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**HALLORAN:** Welcome to the Agriculture Committee. I'm Senator Steve Halloran. I'm from Hastings, Nebraska, and represent the 33rd Legislative District. I serve as the Chair of this committee. The committee will take up the bills and the confirmations in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs when you are ready to testify. These are the first two chairs on either side of the front aisle. Front row, excuse me. Introducers will make initial statements followed by proponents, opponents and neutral testimony. Closing remarks are reserved for the introducing Senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print. It is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page and forward it to the committee clerk. This will help make a more accurate public record. If you do not wish to testify today but would like to record your name as being present at the hearing, there's a separate white sheet on the table that you can sign for that purpose. This will be a part of the official record of the hearing. If you have handouts, please make sure that you have 12 copies and give them to the page when you come up to testify and they will distribute those to the committee. If you do not have sufficient copies, the page will make sufficient copies for you. When you come up to them to testify, please speak clearly into the microphone. That's very important for the sake of the transcribers and for everyone in the room as well. Please don't be bashful. Speak right into the microphone. Please tell us your name and please spell your name to ensure we get an accurate record. We will be using the light system for all of testifiers. You will have 5 minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No display of support or opposition to a bill, vocal or otherwise, are allowed at public hearing. Committee members with us

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today will introduce themselves, starting on my far left, Senator Raybould.

**RAYBOULD:** Hi, everyone. Good morning. Jane Raybould, Legislative District 28, which is in the center of Lincoln.

**HUGHES:** Jana Hughes, Legislative District 24, Seward County, York County, Polk County, and a little bit of Butler.

**BREWER:** Tom Brewer, District 43, eleven counties of western Nebraska.

**IBACH:** Teresa Ibach, District 44, eight counties in southwest Nebraska.

**HALLORAN:** And Senator, Senator Ibach is the Vice Chair of this committee. On my far right.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**RIEPE:** Merv Riepe, District 12, which is southwest Omaha, part of it, and the small town of Ralston.

**HALLORAN:** OK, thank you. To my right is committee research analyst, Rick Leonard, and to my far left committee clerk, Andrew Ojeda. And the pages with us today are both political science majors from UNL, and we have John Vannes and Ken Bartling, and we will talk to them a little bit later about political science as a major. So we will begin today's hearing with LB321, and this is a committee bill. We're bringing this bill at the request of the Department of Agriculture. So I will ask, oh, excuse me, LB321. I beg your pardon. This is not a committee bill. Starting with LB321, Senator Brandt.

**BRANDT:** I'm trying to catch my breath. All right, Page.

**HALLORAN:** Good morning.

**BRANDT:** Good morning. Chairman Halloran and members of the Agriculture Committee, I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent Legislative District 32, Fillmore, Thayer, Jefferson, Saline and southwestern Lancaster Counties. Today, I am introducing LB321, which would expand our cottage food opportunities in the state. Cottage foods, commonly known as home-based foods are products that are made in a private home and sold directly to consumers. These

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products can include baked goods, jams, jellies, pickles and more. The cottage food bill was passed in 2019. One of the benefits of cottage foods is that they provide a way for individuals to start their own business from home. This can be especially beneficial for stay-at-home parents, retirees, or anyone looking to supplement their income. Cottage foods allow consumers, customers to purchase foods that are made locally. Over 1,000 cottage food producers have registered with the Department of Ag since the program's creation in 2019. The changes this bill will make to the cottage food law will allow producers to sell nonrefrigerated foods like cheesecakes and other timed-temperature controlled foods like nonmeat casseroles. The idea for these changes came from the cottage foods producers themselves. Currently, our neighbors in Iowa, South Dakota and Wyoming have already expanded their cottage food laws to sell the products that are proposed in this legislation. The white copy amendment comes from discussions with the Department of Ag that addresses the issues they had with the bill as it was originally written. The changes the amendment makes is exempting these cottage foods' producers from being labeled as milk distributors and listing out foods that are nonexempt. I thank the department for coming up with this amendment that makes it a better bill. The fiscal note attached is at the recommendation of the Department of Ag that would add a full-time employee to facilitate administrative responses to public inquiries about cottage foods. With already over 1,000 registered cottage food producers, the Department of Ag anticipates they will receive an increase in public inquiries regarding these operations. In conclusion, cottage foods offer a unique opportunity for individuals to start their own business and provide customers with locally made, high quality food products. Many individuals have found success in cottage food businesses. Some have been able to turn their cottage food business into a full time job. Following me, you'll be able to hear from just a few of the cottage foods' producers that have found success doing something they love to do. With that, I'd be happy to answer any questions from the committee.

