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Agriculture Committee
January 23, 2018

[LB764 LB808]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, January 23, 2018, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB764 and LB808. Senators present: Lydia Brasch, Chairperson; Carol Blood, Vice Chairperson; Joni Albrecht; Steve Halloran; Bob Krist; and John Lowe. Senators absent: Ernie Chambers and Theresa Thibodeau.

SENATOR BRASCH: Good afternoon and welcome to the Agriculture Committee. I am Chairman Lydia Brasch. And before we begin on the committee's agenda today, please let me introduce the members of the committee who are here with us so far, and staff who will be assisting the committee today. First, I would like to introduce our Vice Chair, Senator Blood, and then I'm going to ask the other members of the committee to introduce their selves, starting with Senator Krist.

SENATOR KRIST: Bob Krist, District 10.

SENATOR ALBRECHT: Senator Joni Albrecht, northeast Nebraska, District 17.

SENATOR HALLORAN: Steve Halloran, District 33.

SENATOR LOWE: John Lowe, District 37: south half of Buffalo County.

SENATOR BRASCH: And to my right is Rick Leonard, the research analyst for the committee. To my left is committee clerk Courtney McClellan. And today, Joe Gruber from Omaha, and a student at UNL, will assist us as our legislative page. Today, the committee will meet on LB764 and LB808. Before we begin, I do want to ask the audience to be respectful of each other. Please keep your conversations among yourselves to a minimum, and if necessary please take your conversations outside into the hallway. Also, please restrain from any expressions of support or objection to our testimony and testifiers here today. No one may address the committee except as a testifier while seated at the testifiers table. Please turn off your cell phones and any electronic devices, or put them on vibrate or silent. Any phone conversations should be taken outside to the hallway. If you do not plan to testify on a bill but would like to record your position on a bill, there's a yellow sheet that's located outside the door where you can do so. These will be part of the hearing record. However, only persons who testify will be included on the committee statement. Testifiers, introduce yourself, state your name, and spell your name. The introduction will be by the senator who is sponsoring the bill. Questions may be asked of you from the committee. And if you do plan to testify, please fill out a green sheet before you come up to

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testify. These are located on the table outside the door of the hearing room. Please indicate your name and your contact information and whether you are testifying in support, opposition, or neutral on a bill. Indicate whether you are testifying as an individual or whether you are testifying as a part of an organization and representing that organization. When you come forward, please hand your green sheet to the page. When you begin, please state and spell your name for the benefit of the transcriber, and tell us if you are presenting on behalf of yourself or your organization. If you have any handouts, please gesture the page, who will take any copies and distribute them to the committee. We ask for 10 copies of any handouts. We will limit the length of the testifiers today to five minutes. There will be a green light and then a yellow light, which means you have a minute left, and then the red light, meaning that you need to conclude your testimony. There's any other items that I need to address, and if, just for the future, if you cannot make a hearing, we ask that written testimony be submitted the night before by 5 p.m. to be entered on the record. Thank you very much, and I'm going to ask Senator Crawford to come forward, please, and introduce LB764. [LB764]

SENATOR CRAWFORD: Good afternoon. [LB764]

SENATOR BRASCH: Good afternoon, welcome. [LB764]

SENATOR CRAWFORD: Thank you. Good afternoon, Chairman Brasch and members of the Agriculture Committee. For the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to be here today to introduce LB764 for your consideration. The Legislature has been working to remove barriers to employment through occupation licensure reform. It is critical that the state continue to pursue innovative approaches that allow all Nebraskans to earn income. LB764 is a "cottage food law" that would allow Nebraskans to sell food already authorized for sale at farmers markets to customers from their homes. Currently, Nebraska Pure Foods Act allows individuals to sell foods that are not time and temperature-controlled for safety at farmers markets without a permit. And the regulations specify what those foods are. This includes foods such as baked goods, uncut fruits and vegetables, jams, jellies, and fresh or dried herbs. LB764 would allow individuals to sell these same food items from their homes with the same labeling requirements. Along with stating the name of the product, ingredients used, and the name and address of the producer, the label must also make clear that the food was prepared in a kitchen that is not subject to regulation inspection by the regulatory authority. At farmers markets, the state leaves risk assessment and the decision of consumption in the hands of the consumer. According to the Nebraska Department of Health and Human Services division of epidemiology, their data shows no outbreaks of food-borne illnesses related to farmers markets in the state. Considering these circumstances, it seems logical that consumers be allowed to buy these same foods, produced in the same conditions, and with the same labels from their neighbors at other times of the year. Currently, 41 states, including Nebraska, allow for the sale of cottage food

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products in some capacity. Many of these states, including Iowa and South Dakota, allow for the sale of these products from the producer's personal residence. Allowing individuals to sell the products made in their home from their home is the goal of LB764, and a best practice recommendation from the 2013 Harvard Food Law and Policy Clinic Cottage Law study. LB764 also provides that any income from cottage food sales shall not exceed \$25,000 in gross annual sales during a calendar year. Of the 41 states with cottage food laws, 26 of these states allow \$25,000 or more in annual sales, with 19 having no cap. Although this is a modest amount of money, it could have a huge impact for many Nebraska families. The Nebraskan who brought this issue to my attention, and who will testify later today, shared with me how important this income would be for an individual who is a full-time caregiver for a family member and whose schedule does not allow a regular job. According to AARP Nebraska there are approximately 195,000 family caregivers in Nebraska, and 40 percent of these unpaid family caregivers are not holding outside employment. As the population ages, this number is expected to grow. Allowing cottage food sales like those authorized in LB764 gives these caregivers a flexible opportunity to provide a supplemental income for their family from their home. This additional income could also help the many individuals who are underemployed across our state. In addition to providing hard-working Nebraskans with an additional income, allowing the sale of cottage foods can produce many other community benefits. The Harvard study cited earlier summarized these benefits in a 2013 report when they said that "home food production could serve as a business incubator by reducing some of the start-up" costs...start-up barriers, excuse me, "for fledging entrepreneurs, and providing the indirect economic benefit of growing more local businesses. Communities can benefit from cottage food production because it provides residents greater access to locally produced foods. Additionally, cottage food laws encourage more people to grow food because the growers know they'll have an outlet to create value added products from any excess fresh fruits and vegetables that they produce." Further, LB764 is drafted to not invoke interstate commerce laws. Because the cottage food laws are state-based, cottage food products cannot be sold across state lines without becoming subject to federal regulations. This language, which authorizes intrastate deliveries and intranet sales, but restricts out-of-state purchases, shipments, or deliveries, can be found starting on page 3, line 4 of the bill. Recently, I met with the Department of Agriculture to discuss this legislation. In our conversations it was determined that an on-line portal with the department's web site that would allow cottage bakers to register would be extremely helpful for their work and provide increased accountability. This would allow the department to have a centralized list of individuals selling these products that they could check quickly if or when they got an inquiry questioning cottage food producers activity. It would also save them time and resources, as they would not have to go into the field and inspect a situation, but instead could quickly and clearly determine that the baker or the producer was exempt from licensure for the nonperishable food items they were selling. It is my understanding this registry could be created with existing technology and without a large workload increase. Although half of the states that permit cottage food sales have no registry or permit process, I'm happy to work with the department and the committee on an amendment to strengthen this

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Nebraska program with a registry, if that's what it is seen as important. During this meeting, it was brought to my attention that Omaha, Lincoln, and Grand Island have city ordinances that supersede this legislation and continue to prohibit cottage food sales from the producer's home directly to the consumer. I'm also willing to work with the department and the committee on an issue to clarify how this bill interacts with local ordinances. To conclude, hundreds of Nebraska families are already purchasing and safely consuming locally produced goods authorized for sale in LB764 at farmers markets. This legislation simply makes cottage food available throughout the year and provides access to local foods and communities that do not have farmers markets. LB764 is a common sense bill that reduces barriers for Nebraskans to earn income. With that, I'm happy to answer any questions you might have. Thank you. [LB764]

SENATOR BRASCH: Thank you, Senator Crawford. Are there any questions from the committee? Yes, Senator Blood? [LB764]

SENATOR BLOOD: Thank you, Chairwoman Brasch. Senator Crawford, thank you for bringing this bill forward. And I want to just make sure on the record that everybody knows that you are a frequent visitor to the Bellevue farmers market and a very good supporter of our local farmers. So thank you for that. So you said that they would like to create a database or a portal for the...what do you call them, cottage...? [LB764]

SENATOR CRAWFORD: Cottage food producers. [LB764]

SENATOR BLOOD: Cottage food producers. Do they have that for the cottage food producers at the farmers market, because I don't think I remember that. [LB764]

SENATOR CRAWFORD: No. So it would be an additional layer for these producers, as opposed to keeping it the same. The bill, as it's written right now, is just the same foods. But it would be from the home and a direct-to-consumer sales without a registry. The registry would provide a way of... [LB764]

SENATOR BLOOD: Tracking? [LB764]

SENATOR CRAWFORD: ...of identifying and tracking who is engaged in these kinds of sales. [LB764]

SENATOR BLOOD: So, just help me get my brain wrapped around this. So why that and not...because I don't want to see it in farmers markets of course, because it's always been they put out the sign that says, hey, this is produced in a home kitchen, eat at your own risk. [LB764]

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SENATOR CRAWFORD: Right. Right. [LB764]

SENATOR BLOOD: Why the difference? [LB764]

SENATOR CRAWFORD: One argument for a difference is that the farmers markets and craft sales are a specified location; and so if someone is wanting to trace or track the foods, there's a limited number of entities or places where you expect that to occur. [LB764]

SENATOR BLOOD: And so you had said that there had been no documentation of anybody ever getting sick from this in any of the farmers markets in Nebraska? [LB764]

SENATOR CRAWFORD: We did not have any, when we called the epidemiology department, they did not have any evidence of outbreaks. So from those same kinds of foods. [LB764]

SENATOR BLOOD: And do you have an estimate of how many farmers markets we now have in Nebraska? [LB764]

SENATOR CRAWFORD: I do not have an estimate of that. [LB764]

SENATOR BLOOD: A lot. And more every year. [LB764]

SENATOR CRAWFORD: A lot, yes. Yes, so there are many, many cottage food producers are selling these products at farmers markets and at craft sales. And so far, we do not have evidence of an outbreak from those sales. [LB764]

SENATOR BLOOD: And so would these businesses then also be open to occupation taxes since they are also running a business out of their home? [LB764]

SENATOR CRAWFORD: Well, the idea is that they are just selling the foods, and so...so it would be not a business. Because if it's a business then it would be... [LB764]

SENATOR BLOOD: An occupation tax. [LB764]

SENATOR CRAWFORD: Making sure that you're getting your licensure. [LB764]

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SENATOR BLOOD: And so this is really something that's pretty much already going on throughout Nebraska, it's just kind of a protection. I mean, maybe not legally? [LB764]

SENATOR CRAWFORD: Well, it is...well, I'm not going to comment on people's legal activities or otherwise. But really, it's identifying the food production we allow, that's sold at farmers markets and craft shows, and arguing that if those protections are sufficient in those settings it would be also sufficient for someone selling out of their home and direct to consumer sales. And that's the contention of LB764, if the committee chooses or if our, you know, our conversation, you feel it's important to add the registry, I was just indicating that is something that can be appear as added with little cost. So, wanted to make that known up front if that's a concern that anyone has in terms of an additional layer. But the bill itself, LB764, specifies that those...it tries to use those same protections that are already the same exceptions, the kind of safe harbor that's already in place for farmers markets, and to apply that to foods sold from the home as well. [LB764]

SENATOR BLOOD: Well, thank you for bringing this forward--thinking bill forward. [LB764]

SENATOR BRASCH: Are there any other questions? Senator Halloran. [LB764]

SENATOR HALLORAN: Thank you, Chairman Brasch. I'm sure you're aware of it, but the Douglas County had opposition to the bill. And I'll just read their concern that the exemption could lead to potential food poisoning outbreaks as has happened a few years ago when about three outbreaks could be traced back to a certain special cake that was prepared in homes and cooling temperatures were not followed. Since the home was not licensed, the kitchen could not be inspected. And then it goes on to say farmers markets are inspected and these vendors are very well known to the inspectors and are aware of the food safety precautions. Could you speak to that? [LB764]

SENATOR CRAWFORD: So what...the indication of farmers markets being inspected is the case, and I believe I noted in my testimony that we do have in Douglas and Lancaster County, and perhaps one other county, there are stricter standards that are applied in terms of food safety that supersede the general farmers market standard. So it may very well be the case that Douglas County provides for additional inspection of farmers markets that aren't done in other places. [LB764]

SENATOR HALLORAN: So this would not supersede their ability to continue to have their own codes, I assume? [LB764]

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SENATOR CRAWFORD: That's true. [LB764]

SENATOR HALLORAN: I am in the food business and there's...they keep talking about time and temperature-sensitive. There's very few items that aren't time and temperature-sensitive at some stage in the process of preparing those. And it's not as simple as saying, you know, this group of types of foods aren't time and temperature-sensitive, because most of them are. Except for maybe popcorn. But anyway, that's a concern I would have, because you can put placards up warning people. And I understand "let the buyer beware" and that's okay. You know, food safety issues and food poisonings can be a pretty serious thing, which you're... [LB764]

SENATOR CRAWFORD: Right. [LB764]

SENATOR HALLORAN: Thank you, Senator. [LB764]

SENATOR CRAWFORD: Yes, I appreciate that. And that's why I was...it was telling to me when we tried to follow up on outbreaks from farmers markets with similar restrictions in terms of what can be produced. And again, the regulations themselves outline the specific categories of foods that fit that category. [LB764]

SENATOR HALLORAN: Thank you. [LB764]

SENATOR BRASCH: Very good. Senator Blood. [LB764]

SENATOR BLOOD: Thank you, Chairman Brasch. I actually don't have a question as much as I want to put something on the record. So I run the Bellevue farmers market as a volunteer, and we have Paul who comes in and does the inspections. He does a wonderful job, he's really helpful, he provides education. But the inspections that come, and he works for the Department of Ag I believe, when they go to the people who make their own foods in their home kitchens, it's different than the inspections from, say, maybe if we have a taco truck there or somebody who is selling hot food that you eat on the spot. He's looking for the two sinks and the specific guidelines that you have to have so people don't become ill when they buy those foods. And when it comes to the home kitchens, he's going to be looking at how they prepare their jams and jellies, because there's a specific way that they have to do it, but he's not going to their kitchens. So I just want to make it really clear that, yes, there's inspections, but when they're inspecting they're looking more at the people that are the non-in-your-home kitchens, but also looking to make sure that the in-home kitchens have the little signs. Everybody has to have the sign up, that's part of the rules. So I just want to make that really clear that there's only so much they can do as inspectors. And I don't know about you, but I have had salmonella twice in my life and

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both of them were from things I got at the grocery store. I have never gotten sick from anything I've ever gotten at a farmers market, so because that's usually coming about as fresh as you can get, right? [LB764]

SENATOR HALLORAN: Heat kills everything. [LB764]

SENATOR BLOOD: Heat kills everything? I don't think that works with botulism, but I'll consider that. Yeah. [LB764]

SENATOR BRASCH: Thank you, Senator Blood. Any...Senator Lowe. [LB764]

SENATOR LOWE: Thank you, Chairman. And thank you, Senator Crawford. As one who has been an entrepreneur several times, and this would be an entrepreneurial thing to be able to start up in your home where it's low-cost and everything else to try. But you say this is not a business, though, but yet up to \$25,000 that they can make. And to a lot of people that would be a business, that would be a second income. And an income comes from some sort of work in a business. So I don't quite get where it's not a business but yet you're able to make \$25,000. [LB764]

SENATOR CRAWFORD: I guess I probably misspoke on that front. It's trying to keep, yeah, trying to keep the amount small, more of a microbusiness, I suppose you could say. [LB764]

SENATOR LOWE: If you're making pies, \$25,000 would cut into the pie lady down the street who operates a shop and has to go by all the inspections and the rent of a building and everything else. I don't know, I just wanted to bring that up that it just doesn't seem like this is not a business. Or it seems like it is a business to me. [LB764]

SENATOR CRAWFORD: At that level. [LB764]

SENATOR LOWE: At that level. [LB764]

SENATOR CRAWFORD: We looked at other states that have similar kinds of cottage food laws, and that level was in the ballpark. You know, it was a similar level that other states picked. But so that's a part why we felt that level was appropriate. But it is the case that the level that you decide to set isn't part of that question about what's appropriate in terms of competition. Thank you. [LB764]

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SENATOR LOWE: Thank you. [LB764]

SENATOR BRASCH: Any other questions from the committee? I see none, thank you, Senator Crawford. [LB764]

SENATOR CRAWFORD: Thank you. [LB764]

SENATOR BRASCH: I would like to ask for the first proponent to come forward. If you are in favor of this bill, please come forward. [LB764]

