR378CA]

SENATOR JOHNSON: (Exhibit 18) Neutral. Okay. If there's no more opponents, I have one letter here from the Humane Society of the United States as an opponent. We will go to neutral testimony. [LR378CA]

SCOTT JAPP: (Exhibits 19-25) Good afternoon, Senators. My name is Scott Japp, S-c-o-t-t J-a-p-p. I'm speaking on behalf of myself and the constituents that I have in Washington, Burt Counties, and also in Douglas County. If it's a state statutory or a constitutional amendment, we have problems in agriculture that need to be addressed one way or another. The state of Iowa has a right to farm law and in their right to farm law they farm agriculture zoning areas. And in those zoning areas, the existing agriculture operations that are there, what it does, it does help protect them if residential development moves into their area and files nuisance lawsuits. And in those nuisance lawsuits, if the person filing the complaint against the farmer loses the lawsuit, he pays the farmer for the nuisance. Now, my brother being...having inherited 80 acres close to Omaha, had a farmstead on it. After the tenant that was living there died, the farmstead went into disarray. But however, across the road a developer decided to come in and build \$400,000 houses. Now his farmstead went into weeds, but he was never cited for any violation. There was no noxious weeds. However, he was harassed all the time to the point that he had to clean up, at his expense, somewhere in the neighborhood of \$20,000, for the developer to make his site pretty. Other incidences: My county is trying to implement it's a farm protection act. And in the opponents of the act, at the first round of planning board, the first question was, is it constitutional in the state of Nebraska? Well, my response, well, we haven't...it doesn't say that we can't as a local entity develop our own programs, but if we did have a constitutional amendment it may help other political subdivisions implement other activities. The state of Michigan has a farm protection act and what their farm protection act basically is to get back small developments in closer to the cities and within they can use the normal farming practices that the large-scale operations do. The state of Arkansas has a farm protection act, and its farm protection act is for the case of bankruptcies by, for an example, if you have grain stored in an elevator, the farmer isn't protected. If the farmer has a tractor that...in a bankrupt farm dealership, he loses the tractor. These are other things that we need to consider in helping the agriculture

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

Agriculture Committee
February 23, 2016

industry. The state of Vermont, in their farm protection act, it's for protecting the farmer that doesn't use GMO crops. But however, if the neighbor pollen gets into his crop and he wants to use that soybean seed on his own property, well, it has to have the Monsanto gene in it and, therefore, he's in violation, even though he did nothing wrong. The state of Minnesota just introduced a bill regarding their farm protection act and it has to do with property taxes. As we all know that in the present time approximately 10 percent of gross revenue on a farm is going to property taxes, and their bill is to exempt farm ground from bonds for construction projects. And at last, there is a federal farm protection act and in this act you need to do a cost...or do an analysis. If farm ground is outside, basically, a mile city limit, it gives...protects the farmer and it also...in this instance it was, you cannot use federal funds on what is not to be deemed unique, prime, or local interest farm ground. And if you have any other questions, I'll gladly answer them. [LR378CA]

SENATOR JOHNSON: Any questions? Seeing none, thank you, Mr. Japp. Other neutral? Welcome. [LR378CA]

EDWARD GEORGE: Greetings, Senators. I want to enlighten you, but I don't want to put you to sleep. My name is Edward George, E-d-w-a-r-d G-e-o-r-g-e. Today I was fortunate to have a story printed in the Lincoln Journal Star about agriculture and it was commented that it was read. One of the things that I'm very interested in as a retired agronomist, hopefully most of you know what an agronomist is, well, an agronomist by degree from the University of Nebraska with a masters degree in agronomy is one who is supposedly "knowledgeable" about crop production, soils, insects, weeds, and diseases. So my career after I left the farm, from my family in York County, I pursued an agronomist degree. One of the things I want to say and I'll repeat it several times to you, I personally invite you to come visit our York County farm to experience the sweat, the blood, and the tears that my dad, my mom and my brother are encountering to try to be a sustainable farmer, as the question was asked. One of the things that I look at in my real sincere effort is even though I'm retired I'm not tired, but I think one of the things that I can contribute to is the state's economy. I felt like the youth of Nebraska, even though we have fewer and fewer youth involved in agriculture with the opportunity to experience agriculture. On our natural resources--who owns the water in Nebraska? A publicly-owned entity. One of the best recommendations I found when I was working as a county extension educator in Clay County where the meat and animal research center is located, I came to know personally first hand those people involved in research. Great people, sincere people, working within the boundaries of the USDA programs. Also, my experience working in seed corn production as a field scout monitoring seed production, some of the things that led me to concern you about what we were having and producing, genetically modified food-type systems really concerned me. The latter part of my career I worked in irrigation center pivots. And we started out with 160 acres, a quarter section of land and developed for irrigation...gravity irrigation which led to center pivot irrigation which was on Class I soils. I hope you are, as the Ag Committee members, understand