**HALLORAN:** Thank you, Senator Brandt. Are there any questions from the committee? OK. Seeing, yes. Would you introduce yourself, Senator?

**HANSEN:** Senator Ben Hansen, District 16, Washington, Burt, Cuming, and parts of Stanton County. I love this bill, mainly because I prioritized it back in 2019. The last page on the amendment was that

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the original part of the bill? Sorry, I don't have the original bill in front of me, about labeling?

**BRANDT:** About what?

**HANSEN:** About all the labeling requirements?

**BRANDT:** There were labeling requirements in the original bill. They had to put, I believe, their name and address on the food product. There will be some producers coming up that use this, and the Department of Ag, I think, is here to testify. They can probably answer that better than I can. I'll I'll look, look over here and see what I can find out.

**HANSEN:** OK, cool. Thanks.

**BRANDT:** Yep.

**HALLORAN:** Thank you, Senator Hansen. Any other questions from the committee? I see none. Thank you. Are you going to stick around for closing?

**BRANDT:** Yes, yes, we will.

**HALLORAN:** All right. We will begin with proponents for LB321. First proponent. Good morning.

**NICOLE FOX:** Good morning. Chairman Halloran, members of the Ag Committee, Nicole Fox, N-i-c-o-l-e F-o-x, director of government relations at the Platte Institute. And i thank you for the opportunity to discuss the expansion of Nebraska's cottage foods law. LB321 amends the Nebraska Pure Food Act so that our state's cottage food producers may sell products that are time and temperature control. This means that in addition to the shelf-stable baked goods and foods like jams and jellies that are already allowed, foods like cheesecakes, cream filled pastries, nonmeat items such as hummus and pesto sauces wouldn't be allowed. The Platte Institute supports policies that reduce barriers and help Nebraskans to start and grow businesses. In 2019, we supported LB304, which passed and became Nebraska's current cottage foods law. As part of the bill's passage, the Cottage Foods Registry was created. By the end of 2019, 67 individuals from 23 counties had registered with the Department of Agriculture as such food producers. Fast forward to the end of 2022,

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there are now over 1,000 individuals registered as cottage foods producers from over 60, or from 83 of Nebraska's 93 counties. During the 2022 interim, cottage foods producers expressed to us their desire for an expanded cottage foods law. And I appreciate Senator Brandt's willingness to help make this happen. Cottage foods provides a means to earn an income and become an entrepreneur directly from one's own home kitchen. For some individuals in our state, the ability to generate income may be difficult. Rural areas may offer limited job opportunities, particularly for women. Family responsibilities may not allow for work outside of the home and renting commercial kitchen space or having the collateral to qualify for a small business loan for a brick and mortar establishment may be out of reach. Prior to the pandemic 20, a 2019 Pew Research article reported that farmers markets had an increased popularity of the Eat Local movement, which led to a projected \$20 billion in annual sales, compared to \$5 billion in 2008. And again, this is pre-pandemic, and I know cottage foods has exploded since the pandemic. Since the start of 2021, roughly a dozen states have either eased or eliminated restrictions on the sale of food products made in home kitchens. While their rules may vary, changes may reflect the uptick heightened by the COVID pandemic, where many Americans found comfort in their kitchens and a way to help earn an income. Nebraska has three neighboring states, as already mentioned, South Dakota, Iowa and Wyoming, and each allows for the sale of the same foods that are proposed in LB321. All 50 states allow the sale of cottage foods with Wyoming having the most permissive law in the country. There have been no reports of foodborne illness due to the consumption of cottage foods and products in Nebraska, Wyoming or the other 48 states that allow them. It's time to follow the lead of other states and expand our cottage food law in Nebraska. The Platte Institute views LB321 as a win for food entrepreneurs and for providing for greater earned income earning potential. With that, I'm happy to take any questions.