NICOLE FOX: (Exhibit 1) Good afternoon, Senator Chairwoman Brasch and members of the Agriculture Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, and I'm Director of Government Relations at the Platte Institute. And would like to thank you for the opportunity to discuss cottage food law today, and I would like to thank Senator Crawford for introducing this bill. The Association of Food and Drug Officials defines cottage food products as non-potentially hazardous foods not requiring temperature control for safety such as baked goods, jams, and jellies produced at a cottage food operation. So examples would be a baked good, say that does not have a meat filling, or a custard or a cream-based filling. The AFDO defines a cottage food operation as a person who produces cottage food products only in the home kitchen of that person's primary domestic residence and only for sale directly to the consumer. LB764 amends the Nebraska Pure Food Act to allow individuals to sell foods already authorized for sale at farmers markets to customers from their home. So it's my understanding that this, you know, Nebraska already has a cottage food law to allow home producers to sell foods at farmers markets. So this is just expanding it so that they can sell directly out of their home and sell year-round, therefore increasing their income. Allowing producers to make these foods in their homes rather than in a commercial kitchen reduces some of the start-up barriers to entry for small-scale food producers by allowing these entrepreneurs to operate small-food businesses. And a recent IJ study, Institute for Justice study, published actually just last month, December of 2017, they looked at 775 producers in 22 states and found that a majority of producers are females, in rural areas, and they have below average incomes. And these women valued flexibility, being their own boss, and the ability to be creative. With the increased focus on supporting and growing local economies, cottage food laws need to be broad enough to allow producers to make their operations viable local businesses. LB764 requires that all products be properly labeled and that sales from these items do not exceed \$25,000 in a calendar year. Looking at the national landscape, a publication by the Harvard Law School Food Law and Policy Clinic reported that 42 states have cottage laws. Now, I know Senator Crawford said 41. I was looking at that report and they are counting D.C. as a state, so it's 51 states and they're saying that 9 do not. Except for Kansas, all of Nebraska's neighbors allow for cottage foods to be sold. Nineteen of the 42 states do not impose a limit on the annual sales amount, including our neighbors: Missouri, South

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Dakota, and Wyoming. Of the states that do, sales limits range from \$5,000 to \$50,000 per year. Michigan and California provide for a gradual increase in this limit over a period of years. If states want to facilitate economic growth, the Harvard report recommends that states eliminate or increase sales limits on cottage foods. We do agree with the majority of the provisions in LB764. The Platte Institute though would recommend either eliminating or increasing the proposed \$25,000 sales limit as a means of establishing cottage food producers as important contributors to the local economy and to allow food producers to maximize their earning potential. And we say that because, number one, some of these producers may eventually want to start, you know, and grow their business and actually move into a more traditional brick and mortar establishment. And also we were just thinking about maybe a cottage food producer that wanted to do wedding cakes, for example. And looking at the price of wedding cakes, you know, they could easily reach this \$25,000 limit if that was going to be their area of specialty. So you figure, you know, in the Omaha metro area, a serving would be about \$3.50, and if you've got 350 people at a wedding, that's \$1,000 right there, over \$1,000 right there. So that's why we put that out there. The Platte Institute views LB764 as a win for food entrepreneurs and will help grow Nebraska's economy. And I ask that you advance this to General File. So with that, I will be happy to address any questions. [LB764]

SENATOR BRASCH: Any questions from the committee? I do have a question. [LB764]

NICOLE FOX: Sure. [LB764]

SENATOR BRASCH: As I am listening to this, they could earn up to \$25,000 tax free? Do we mean they claim the income? How is this...they report it, they save receipts? How do we monitor or audit that they're not...? [LB764]

NICOLE FOX: That part, I'm not...I'm going to have to get back to you on how that works. [LB764]

SENATOR BRASCH: Senator, I see you're a co-sponsor of this bill, so. [LB764]

SENATOR BLOOD: I'm sorry. Oh, am I a co-sponsor of that bill? Oh, good for me. I don't remember doing that. Because I believe in this bill. Because I have several clients that do similar types of businesses, most that are in this bracket will become a sole proprietor and so they just claim that with their regular taxes. And that is something that the vast majority of these people do. I mean, you know, obviously we can't monitor everybody who cheats on their taxes because... [LB764]

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SENATOR BRASCH: So they do report this income? [LB764]

SENATOR BLOOD: Right. They usually claim themselves as a sole proprietor. [LB764]

SENATOR BRASCH: Okay, very good. That is my basic question because I do know that there's other businesses that have virtual employees. I work virtually from the farm for a company and I claim my income for that and use it to supplement my legislative income. And so and you're saying that this is a little bit of cash that helps those individuals absolutely. And food safety is very important. [LB764]

NICOLE FOX: And this law, I mean, this bill isn't changing that. Those regulations have already been established because we have an existing cottage food law that is put in place. [LB764]

SENATOR BRASCH: I have no other questions. Seeing there are none, thank you, Senator Fox, for coming forward and testifying today. Any other proponents, someone in favor of this bill? Seeing there are none, any opponents? Welcome. Oh, you're a proponent, okay. I did pause there, not long enough. Welcome. Please state and spell your name. [LB764]

JOHN HANSEN: Madam Chair, for the record my name is John K. Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and appear before you today in support of Senator Crawford's LB764. It's an issue that we have worked for a very long time. And thanks to Nicole Fox's research. Her research confirms our experience, and that is that we have a lot of beginning farmers and a lot of smaller farmers who are looking for ways to diversify their operations and try to make some additional income. And so some of these are commercial producers whose spouses have the time and the facilities to be able to do farmers markets. And so they're taking five acres of corn that's losing money and trying to turn it into five acres of something else that's making money. And so we have all different kinds of sizes and stripes of producers. But this is small business, it's individual enterprise, it is much more supported in other states. In our view, Nebraska needs to do some catching up. This is a very meager effort to do that. So from our vantage point, this looks like to me that the folks that go to the farmers market and buy these products are now able to have a mechanism to be able to buy the same products from the same vendors during the rest of the year when we're not having farmers markets. They have already examined the products, they already like them, they are already repeat buyers, but we only have farmers markets for, you know, late spring, summer, early fall. And so then the rest of the year how do you continue to try to provide those products? Well, this looks like a reasonable way. For example, we have the Nebraska Food Cooperative, which we have a lot of folks that are trying to direct market to producers. We're a part of that, we're one of the pickup points. So you have growers that provide different kinds of products to customers. They can look at a web site, they can figure out what they want, and then there's a truck that picks up those

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products from the farmers, brings them to a point of delivery, and then consumers in town come and get those products. Well, this looks like to me, this would allow those kinds of folks who are producing products for the farmers market to be able to utilize the Nebraska Food Cooperative and do it in a straight-up, above-board fashion. So I have had food poisoning three times in my life and once I understood why I got food poisoning, it was a potluck in Mexico in a rural area. The other times they were two well-known restaurants. And all three times I ended up in the hospital. So two out of three times it was certainly not local produced foods, it was appropriately regulated foods. There's a certain amount of risk we take when we eat anything. And so we have a growing number of entrepreneurs who are trying to augment their incomes with this kind of in-home business, and it seems to me that this is a way where we can provide guidance and oversight, and yet we can reduce some of the regulatory barriers that this is a positive. And especially when we're now looking at year five of below cost of production commodity prices for corn and soybeans. We have all kinds of folks doing all kinds of things in order to make an extra \$5,000, \$10,000, \$15,000, \$20,000. And so if this is an avenue to some folks where they can diversify and expand and they're claiming to do that, more power to them. So with that, I will end my testimony and answer any questions if I could. [LB764]

SENATOR BRASCH: Thank you, Mr. Hansen. I see Senator Krist has a question. [LB764]

SENATOR KRIST: I don't know if, John, if you want to tackle this question or not, but I'm asking it generically. If you want to comment, that's fine. On page 3, starting with line 4, it's restricting the use of internet to deliver said honey, jams, whatever it might be. It seems to me that you're advocating for a cottage industry that you want to continue all year round, in terms of that product that is safely made. Last I checked, if the Ball jar is sealed correctly that jam is probably not going to go bad in two-day transmission or however many miles it's going to go. Would you advocate for this having to be a person to person exchange, or would you want to limit it to person to person and restrict somebody from using the internet? [LB764]

JOHN HANSEN: Well, in terms of the delivery system, it seems to me that once the decision has been made to assume the risk that the delivery system should not be a limiting factor. [LB764]

SENATOR KRIST: I would agree. [LB764]

JOHN HANSEN: Maybe we use the post office, for goodness sake, to deliver baby chicks. [LB764]

SENATOR KRIST: I would agree. I think it's a restriction that is going to keep...if we decide to move forward with the cottage industry in terms of an all year kind of process, I think it restricts the growth of the business tremendously not being able to deliver it. I have been to county fairs

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where I have picked up the jar and I have the address of the person and I have sent to them and said, that fair is not going on right now, can you send me a couple of jars? And lo and behold, they can send me a couple jars. This I think would then make that cottage industry or that illegal, and now we have another issue on our hands. And I think it's an inadvertent restriction, I would hope inadvertent restriction, that doesn't really need to be here should we decide to go forward. [LB764]

JOHN HANSEN: It would be my policy objective to try to be able to make...to expand the marketing season for people who produce cottage foods. And so to limit it just to farmers markets is pretty restrictive in my view, especially for, you know, my organization was involved in helping create farmers markets in the first place. And it's just another perfectly good example of something that will never work that's become wildly popular. And so all of the fears, all the concerns, all the hesitation, all the...you know, in some cases, legitimate concerns were put on the table. We have worked our way through all of those. Farmers markets are a going deal, and people like buying those kinds of products. And it's a great new way in our view to connect food producers and food consumers. [LB764]

SENATOR KRIST: Do your farmers markets...just one other question, if I could. Do your farmers markets charge the local sales tax? [LB764]

JOHN HANSEN: I think so. [LB764]

SENATOR KRIST: And this cottage industry would be compelled to also charge the local sales tax as it would apply? That's a question, I'm not asking the question in a positive or negative way. I'm just saying I think that's something we need to think through. Because every farmers market that I've been to, legitimate farmers markets, are always charging the local sales tax, whatever it might be. [LB764]

SENATOR BRASCH: Any other questions? I would have a question, since we're having a conversation here. Now I wonder, because I do enjoy farmers markets in our district and even outside of my district. And so now I am wanting to become...participate. There's typically you pay for a space to participate, and now I'm thinking, okay, I don't have to pay a fee to have a spot at this farmers market, I don't have to pack up my inventory, spend the gas, drive to town, drive back. And so would it hurt the farmers markets? I'm familiar with a former crafter who sews, and she decided to go with a brick and mortar business on main street because it was killing her back to put up shelves and to bring things back and forth. So I'm wondering if this is more or less a home-based business rather than a cottage market extension of a farmers market, if there's a potential there for that. Seeing you skip these, you skip the transportation, and you have your own hours. [LB764]

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JOHN HANSEN: Well, Senator Brasch, if I had my druthers, I would druther, really encourage home-based businesses and expand that whole opportunity. And we have a lot of rural communities that really do not have very good food services available. And yet, they're chock full of great cooks. And so, you know, we have historically supported the whole idea of home-based businesses and allowing folks to try to fill those needs and do those kinds of things. Because the overall public interest, we think, is served and it creates, you know, additional opportunities for revenue. And, you know, I...there's the spring and the fall, the year I live on potluck dinners. I go across the state and meet with our members, and there's some awfully good cooks out there who have good facilities and they've been helping organize and put on church meals and do those kinds of things, and funerals and all those things. They're very capable folks. And so if you're wondering what our policy is, is anytime we have folks who want to try to help prepare food and use farm products and encourage that kind of thing it's usually, we think, a positive. [LB764]

SENATOR BRASCH: Thank you. I would say yes, Nebraska does have wonderful food in the fields and on the tables and elsewhere. So thank you for coming forward and testifying. I believe we have one more question. Yes, Senator Halloran. [LB764]

SENATOR HALLORAN: I'm sorry. I won't belabor this, thank you, Chairman Brasch. And this is not, you know, I think the bill is a good bill. So this is just a factoid on food poisoning. Food poisoning can last...the symptoms can sometimes not kick in for four to six days, salmonella is two to four days. So, for example, someone can have a tuna fish sandwich or eat at a restaurant on Monday night and then have three or four meals later and by Wednesday night the symptoms kick in. Well, the thing that the person will remember, whether it's a restaurant or a home-cooked meal somewhere, the last meal they remember is the meal that gets blamed, right? So there is a symptom lag. You know, you said you ate at some restaurants or wherever, and aside from the Mexican buffet that you had in Mexico, but that lag time makes it very difficult. It's just a factoid for everybody to figure out where they consumed the food that gave them food poisoning so. [LB764]

SENATOR BRASCH: Very interesting. Thank you for stating some facts, Senator Halloran. Any others like to ask? No other questions? Thank you, Mr. Hansen. [LB764]

JOHN HANSEN: Thank you and good luck. [LB764]

SENATOR BRASCH: Any other proponents? Yes, would you please come forward. Welcome, and please state and spell your name for the record. [LB764]

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SKYLAR FALTER: Good afternoon. My name is Skylar Falter, S-k-y-l-a-r, Falter is F-a-l-t-e-r, and I'm here on behalf of myself. I am a beginning farmer, and I really see value in this bill so I want to echo a lot of what the other proponents have said. As a beginning farmer, and as a farmer in general, you can often have excess of food on your land. You can have vegetables that are either second rate or they didn't sell at the farmers market, so maybe you are selling there, but you come home and we want to find ways to eliminate food waste and to provide healthier food options for our communities. And so I see a big barrier right now because we don't have this type of legislation implemented to find the commercial kitchen space, have the capital to do it, and to have all your ducks in a row to know that people even want to buy your product. You would need a big loan to find that. For example, Lincoln, Nebraska, I have not been able to find any commercial kitchen location, so you would be looking at building a commercial kitchen. And so I think this really allows farmers and other individuals in rural communities and urban to diversify income streams without taking a huge risk. And keeping in mind that they potentially would want to start a bigger business and make that possible. Consumers nowadays want to know who made this food. They want that connection, and I think we should continue to support that by supporting bills like this. I also want to comment on the idea of having more people that do this in their homes taking away business from farmers markets or from other like bricks and mortar. I think that kind of perpetuates a scarcity mentality. We do not have a saturated market for this. The more the better, the more farmers markets we get the more people know about them and go to them. The more local food restaurants we have the more people go to them. So this would be the same, I don't think it would detract from anyone's business. It would only make it stronger. And the next, the last thing I was to point out, is these are usually for cottage food or only for non-potentially hazardous foods. So this is usually a, you know, criteria created by the health departments in a region. So food-borne illness is already very low in these foods, no matter where they're created. So I just want to thank everyone for letting me speak, and I would be happy to answer questions. [LB764]

SENATOR BRASCH: Thank you for your valuable input. Any questions from the committee? Seeing...there's Senator Halloran. [LB764]

SENATOR HALLORAN: Nice testimony. Have you done this before? [LB764]

SKYLAR FALTER: Actually, this is my first time. And I was here to testify for a different bill, actually, but I changed. [LB764]

SENATOR BRASCH: I think that would be unanimous here. Very well done. Thank you for coming forward. [LB764]

SKYLAR FALTER: Thank you. [LB764]

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SENATOR BRASCH: (Exhibit 2) Any other proponents? Seeing none, will any opponents please come forward. While Ms. Siefken is getting ready, I'm going to read into record letters of opposition. And a letter from opposition is the Douglas County Board of Health. And I believe that's all. Thank you, welcome. [LB764]

KATHY SIEFKEN: (Exhibits 3, 4) Good afternoon, Chairman Brasch and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, I'm here as the Executive Director and registered lobbyist for the Nebraska Grocery Industry Association in opposition to LB764. I would like to start out by telling you what our opposition is not about--it's not about competition, it's not about profits. What it is about is food safety. I've served on the Nebraska Department of Ag's Food Advisory Board for probably 20-plus years, and that group is made up of individuals or different facets of the food industry. From grocery to restaurant to salvage operations to bakeries, everyone that comes under that section of statute is in the room and we discuss food safety issues. We bring bills before this body that promote food safety, we go through the FDA food code. And everything that we do, or the things that we promote, are based on science. So what...and the reason that we do that is because we want consumers to understand and to feel comfortable with the safety of the food that they consume. We as an industry don't, and will never, support any type of legislation that would dilute food safety regulations in our state. Even as a couple of years ago when there was a budget shortfall, we actually lobbied for an increase in our permit fees because that shortfall would have taken inspectors off the road. That's how important food safety is to our industry. We're willing to pay to keep inspectors in our stores and keeping food safe. I've provided in the handouts a copy of the AFDO regulations on cottage industries. This bill doesn't follow those guidelines that are put out by the Association of Food and Drug Officials. And if you...that is the most recent copy, 2012, food safety really hasn't changed that much in the years in between. But the fact that it doesn't even address the education of those people that would run these cottage industries regarding food safety, that's a very...it's like \$100 a year to get a permit and it doesn't even require that basic food safety training. In addition to that, there are other things that we're concerned about. If a food-borne illness outbreak occurs, it can be horrific. In 2011, when cantaloupe wasn't washed properly, 22 people in Colorado died and they lost the farm, the producers did. Signage required in this bill, it's a label on the package or, not and, or signage at the location. And we don't think that that is enough notice for people to really understand that the potential contamination of these prepared foods. If a producer...another concern is if a producer doesn't have the funds to rent and inspect a kitchen, and they are readily available in Lincoln and Omaha, I don't know outside of those two cities, or if they can't afford to prepare their food in a sanitized prep area, that same producer probably doesn't have the funding to help pay for any damages that would result from a food-borne illness. So the consumer would be the one that would end up paying for their own illness that was caused by someone that is selling food to third parties. Another handout that I provided to you is the bacteria counts on everyday items. And frankly, home kitchens are not clean. And if you, just that front page on that handout breaks down all of the different numbers that are

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available. So I would like to leave you with one final thought before I'm done, and that is in a home kitchen with children and pets how are you going to keep dog hair out of the kitchen, how are you going to keep cats off the counter when you leave the room? Kids come home from school and they throw their book bags that have been dragged through who knows what on the kitchen counter, mom comes home from shopping and she puts her purse on the kitchen counter. Over the years, studies have found that womens' handbags have more bacteria than the average toilet. And finally, moms with babies often sit their children in diapers right in front of them, do we really want our food prepared in those areas and sold to the general public. With that, I would be happy to answer any questions. [LB764]