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Transcriber's Office

Agriculture Committee
February 23, 2016

the soil classifications in Nebraska from Class 1 through Class 4 and 5. By the time I left that opportunity to increase agricultural production I was faced with going in and putting irrigation center pivots on land like this, so steep and so erodible...highly erodible that we couldn't even get the pivots to be put together out there in the fields. These things really became really a concern to me. And yet, I hear the right to farm and the discussion both pro and con, I think it's a privilege that I have, and I'm not saying this as a racist or a privileged in terms of economic benefits, but wouldn't it be nice if we had all the kids in Nebraska that had the opportunity to experience agriculture in a farm setting, rather than having to debate these issues in front of you in terms of legislation? I don't particularly appreciate ridicule of people for where they come from, because they would say, like in the person in the government agency, they're enforcing the laws that were passed. I feel like that we have many farmers, as our farm families discovered by...are banking in York County said the farm program, which is what most of the farmers do--entitlements of conservation, insurance, guaranteed prices. So as we look at the blame...well, I don't think it should be a blame, it's an economic thing that's trended in the last 40, 50, 60 years. One of the things that I was very interested in as I looked at all of your backgrounds in terms of what your backgrounds were included a farm business management, an insurance agent, retired from whatever career that may be, defender of the public downtrodden, attorney, self employed, healthcare policy management, and a cattle feeder. One of the things that I hope that I would really think about as we (inaudible) about this constitutional amendment is an endorsement, a ratification, or some form of how you support agriculture. Some of the things that farmers are doing in support of having individuals coming to visit their farm are: agritourism, ways that they can come out there and first hand see what's going on in the farming community; bed and breakfast, and that's all...bed and breakfasts are part of the Department of Agriculture; farmers and ranchers are promoting this. I look at...what I see other states as doing in terms of promotion and it really disheartens me how we're promoting agriculture. I see the red light coming on. I welcome any thoughts and comments, particularly question on...one of the last comments is that thinking about, well, we think about food production from the...what is so important in terms of thinking of the farm to school programs, the lunch food production systems that help disadvantaged kids that are...are forced to accept charity for food that they need from their schools and taking it home at the end of the school week. Any comment, sirs? [LR378CA]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you, Mr. George, for coming in. Other neutral? Welcome. [LR378CA]

MARK McHARGUE: (Exhibits 26 and 27) Thank you. Senator Johnson and members of the Agriculture Committee, good afternoon; appreciate you guys' leadership and hanging in there. And I don't know...I'm not sure how you do this on a regular basis every day, but I do thank you for that. My name is Mark McHargue; my last name is spelled M-c-H-a-r-g-u-e. I'm a pork producer and a popcorn grower from Central City. I'm here to testify on behalf of Nebraska Farm Bureau Federation where I serve as First Vice President of the state board of directors. And I