**HALLORAN:** Thank you, Ms. Fox. Are there any questions from the committee? OK. Seeing none, thanks for your testimony. Next proponent for LB321. Please introduce yourself and spell your name for us.

**CINDY HARPER:** Good morning. My name is Cindy Harper, C-i-n-d-y H-a-r-p-e-r, and I am a cottage food producer. I have been baking for many, many years, but I did begin my business when the original cottage fee law was passed three years ago. My main outlet is the

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farmers market here in Lincoln. It was a little slow due to COVID a couple of years, but in the last couple of years it's really expanded. People are back. They're buying a lot of things from the vendors at the market. I, my main product was always decorated sugar cookies. That's what I had wanted to market. But I've expanded now into more of a small bakery, making all sorts of different items. A lot of that is based on what the people who attend the farmers market have told me that they would like to have. One of the biggest things is kolaches. People of Lincoln seemed to be a little kolache deprived. So those have been a great product for me. And in the last four years I've seen my total sales really quadruple. So it's been a great thing for me. Now, I have a full-time job, so this is a side thing for me. Really, my intention is to develop a business where I can have something going into retirement to provide some extra income. I do get requests from customers quite often for things that under the current law I cannot make. And some things are not practical to take to the farmers market anyway, especially when it's 90 degrees outside. But I can take orders, I can, I work deliveries or pick up at a later date when it is safe to produce those items. For me as a cottage food producer, having the cottage law expanded to allow these, these items, things like creams and cream cheeses, pastry creams, things like that, it would be a huge benefit to me to expand my business, to be able to provide the items that my customers want and to be more involved in basically their lives. When I have a customer who comes back to me for item after item, for event after event, you really become almost part of their lives, part of the events, part of the celebrations that the families are having. And it is great just to see how things, you know, that you have the baby shower and then you see the child grow and it's the birthday party and things like that. So you really become part of the family. And then there's the referrals that they can give out to the people who attend their parties and things. So it's a great opportunity to grow the business. I do want to say that one thing that's a little frustrating to me as a cottage food producer under the current, the current law, is that I could take a, I could bake a cheesecake and take it into my work and we could have it for our potluck lunch and everything's fine. But when a coworker asked me to bake a cheesecake for her for an event, I had to say no, because under the current law that was not allowed. And the situations are very similar. I would be making the same cheesecake for both events, practicing the same safety, delivering it cold like it should be. So I don't see that

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that, I mean it really inhibits me, to be honest. It inhibits what I can do and inhibits what's available to my customers. So I really do believe that the time has come. The success of the cottage food product has been successful. We've shown that we can do it safely. The time has come to expand the law to allow us to really provide full access to bakery items to our customers and to be able to meet what they ask for us to do. With that, I thank you for your time, and do you have any questions?

**HALLORAN:** Thank you, Ms. Harper. Who doesn't like sugar cookies and the like? (LAUGHTER) Any questions? Senator Raybould.

**RAYBOULD:** Thank you, Ms. Harper, for coming down. I just have a question. So, with the transportation requirements and, and I guess the merchandizing of the product, how are you going to keep the products of a cheesecake safe and refrigerated at a farmers market?