SENATOR BRASCH: Thank you. Senator Blood. [LB764]

SENATOR BLOOD: Thank you, Chairwoman Brasch. I actually have several questions. Weren't you in front of this committee last year supporting vouchers for farmers markets on behalf of the Grocery Association? [LB764]

KATHY SIEFKEN: Did I do what? [LB764]

SENATOR BLOOD: Weren't you here last year in support of vouchers for farmers markets, if I remember correctly? [LB764]

KATHY SIEFKEN: We were in support of doubling the food vouchers for SNAP recipients. [LB764]

SENATOR BLOOD: For farmers markets, if I remember correctly. [LB764]

KATHY SIEFKEN: For grocery stores. That's what we were here in support of. Those vouchers were also available in farmers markets. We're not opposed to farmers markets. [LB764]

SENATOR BLOOD: All right. I remember you had something to do with that. So do you feel that it might be insulting to come out and say that the people that are trying to provide cottage foods would be so irresponsible as to place babies' bottoms and purses and dogs and cats on counters? Do you feel that that might be a little insulting to that community? [LB764]

KATHY SIEFKEN: I'm not trying to be insulting, I'm trying to point out food safety issues that occur in the home. [LB764]

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SENATOR BLOOD: So a lot of these things on this list I'm looking at are things that are in kitchens that are certified. What would be the difference? [LB764]

KATHY SIEFKEN: There are no dogs or cats in certified kitchens. If you take a look at the handout that I had with the cottage food industries, what they recommend is that there be a separate room where children and animals are not allowed. [LB764]

SENATOR BLOOD: Right. [LB764]

KATHY SIEFKEN: There are a lot of guidelines in that AFDO cottage food industry handout that should be met before people are allowed to sell food to the general public. And it all centers around food safety. [LB764]

SENATOR BLOOD: So what about that new coffee shop that's being built in Omaha that is going to have live cats? [LB764]

KATHY SIEFKEN: Well, I sure wouldn't eat there. [LB764]

SENATOR BLOOD: So...and first of all, I believe in food safety. I'm going to tell you right now that the worst, when I got salmonella it was from Underwood chicken spread, we took it on a picnic. And we turned it in to a lab and that is what I got salmonella from, a very memorable experience and something that I never, ever, ever want to experience again. I look at the people who create these foods and, you know, you make it sound like they're not washing their hands after they use the restroom or they aren't smart enough to know to rinse out their dish sponge. So I just want to say that I certainly understand why you're enthusiastic about food safety, and I'm there with you, but the same token I think you're not doing this community justice when you talk about them in this fashion. [LB764]

KATHY SIEFKEN: And I think I am...I think I can justify what I'm saying because most people have not gone through food safety training. [LB764]

SENATOR BLOOD: But even some that do still make people sick in restaurants. [LB764]

KATHY SIEFKEN: You know, a few years ago, as part of giving back to the community, I was out at the State Fair. And it's been long enough ago where it was in Lincoln, Nebraska. And we did a 10-part quiz on safe holding temperatures and what should be refrigerated and what should not. And I have to tell you, I was amazed at how many people didn't pass those basic questions, they didn't know the answers. [LB764]

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SENATOR BLOOD: But you said yourself that at farmers markets there is signage. And that that's okay with the Department of Ag that there's signage at farmers markets, but that signage isn't enough at a house. So for me, you know, I think when people buy things from people like this, it's buyer beware. They know. They know what they're buying. Because to say that a sign at a house is any different than a sign at a farmers market, when it's exactly the same sign, it's buyer beware. It's the same as craft beer. When your neighbor gives you a bottle, although you can't drink bad beer, but you take things knowing where they come from, what's put into them. And I didn't think there was such a thing as bad beer, Senator Lowe. But, you know, sometimes I think we complicate issues. And I think of all the really magnificent people that started businesses, from Amos' Cookies, that's the one that comes to mind right away, to several salsa companies, and they started in their home kitchens. And I just want to make sure that we do this demographic justice. I do hear your concerns, but I don't know if the logic is there when you're saying that it's good enough at a farmers market but not good enough at their home. I think consumers aren't stupid, they can read. And if they say, hey, this was made in a home kitchen, it's their risk and they choose to take that chance just like when you walk across the street without a green light. You know, you choose to do that. [LB764]

KATHY SIEFKEN: Can I address that? [LB764]

SENATOR BLOOD: Absolutely. [LB764]

KATHY SIEFKEN: So when you go to a farmers market, and we have never opposed any farmers market legislation, but when you go to a farmers market those vendors are in an eight by eight foot square booth. A vendors market is a destination, it's almost like a little mini fair. And people go and they understand, they truly do understand that it is buyer beware. But when...if you open this up so that anyone in the state of Nebraska that doesn't have the financial backing to protect those people that they're feeding, and you're doing this out of a house, I think that's a whole different environment and I think it's a dangerous thing to do because I believe that people will get sick. And we are all about food safety. [LB764]

SENATOR BLOOD: How is it a different environment when it's been made in the very same kitchen that it was made in for the farmers market? [LB764]

KATHY SIEFKEN: Because according to the statistics that were given earlier, 40 percent of 170...I don't know, Senator Crawford gave that statistic. I mean, there's like 70,000 more people that would then be able to provide food that they're preparing in an uninspected kitchen that you don't know if it's sanitary or not. There are no inspectors walking in saying, well, you really should put that spoon in the dishwasher and your dishwasher has to be at such a temperature to kill any bacteria that's on it. Are you cleaning out your sink, are you doing this? That's what

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inspectors do, inspectors educate those of us that sell food and they help us do a good job. And without that resource, I think you are setting people up for food-borne illnesses. [LB764]

SENATOR BLOOD: But not when they're at the farmers market? [LB764]

KATHY SIEFKEN: Pardon me? [LB764]

SENATOR BLOOD: But not when they're at the farmers market. [LB764]

KATHY SIEFKEN: At the farmers market, like I said, it's people do go there and it's a buyer beware type of thing because those people are in a little booth. It's like the county fair, you understand when you go there and you buy things the placards are very visible. I'm not sure how visible they're going to be in a home. [LB764]

SENATOR BLOOD: So if they clarified that in the legislation, then you would be happy with that is what you're saying? [LB764]

KATHY SIEFKEN: No, because it still compromises food safety. Bottom line, this bill compromises food safety. In addition to that, you would still have the local ordinances in Douglas County and in Lancaster County where I work with those people, and they are not going to...I would say, knowing how they operate, I would guess that they would not change their local ordinance but they would enforce it even stronger than what they are now. [LB764]

SENATOR BLOOD: Or they might look at it as an opportunity to tax the sole proprietors and increase occupational tax and add money to their coffers. [LB764]

KATHY SIEFKEN: Then at what point is it worth making all those people sick? What monetary value is there in allowing people to sell food that would make the citizens in this state ill? [LB764]

SENATOR BLOOD: Based on the assumption that it would make them sick, right? [LB764]

KATHY SIEFKEN: Well, I'm assuming that would happen since there is no food safety training required. [LB764]

SENATOR BLOOD: Again, an assumption. And I'm not...until I see facts that that's happening in states that do this, which I'm not seeing, it's just an assumption, right? [LB764]

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KATHY SIEFKEN: And in those states, did they follow the AFDO guidelines for the cottage food industry? Because if they did, they do have food safety training. That's my question, I don't know if they did or not. [LB764]

SENATOR BLOOD: And again, I'm willing to look at facts. And right now I'm hearing assumptions. But I do appreciate your honesty and how you answered the questions. I know some of them are hard. Thank you. [LB764]

KATHY SIEFKEN: Thank you. [LB764]

SENATOR BRASCH: Thank you, Kathy. I think we have another question from Senator Halloran. [LB764]

SENATOR HALLORAN: Thank you, Chairperson Brasch. And it's not implying people are stupid, and I know that's not what you're suggesting. But there is a difference between the level of knowledge that people in the food industry typically have, because they have to undergo significant training. I inspect our own franchise restaurants twice a year, and in between that the local food inspectors do the same kind of inspection. And I had to go through Servitech (phonetic), which is a training program on food processing, to deal with those very specific food safety issues. And, you know, some of them are commonsense, but some of them are not. And as a fellow senator of mine once said, common sense isn't a flower that grows in everybody's garden. We get used to doing things over and over and over again in our kitchens, and they may not be safe. And we may know it initially, but we just out of habit keep doing those things. And they do put our families at risk or anyone else that we might have over for supper. But it's a complex process, it's not...time and temperature are crucial, no matter if the final product is time or temperature sensitive. But in the processing part of it, it certainly can be and is. But bottom line is, you know, that maybe should be more into this bill on requiring some level of food safety training that can be free, doesn't have to cost anything, that's available in many communities. So I just would not like to...I would just like to say I don't believe you were belittling anybody, but it is a complex process in food safety. [LB764]

KATHY SIEFKEN: And I was not trying to belittle anyone. As you said, it is complex. And my concern is that you will have outbreaks of norovirus or hepatitis A. And once that's out, it's very, very difficult to control. Entire schools get shut down because of norovirus, because someone didn't know that they needed to throw out the mop instead of just washing it out. And then they wash the next room and then next thing you know, the whole school is shut down. How many people understand that? And if you have something like that in your home, suddenly it's spread across the community. So it's not that people are stupid, it is simply that they are not educated in the ways of food safety. [LB764]

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SENATOR BRASCH: Thank you, Kathy. And I would like to add something, too, along that line. Individuals who do work in the restaurant business, and they are required to take a test and study, and they are required to pay a fee. And I'm wondering if perhaps this would make it a better deal and an assurance that individuals who are preparing food for those outside of their immediate family do have some sort of qualified information and background, you know we can't control their kitchens. Yet, in a daycare situation, we do have stipulations of no smoking or, you know, fencing and things like that when you are caring for someone other than your immediate family...if you are cooking for someone other than your immediate family. When you go into a restaurant you have certain assurances and standards that are statewide accepted and health department. And I'm just wondering, I'm not advocating burdensome regulations. But when it comes to public health and safety, perhaps that would help this bill as other states I think you said have some food safety stipulations. [LB764]

KATHY SIEFKEN: According to the AFDO cottage food industry guidelines, there's a whole list if you look on page 3 and 4 of that handout. There's a list of things that are required, that AFDO suggests be implemented before cottage food is allowed to be sold to other people. Even so, again, this isn't about profits, it's not about competition because this is such a small, it's minute, it would have no impact on grocery stores or on farmers markets either. I don't think it would impact any of that. However, food safety is what it's all about. And I think in order to keep the citizens of this state safe when it comes to food, all of those recommendations should be followed. And, you know, we're not opposed to people being entrepreneurial in spirit. But when it comes to something that can actually make people sick, that can hospitalize them, that could result in death, we take it seriously. [LB764]

SENATOR BRASCH: And I think you've made that very clear. And I do appreciate that, and I believe that. And so thank you for being a steward of food safety. I believe Senator Blood has another question. [LB764]

SENATOR BLOOD: I do, I have a quick question. And it may be a question to ask Senator Crawford when she comes up. But in the introduction weren't we talking about things like breads and jams and jellies? We're not talking about cooking up ham dinners or, you know, I mean, when you make food in a restaurant, food safety absolutely. But we're talking about things like breads and cakes, not that you cannot get sick from those things, I understand that. So is there something that I'm missing? [LB764]

KATHY SIEFKEN: I'm talking about hepatitis A and norovirus outbreaks, which could easily be passed throughout the community by selling these products to third parties or to customers. [LB764]

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SENATOR BLOOD: Or in a grocery store, a sushi stand? [LB764]

KATHY SIEFKEN: Those places are inspected and inspectors are in there, and they test. [LB764]

SENATOR BLOOD: But if somebody comes to work with hepatitis, you can't prevent that person from coming to work. [LB764]

KATHY SIEFKEN: They get sent home. [LB764]

SENATOR BLOOD: How would you know they have hepatitis? [LB764]

KATHY SIEFKEN: They are required by law to report any of those symptoms to their employer. [LB764]

SENATOR BLOOD: They are required by law to disclose their personal... [LB764]

KATHY SIEFKEN: It's in state statute. [LB764]

SENATOR BLOOD: Their personal health information? [LB764]

KATHY SIEFKEN: Yes. If they have diarrhea they have to report it. [LB764]

SENATOR BLOOD: Interesting. All right, thank you. [LB764]

SENATOR BRASCH: Any other questions of the committee? I see none. Thank you again for your testimony. Any other opponents? Welcome. Please state and spell your name. [LB764]

JIM PARTINGTON: (Exhibit 5) Thank you. Senator Brasch, members of the committee, my name is Jim Partington, P-a-r-t-i-n-g-t-o-n. And I appreciate the opportunity to represent the Nebraska Restaurant Association and testify in opposition to LB764. The Nebraska Restaurant Association supports regulations that establish effective and enforceable standards for food safety, that protect consumers, and inspire confidence in the food chain from the producer to processor to wholesale purveyor. The quality of consumer products offered by our members depends on the integrity of this system. We also support continual review of these regulations to ensure that they are in compliance with the latest scientific research and eliminate redundancy and outdated requirements without compromising food safety. LB764 amends the Nebraska Pure

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Food Act to allow individuals to prepare and sell selected food products from individual homes. The only limitation proposed is maximum gross annual sales of \$25,000. We recognize that individuals are already authorized to sell these same limited food products, prepared at home, to customers at farmers markets. The concern raised by this proposed legislation is that it significantly increases the number of unlicensed, and thus uninspected, food outlets serving the general public. This increases the opportunity for transmission of food-borne illnesses, it also makes it less likely that those exposed to food-borne illnesses will contact the appropriate facilities and allow them to identify, track, and eliminate the source of any outbreak that may occur. Limiting sales of these products through farmers markets, while not optimum, at least provides for some accountability and increases the odds that the source of any food-borne illness can be identified and eliminated in a timely manner. I also believe that it is not a major concern, but it will be a challenge to enforce the \$25,000 limit on gross sales. I'm not sure how that could be done. I thank you for the opportunity to testify in opposition to this bill, and I will be happy to answer any questions that the committee may have regarding my testimony. [LB764]

SENATOR BRASCH: Thank you for your testimony. Any questions from the committee? Seeing there are none, thank you. [LB764]

JIM PARTINGTON: Thank you. [LB764]

SENATOR BRASCH: Any other opponents? Seeing there are none, anyone testifying in the neutral? Welcome, Director Wellman. Please state and spell your name. [LB764]

STEVEN WELLMAN: (Exhibit 6) Sure. Good afternoon. I'm Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n, the Director of the Nebraska Department of Agriculture. So LB764 would amend the Nebraska Pure Food Act. The Nebraska Department of Agriculture, through its food safety and consumer protection focus area, is responsible for the administration and enforcement of the act. The department is neutral regarding LB764, and we are presenting this testimony to provide information related to the potential amendment to the act. The definition of "food establishment" is set out in the act, that section was first enacted by a statute in 1997 and originally closely mirrored the U.S. Food and Drug Administration's recommended food code. Since that time, the definition of food establishment has been amended to add exemptions to the definition of food establishment. In 2003, the Legislature added an exemption for food which is not potentially hazardous sold at a farmers market. A definition of the term farmers market was not included in the legislation. The department concluded that other similar events, such as craft fairs, should also be included in the exemption. In 2005, the Legislature added exemptions for fund-raising events and small operations which sell only commercially packaged goods. Additionally, while home-based food operations are not specifically mentioned in the act, in 2010 the department established an enforcement procedure for determining whether or not such an operation needs a

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permit. As set out in that procedure, no enforcement action will be taken provided food produced in a private home is not potentially hazardous baked goods, has not been advertised to the public, and is sold directly to the consumer. The definition of food establishment was further modified by LB798 to use the new term "time-temperature control for safety foods" rather than the old "potentially hazardous foods." The definition of time-temperature control for safety foods is the same as the previous definition for the term potentially hazardous foods. The department understands the value of small home-based businesses and suggests a more limited exemption from the act for home-based food operations. A way to limit the exemption would be significantly to reduce the dollar amount allowed for gross sales. It should also be noted that the cities of Omaha, Lincoln, and Grand Island, as was stated previously, have their own municipal codes that regulate the sale of food in their jurisdictions. As the department understands these codes, home-based food operations would not be currently allowed in these cities except that Grand Island has the same exemption for farmers markets found in the act. And copies of those relevant ordinances are included in the packet that we handed out. So thank you for your time, and I would be happy to answer questions. I do have somebody from...Melva Ball, who is our dairies and food program manager, to help me address any technical questions that I'm probably not able to answer at this point in time. [LB764]

SENATOR BRASCH: Thank you, Director Wellman, for coming forward. Any questions of the committee? Seeing there are none, thank you very much. [LB764]

STEVEN WELLMAN: Thank you. [LB764]

SENATOR BRASCH: Good to see you here. Anyone else in the neutral? No one in the neutral? Would you like to close? [LB764]

SENATOR CRAWFORD: (Exhibit 7) I would like to thank the committee for your attention. And I just...when I got here the constituent I was talking about let us know she was not able to come because of weather. And so I do have her comments I would like to share with the committee. I don't know...it's not technically the day before, I don't know if you will allow that in the record, but she was unable to come because of weather. And I appreciate the comments and recommendations, just a couple that I think we can easily comment on. And one is making sure the label is on the package, I think that's a critical issue that we recognized and saw as something that would be easy to address. I'm happy to look over the AFDO cottage law recommendations. It is the case that we had discussed if there was a registry that some kind of on-line training, food safety training, is a possibility in terms of part of registering, being on the registry, would be perhaps viewing that training. And so I'm happy to look over those recommendations and to see if there are ones that we feel are improving safety but not adding undue burden. I think that's the real balance we're all trying to strike is trying to make sure that we're putting that opportunities