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

Agriculture Committee
February 23, 2016

thank you for the opportunity to testify this afternoon. Because of the overall objective of this resolution is to protect farming and ranching practices, there are probably many people who would assume Nebraska Farm Bureau would be here today testifying in support rather than in a neutral capacity. I want to make it clear from the start in saying that no one is more concerned than Nebraska Farm Bureau about ensuring our farm and ranch members continue to have the opportunity and ability to use both existing and new practices and technologies on their farms and ranches. Rarely do we have a board meeting or a meeting where our members gather that we don't talk about the threats to agriculture and the way of life in rural America...Nebraska. This is a major issue for agriculture and our members. Because of that I cannot underscore how important it is that we approach the right to farm issue in a thoughtful and judicial manner. That's the reason we are here in a neutral capacity today. While we support the concepts of right to farm, we have major concerns that agriculture collectively has not had the discussion and discussions that are warranted and needed on how best to move forward with the right to farm concept and certainly not to the point that would justify moving forward with efforts to modify our state's constitution. When it comes to right to farm there's a couple of things I'd like to explore. We need to make sure that we clearly understand and define what protections we are trying to achieve. We need to make sure that any actions we take truly provide protections that are being sought. We need to make sure that actions that we take don't open the door for endless legal challenges where judges ultimately decide what an agriculture operation is in the state of Nebraska and what agriculture practices are and aren't and if they are protected. We need to make sure actions we take today do not come back to harm the generations that will follow us in agriculture. We don't believe a constitutional amendment meets these tests, but we do believe there is a path forward where we can work together to ensure there is a future for Nebraska farm and ranch families. We would ask the committee to forgo the route of constitutional amendment and address right to farm through state statutes. We encourage the committee to initiate the process through an interim study with a goal of proposing right to farm legislation in 2017. In our review of LR378CA, it has become clear to us that a legislative approach would allow agriculture and the Legislature to be more prescriptive to address the needs of our members, while at the same time ensuring agriculture interests have the conversations that are needed about what we are trying to achieve with right to farm. While we don't have all the answers, we have started the process of putting together an initial draft, that is coming around, of how we could work through this process to build upon the existing right to farm statutes that exist today relative to nuisance issues. We believe this is a more measured approach and an appropriate way to move forward. The document that I've provided is in no way a final product, but simply a starting point intended to give the committee an idea of what we would envision could be accomplished by working through the legislative process. In closing, I would reiterate our support for the concept of right to farm, but urge the committee to forego the constitutional amendment and take up the right to farm issue through statutory efforts. Thank you and I would be happy to entertain any questions. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR JOHNSON: Thank you. Any questions? Seeing none, any others in the neutral position? I think we've covered anybody...everybody...anybody else that we missed...came in late, whatever...proponent, opponent, or neutral? Seeing none, Senator Kuehn for your closing. [LR378CA]

SENATOR KUEHN: Thank you, Chairman Johnson and members of the committee. I appreciate your time today to thoughtfully explore and question and discuss these concepts. I thoroughly appreciate the discussion. I appreciate having my ideas, assumptions, and language questioned and challenged. And I welcome that kind of dialogue. I think that is important as part of this legislative process. I do want to address just a few things that have been mentioned in testimony today, just to be clear and knowing that the hour has been long, give you an opportunity to ask any additional questions that you may have of me and you can begin your deliberation processes. First of all, I want to be clear and reiterate, since the accusation or the claim or the question has been raised several times--no one brought me this bill. This is not boiler plate language from anyone else. It is very close to the Oklahoma Proposition 777, which is coming forward. Working with our environmental and water interests in the state of Nebraska, we have identified additional language to address Nebraska's unique situation with managing the waters of the state. I know it may seem impossible that a senator could possibly bring a bill without having a lobbyist behind it, that is truly the case. I can tell you it's a lot easier to work a committee to set up a hearing when you have paid individuals in the lobby assisting you. And in this case, this is an organic effort with me. The responsibility and the management of the bill lies solely with me and I accept that moving forward. Again, as I stated, this is a passion of mine. A couple of things that I want to just bring forward. One, there's an issue about that this constitutional amendment flips the current status from the burden on the citizen to the burden of the law to the state. And I agree. I firmly believe it is the responsibility of the state and the burden of the state to ensure that if they are restricting the activities of individuals in their business practices and in their lives, that that burden for proving that it is in the state's interest, protects the interest of the greater good falls squarely on the state. It is important to protect the rights and abilities of the minority in doing so. The other is, I want to just reiterate that we've heard a lot of interesting testimony this afternoon, and there's a couple of claims that as a producer really bother me. We heard a number of statements that say...that stated that and somehow ag is inherently cruel to animals, that without strict legal protections that ag producers are simply going to do whatever they can to be cruel to animals or even the assumption that somehow I did not respect the welfare of animals or the role that animals play and the human animal bond in the production of food and fiber. I wish you all could come out to Heartwell and see the menagerie of geriatric rescue animals that dominate my home. The session has been interesting for me; one morning before I came on a Tuesday was the last morning I spent with a rescue puppy that I adopted running around the streets of Manhattan, Kansas, when I was a senior veterinarian medical student and has been my companion for 16 years. So the accusation that somehow I am not compassionate or that I want to sponsor anything intended or unintended that harms animals, I as a senator and as an