**CINDY HARPER:** OK, well, I probably would not take it to the farmers market. I would take an order, perhaps at the farmers market to deliver it at a later time. If it's one of our winter farmers markets, when it's 40 degrees outside and we're all freezing anyway, a cooler would work to do that. There is one person at the market who has, they have a trailer and they have a power source and they have a small refrigerator that they bring. And I don't know what they have in it, but I see that they have some things that look like cakes in it. So that's a potential way of doing it, is having something that's portable that could be hooked up to power and kept at the appropriate temperature. But for me, it would be more of I would make it at home and I would keep it in either my refrigerator or I have a, I have a standard freezer that's the size of a refrigerator that can also double as a refrigerator. So if I needed the extra space, I have it in there as well. And that's where I can also keep all of my, my ingredients and my supplies to make it.

**RAYBOULD:** So I have another question. So what about the labeling requirement? How do you customarily package your product and label it?

**CINDY HARPER:** So I have a little DYMO printer that prints out little labels and I put the title of what it is. So one cheesecake, or I may say like one chocolate chip cheesecake or something like that. So it's the quantity and the, the type of ingredient. And then I'm not

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required to list the ingredients, but I do list anything that is a potential allergen. I want to be clear on that. I can't tell people that there's not a possibility of cross-contamination because I don't have a space that's big enough to separate things out. Everything is used for everything. And then I also put, I've got my allergy statement. In the case of the cheesecake, I can also then add on to that, keep refrigerated, and I can make it really big and bold just so that it's there like if you had bought something in the grocery store that would say, keep refrigerated on the label. And then at the bottom there is the disclaimer that we all have to put on our products, which says that this is made in a home kitchen, not subject to inspection by health department. And I also put on there that I do bake with nuts, just to be clear on that particular potential cross-contaminant.

**RAYBOULD:** Terrific. Thank you.

**CINDY HARPER:** You're welcome.

**HALLORAN:** I would assume you probably put a date that it's purchased.

**CINDY HARPER:** You know, I don't. That's not required, but that is a good idea.

**HALLORAN:** It probably should be required.

**CINDY HARPER:** Yeah. Yeah, I think that's a very good idea, especially for something that is perishable, like a cheesecake. Yeah, sure.

**HALLORAN:** And who doesn't like cheesecake, anybody? I'm just, show up your hands. You don't want any?

**BREWER:** No, Senator, I have a question. (LAUGHTER)

**HALLORAN:** OK. All right.

**BREWER:** Thank you, Mr. Chairman. To a degree, this is a self-correcting issue, though, because if you have a bad product and people don't buy it and you don't stay in business.

**CINDY HARPER:** That's correct.



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**BREWER:** And what I'm seeing with these farmers markets is that it's not only a great place for folks to go to buy stuff cheap that comes straight from a garden or from an individual, but they're kind of big social events too. I mean, everybody's there to try a new coffee or whatever it is. So if we do something to help, you know, make life easier for those that are trying to do that, it, it seems like a pretty good path ahead. And you guys make such a tiny impact on the bigger market. I guess I'll be interested to see the opposition to this because it seems logical and I'm anxious to hear why we would not want to do this, but thank you.

**CINDY HARPER:** Thank you.

**HALLORAN:** Thank you, Senator. Any further questions? I should take back in my opening I said there should be no displays at the hearing, but I'm disappointed we don't have some kolaches. (LAUGHTER) OK. Thank you so much.