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for people to get involved and sell foods, and trying to make sure that we're striking the right balance and putting the line in terms of those things sold at farmers market is the approach-focus of the bill. But I appreciate the concerns and questions that others have raised about whether there is any other questions or considerations to consider as we move forward. And I'm willing to look at those and consider those moving forward. So with that, I guess I did again want to note the comments by my constituent and see if there are other questions that I could try to answer for the committee moving forward. [LB764]

SENATOR BRASCH: Any other questions from the committee? Yes, Senator Lowe. [LB764]

SENATOR LOWE: Something just hit me, since there is a cap on how much they can earn, \$25,000. Could somebody have say, Susie, have an operation that's jams and jellies, and then Susie also have an operation that is cookies, and Susie also has an operation of cakes and pastries. So instead of \$25,000, now she's allowed to make \$75,000. [LB764]

SENATOR CRAWFORD: Well, this focuses... [LB764]

SENATOR LOWE: Cooking out of the same...but it doesn't describe that you couldn't separate labels, separate packaging. But this is a cap, where businesses aren't capped on how much they can make. [LB764]

SENATOR CRAWFORD: Private would be...out of a private home... [LB764]

SENATOR LOWE: You would have two lawyers working in the same home in separate businesses. [LB764]

SENATOR CRAWFORD: Right, right, right. Just looking to see where...the operation has not more than...all right. So, that's an interesting question. [LB764]

SENATOR LOWE: Just something that I caught, and I'm not opposed. [LB764]

SENATOR CRAWFORD: Right. Good question. [LB764]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you, Senator Crawford. [LB764]

SENATOR CRAWFORD: All right. Thank you. Thank you so much. [LB764]

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SENATOR BRASCH: Thank you. [LB764]

SENATOR CRAWFORD: Thank you, committee members, thank you very much. [LB764]

SENATOR BRASCH: That concludes the hearing on LB764. And next is Senator Burke Harr, LB808. And, Senator Harr, welcome to your and your former Ag Committee. [LB764 LB808]

SENATOR HARR: (Exhibit 1) Thank you, Chair Brasch. It's a privilege to be back in front of the Ag Committee. I am here on LB808. This is a continuation of a conversation that began in 2015 regarding community gardens, originally LB544. LB544 established the Community Gardens Act, defining community gardens in statute. The legislation also created the Community Gardens Task Force. The task force met through 2016 and did an excellent job cataloging the current state of affairs of community gardens in Nebraska. The task force also recommended several ways to encourage the growth of community gardens. The committee was then disbanded last year through a bill of Senator Murante's. But based on those recommendations, LB808 tried to accomplish three of the recommendations of the committee. First, it better defines urban agriculture and thereby renames the current statute the Community Protection...Community Food Production Act. It adds seed libraries, as defined in statute 81-2,147.01, to the nonbasic services of municipal libraries, the idea being while it does not require libraries to have seed libraries, it does permit them to have seed libraries. Finally, LB808 creates the Community Food Production Water Fund and the concept behind this is one of the things we discovered in community gardens...there were really three issues. One is access to land, two is access to water, and three is access to reasonably priced insurance. And we've done...we've addressed one and three and what this does is looks at ways we can encourage access to water. The concept is to create a pilot program that awards a match grant to a community garden project for water hookup installations and other water-related cost. Then because we want to encourage community gardens outside of Omaha and Lincoln, we provide a third, a third, a third, one for each, one third for each Congressional district. The dollars for the fund come from the Water Sustainability Fund and is a one-time transfer of \$100,000. And the way the Water Sustainability Fund works, which is different than most other funds, is that we send...we, the Legislature, send money to the fund. And generally, when the fund earns interest, that interest goes to...back to the state. In this case, we don't have the interest go back to the state. It stays within the fund. For better or for worse, it is a difference. And so we grab \$100,000 of the approximately \$521,000 in interest in the fund. So while we allocate money, it doesn't take anything away from the amount of money we allocate, we, the Legislature. What it does, it looks at the interest from that allocation and brings it back in a way to encourage responsible water usage and community gardens. In conjunction with the proposed fund, I have redefined community gardens as a piece or parcel of public property and land cultivated for the purpose of nonprofit food production by one or more organizations. The fund is conceived to support only community gardens. I do not want tax dollars to go to operations that profit from food production. I don't want to compete

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with our farmers. However, some, including the city of Omaha Planning Department, are concerned that my proposed language is too restrictive and I'm willing to work with the committee on that and a way to come at that better. It's my understanding that the Planning Department currently allows community gardens to sell food in limited circumstances. The point is that I am flexible in altering that definition, but I got to figure out how to do that properly. Also, I am coming with AM1607 which permits the Department of Agriculture to use the Community Food Production Act for administrative purposes. And the reason I'm doing that is, if you look at the fiscal note, I don't want to say death by fiscal note, but if you went back and look at LB544 and then you look at this, I am...we had the support of Greg Ibach back then. And I don't know where Commissioner Willborn (sic--Wellman) is, but let me just say if you're in the nonprofit world, 20 percent overhead is a little high to give away money. Generally, the accepted norm is in the 5 to 10 percent range. And so what we do is we allow expenditure. We say, hey, we'll probably give approximately \$50,000 away each year. We allow for \$5,000 to be spent to pay for that overhead and the cost. You know, one-tenth of a person's hours, 200 hours, to give away for a grant to give away \$50,000 seems a little high to me--now, maybe I'm wrong--especially each year that it would require that much time. I know the Governor has a plan out there, work force encouraging kids to go into STEM and it's a \$250,000 grant, and guess how much the fiscal note is for overhead on that. Zero. Okay? And that's \$250,000 a year. I want to find out what the Governor did and then I want to encourage the Department of Ag to do whatever the Governor did so that we have that same zero fiscal for this \$100,000 that he has for that \$250,000. And we'll do some research into that. I know for a fact there are no rules and regs around his program and maybe that's where it is. I don't know. But we got to find a way to make government run efficiently, consistently so the taxpayers know their money is well spent, and we have to apply that business acumen to Department of Ag that we've applied to Department of Economic Development so that they have a \$250,000 grant with no fiscal note and we have a \$100,000 and it has a \$10,400. So I don't know what Department of Ag is doing, but they better be calling Department of Economic Development and figure out what they're doing, be able to do better so that we can have low taxes in this state. With that, I would entertain any questions you may have. [LB808]

SENATOR BRASCH: Thank you, Senator Harr. And because you can't see behind you, Director Wellman took out a piece of paper and his pen and made a note as you asked your questions. So I believe... [LB808]

SENATOR HARR: Well, perfect! [LB808]

SENATOR BRASCH: ...he'll a... [LB808]

SENATOR HARR: I appreciate that. [LB808]

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SENATOR BRASCH: Very good. Any questions from the committee? Senator Blood. [LB808]

SENATOR BLOOD: I've run through the bill and I maybe missing it. What is the limit on the grant amounts going to be? I know the max is the same or equal... [LB808]

SENATOR HARR: It's \$100,000 over two years. [LB808]

SENATOR BLOOD: ...or above I mean. [LB808]

SENATOR HARR: So you can...there's an allotment, a one-time allotment of \$100,000 over to it and I leave it up the Department of Ag, based on probably how much the, you know, applications... [LB808]

SENATOR BLOOD: So you won't be capping any of the requests as to how much money somebody can ask for, is what you're saying? [LB808]

SENATOR HARR: No different than the Governor's program for youth, no. Now, admitted, there's a matching, right? So there is a limit. They have to come up with that money up-front. And again, if the department wants to put rules and regs to limit that amount, they can. And again, I'm always amicable to amendment if you have a concern about that. I don't think anyone is going to ask for the whole \$100,000. I can't imagine they would. Maybe they will. But I don't know of any community garden that large. [LB808]

SENATOR BLOOD: All right. Are you worried, since the Water Sustainability Fund is still in its infancy, are you worried at all about taking money out of there? [LB808]

SENATOR HARR: No, because I'm not taking money. All I'm taking is the interest. I'm not taking any of the money we put into it. I'm taking the interest off of it and it's a one-time. And when the bill was drafted, again, this is an anomaly that the interest doesn't...usually interest off funds come back to the state. This is an anomaly that the interest doesn't come back to the state. And I think it was probably an oversight more than anything, but nevertheless it's a way to encourage conservation and proper use of water for our community gardens. [LB808]

SENATOR BLOOD: So the interest was never designed to go back into the fund? [LB808]

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SENATOR HARR: It's silent as to where the interest goes, so it stays there, which is an anomaly that very seldom ever happens. As a matter of fact, I personally wasn't able to find another place where that happened. [LB808]

SENATOR BLOOD: And I do support community gardens. I think part of planning for a community garden is water potability, trying to decide how you provide water. In fact, I'm supporting a private funded one right now in Bellevue. But I wonder, as important as water is to Nebraska, if that's where we should be getting the money. So... [LB808]

SENATOR HARR: If they should be what? [LB808]

SENATOR BLOOD: ...I'm still thinking about it. If that's where we should be taking the money from. Even though I understand it's interest, and I think it was very creative of you to find that, I'm not sure that that's where the money should come from. [LB808]

SENATOR HARR: What I would say is, in this modern era we live in with interest rates where they are, to be able to pull \$521,000 in interest, think about how much money has to be in there. So pulling off a one-time \$100,000, right? We're not even affecting the fund. We're just taking the interest off of that, is...I doubt anyone would miss that \$100,000. [LB808]

SENATOR BLOOD: But again, and maybe I didn't hear this right, wasn't the interest designed to build so that the fund was sustainable, became self-sustaining? [LB808]

SENATOR HARR: Oh, no, this fund is not self-sustaining. No. No, no, no. [LB808]

SENATOR BLOOD: So the interest was never meant to go back into the fund ever. [LB808]

SENATOR HARR: No, no. Well, no, there's constantly legislate...money that goes from the Legislature appropriated to this fund. It was never meant to eventually live off the interest on it, no. [LB808]

SENATOR BLOOD: So the... [LB808]

SENATOR HARR: The idea is the money is eventually spent on projects. But because it takes a while for projects to go forward from... [LB808]

SENATOR BLOOD: Right. [LB808]

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SENATOR HARR: ...the time they're approved until the time that money is spent, generally most times that money is given back to the General Fund. In this case they held on to it--again, an anomaly, whether intentional or not. It's not clear from the legislative history. But that being said, there's \$521,000 or at least there was last year... [LB808]

SENATOR BLOOD: Thank you. [LB808]

SENATOR BRASCH: Any other questions from the committee? Senator Halloran. [LB808]

SENATOR HALLORAN: Thank you, Chairperson Brasch. Senator Harr, you're a man who chooses his words very carefully, and I admire that. [LB808]

SENATOR HARR: Uh-oh, what did I say? [LB808]

SENATOR HALLORAN: Oh, it's not what...no, it's nothing you said. But you--and I'm not suggesting anything nefarious here--but throughout the bill you're changing the...from gardens to food production. Can you tell me the reason for food production versus garden? I mean there's a reason for everything. [LB808]

SENATOR HARR: Yeah. And the reason is because we had a problem with confusion about what is urban agriculture, and so that was the real reason behind it. It wasn't anything nefarious. It was...and that was one of the recommendations that came from the task force so that you have a better idea of what we're trying to do here as opposed to what is a garden, community garden, how do you... [LB808]

SENATOR HALLORAN: So there's confusion that a garden may grow hamsters or something? [LB808]

SENATOR HARR: Well, I don't know about hamsters. I think it was prairie dogs. [LB808]

SENATOR LOWE: Prairie dogs. (Laughter) [LB808]

SENATOR HALLORAN: Prairie dogs. [LB808]

SENATOR HARR: It was more of a confusion of what is a community garden and...because...and so based...this is based on their recommendations. I think there is someone here from...that can better answer that question coming after me. [LB808]

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SENATOR HALLORAN: Oh, that's okay. But the same thing with urban agriculture. I guess what I'm looking for in the future are we going to be looking for grants from...that are more related to agriculture because this is urban agriculture? [LB808]

SENATOR HARR: Yeah. So if... [LB808]

SENATOR HALLORAN: I'm not trying to put you on the spot here. [LB808]

SENATOR HARR: ...and let me go back because this predates...and this is the beauty of term limits is that we get to educate and create records. When we passed LB544, one of the reasons Commissioner Ibach supported it is because so often in this state there is a disconnect between where food comes from and how it ends up on our plate. And so this is seen as much as anything or a positive by-product of this, I should say, is to educate young people about how difficult it is to grow food, how food is grown, and the science that goes into it so that we have a better idea and appreciate what goes on in the rest of our state. Now, we also want the food, no if, ands or buts about it, and it's a cheap way to provide good food in parts of the city that don't always have access to fresh fruits and...I guess what are considered vegetables, well, tomatoes, so fruits and vegetables. And that's the idea behind it is how do we, number one, teach an appreciation of ag and then, two, provide that good substantive food to people who may otherwise only have access to processed foods because it's expensive to transport fresh foods. [LB808]

SENATOR HALLORAN: And gardening or urban agriculture is very therapeutic too. [LB808]

SENATOR HARR: And that's another. It's funny, I shouldn't say but I will say it. I went and visited a 91-year-old woman I used to work for and she (inaudible) that's what she does. She walks a half mile every day in the summertime to do her community garden or her urban agriculture, I guess I should say, and it helps keep her young and that's her network of friends as well. [LB808]

SENATOR HALLORAN: It took me a while to figure out that I always thought all my food came from Hy-Vee but it actually comes from producers somewhere. [LB808]

SENATOR HARR: Yeah. Some of mine comes from the Kwik Shop too or there. Yeah. Right? I mean but that's the idea is there is a disconnect, and I'm guilty as anyone with my own kids. [LB808]

SENATOR HALLORAN: Thank you, Senator. [LB808]

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SENATOR BRASCH: Thank you, Senator Halloran. And I did have a question if you can just remind us or clarify, because I hear you talking about people and then young people and what are the parameters here? Who is eligible to apply for these grants and receive the grants and... [LB808]

SENATOR HARR: Yeah. [LB808]

SENATOR BRASCH: ...how much? What's the top end? What's the lower end? You know, what... [LB808]

SENATOR HARR: So it would be... [LB808]

SENATOR BRASCH: ...is it complicated, I mean, and who is going to handle this? Who's going to be the decision maker? Is it going to be the Burke Harr Foundation of (inaudible)? [LB808]

SENATOR HARR: You've figured out what I'm going to do after term limits. No. And this is that delicate dance we have of do we over prescribe versus how much do we trust departments. And the idea is, and I'm glad because I can put this in the record, is that it's the cost, right? So a hookup for water generally costs in Omaha about \$1,000-\$1,800, \$1,800 on the high end. And we could...well, under the original bill we could go to MUD, which is our utility, and say, waive it for a nonprofit. And we said, I don't know if that's the best use of tax dollar...or water resources, especially with this expensive storm sewer separation we have. So what we said was let's look at a way to create public-private partnerships. Now the public is obviously here. The private are nonprofits. And it's required that they are a not-for-profit. They apply and, you know, it's a hookup. Ultimately who decides on that cost and what happens is the department. I mean, and if they're concerned that this isn't prescriptive enough and, as you said, the commissioner is coming up after I, hopefully, I'm more than willing to sit down with them and spell it out in statute step by step. [LB808]

SENATOR BRASCH: Is this the Department of Agriculture, Department of Natural Resources, the NRDs? Who is...? [LB808]

SENATOR HARR: Department of Agriculture. Department of Ag. [LB808]

SENATOR BRASCH: Agriculture. Okay. [LB808]

SENATOR HARR: I'm sorry, yeah. [LB808]

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SENATOR BRASCH: Thank you. [LB808]

SENATOR HARR: Yeah. [LB808]

SENATOR BRASCH: All right. Any other questions of the committee? Seeing there are none, I will ask for the first proponent to please come forward. If you're in favor of this bill, step up please. Welcome. And please state and spell your name. [LB808]

PAT ANDERSON-SIFUENTEZ: (Exhibit 2) Pat Anderson-Sifuentez, P-a-t A-n-d-e-r-s-o-n-dash-S-i-f-u-e-n-t-e-z. I'm speaking on behalf of the Lincoln-Lancaster Food Policy Council and I became involved with it. I work for NeighborWorks Lincoln and we work in the...primarily in the areas along North 27th and south of downtown. Those are our focus areas. And when I first sat in with the Food Policy Council, I said, well, I need to be a part of this because all the areas we work in are food deserts. There might be a lot of food around, but it's not fresh produce, it's not healthy food, and that has an effect on health outcomes and it's not a good effect. So forgive me, I'm going to read. I am in support of the bill. Lincoln-Lancaster County Food Policy Council is a diverse group of farmers, gardeners, businesses, organizations, and individuals with one thing in common: We care about improving the local food system of our community. And we believe in...that networking, education, and research around our food system are key strategies toward our ultimate goal--impacting public policy to support healthy, sustainable food system in our community and region. The laws and regulations of different levels of government have fundamentally shaped the food system we have today and our organization is proud of Nebraska's agricultural heritage and we commend Senator Harr and his staff for introducing this important bill that builds on those traditions and creates a vision for the future of food in our great state. Community food production is growing not only in our state but across the country and around the world. We find that people want to grow food in their communities for a variety of reasons. Community food production allows citizens to reconnect with where their food comes from, learn about important skills related to healthy diets, create spaces to build relationships, and community ownership, donates fresh...sorry, and community ownership, and donates fresh food to those who need it the most, and supports the local economy. Food grown in our cities and towns is the perfect complement to our more traditional form of agriculture in the state as it helps create a common understanding of the importance of agriculture to all of our citizens. I think he spoke about the connection before, between plate and where it came from. We encourage a final bill that creates inclusive definitions around urban agriculture and its variety of forms, from small backyard farmers to large urban farms. All these approaches help create important benefits listed previously. Whether food is being grown for personal consumption, donation, or sale, we hope to see all types of food production grown and thrive in our communities. We also want to speak specifically in support of the creation of the Community Food Production Water Fund. Our experience in Lincoln and Lancaster County show that water access is one of the biggest barriers to community food production, and the cost of installing