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

Agriculture Committee
February 23, 2016

individual find absolutely abhorrent. The other is a claim that somehow without absolute regulation and the thumb of government that ag is inherently unenvironmental. Modern ag production, while you may have differences of opinion about a feed lot or the application of fertilizer through a center pivot or the technologies that are used to help our animals put on more weight in a more efficient manner, is very cognizant of its environmental impact. And science has clearly demonstrated that we are growing more food, safer food, with less water, less carbon footprint, less acres of land than we ever have before. And certainly it would, again, as a family producer, someone who is wanting to secure that family ability for farmers and ranchers going forward, we have to be careful about making broad statements that somehow the practice of agriculture, whether that is organic farming, small family farming, or even that which adopts technologies such as GMOs or others is somehow unenvironmental. And that's just an assumption and a claim which just is not true. And it reiterates my point that I had been making in my impetus for this legislation is that if you repeat a claim, even if it is false, over and over and over, louder and louder, it still does not make it true. I inherently believe in the right of every individual to their First Amendment right to freedom of expression and freedom of speech, and nothing in this impedes an individual's ability to say it however they want to in whatever media. But when we as policymakers look at making a law in the Chamber upstairs, a law which is going to have the impact on all Nebraskans that are now in the state and that come beyond us, we need to have the ability to separate fact from fiction. And someone's oft repeated misinformation does not have the same credibility or the same weight in the policymaking process as does fact. And regardless of the individual differences of opinion of how we go about that, it is that spirit of intellectual honesty and protection of policy that I truly come before this committee with this legislation. While I'm dismayed that there are others who would impugn my intentions or claim other, that simply is not the case. And I hope that my "earnesty" and sincerity in facing you this afternoon reflects that. With that, I'm open to any additional questions that the members of the committee may have. [LR378CA]

SENATOR JOHNSON: Thank you. Senator Chambers. [LR378CA]

SENATOR CHAMBERS: I'm not going to take long, Mr. President...Mr. Chair. I feel that the gag is still in place, but I have to ask this question. How much did you know about that fellow who was...came here and spoke...spent all his time speaking against the Humane Society? [LR378CA]

SENATOR KUEHN: You know, he is...and Senator Chambers, he is an individual who had provided some information and background based on the Humane Society of the U.S. I understand and he was willing to come and visit. My invitation was extended to allow him to express information that he felt that he had. It certainly is not an endorsement of some of the statements that he certainly had. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR CHAMBERS: Okay. [LR378CA]

SENATOR KUEHN: I think we as individuals all recognize. Again, I may not have agreed with everything he said or the manner in which he said it. But I vehemently uphold his right in this public forum to say it. [LR378CA]