**CINDY HARPER:** Thank you.

**HALLORAN:** Good morning.

**ERIN ODEM:** Good morning.

**HALLORAN:** Welcome to the Agriculture Committee.

**ERIN ODEM:** I'm Erin Odem, E-r-i-n O-d-e-m. I am with ETC here in Lincoln, a home bakery. I run my bakery full time. It has allowed flexibility with me to be home with my two littles. My young daughter is actually in the crowd with me today, and our son's actually. Since my business has grown so much with this bill in the last three years, I have been able to afford to take my son to daycare part-time right now. Any parent knows daycare is expensive. And so for the first two and a half years of my kids lives, they were at home with me full time and I was able to bring in an income because a lot of stay-at-home moms, it's hard to find an income for us to be able to make a difference. And that's what this cottage food bill has actually done for my family. It's a lot of flexibility. And our daughter is starting preschool. And so hours of preschool don't always line up with a normal 8 to 5, 8 to 4 job. And so her preschool doesn't start until 9:30. So with my business at home, I'm able to take her to preschool, able to pick her up and not have to find

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additional childcare for her and spend extra money that right now with everything being so expensive and inflation, we aren't able to do. I'm, my dad also has celiac disease, so this bill has helped me expand to a market of customers to show them that gluten free items, gluten free items is very hard to come by. My dad has had celiac disease for 16 years. Back 16 years ago, there was not a lot of gluten free items out there. Now there is. So my dad is also lactose intolerant. I'm not able to help customers accommodate with nut allergies, being vegan, gluten free, lactose intolerant. And so being a cottage food producer, I'm able to communicate with that. It's hard to go into a business. My dad, for example, has gotten sick more times out at a restaurant. He's never, actually never gotten sick from me making him something. He's gotten sick quite a few times going out and getting something that was supposed to be gluten free or dairy free. And so I'm able to accommodate that and guarantee to my customers that the items are to their dietary restrictions. I have actually had a couple customers from western Nebraska. I've delivered out to Lexington and Gothenburg because as people have noticed, there is not a lot of the cottage food producers even out in the western side of Nebraska. So thank you for your time. Any questions?

**HALLORAN:** Well, thanks for coming. Thanks for your testimony. Any questions from the committee?

**BREWER:** Maybe a point of correction.

**HALLORAN:** Yes.

**BREWER:** Lexington and Gothenburg, to a lot of us is eastern Nebraska, just saying. (LAUGHTER)

**ERIN ODEM:** Sorry.

**HALLORAN:** Thank you, Senator Brewer, for that correction. Thanks for your testimony. Oh, I'm sorry, Senator Hughes.

**HUGHES:** So this one change adds on the, like cream cheese items and stuff, is that, would you expand your selection to include some of this?

**ERIN ODEM:** Yes. Yes. So that would allow because if you look in the grocery store, I would advise you to go back and look. And especially it'll be in like the health department and looking at what is offered

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as like for gluten free items. All that's going to be frozen. So I would be able to provide fresh items to them that are not prepackaged and frozen for, you don't even know how many months at a time. Granted, I've never taken a frozen cheesecake in one of my cheesecakes together. Maybe that's something I should experiment with and see how like the difference. I can only imagine that it's going to dry it out. Anything that's frozen at a long period of time dries out. And so it only allows us to give them a fresher item. Along with, like cheesecakes, I have customers that are gluten free and have to be nut free, and so I can provide a solution for that. And not very many options are out there for, to provide all those accommodations for the dietary restrictions out there.

**HUGHES:** Thanks. Thanks for coming.

**HALLORAN:** Yes, Senator Raybould.

**RAYBOULD:** So you mentioned going out to Lexington and Gothenburg, so I know that there's a two-hour transport--

**ERIN ODEM:** Correct.

**RAYBOULD:** --limitation. So tell us how you plan on transporting items that need to be refrigerated.

**ERIN ODEM:** So I would have a cooler with dry ice, which would keep it at a adequate temperature, but I would also have a thermometer within a cooler to guarantee that the items were kept at that temperature, at the safe temperature for them. If once I got it to that, to the end spot, if it was not kept at that correct temperature, I would not give it to the customer. So before it's handed off to the customer, I would make sure that it was kept for the full time at that temperature.