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water for urban agricultural site, whether creating a new connection to municipal water or installing a well, when possible, can cost several thousand dollars, and we've discovered Omaha is much cheaper than Lincoln, or even into the tens of thousands if you're talking about building a well. It is a barrier for our community gardens who are looking for affordable ways to increase healthy food in their families' diets, and it's also burdensome to entrepreneurs who want to start businesses involving locally produced fruits and vegetables. And this grant would help ease that burden and support a continued expansion of community food production in our state. Thank you for your time. [LB808]

SENATOR BRASCH: Thank you for your testimony. [LB808]

PAT ANDERSON-SIFUENTEZ: Any questions? [LB808]

SENATOR BRASCH: Are there any questions from the committee? Senator Albrecht. [LB808]

SENATOR ALBRECHT: Hi. Thanks for your testimony. You say that you're involved in the ones around Lincoln. Is that right? [LB808]

PAT ANDERSON-SIFUENTEZ: Yes. [LB808]

SENATOR ALBRECHT: And are some of them in neighborhoods or are they out on the outskirts of Lincoln. Where are some of them? [LB808]

PAT ANDERSON-SIFUENTEZ: The Food Policy Council is more general. And I know Ben McShane-Jewell is from Community Crops is right behind me. [LB808]

SENATOR ALBRECHT: And so you just sit on their board. You are not at the community gardens. [LB808]

PAT ANDERSON-SIFUENTEZ: And it's not the Crops board. This is a larger group. [LB808]

SENATOR ALBRECHT: Okay. But you aren't actually out there in the community gardens. [LB808]

PAT ANDERSON-SIFUENTEZ: I'm...well, in the respect that with NeighborWorks Lincoln, I collaborate with community crops and with the schools and in the areas that we work, yes, I'm...I help to get them started. [LB808]

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SENATOR ALBRECHT: So do you, being on the board, do you feel that some of them, some of the gardens would be taken outside the area a little bit more, because I can't imagine turning on a tap just for a garden, to water it? But if you're going to go outside of the area, where are you going to connect to those water areas if it's not...? [LB808]

PAT ANDERSON-SIFUENTEZ: Well, it's a problem. You need to, for example,... [LB808]

SENATOR ALBRECHT: And the cost incurred. [LB808]

PAT ANDERSON-SIFUENTEZ: There just south of here at Everett Elementary, we've been trying to...we're been working with the garden there. They have a youth garden that is next to the school. That's fine. They can access water there. But we...but their green space in that area, it's very much built up, very high density. If you ever take a walk just south. And so the only green space we have by Everett is, where there's tons and tons of apartment buildings, is at the school. And so we want...our goal is to build a community garden on the school and we will have to access water, tap into a line. [LB808]

SENATOR ALBRECHT: At the school? [LB808]

PAT ANDERSON-SIFUENTEZ: Yeah, we'll probably have to hook into the school or a separate line altogether more than likely. [LB808]

SENATOR ALBRECHT: And they'll meter that particular area just for the garden. [LB808]

PAT ANDERSON-SIFUENTEZ: Uh-huh. Uh-huh. [LB808]

SENATOR ALBRECHT: Thank you. [LB808]

SENATOR BRASCH: We have another question from Senator Blood. [LB808]

SENATOR BLOOD: So is it the intent of any of these projects to license like bioswales or water retention ponds as maybe an option, or is it only when you need to hook up to water? [LB808]

PAT ANDERSON-SIFUENTEZ: That wouldn't be...well, bioswales are great. We have bioswales down 11th Street. [LB808]

SENATOR BLOOD: Uh-huh. [LB808]

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PAT ANDERSON-SIFUENTEZ: Helped a lot with flooding. But the water isn't always there when you need it for a garden. [LB808]

SENATOR BLOOD: But are those, so those are things that are considered first before, hey, how do we bring in water from an outside source? [LB808]

PAT ANDERSON-SIFUENTEZ: If you were...I suppose it could be if you were located on a very large piece of land that had a retaining...an area to retain water, but that's not very practical in the city. [LB808]

SENATOR BLOOD: I...it's not very practical in the city? Wouldn't it be more practical in a city for...? [LB808]

PAT ANDERSON-SIFUENTEZ: Well, you don't get a bioswale. I mean it depends on the lay of the land and... [LB808]

SENATOR BLOOD: Right. I agree with that. [LB808]

PAT ANDERSON-SIFUENTEZ: ...where watersheds are emptying, if they are emptying into that area. [LB808]

SENATOR BLOOD: In Nebraska we, as our farmers know, we have cycles in rain and... [LB808]

PAT ANDERSON-SIFUENTEZ: Right. [LB808]

SENATOR BLOOD: ...cycles of dry. [LB808]

PAT ANDERSON-SIFUENTEZ: Right. [LB808]

SENATOR BLOOD: I was just curious just... [LB808]

PAT ANDERSON-SIFUENTEZ: Yeah. You couldn't rely, if you want produce, you're not going to be able to rely on that. [LB808]

SENATOR BLOOD: Thank you. [LB808]

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SENATOR BRASCH: Thank you. And I have a question for you as well. As I'm reading this, we're looking...we took out the word "gardens," crossed that out, and then we're talking about cultivation of herbs, fruits, flowers, nuts, honey, poultry for egg production, maple syrup, ornamental and vegetable plants, nursery. Now when you're talking about urban agriculture, you're talking about located within a municipality. However, I believe there's a restriction on poultry within city limits, either two or three chickens. I'm not sure the number. But it seems to want to narrow it down to encourage food production within a municipality, correct? [LB808]

PAT ANDERSON-SIFUENTEZ: Correct. [LB808]

SENATOR BRASCH: Then you're looking at some other areas that would be outside of city limits, such as poultry perhaps. Or are you familiar with the bill itself? And you're advocating for those community gardens which we're not talking about a 20.... [LB808]

PAT ANDERSON-SIFUENTEZ: And also...and also urban... [LB808]

SENATOR BRASCH: And also urban. [LB808]

PAT ANDERSON-SIFUENTEZ: ...gardens too. [LB808]

SENATOR BRASCH: Okay. [LB808]

PAT ANDERSON-SIFUENTEZ: I'm not well-versed on the poultry. [LB808]

SENATOR BRASCH: On the poultry, okay, because I do think it's a good concept. You know, I formerly being from Lancaster County, I always gardened. I'm from a rural area, I still garden. But I pay for my own water, as we pay for our own irrigation even on the larger, and I'm just wondering, you know, if it's...we're incentivizing community gardens or if we're subsidizing or, you know, what the end goal is here other than to help people who live in the city to grow food, fresh food, which isn't a bad thing. [LB808]

PAT ANDERSON-SIFUENTEZ: Right. [LB808]

SENATOR BRASCH: But I'm trying to compare how to be fair. [LB808]

PAT ANDERSON-SIFUENTEZ: And these are, in the areas that I work in, they're very low-income areas. [LB808]

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SENATOR BRASCH: Uh-huh. [LB808]

PAT ANDERSON-SIFUENTEZ: There's... [LB808]

SENATOR BRASCH: Most of our county is now too. We're very low income in ag. [LB808]

PAT ANDERSON-SIFUENTEZ: Well, the schools down the street are some of the highest poverty, have some of the worst health outcomes. And there is...when you have apartment...12-plex after 12-plex after 12-plex on a block and no green space, you have to have...you have to find green space wherever you can. And that's just for community. But also, you know if you were an entrepreneur and wanted to start farming for urban, as far as urban ag, to be able to sell it at a market somewhere, then it's not easy getting started so. [LB808]

SENATOR BRASCH: I highly encourage gardening. Don't, you know, please understand, I think I'd rather see... [LB808]

PAT ANDERSON-SIFUENTEZ: But the expense of the... [LB808]

SENATOR BRASCH: Yeah. [LB808]

PAT ANDERSON-SIFUENTEZ: ...of accessing that water is prohibitive. [LB808]

SENATOR BRASCH: And how is that expense paid today? Is it privately funded, sponsorships? [LB808]

PAT ANDERSON-SIFUENTEZ: A variety. Depends on where it is. Collaborations, grants. [LB808]

SENATOR BRASCH: And that's what... [LB808]

PAT ANDERSON-SIFUENTEZ: Collaborating with churches or personal donations. [LB808]

SENATOR BRASCH: Exactly, and it's working. You know, I have driven through areas of Lincoln and seen these...they're very large sections that people have turned into gardens. It's very commendable. But I also question whether you really want it to be funded through tax dollars rather than private dollars, because then you're reliant on the continuation of the grant and you

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lose a little bit of the buy-in that, you know, I spent good money to grow this and I'm going to grow it. So your thoughts on that? [LB808]

PAT ANDERSON-SIFUENTEZ: We want access to healthy food... [LB808]

SENATOR BRASCH: Okay. [LB808]

PAT ANDERSON-SIFUENTEZ: ...is the bottom line. [LB808]

SENATOR BRASCH: I appreciate your coming forward. [LB808]

PAT ANDERSON-SIFUENTEZ: And we want to make that path a path of least resistance. [LB808]

SENATOR BRASCH: Very good. Thank you so much for coming forward. [LB808]

PAT ANDERSON-SIFUENTEZ: Thank you. [LB808]

SENATOR BRASCH: Next proponent. [LB808]

ELIZABETH GOODMAN: Good day, everybody. [LB808]

SENATOR BRASCH: Welcome. State and spell your name. [LB808]

ELIZABETH GOODMAN: (Exhibit 3) Elizabeth Goodman, E-l-i-z-a-b-e-t-h G-o-o-d-m-a-n. I am testifying in support of LB808 on behalf of Nebraska Regional Officials Council where I work as a community development specialist at Southeast Nebraska Development District. I'm a passionate young MPA student at UNO who had the honor and privilege of interning with Senator Burke Harr this past summer and assisting in drafting this legislation. Agriculture is the foundation of pride for many Nebraskans, and lack of access to fresh food in many communities erodes the sense of security and sovereignty on which this pride is built. Approximately 90 percent of the food we eat in Nebraska is imported. With a landscape full of farms, gardening ought to once again become a more widespread practice. This bill provides opportunities for gardening for all municipalities by allowing them to grow food together, which bolsters cohesion, nutrition, physical activity, food security, and restores a community's sense of independence. Defining food production discerns between growing food for the community and growing commodity crops for economic well-being. Zoning regulations meant to keep the

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unseemly elements of agriculture away from municipal areas have created the unintended consequence of restricting people from having community gardens, keeping bees or chickens. This bill includes suggested language allowing municipalities to consider food production in zoning, vacant land, and land grant regulations. By supporting urban agriculture ventures that grow food for the community, we are keeping the hard-earned dollars which are earned in a municipality in that very same municipality. This is a simple step towards economic resilience. The community garden task force, which was a product of the Community Garden Act of 2015, identified water access as the main barrier to the growth of community gardens throughout the state. SENDD works with 15 counties and 139 communities in this region and of those communities, I speak to them often about community gardens because this is something I'm very passionate about. I find that their number one impediment to putting in community gardens is the cost of the water hookup. So this bill gives matching funds for access to water specifically for garden space and not for urban agriculture business ventures. This bill cross-references seed libraries as an appropriate use of public library space. Establishing seed libraries in every public library across the state is a way to celebrate our state emblem of the seed sower and reinvigorate community by freely sharing noncommercial varieties of nonagronomic vegetable, herb, and flower crops with one another through inter-library exchanges. Since 2012, I have coordinated seed sharing efforts at the local, national, and international levels, and I feel that these activities build resilience. My last comment is regarding the primary point of opposition in this bill and that's the Community Food Production Water Fund should not draw from the Water Sustainability Fund. This pilot project will further the Water Sustainability Fund's goals in a novel way. Community gardens are educational and emblematic of the stewardship providing municipal uses, recreational benefits, wildlife habitat, conservation, preservation of water resources, and increased water productivity. Community gardens usually have rainwater catchment systems which are helpful for runoff mitigation and also assist in the capacity of storm sewers to handle large flooding events. Thus, many municipalities are now including community gardening in integrated management plans. Reviewing the biennial report for the Water Sustainability Fund, this pilot project is only seeking a mere percentage of the interest for just one year, which is a small cost for the preservation of our Nebraskan gardening traditions. I want to thank you, Senator Harr, for your dedication on this matter, and I also sense that this bill could have just as well come out of any one of your offices because this is a matter that appeals to the wisdom and furthering of our agricultural agrarian economy ideals, which is a matter that I know is dear to each of your hearts. NROC supports LB808 as a commitment to the values of community resilience and cultural identity. Please join us in support of this bill. I'd like to also ask you if you have any questions that didn't get answered before, I'd be happy to address the questions that have been previously. [LB808]

SENATOR BRASCH: Thank you for your testimony. I believe we do have a question of the committee. Senator Albrecht. [LB808]

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SENATOR ALBRECHT: Thank you for coming this afternoon and sharing with us. Can you tell me a little bit more about the task force? How many people were on it and exactly did you go out and take a look at some of the gardens? I mean how did you...what did you do on the task force? [LB808]

ELIZABETH GOODMAN: Yeah, so I was part of the previous initiation of this bill but I did not serve on the task force. However, I recall that there were about 15 members on the task force. They were selected from areas across the state but mostly principally in Omaha and Lincoln. And they really tried to gather information about other community gardens across the state but found that they were lacking. And so given that I'm very interested in focusing on the rural health of our state, I thought that we really need to explore what the impediment is for rural communities. And it seemed like that was the access to water piece. [LB808]

SENATOR ALBRECHT: I think this is a great passion for you to have. In Dakota County, Dakota is one of my areas, they have gardens at their schools and I think that's a great way to help teach the kids and figure out where their food comes from. So stay with your passion. [LB808]

ELIZABETH GOODMAN: If you're interested in starting a seed library in Dakota County, I would be happy to assist with that effort. [LB808]

SENATOR ALBRECHT: I have trouble with my own gardens at home, but I do like it. [LB808]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you for your excellent testimony today. Next proponent. [LB808]

BEN McSHANE-JEWELL: Hello. [LB808]

SENATOR BRASCH: Welcome. [LB808]

BEN McSHANE-JEWELL: Good afternoon. [LB808]

SENATOR BRASCH: Good afternoon. Please state and spell your name. [LB808]

BEN McSHANE-JEWELL: (Exhibit 4) Sure. Ben McShane-Jewell, B-e-n M-c-S-h-a-n-e-hyphen-J-e-w-e-l-l, and I'm here to voice my full support for LB808 and to encourage members of this committee to advance this important piece of legislation. As the executive director of

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Community Crops, a nonprofit organization in Lincoln that has helped establish more than 25 community gardens since 2003, I can tell you that urban food production has numerous benefits that extend far beyond the actual food that is grown. For the 300 families that participate in our community garden program each year, about half of whom are refugees and immigrants from all over the world and 80 percent are living paycheck to paycheck, our gardens are spaces where friendships are made and new Americans become an integral part of the social fabric in our community. Across the country, vacant urban lands are being transformed into highly productive gardens and farms for both personal consumption and for sale in local markets, increasing access to healthy foods for local residents, and stimulating local economic activity. In 2017, our 300 gardening families grew an estimated 45,000 pounds of produce that went directly into their kitchens and offset their grocery budget. Our two biggest challenges in creating and sustaining these efforts are, first, access to land, and second, access to water. LB808 takes an important step towards addressing these challenges. In particular, the creation of the Community Food Production Water Fund, which would help organizations like Community Crops to overcome the costliest item when establishing a new community garden or urban farm is essential. The cost to add a single water spigot at a community garden in Lincoln can be as much as \$6,000 to \$8,000--a prohibitive expenditure for most organizations and small farmers. A dedicated pool of money for these purposes would demonstrate that the state of Nebraska and local municipalities are committed to supporting these important community projects. Thank you. [LB808]

SENATOR BRASCH: Thank you for your testimony. Any questions of the committee? Seeing there are none, thank you... [LB808]

BEN McSHANE-JEWELL: Thank you so much. [LB808]

SENATOR BRASCH: ...for coming forward. Next proponent. [LB808]

ERIN HIGGINS: Hi. [LB808]

SENATOR BRASCH: Hi. [LB808]

ERIN HIGGINS: My name is Erin Higgins, E-r-i-n H-i-g-g-i-n-s, and I'm here representing The Big Garden. We're a nonprofit out of Omaha, Nebraska, focused on building community gardens and teaching people how to grow, cook, and preserve their own food. I'm sorry, I don't have something prepared. I might ramble a little bit. We have built, since our inception about 12 years ago, we've built over 150 community gardens in Omaha, small town and rural Nebraska, Kansas, and southwest Iowa. In Nebraska, I just counted the number, we have built 112 community gardens. Currently, when we are installing community gardens, water access is essential. We actually don't go ahead and build a garden unless there is access to water. So there are people