SENATOR CHAMBERS: Here is what I was going to say. This is a forum where people can say what they please, but I know of work that the Humane Society has done. And I'd be less than a man if I sat here and let somebody run off at the mouth like he did without any facts; tell how I feel about PETA and what...since I disregard what they say, I've got to disregard this and pay attention to him? And he comes here and cannot even tell us or refuses to tell us where they get their money from. What has he got to hide? And he is hiding something; he made that clear. So when you bring those people here, there's a reflection on you because if you walk with those who are lame, you yourself will learn to limp. And I agree with you. And also, that was one of the main propaganda ploys of the Nazis. If you repeat the same lie long enough and often enough, people will believe it. And Hitler said--the bigger lie is believed more readily by the people than the small one. And that's what is driving Donald Trump. He keeps saying the same thing over and over and over and over and it's accepted. It's not acceptable to say--"you're a liar" without telling how you lied. Well, you're a bigger liar than him. And everybody is afraid to take issue with it. And then he does all of these things and then people who support him are going to say--"that's not what America is about." Well, if I was in another country, because I know how I view it here as a black man, and I heard somebody who is a serious candidate for leading your country, and he's the leading vote getter so far, and he hates Mexicans. He has a great disrespect for black people. He disrespects women. He disrespects people who disagree with him. Attacks...says that the Pope is a horrible man for what he said. Then he attacks Cruz's religion, ridicules Ben Carson's religion, and nobody calls him on it. So, that seems to be the new way that people who are making points are going to try to do it. And that fellow that you brought here may have thought he was dealing with some rubes, but I don't think he expected...especially a black man dressed the way I'm dressed with shaggy hair and shaggy beard to take him on. And he got very quiet. If I am attacking you, you have the right...and I expect you to respond in kind. Nobody compelled him to come up here. But the kind of language that he used was not prudent. And if he was trying to make a point, there's a better way for him to make it. I think he came here to show his contempt; the lack of regard and respect he had, at least for one person on this panel; and that's why I wanted to emphasize, and it's true, I got a lifetime award from HSUS as he calls it. And I've never heard anybody from HSUS say what the former Governor said, and I called him to task on it. He said--"I'll kick their ass" publicly. And if there was a student who said that to a teacher, they'd want to put the kid on suspension, he'd say--"that's what the Governor says." So these guys will say these kind of things. Now he never told me he'd kick my ass. And I would have been within kicking range. But he'd have to climb a ladder to do it, as little as he had made himself. So when people who have got that kind of authority will behave in

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

Agriculture Committee
February 23, 2016

that kind of way to try to bully and intimate other people who are merely talking, then it doesn't make a score with me. And maybe the way I present myself doesn't make a score. But I will never bully somebody who cannot talk back today. Everybody that I spent time with was in a position to talk back to me. And it was not somebody who came as an ordinary citizen, so to speak, just expressing a point of view. It was somebody who represented something or other or was able or should have been able to respond in kind. And I listened to what they said and responded. Now, if this thing gets on the floor, I'll tell you now--buckle your chin straps, you need more than to just hold on to that rope that these bull riders hold, you're going to need something more than that. And whatever you do, wear some asbestos britches, brother. [LR378CA]

SENATOR KUEHN: I have done that and it is a harrowing...mine wasn't eight seconds, I hate to tell you. If I may, Senator Chambers. [LR378CA]

SENATOR CHAMBERS: Sure, sure. [LR378CA]

SENATOR KUEHN: I would like to acknowledge and I think it's important in the public forum. I would normally say this in conversation passing directly with you, but I think it's in the public forum, daylight is always great. And I think...I want to just acknowledge that I appreciate your questioning and I appreciate your desire to look specifically at each of the individual words that is in here. And I, in no way, am bothered by your taking me to task to understand why those words are there. And as we move forward, that should you attempt to make the language better, I understand that that is an attempt in doing what is best for the legislation and best for the people of Nebraska. And so I...I certainly have respected your input. We may, fundamentally, at the end of the day disagree about what the best path forward is. But in no way should that be construed as disrespect for the conversation and the discussion between legislators that takes us to whatever that end result may be. [LR378CA]

SENATOR CHAMBERS: Now I don't think you've been...I was talking about the specific guy over there. [LR378CA]

SENATOR KUEHN: You bet. No, absolutely. [LR378CA]

SENATOR CHAMBERS: Okay. [LR378CA]

SENATOR JOHNSON: Senator Bloomfield. [LR378CA]

SENATOR BLOOMFIELD: I've just got to poke the bear a little bit. [LR378CA]

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

Agriculture Committee
February 23, 2016

SENATOR KUEHN: Oh, no. [LR378CA]

SENATOR BLOOMFIELD: Got to poke the bear just a little bit. I didn't see Donald Trump in the room. [LR378CA]

SENATOR CHAMBERS: Well, his spirit was here. [LR378CA]

SENATOR BLOOMFIELD: Could be. [LR378CA]

SENATOR JOHNSON: Any other questions? Seeing none, thank you, Senator Kuehn. [LR378CA]

SENATOR KUEHN: Thank you. [LR378CA]

SENATOR JOHNSON: Thank you for everyone for being here. [LR378CA]