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currently, though, people, organizations, we built community gardens at schools, day-care centers, churches, other faith centers. We have retirement communities all over. Basically, you have to have a piece of land and people who are going to eat the food for us to build a garden for you, and right now we have to turn away anyone who doesn't have access to water. There seemed to be some confusion with some people sitting before me about definitions and I just wanted to clarify what I read. This bill is defining urban agriculture, which was not before defined, and then delineating the difference between a community garden and urban agriculture, showing that urban agriculture is for profit, as opposed to community gardens which are for a nonprofit purpose and feeding individuals and communities. And the water bill, as I read it, if you look on page 4, line 25, the Community Food Production Water Fund is created specifically for community garden purposes, so that money would not be going to for-profit urban agriculture ventures. We are building a...we, on our campus in Omaha, we are looking into installing a second water spigot for one of our gardens. And just to let you know, the \$1,000 to \$1,500 quote that Senator Burke Harr put out is a little low. We are looking at about a \$10,000 cost to install one more water spigot. We are planning on finding that money by ourselves, but we're a nonprofit and we're well-established. If it's a neighborhood, if it's a small group of informal people, they would have to be raising \$5,000 themselves coming to the Water Fund for an additional \$5,000. I think that addresses your point, Senator Brasch, about buy-in. They're going to have to find those matching funds. That buy-in is going to be there with the way this bill is set up. I honestly think that \$100,000 is a drop in the bucket, if you will excuse my pun, for what we're providing, which is, as this bill is stating, building community, lowering crime rates, increasing the beautification in our cities, increasing public health by having people...providing access to healthy food, and also really addressing hunger. That's why the Big Garden does what we...that's why we do what we do. We work primarily with people who do live in food insecure areas. The food they get from these gardens are sometimes the only fresh fruit and vegetables that they're getting in their diet and that is a huge predictor of health outcomes. I don't think I have anything else at this time but, yeah. [LB808]

SENATOR BRASCH: Very good. Any questions from the committee? [LB808]

SENATOR LOWE: Good job. [LB808]

ERIN HIGGINS: Thanks. [LB808]

SENATOR BRASCH: You did very well. Thank you. [LB808]

ERIN HIGGINS: Thank you. [LB808]

SENATOR BRASCH: Welcome. [LB808]

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MATTHEW GREGORY: Welcome. Good afternoon, Chairwoman Brasch and members of the Ag Committee. My name is Matt Gregory, M-a-t-t G-r-e-g-o-r-y, and I'm here representing myself today, but I was a member of the Community Garden Task Force. And a lot of what I was going to say has already been said. I'll try not to repeat too much. First, I want to thank Senator Harr for introducing LB808 and for the work that his office put into this bill. Better defining of urban agriculture, adding urban agriculture to the land bank priorities and the creation of the Community Food Production Water Act are in line with the task force's recommendations and I believe will give urban ag and community gardens a nice push as the cost and barriers to water access are some of the biggest impediments. Listening to some questions that I've heard today and I'll maybe just kind of go off the cuff on that and maybe try to address it, besides what the previous testifier said about urban ag and community gardens, I would say more that it's...urban agriculture is more of a broader term and community gardens were something a little bit more specific. And so we recommended that we have that kind of broader definition there. And before, Senator Brasch, you were talking about how you paid for your own water and kind of the idea of having skin in the game, and that is definitely an issue with community gardens. But I believe that there's other ways to go about that and the complications and costs that arise from water access would be addressed and would be helped out a lot by the creation of this fund. And there was a question before as well about where community gardens are and the...in Lincoln I would say that they are more in the neighborhoods and the work that the task force did, we...there was...it was said there was about 15 members and we were divided up into different groups. I myself worked on the education part and so I didn't work much with public policy. But there was also an inventory section and they found that there are 184 community gardens in Nebraska, and that was a year ago so there could be even more today. So urban agriculture, even in an agricultural state like Nebraska, is an important part of our food system. Seventy years ago 99 percent of the food Americans consumed was local and organic while today it is about 1 percent. So this way of doing business is not sustainable and urban ag and community gardens help keep us city folk in the know. They educate us, help us participate in a food system, and provide affordable, safe, healthy food while even getting some time outside. So with that in mind, I would ask the committee to advance LB808 to General File. [LB808]

SENATOR BRASCH: Any questions of the committee? I just wanted to comment that, you know, I do believe having skin in the game and even being one with nature, being, you know, working through the soil and the weather and the food chain from rain is very wholesome. And we are an ag-based state and it's my hope that it's through the joy of gardening or farming, as you would call it, would transcend across the whole state. Because there's also hardship that comes with it and not every crop is a success. [LB808]

MATTHEW GREGORY: Sure. [LB808]

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SENATOR BRASCH: And it's financial. And I worry when we look at maybe 10 percent of the state being family farms anymore and smaller farms, and that we're losing that grasp of agriculture and food production, that this perhaps would help create a bond across the entire state and a common mission. Because I think if these community gardens...you say there's 200 or so? [LB808]

MATTHEW GREGORY: One hundred eighty-four. [LB808]

SENATOR BRASCH: One hundred eighty-four. And have you ever taken...you know, the ones I've seen are maybe one entire city lot or more. How many acres that would be. And if you were taxed on irrigation and ag land, you would see a greater financial challenge. [LB808]

MATTHEW GREGORY: Yeah. [LB808]

SENATOR BRASCH: But thank you for your testimony, very well done. [LB808]

MATTHEW GREGORY: Thank you. [LB808]

SENATOR BRASCH: Next proponent. Welcome back, John. [LB808]

JOHN HANSEN: Madam Chair, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union, appear before you today as our president and also our lobbyist. Matt Gregory, who just testified, who is our former staff who represented Nebraska Farmers Union on that task force, we represent...we are a general farm organization and we represent large producers, medium-size producers, small producers who produce all different kinds of crops and commodities and food stuffs in all different kinds of ways, so from the very large feedlots and commercial farmers. We also have a substantial number of new folks who are getting involved in urban agriculture and doing things with land that is not being utilized in cities. So one of our former counties, which was a huge Farmers Union county, Douglas County, has been pretty much paved over with concrete and so we lost a lot of our farmers who used to be members of the Douglas County Farmers Union. And we now have a new and growing Douglas County Farmers Union made up of small producers who are involved in this kind of agriculture. And so they are supportive of LB808. They're supportive of a lot of the concept of urban agriculture as sort of the expanded food movement. The last two bills, both of these bills today are part of that. Generally, we think it's a good thing when food consumers want to know more about where their food came from. We think that's a positive. And so we've got a lot of new, young folks, a lot of specialty crop producers. We've done a whole series of workshops the last several years out of a

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USDA grant for specialty crop producers in four different cities and five different workshops. And so there's a whole host of new young folks who can't go out and buy a half section of farm ground and think that's going to cash flow. So they're using smaller amounts of land. They're trying to get more value. So this falls within that general framework. A couple areas of concern that I have on this bill, although we're in support of it, is one on page 3 in lines 7 and 8. And I'm not sure what, out of the 184 community gardens that we have, what the legal structure of all of those are. But by using a definition "one or more organizations" is the phrase that caused me some at least question, is that I would not want to foreclose other kinds of ownership structures. If you've got a local sponsor who's, you know, wanting to make some land available or a local governmental entity, if they've got, you know, if they've got a vacant lot that's going nowhere, doing nothing, and you've got local folks who would want to participate in this, I don't know that a local governmental subdivision qualifies as an organization. So I would look to that to try to expand that and be more inclusive. And I commend Senator Harr for his creativity in a tight budget year of being able to find a place to come up with \$100,000. And while I commend his creativity, I have to admit I have some heartburn over tapping the Water Sustainability Fund, and I have some concern about the precedent that may set for other perfectly good uses as well. The problem I have is that I don't have a better place to go to get money than that. So there's my concern. But in general, we are in support of this effort and thank Senator Harr for bringing this bill forward and his longtime support of these kinds of expanded agricultural activities within the confines of traditionally urban areas. Thank you. [LB808]

SENATOR BRASCH: Thank you for your testimony. Any questions from the committee?
Senator Halloran. [LB808]

SENATOR HALLORAN: Thank you, Chairperson Brasch. Thank you, Mr. Hansen, for your testimony. The lines that you pointed out on page 3, (7), number (7), "Urban agriculture means a piece of parcel of public or private land cultivated for the purposes of for-profit food production by one or more organizations located within a municipality." So we would be providing state funds for a for-profit? No? [LB808]

JOHN HANSEN: I would think a nonprofit. [LB808]

SENATOR HALLORAN: Well, it says, "for the purposes of for-profit food production." Maybe that's a question for Senator Harr. [LB808]

JOHN HANSEN: If you could, tell me the area again, if you would, sir. [LB808]

SENATOR HALLORAN: Page 3... [LB808]

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JOHN HANSEN: Okay. [LB808]

SENATOR HALLORAN: ...number (7). I'm sorry. [LB808]

JOHN HANSEN: Page 3, number (7). [LB808]

SENATOR ALBRECHT: Line 21. [LB808]

SENATOR HALLORAN: Line 21. I'm sorry. [LB808]

JOHN HANSEN: Oh, I see. [LB808]

SENATOR HALLORAN: Line 21. [LB808]

JOHN HANSEN: Yes. No, and I missed that. But my assumption would be it would be for, oh, a nonprofit. [LB808]

SENATOR HALLORAN: Personal use non-profit. [LB808]

JOHN HANSEN: Personal use, that kind of thing. [LB808]

SENATOR HALLORAN: All right. [LB808]

JOHN HANSEN: Yes. [LB808]

SENATOR HALLORAN: Okay. Thank you. [LB808]

JOHN HANSEN: No. Thank you, Senator. [LB808]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, ... [LB808]

JOHN HANSEN: Thank you very much. [LB808]

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SENATOR BRASCH: ...thank you, Mr. Hansen. Next proponent, please come forward. Welcome again. Please state and spell your name. [LB808]

SKYLAR FALTER: (Exhibit 5) Skylar Falter, S-k-y-l-a-r, Falter, F-a-l-t-e-r. Good afternoon, Agriculture Committee members. Thank you for this opportunity to express my support for this bill. My name is Skylar Falter. I was born in Lincoln and I'm a proud citizen of this city. I'm also a farmer and an advocate for local foods. I support the changes in LB808 regarding food production, community gardens, and seed libraries. My experience as an urban farmer has demonstrated to me that spaces for community food production in the city are essential for the well-being and health of our communities. I manage an urban garden located in south Lincoln with my partner, Matt Pirog. The plot is approximately an eighth of an acre, which is about 100 feet by 50 feet, yet for two seasons in a row we have grown food valued at over \$14,000 per year. For the record, that's more than \$100,000 per acre. We grow thousands of pounds of vegetables that go directly into our regional "foodshed," purchased by locally owned-restaurants and grocery stores in Omaha and Lincoln. Before we started the urban garden, the location maintained was nothing more than a monoculture of grass with little to look upon. After leasing the land, we transformed this underutilized space into a diverse habitat of vegetables, prairie grasses, and flowers. This attracts a plethora of bees, other pollinators, and also friendly, curious neighbors. My intention here is to share the testimony of those neighbors to demonstrate the positive impact provided by community food production. Since we began in the fall of 2015, we have experienced an overwhelmingly positive response from neighborhood passerby. So in addition to recording our weekly harvests we decided to record our interactions with the community. Sometimes we experienced four or five interactions in a single day. I would like to briefly share some of these testimonies that is from our community interactions log book for the public record. On March 25, 2016, a neighbor, Jake, stopped by and was very positive. He called our garden the grocery store of the future. On March 28, 2016, neighbor who was in opposition to our project has changed his mind; thinks we should be commended and if we ever need anything to just knock. On March 29, 2016, a registered nurse at Bryan Hospital who also walks by the plot often says that the garden is great and we are putting in a lot of hard work. In seven months we logged over 48 interactions and they were all positive. I can honestly say that I was struck by the excitement, enthusiasm, and interest in how to grow food that accompanied the work at our plot. It is now two years later and nearly every time we visit the plot we experience an affirmation that the public appreciates what we are doing with the neighborhood land. The changes to LB808 will increase the establishment of food production in urban spaces. I support this legislation and my testimony demonstrates that many in the public want to see more places like our garden and because they add beauty, produce healthy food, and reconnect us with nature. I also think I agree with our neighbor Jake that community food production is the grocery store of the future. I also want to add that we are a for-profit business and that based on my reading of the regulation that we would not be eligible for any funds from the Water Fund, and I'm still in full support of the bill. I like how it defines urban agriculture. I think that's important for the state

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and the training food movements in the state. So thank you for your time and consideration.
[LB808]

SENATOR BRASCH: Thank you for your testimony. I have a question for you. What are you producing in March? I'm lucky to get things in the ground end of April or by Mother's Day, and there's always a race for the first tomato by the Fourth of July. So what are they awing and oohing at in March? [LB808]

SKYLAR FALTER: In March I guess is when we first start transplanting things out to the field, so we, since we are just an open space, we don't have hoop houses or other, we don't have a lot of season extension, but we do have grow covers, which are just like a poly-woven fabric you can cover things with. And we were harvesting until December, actually almost up to Christmas of last year, so. [LB808]

SENATOR BRASCH: Very good. Well, this is real impressive. Thank you for your agricultural...being a farmer and work. Any...yes, Senator Lowe. [LB808]

SENATOR LOWE: Thank you for testifying again and you're getting better each and every time.
[LB808]

SKYLAR FALTER: Thank you. [LB808]

SENATOR LOWE: I might also add that these were also the grocery stores of the past. [LB808]

SKYLAR FALTER: (Laugh) Well said. [LB808]

SENATOR BRASCH: Very good. Any other questions of the committee? Seeing there are none, thank you and come back again. [LB808]

SKYLAR FALTER: Yes. Thank you. [LB808]

SENATOR BRASCH: (Exhibits 6, 7, 8, and 9) I'm going to read...and come forward but while you're doing that just I'm going to read into the record more letters of support from Pat Lopez, executive director of Friends of Public Health; Douglas County Board of Health; Ingrid Kirst from the Nebraska Community Garden Task Force chair; and Ken Winston on behalf of the Nebraska Interfaith Power and Light. Welcome. I thought I would...by the time you sat down, I'd have that read. You're faster than I could. State and spell your name, please. [LB808]

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BRENT LUBBERT: My name is Brent Lubbert, B-r-e-n-t L-u-b-b-e-r-t, and I am coming from Omaha, representing an organization called Big Muddy Urban Farm, and I'm the executive director of the organization currently. And I just want to explain a little bit about how we evolved as it relates to community gardens. So at Big Muddy Urban Farm, we have a residency program that's a year long. It supports five residents while they develop a market farm business plan and then put that plan into action on six sites in the neighborhood. So it is a neighborhood-based program right now. We also host tours, connecting with the local school system there and as well as many other groups. Sometimes that can even be corporate team building and trying to get people connected to agriculture any way we can. Then we also help facilitate a youth garden program that is a 16-week program at the community garden, which I will get to in a second. That is on average about 30 youth every Saturday from 10:00 to noon, and the age ranges are from 3 to 13. And so we've been around for 6 years but the community garden in the neighborhood, the Gifford Park Community Garden, has been around for 16 years. So I kind of see Big Muddy Urban Farm as an evolution of the spirit that was created at the community garden. And that community garden is privately funded but publicly used as a way of how that got established. But with that spirit, I kind of want to look at the perspective of the community garden. And correct me if I'm wrong, but with community centers and the building of community centers, there are state funds that go into the building of those? Is that correct? [LB808]

SENATOR BRASCH: Some. [LB808]

BRENT LUBBERT: Some? [LB808]

SENATOR BRASCH: Not entirely. [LB808]

BRENT LUBBERT: Uh-huh. [LB808]

SENATOR BRASCH: But we aren't...you're not supposed to ask us questions. [LB808]

BRENT LUBBERT: Okay. I apologize. [LB808]

SENATOR BRASCH: Sorry. [LB808]

BRENT LUBBERT: So I will continue my testimony. So some funds can go into the building of community centers, which that actually might be \$100,000 for the building of this. And what happens with that community center, it's a place for the community to organize around and a place for people to gather, better civic health and better vibrancy within the community. With a

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community garden there is an investment but it's not this...it's not like building a building, the investment that comes with that. And so the community garden, from what I've seen, is an amazing place for the community to organize around. And one example to give from that is that with our youth garden program we were able to take a field trip this past growing season to a goat farm and it's also a creamery. So from the 44 participants in that field trip, 28 had never been to a goat farm before, and then 18 had never been to a farm, period. So this was a way of connecting to the agricultural landscape and getting those experiences at a very young age that could then lead someone into the career of agriculture that is much needed for our state. And so I think you know that without that community garden there I do not know how I would organize 44 people, 44 youth in our neighborhood to go on this field trip to get connected to a farm that is doing things on a large scale to address how our food is made, the disconnect there. And then also referencing the previous bill and in terms of organizing and having a community space to organize, there is some discussion of the food-borne illnesses and questions around that. And so as a place where the community can organize and feel that they are established in that space, this could be a great way for the education of the food-borne illnesses or anything like that as opposed to saying, hey, come to this building that you don't really know too much about and learn about food-borne illnesses. This can bring it to the public. So I don't think it's too much of an expense for all the benefits, especially around community organizing that can happen from it, whether it's urban or rural. [LB808]

SENATOR BRASCH: Very good. Excellent testimony. Any questions of the committee? I see none. Well done. [LB808]

BRENT LUBBERT: Thanks. [LB808]

SENATOR BRASCH: Thank you for coming forward. Next proponent, in favor of this bill. Welcome. Please state and spell your name. [LB808]

DANIEL ROGGE: I'm Daniel Rogge. It's D-a-n-i-e-l R-o-g-g-e. I just thought I'd come here to give a little bit of my own experiences in the community gardens. The sun is going down though so I won't be too long. So I grew up just south of town. My grandma actually had like an acre of...acre vegetable garden, but I never gardened throughout my entire childhood. Kind of got interested, thought it might be cool to grow my own tomatoes, and then I have participated in two community gardens over the past few years. So I guess I'm not sure where else I would have been able to experience getting my hands dirty in the soil, sort of learning what sustains us as an entire society is agriculture. And I think the community gardens are sort of critical in that. Perhaps just as importantly in our society, which is getting increasingly disconnected from one another, be it culturally or what have you, I was able to meet people I might never have talked to otherwise. So at my last community garden I met a family from northern Iraq and got to know

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how critical it is for them to have a place to garden. Gardening is sort of like they can't imagine not growing their own food, really. It's sort of like their life blood. It's what they did in Iraq and sort of I guess, like I said, it was critical for them to do it here. So I think that whatever we can do to encourage community gardens, we should. You know we have all this public funding. I am not an economist or whatever, but it seems like there's a good case to use this interest rate or, excuse me, interest we get off this other public funding to do something that actually does impact the community for the better. And then just to also address urban agriculture, I sort of, you know, getting too far into my own hobbies, I'm actually an engineer, but I sort of have entertained the idea of being an urban farmer or getting into farming, but it's so difficult. You know, essentially you have to have a family that has land or you cannot be a farmer. And so I think sort of the language this bill introduces is, you know, is setting us on the right path to using some of these unused public spaces perhaps for farming. [LB808]

SENATOR BRASCH: Very good. [LB808]

DANIEL ROGGE: Do you have any questions? [LB808]

SENATOR BRASCH: I couldn't quite understand, you're also an engineer? [LB808]

DANIEL ROGGE: Oh, I'm an engineer so, yeah,... [LB808]

SENATOR BRASCH: An engineer, great. [LB808]

DANIEL ROGGE: ...so this is sort of...I guess this is more of a hobby, but I entertain the idea of maybe abandoning that and doing farming, but it's sort of not appealing in any way due to the fact that you cannot...you don't generally have access to land unless your family does. [LB808]

SENATOR BRASCH: So now I'm curious, since you've discovered gardening and tomatoes from your grandmother, have you taken any of your produce to the County or State Fair to compete? [LB808]

DANIEL ROGGE: Oh, no, I'm not that good at gardening but... [LB808]

SENATOR BRASCH: It's great to...it's nice to get a blue ribbon once in a while. [LB808]

DANIEL ROGGE: Yeah. [LB808]

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SENATOR BRASCH: So I highly encourage you to go one step forward. Thank you for your interest and your testimony. Any one from the committee have a question? I see none. Thank you very much. Next proponent. Welcome. State and spell your name. [LB808]

TIM RINNE: Good afternoon, Senators. My name is Tim Rinne, T-i-m R-i-n-n-e. I am the cofounder of the...a cofounder of the Hawley Hamlet, which is a neighborhood garden here in Lincoln. I live at...do you need my address, 605 North 26th Street? [LB808]

SENATOR BRASCH: No. [LB808]

TIM RINNE: I wasn't going to testify today so I have to fill out the green sheet as soon as I'm done here. But there was some concern about the whole issue of water, obviously related to this bill, and what I want to tell you is that we have a neighborhood garden, not a community garden. We have a neighborhood garden. It's for the people that live in our block and for the people who live across the street from us, because we learned real quick, once we started this, that you know the people who live across the street from you a lot better than you know the people who live catty-corner on your block. They're like in a different state. You never go over there. You never see these people. So my wife and I have lived in our block for 23 years and we knew the names of three of our neighbors. And what we decided, since we wanted to spend the rest of our lives here, when we can still get upstairs that is, we decided that what we would do is we would buy a couple of other properties in the block. Because it's an older neighborhood, lots of trees, too much shade, too many tree roots, lots of our neighbors who have small lots don't have anyplace to garden. So we decided we would buy a couple of other houses and renovate them, and then convert them all to what they call edible landscapes. There's no grass. Everything is into some sort of food producing or pollinator environment so that we can either eat it ourselves or the pollinators that pollinate so much of our food have a chance to eat something. What we soon figured out, and then we went around and we invited neighbors to participate, and ours was the only garden in the block when we started. And we got 20 people. And for seven years now we've had 20 neighbors participate. The names change, people come and go, some people you know wanted to do it last year, don't want to do it this year. But what's happened is we got 20 people that are involved. But what we've discovered is that if my wife and I didn't pay for the water, it wouldn't happen. And we have the money to do it and we're willing to do it because we want that kind of community being built as well as food being grown. We can do this on our block scale because we're willing to pony up the money to do this to try and keep people together. When you're talking about a community garden now, sinking a well, organizing such a thing where you have people who are going to be driving from blocks away to come in to participate in all this and so forth, it's a huge undertaking. People aren't just walking out their back doors. They're having to get in their car, get on their bicycle, go over there, take care of their plot, go back home again, and all of this. If we don't provide a way for these community gardens to get established, because water is the make or break issue, if we don't find a way for that to happen it's not going

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to happen. We're putting up one more hurdle that's going to make it impossible for people to actually engage in this. So we have no vacant lots. We have no empty houses in the Hawley Hamlet. So I would like to invite you all to move in but you cannot because there's no space available and so forth. Our neighborhood likes what we have but, unfortunately, it's too weak. If we're going to have community agriculture in this city, if we're going to have community agriculture in this state, it's going to be because we're going to make it possible for people to get back in touch with agriculture. Right now, like I said, when we started the garden that was on our plot, which my father said produced the sickliest looking tomato plants he'd ever seen in his entire life, because for 23 straight years I planted tomatoes in the same space, didn't understand the importance of crop rotation. All right? If we're going to get people engaged in agriculture and figure out where their food comes again, we've got to enable how that process is going to occur. Thank you very much for your time. [LB808]

SENATOR BRASCH: Thank you for your testimony, and excellent testimony. I don't know if there's any questions from the committee, but I do concur that water is very important. Humanity cannot exist without it. We are inconvenienced sometimes by lack of oil or roads and things like that, but if we have no water we have no life. [LB808]

TIM RINNE: Exactly right. [LB808]

SENATOR BRASCH: So thank you for coming forward. Please come back again and good gardening to you. [LB808]

TIM RINNE: All right. Thank you. [LB808]

SENATOR BRASCH: (Exhibits 10, 11, 12, and 13) Any other proponents? Anyone wanting to come forward in favor of this bill? Any opponents, someone who wishes to oppose this bill? Do we have testimony in...we have something here. We have opponent letters: an opponent letter from Dennis Strauch on behalf of the Natural Resources Commission; Jeff Buettner on behalf of the Central Public Power and Irrigation District; Jay Rempe on behalf of the Nebraska Farm Bureau; and Twyla Gallino on behalf of herself. These are letters in opposition. And you're here in opposition or neutral? [LB808]

BRAD DUNBAR: Opposition. [LB808]

SENATOR BRASCH: Opposition. Please state and spell your name. [LB808]

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BRAD DUNBAR: (Exhibit 14) Thank you, Senator and members of the committee. My name is Brad Dunbar, B-r-a-d D-u-n-b-a-r. I'm a member of the Natural Resources Commission. I serve as the Water Sustainability Fund application review committee, and also I'm the chairman of the legislative committee. I come before you today to speak against LB808. As an Omaha resident, I fully appreciate the intent of LB808. Supporting community, providing hands-on learning, better utilizing vacant properties, and seeding hope to the impoverished, all while producing wholesome food, is a noble endeavor. While I appreciate the intent of the bill's outcome, I'm opposed to the method it seeks to achieve it. The bill produces another level of government bureaucracy while undermining legislative statute 2-1506. This bill also does not take funds directly from the Water Sustainability Fund interest account, as can be seen on page 6, Section 6 of the bill. Five years ago the Water Sustainability Task Force, let by Senator Carlson, was assembled. The group of 34 representing diverse water interest and including 6 state senators, was tasked with developing a framework for a proposed water project funding mechanism. The resulting legislation, adopted in 2014, created the Water Sustainability Fund. The primary goal of the fund is to identify and assist in the completion of water projects focused on Nebraska's Water Sustainability goals while addressing acute water issues in the state. The fund is administered by the Nebraska Department of Natural Resources and overseen by the Nebraska Natural Resources Commission. The commission is comprised of 27 individuals representing the state's river basins and government...Governor appointments representing diverse water interests across the state that are dedicated to Nebraska's water needs. Applications to the commission for the Water Sustainability Fund are made once annually and have been for a variety of projects across the entire state of Nebraska. Director-approved applications are forwarded to the commission's application review committee, which reviews the projects based on the criteria established in statute 2-1508. The committee sends...the committee spends many hours thoroughly reviewing and scoring these applications based upon standards found within Nebraska statutes. Next, the committee reviews the applications jointly to develop a final score and recommendation to the entire commission. As a participant of this process, I can assure you that it is a laborious task. However, the process is successful as it ensures only the best projects are funded and state monies are put towards the highest and best use. To date there have been three cycles grants awarded. Approved applications include a variety of projects impacting water quality and availability located throughout the state of Nebraska. You can see by the handout, it has a map there of the various projects that have been funded over the last three rounds. LB808 fund request circumvents this sound process guiding the Water Sustainability Fund. This carefully derived process was created through a significant investment of time and oversight by the Nebraska Legislature. Circumvention of this fair process also raises questions concerning the bill's request amount, distribution, oversight, and intent of the appropriated funds for water sustainability. Rather than the direct appropriation proposed in LB808, I would encourage the sponsors of the legislative bill to review the goals of the Water Sustainability Fund, as stated within Nebraska statute 2-1506, and determine if the proposal is consistent with the goals of their project. Assuming the proposal is a fit, then an application for funding within the next

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Water Sustainability Fund funding cycle is welcome. Nebraska is blessed with an outstanding water resource to support our local communities and economy. Careful consideration of Water Sustainability Funds for all applicants is vital to the sustainable health of our water resources statewide. I thank you for your time and welcome any questions. [LB808]

SENATOR BRASCH: Thank you for your testimony. I do have a couple questions, and I do recall the Water Sustainability Task Force and bill. I was here. But I do not recall, is there a sunset on that bill? [LB808]

BRAD DUNBAR: I don't believe there is. [LB808]

SENATOR BRASCH: So...but it was enacted by the Legislature, and the Legislature serves at the will of the people. Correct? [LB808]

BRAD DUNBAR: Correct. [LB808]

SENATOR BRASCH: And I believe, because I did ask about skin in the game and things, but I believe that water, in my view, would be well spent in the grass-roots of the people who fund the taxes, who fund the Legislature, who fund your organization. Is that correct? [LB808]

BRAD DUNBAR: Correct. I think, you know, as we looked for sustainability, which is really what the project is about, is saying how is this going to help out the state's economy and also protect water resources for the state? That's really what a lot of the projects that we see and the purpose of the fund is about. [LB808]

SENATOR BRASCH: And I do understand that, because the legislation did not come without a lot of push and pull. It wasn't a unanimous vote but it came very tediously across the finish line, from my memory of it. And I would believe that this commission would be served well if they would get some public buy-in from the people who do go to vote for their senators who vote for legislation, and that perhaps a review or an addition to that legislation would permit for some small grass-roots funding where individuals can use water for food. Do you see that as a problem? [LB808]

BRAD DUNBAR: Well, I think the intent of the Water Sustainability Fund is really to protect Nebraska's water resource and to use it for its greatest use. And in Nebraska, our economy is based on agriculture. [LB808]

SENATOR BRASCH: Uh-huh. [LB808]

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BRAD DUNBAR: We are very blessed to have a great aquifer system, but it has to be managed. The NRDs, Department of Natural Resources, the Water Sustainability Fund are all great mechanisms that we have to really do this across the entire state. [LB808]

SENATOR BRASCH: And I also believe that farmers are stewards of the earth and the water. [LB808]

BRAD DUNBAR: Absolutely. [LB808]

SENATOR BRASCH: And farmers have the closest understanding of the value of water to not just their livelihood but for food, fuel, and energy. Would you agree with that? [LB808]

BRAD DUNBAR: I would agree with that. [LB808]

SENATOR BRASCH: Okay. Again, you know, this legislation I believe has a great purpose. I do like to see more buy-in from our second house and more activity. And again, every dollar and nickel and dime and penny that comes to that does not come from a mint somewhere. It comes from the pockets of the people who earn those dollars. [LB808]

BRAD DUNBAR: Right. And that's something that we've really taken a look at as far as the...on the scoring committee is how does this...how does the funds that we're allocating that are taxpayer funds, how is that going to be multiplied really to protect water resources within the state and get our, you know, get more than our money back out of it? So I think that's really important to take a look at too. [LB808]

SENATOR BRASCH: Yeah. And I believe people are a good investment as well, so. [LB808]

BRAD DUNBAR: I think so too, and sometimes there's different avenues for that support too. But I would, you know, like I say, I think the Legislature spent a lot of time putting this whole fund together. And I know with the cycle that we need to do probably a little better job of educating new senators on where these funds have been going to and what successes we've had so far. [LB808]

SENATOR BRASCH: And with term limits yeah... [LB808]

BRAD DUNBAR: Granted, this is only three years in at this point. [LB808]

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SENATOR BRASCH: Yeah. And with term limits I think you need to remember that you need a whole new buy-in every cycle. [LB808]

BRAD DUNBAR: Every time. [LB808]

SENATOR BRASCH: And so I'm happy you came forward here to testify. You have a good position. I believe we have Senator Albrecht with a question. [LB808]

SENATOR ALBRECHT: Sure. Can you tell me where those Water Sustainability Funds come from? Where does the money from? [LB808]

BRAD DUNBAR: It comes from the Legislature. [LB808]

SENATOR ALBRECHT: And where do we get it from? [LB808]

BRAD DUNBAR: You get it from all of us. [LB808]

SENATOR ALBRECHT: And how much do you get every year? [LB808]

BRAD DUNBAR: I think this last session was around \$14 million when it... [LB808]

SENATOR ALBRECHT: Fourteen million dollars. And you had three projects this past year. Can you just explain that? [LB808]

BRAD DUNBAR: No, there was...there was... [LB808]

SENATOR ALBRECHT: Oh, is that what you're talking about? [LB808]

BRAD DUNBAR: Those are...those are split up into how the funds are designated. There's an application. One of the things that the legislator wanted...Legislature really wanted is to make sure that small projects were able to qualify for some of the funds that were in that... [LB808]

SENATOR ALBRECHT: Okay. [LB808]

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BRAD DUNBAR: ...and not just great big projects. So what you see there on the map is you have the sewer separation in Omaha receives 10 percent of the funds, and that was part of the push and pull that happened when this was passed. [LB808]

SENATOR BRASCH: Uh-huh. [LB808]

BRAD DUNBAR: And so that's what you see, 10 percent of the funds that are designated to the Water Sustainability Fund come off the top for the sewer separation project. And then there's funds, and I can't think of the actual breakout right off the top of my head, but it's \$250,000 or less... [LB808]

SENATOR ALBRECHT: Uh-huh. [LB808]

BRAD DUNBAR: ...is a portion of the funds, and then greater...larger projects are the other portion. But that was one of the big things that the legislator...Legislature wanted is to make sure that small projects could be able to be approved and have access to some of those funds as well. And, right, I see projects such as the Community Gardens fits in well to that potentially as long as they meet the criteria that the Legislature established at that point in time. [LB808]

SENATOR ALBRECHT: Thank you. [LB808]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you for your testimony today. [LB808]

BRAD DUNBAR: Thank you. [LB808]

SENATOR BRASCH: Any other opposition? Any other opponents? Anyone here in the neutral? If you are, please come forward. Welcome, Director Wellman. Please state and spell your name. [LB808]

STEVEN WELLMAN: (Exhibit 15) Good afternoon again. Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n. The Department of Ag is testifying neutral on LB808 and to provide information on the implementation of the proposed legislation. The fund that would be created here would be managed by the Department of Agriculture. Under LB808, we would be responsible for awarding grants for water access as well as be responsible for the adoption of the rules and regulations to implement the grant program. And as outlined in the fiscal note provided by the department and also mentioned by Senator Harr, we do have a cost allocated to this of one-tenth of a person, which seems...amounts to \$10,400, and that's mainly to set the rules, regs, do the

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reporting and the grant appraisals, look at the grants and distribute the funds, and then also give an annual report. So with that, I will answer any questions. [LB808]

SENATOR BRASCH: Any questions from the committee? I see none. Thank you for your prompt reply to his question. [LB808]

STEVEN WELLMAN: Thank you. [LB808]

SENATOR BRASCH: Any other testifying in the neutral? Seeing none, Senator Harr...oh, there is one more. Please come forward. Anyone else come to the front so we don't accidentally pass by. Welcome, and thank you for coming forward. [LB808]

MARTY BARNHART: (Exhibit 16) Good afternoon. My name is Marty Barnhart. I'm the Executive Director of the Omaha Municipal Land Bank. Referenced in your statutory change today is the Omaha Municipal Land Bank. If you look through the bill, you notice in bill...LB808 we're referenced as the portion of 19-5210. And the change that's being made is we're taking a neutral position on because it's really a very minor change to what we're already doing, and that is that you're asking for a redefinition or at least a restatement including "community gardens and urban agriculture" instead of the words "the establishment of community gardens." Currently across the United States there are 150 different land banks that are functioning in different cities for the purpose of distressed properties. We were established in 2013 for the sake of aiding Omaha with distressed properties in four different categories; categories like tax foreclosure, code enforcement, properties that might come through a bank real estate owned process, and properties also that could be donated by an individual or an entity that they no longer wanted to oversee and take care of. As we brought properties into our inventory this past year, actually these past two years, we've now established policies and procedures. And as we brought these properties in, we divided them into three different categories: those, number one, that might be developable properties, whether they be a house, a building, or a vacant lot, and each of those have a requirement on them to be developed at least in nine months for a house or a building or redeveloped as a new home or a building on a vacant lot; second category would be those that would be an adjacent lot. We do contact individuals who may live next to an unbuildable property--something less than 40-feet wide or 100-feet long--notify them and let them know that the 1-foot strip or the portion of the property that exists beside them could be used as an extra green space. And we ask them to come to us. We'll assist them with the replatting costs and assist them as well in obtaining that property for a nominal fee. And third, we've already begun to assist folks with what we call garden lots or, as you've defined it, urban agriculture and community gardening. We've already leased some properties, as a part of our rules and regulations already, that we do have properties available. We'll have more available this year, probably somewhere between 60 and 70 properties that come available in Omaha this year,

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most of those being in the northeast section of our city, which is north of Dodge, east of 48th, and of course south of Fort. Those properties will come through tax foreclosure with Douglas County. Again, they're unbuildable. They're properties that would be very suitable for community gardens and we do make those available to the public for a lease of \$25 per year. We make them available. We do insure the properties and continue the oversight, but we ask the individual who might lease it from us to make sure they're taking care of it, which takes it off our maintenance rolls. And of course we want great community gardening, enhancement of the neighborhood, and of course community participation. As we looked across our community and worked with folks, we've said to them there's five elements of poverty that we're trying to improve. Obviously, number one is housing: provide housing for individuals who need a place to live. Second, jobs: get them on transportation corridors where they can begin to go find a job and begin to work and support themselves and their own family. Obviously, third, transportation: assist them by working with MAPA and Metro and other agencies like that in Omaha. Number four, help folks with just community: help them and assist them so that they might be able to have the resources and the ingenuity to put things together. So we work a lot with community groups, a lot with neighborhood groups, and assist them that way. And of course just the whole community betterment cycle, number five. What we enhance in one neighborhood will have a ripple effect all across our city and community gardens are a great part of that. We believe in them. We take a very strong position with them. But for the bill today the board has not given any position on that so I come before you as a neutral proponent, if you will, to say we would be in favor of this bill but, again, we can't answer a lot of logistics you've had as far as funding. But again, it's something we're already doing. We're a great advocate for that. Questions you might have, Senators, please. [LB808]

SENATOR BRASCH: Very good. Thank you. Senator Albrecht. [LB808]

SENATOR ALBRECHT: Were you part of the task force? [LB808]

MARTY BARNHART: As far as the community gardens are concerned? [LB808]

SENATOR ALBRECHT: Senator Harr's task force. [LB808]

MARTY BARNHART: I was not. [LB808]

SENATOR ALBRECHT: Maybe you should have been. We could have got the money from you. [LB808]

MARTY BARNHART: I don't think so. [LB808]

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SENATOR ALBRECHT: Great organization though. [LB808]

MARTY BARNHART: It's nice of you to ask though. [LB808]

SENATOR ALBRECHT: (Laugh) Just checking. Thanks. [LB808]

SENATOR BRASCH: Any other questions of the committee? I see no other questions. Thank you for your testimony today. [LB808]

MARTY BARNHART: Thank you, Senators. I appreciate it. [LB808]

SENATOR BRASCH: Thank you. Any other neutral testifiers? Seeing there are none, would you like to close, Senator Harr? [LB808]

SENATOR HARR: I jumped the gun there a little bit. Thank you, Madam Chair. And let me first up, I apologize. I think I called the Commissioner Steve Willborn, who is a law professor at the university. It's Steve Wellman, so I apologize and I should know because there's also an assistant U.S. Attorney by the same name. I want to thank everybody for coming down to testify. A special thanks to Betsy Goodman for organizing all these people to come here. I want to react to some of what I heard. First of all, Big Gardens is a great organization. My kiddos' day-care center has a community garden that they help run. It's a wonderful way, my kid brings home-- he's three, almost four--he brings home vegetables in the summertime and he's learning how nature works. We and my kids' school are trying to get a community garden because we have a large immigration population and it's Karen and they are by nature mostly rural, as are a lot of our immigrants, and it's a way of inviting people into the community and a way for us to communicate with each other. So I'm excited about what community gardens do. I want to answer some specific questions. Oh, Senator Blood, you asked if we could use conservation, water conservation, and the answer is, yes. The bill, on page 4, lines really 23 through 26, it states that...well, actually 25, it says, "Such water-related costs include water hook-up fees," which we talked about, "water usage fees, and water conservation." So, yes. I have two community gardens, well, more than two, but two that I know of in my district that currently use water conservation, so they grab water off the gutters of houses around them and store it, right? And that's...and this would help fund those retainers because those aren't free, those tanks. Senator Brasch, you mentioned that, you know, farmers don't get money for hookups to irrigation, unless Senator Schumacher has his way, they don't pay for the water though. And in Omaha we have...and in most urban areas, you have a water usage fee, and this helps cover that cost. [LB808]

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SENATOR BRASCH: They pay for water through taxes being called "irrigated land." [LB808]

SENATOR HARR: Right. Dryland versus irrigated, yeah. [LB808]

SENATOR BRASCH: And then the power it takes to run the pivots. So there is...irrigation is not free. [LB808]

SENATOR HARR: Never said it was. Never said it was free. [LB808]

SENATOR BRASCH: Okay. Right. Okay. [LB808]

SENATOR HARR: But what I did say was that the water usage is free. And so, as opposed to here, there's a water use. I mean those costs would still...that a lot of those same costs you talk about would be associated with water hookup. If you pumped it, the electricity to pump it through, if you were fortunate to be that large, I should say if you don't use the force of the water that comes as it's sent through. But that is covered in this as well. Let's see, Senator...I had one for Senator Halloran. He had a question. Oh, it's not allowed for, and I think one of the other earlier presenters said that this money wouldn't be available for for-profit farms because it states the community, and again it's Section 5, line 23 through 25, the fund is created, "The fund shall be used to provide financial assistance for water-related costs associated with community garden purposes." Community gardens is then defined on the previous page on line 6. It means a piece or parcel of public and (sic--or) private...cultivated for the purposes of not-for-profit food production. So it wouldn't go to for-profits, so that's good. [LB808]

SENATOR HALLORAN: Senator, what about line 22 on page 3? [LB808]

SENATOR HARR: That is the definition of what urban agriculture is. But when you look at where the money can be spent, it can only be spent on community gardens. So...and community gardens are limited to not-for-profit. Yeah, there are for-profit urban farms. This just creates a bigger and different definition. But as far as where the money can go to, it can only go to nonprofits. [LB808]

SENATOR HALLORAN: Community gardens and urban agriculture language is spaced throughout this whole bill. [LB808]

SENATOR HARR: Fair enough. Fair enough. But where you look how the money can be funded, the funding, how it shall be used, it's limited to community gardens in Section 5 and throughout the whole. And if it isn't, we can work on that. But it's my...having read this bill,

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that's how I understand it. But we can obviously fix that if it needs to be fixed. Mr. Dunbar came. You know, it's the old saying Walt Radcliffe has. If you want to create an interest group, create a stream of revenue. Right? This interest group didn't exist three years ago and now they're down here saying we have \$14 million in taxpayer dollars and we want to be able to control how all \$14 million is spent and you, Legislature, who appropriate that money to us, we don't want you to be able to tell us how to spend one penny of it, not \$100,000 of it. The way Legislatures work is you can't bind future Legislatures. I worked out a deal a couple years ago on a Learning Community bill and I'll be gosh darned if they aren't coming, trying to change it already, right? And when I went to one of the senators, I said, hey, I thought we worked out a deal. Senator looked me right in the eye, said, can't bind future senate Legislatures. And they're right. Right? They can't. And so, yeah, I understand. Look, if I had a stream of \$10 million, \$14 million coming my way, I might be protective of it as well. But this again is less than the interest that goes into the fund. You're right, there isn't a specific interest. The interest goes into the fund. There isn't a separate fund for that interest out there. That being said, there's a lot of money that flows into that. And this is not unrelated usage. This has to do with how do we keep our communities going and how do we keep water for those, that farming? I mean we're not out there saying let's use this money to build roads. We're not saying let's use this money for, you know, something unrelated to water. Water is being used here. I think Senator Hansen said...or, senator, John Hansen said it best: gosh, I wish there was another way to fund it but I don't know what it is. And I follow that sentiment exactly. I wish we had another way to fund it, but I spent all summer looking and I worked with the policy, with Policy Research and I worked with the legislative office, Fiscal Office, to try to find another way to fund it. Quite frankly, folks, we're running pretty lean. We're doing a good job. So if we want to find something, this is the consequences of the budget that we live in. And so, you know, \$100,000 out of, I don't know if it's \$14 million or \$10 million, again, at the end of the day it's not much and it fits within the spirit and the intent of the water board. And then I want to talk about the words I heard in here: food security, public health, education, therapeutic, bonding. Right? It's easy for us to back in our corners and say urban versus rural or Fox versus CNN, but what are we doing honestly as a body to say, hey, let's get people out together, let's get people talking? There is no left or right way to grow a tomato, right? And it gets people talking about where we have our commonalities and what can we do together. I mean there's a reason we call it community gardens--community. So what are we really doing to try to build a better spirit, better citizenship within our areas and to break down some of these boundaries out there? That's ultimately at the end of the day what this bill is intended to do. It's...and I think it makes the state better, right? It's...Senator Lowe couldn't have said it better: it's old-fashioned grocery shopping. This is how we've always done it. And if we don't respect our past and how it's been done, what's going to happen, right? I think we lose some of those bonds in society. That's what I'm trying to do here. I'd ask for your support. I understand there's a fiscal note on it. Hopefully I can work with Department of Ag. Like I said, maybe we can do stuff like we've done with the Governor. Maybe you don't need rules and regs because we're able to give away \$250,000 without rules and regs. Maybe we can

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do it in a different way too. I've allotted \$5,000 out of the cash fund. Hopefully we can find a way, working with the department, to keep that within that \$5,000. I'll continue to work with Commissioner Wellman to find a way to do that. But with that, I would entertain any questions you may have. [LB808]

SENATOR BRASCH: Yes. Senator Lowe. [LB808]

SENATOR LOWE: Thank you, Chairperson Brasch. Senator Harr, you...I'm sorry I didn't catch this earlier but you stated that you're taking this \$100,000 out of the interest of the Water Sustainability Fund. [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR LOWE: Where in the bill... [LB808]

SENATOR HARR: Not with the Legislature... [LB808]

SENATOR LOWE: ...does it say the interest? [LB808]

SENATOR HARR: Right. [LB808]

SENATOR LOWE: As far as I can tell, it just says you're taking it out of the Water Sustainability Fund. [LB808]

SENATOR HARR: Right. Right. And I thought I...and I apologize if I didn't explain, because we didn't, the way the Legislature...legislation was drafted, they didn't create a separate fund that the interest siphons over into. So it stays within that fund. So, yeah, you're right, it isn't, but when you look at how much interest is spilled off of the program, last year it was \$521,000, that's what we're trying to grab, just some of that. But, yeah, and that is from the time it's appropriated until the time that money is spent. But unfortunately, the way the legislation was drafted, it didn't create a separate fund. It just had it back into it. So, yeah, and I know we... [LB808]

SENATOR LOWE: So it's a growing fund. [LB808]

SENATOR HARR: What's that? [LB808]

SENATOR LOWE: It's a growing fund. [LB808]

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SENATOR HARR: Well, it's a growing fund because it's reappropriated every year, but it's also a growing fund because of interest, yes. [LB808]

SENATOR BRASCH: Any other questions? Senator Albrecht and then Senator Halloran. [LB808]

SENATOR ALBRECHT: First of all, I really miss you not staying on Ag Committee because you'd been on it for quite a long time, right? [LB808]

SENATOR HARR: Yeah, I was on it for seven years. [LB808]

SENATOR ALBRECHT: But seriously, this bill I'm very much intrigued because serving at the community, what do I want to say, the food pantries, I mean the one thing that people need to learn is how to cook what we give them. But more importantly, if they have a garden and they have a community of people teaching each other what to do with the product is a big deal. But why wouldn't you just have the Water Sustainability Fund...just have those folks go to them for the grant? [LB808]

SENATOR HARR: Go to them? [LB808]

SENATOR ALBRECHT: Uh-huh. I mean I need to learn more about that because, you know, I'm on my second year. But I had no idea that we gave them \$14 million for different projects. And to me, this would be an excellent project because we are feeding the poor. [LB808]

SENATOR HARR: If you look at Mr. Dunbar mentioned and it's 2-1508, 2-1507 and 2-1508, and it doesn't fit neatly within those definitions because the intent was larger projects and the intent was that...it was...it dealt with water and how to...and it doesn't quite squarely fit within there. You could make an argument it fits in there, but it fits within certain criteria. But when you look at the overall, it probably wouldn't be able to stand on its own. But I think we as a body would understand the importance of community gardens and say this is something we should be using our water and our water resources for because it is a public benefit teaching people self-reliance, teaching them community spirit, teaching them how to work as a team, teaching them how nature works, right, and that things don't just appear and you can't just pop everything in a microwave. [LB808]

SENATOR ALBRECHT: So I mean the heartburn I probably did have was just having that money put in there every year. But would you entertain considering, you know, how many folks

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actually come to us on a yearly basis, you know, and maybe putting it out there for three years with a sunset? And if it's being utilized, that's great; if it's not... [LB808]

SENATOR HARR: And this is a one-time allotment. [LB808]

SENATOR ALBRECHT: The \$100,000 is one time only. [LB808]

SENATOR HARR: Yeah. [LB808]

SENATOR ALBRECHT: Okay. So if you had somebody that was out there that said it was like \$6,000 or \$8,000 to put in a water spigot, that's quite, I mean... [LB808]

SENATOR HARR: So if I had someone with a \$6,000 water spigot, I'm sorry, what? [LB808]

SENATOR ALBRECHT: That it would take \$6,000 to \$8,000 to put in a water spigot for a garden, if they would want, so that \$100,000, they have to have... [LB808]

SENATOR HARR: Matching. [LB808]

SENATOR ALBRECHT: ...matching funds. [LB808]

SENATOR HARR: Yeah. So there's the buy-in that Senator Brasch was asking about. [LB808]

SENATOR ALBRECHT: So once the \$100,000 is over, it's over. [LB808]

SENATOR HARR: It's gone. Once it's gone, it's gone. Yeah. [LB808]

SENATOR ALBRECHT: It's one time. Just one time. [LB808]

SENATOR HARR: Yep. [LB808]

SENATOR ALBRECHT: Okay. That's better. [LB808]

SENATOR HARR: Thank you. [LB808]

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SENATOR BRASCH: Senator Halloran, did you have a question? [LB808]

SENATOR HALLORAN: Yes. Thank you, Chairperson Brasch. Did you consider, I'm looking at a letter from the chair of the Nebraska Natural Resources Commission. (Exhibit 10) [LB808]

SENATOR HARR: I haven't seen that, no. [LB808]

SENATOR HALLORAN: Dennis Strauch. I'm probably mispronouncing his name. Forgive me for that. But he was wondering why maybe as an alternative to the Water Sustainability Fund, maybe the Nebraska Environmental Trust would be a good source for that. And I'm looking at some of the things that they grant monies to and it seems like it would fit, very well in fact. [LB808]

SENATOR HARR: Yeah. [LB808]

SENATOR HALLORAN: I mean I don't want you to go back and rewrite the bill. [LB808]

SENATOR HARR: So this goes back to we all want services we don't want to pay for or we don't want it paid for out of our fund. We looked at that and it didn't quite fit there as well and... [LB808]

SENATOR HALLORAN: Did you approach them? [LB808]

SENATOR HARR: What's that? [LB808]

SENATOR HALLORAN: Did you approach them? [LB808]

SENATOR HARR: Did I approach the Environmental Trust Fund? [LB808]

SENATOR HALLORAN: Yeah. [LB808]

SENATOR HARR: No, I didn't approach the Environmental Trust Fund. What I did was I looked at the statutes and what they spent their money on and how they've done it. And again, what we're asking for is not the moon or the stars. It's really less than 20 percent of their interest that they earn a year out of a large allocation. I felt it was a reasonable ask, and that's not to say that there isn't more than one way to skin a cat. And if that means I get, you know, universal support in here, we can work on that too. But what I was trying to do was find a way to have the greatest

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effect with the least harm, right? And so taking \$100,000 from \$14 million would seem a little less onerous, and taking it off the interest, than taking it from another fund. But what I've learned, aha, more in the last year, year and a half than ever is how appropriations isn't as clean and crisp as we all would like to think it is, but that when there are extra buckets, and there's downfalls, we steal from them in just applying the General Fund regularly, as opposed to trying to find something where there's extra money, to apply that money in a bucket that's somewhat related to the purpose and intent of the underlying...how that money came into being. You know, we took money. Insurance is completely cash fund driven and there was extra money in it, and they just swiped it clean, right? And that just went to the General Fund. It's not as though it went to prevention of insurance fraud or some other insurance-related issue. And so that's one reason why I went to that fund. [LB808]

SENATOR HALLORAN: Okay. Thank you. [LB808]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, that will close the hearing... [LB808]

SENATOR HARR: Thank you. [LB808]

SENATOR BRASCH: ...on LB808 and both hearings for the day. And I want to thank everyone who came to testify and see your Ag Committee working. [LB808]