**RAYBOULD:** Thank you.

**HALLORAN:** OK, thanks, Senator Raybould. Any further questions from the committee? Seeing none, thanks for coming in.

**ERIN ODEM:** Thank you.

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**HALLORAN:** Appreciate it. Any additional proponents for LB321? Seeing, Senator Hansen. Senator Hansen, good grief. John Hansen, welcome to the Ag Committee.

**JOHN HANSEN:** Mr. Chairman, members of the committee, good morning. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I'm the president of Nebraska Farmers Union. I would say that on this issue, it harkens back to a lot of the discussions that we've had over the years. Reminds me of the discussions that we had relative to the farmers markets. We had fierce opposition for a very long time saying that they would never work. And we still have folks who think they don't, and yet they're wildly successful. And so the argument that we made on the farmers market issue was that if they're not going to work, then you have nothing to worry about. So let's give it a try. And so that, that kind of strange logic worked. We gave them a try. They did work. So we've expanded on them. They have been a tremendous thing for a lot of communities, but also just a lot of small business folks and a lot of folks that are, that are trying to market their agricultural products. So we saw cottage foods as an issue that was very similar to a lot of the benefits of the farmers market by being able to take folks that were already bringing products, expanding the things that they could do, and being able to expand the marketing year in all of those things. So we are an historic supporter of the establishment of cottage foods and and helped with all of the unsuccessful early attempts. Each one, of course, getting us closer to the acceptance of cottage foods. And so we're now here with cottage foods saying that based on what other states are doing, that this would be a reasonable expansion. And so we support the opportunity for small business folks to use their considerable cooking skills and baking skills and all of those things to bring in additional income. So this is, in our view, a nod and an encouragement to, to entrepreneurship and small business and so we support it. Thank you. I'll be glad to answer any questions.

**HALLORAN:** Thank you, Mr. Hansen. And questions from the committee? OK, seeing none, thank you for your testimony.

**JOHN HANSEN:** Thank you very much.

**HALLORAN:** All right. Are there additional proponents for LB321? Going once, going twice. Are there, is there anyone here in opposition to LB321? Good morning. Welcome to the Ag Committee.

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**LAURA McDOUGALL:** Good morning. Good morning, Chairman Halloran and members of the Agriculture Committee. My name is Laura McDougall, L-a-u-r-a M-c-D-o-u-g-a-l-l, and I am the health director at the Four Corners Health Department. I'm here today to testify in opposition to LB321 on behalf of Friends of Public Health in Nebraska. I do want to acknowledge our positive relationship with Senator Brandt and thank him for his support of our health departments and also vow to work with him on this bill to try and find a workable solution. Cases of food poisonings and foodborne illness are routinely reported to local public health departments. Bacteria like salmonella, Staphylococcus or E. coli can actually multiply in foods when the foods are not cooked thoroughly, cooled quickly, refrigerated properly, and if they contain enough moisture. These foods are called time temperature controlled for safety TCS foods. These foods must be specially handled and protected from contamination because they can cause serious illness and outbreaks of disease. In LB321, individuals would be allowed to prepare these TCS foods in their home kitchens for sale to the general public without the benefit of inspection. Without proper cooking, cooling, and cold or hot holding temperatures, these foods can support the rapid growth of harmful bacteria. Just think about using a home kitchen to prepare a large batch of TCS food that must be cooked well, then cooled rapidly and kept cool while at a farmers market or fair while you make a sale. I'm sure you can imagine several scenarios where something could go wrong. It takes clean and sanitary kitchens, adequate refrigerators, freezers, temperature monitoring equipment and food safety knowledge to properly prepare and hold TCS foods. Inspection during food preparation is an essential component to protecting the safety of TCS foods. In my career at Four Corners, I've dealt with multiple foodborne outbreaks. Foods implicated in outbreaks were homemade fruit salsa, homemade cheesecake. Yes, we did have a cheesecake and salads, which would all be allowed for sale under LB321. I, myself, along with a handful of friends, have personally fallen victim to a homemade potato salad that was not properly chilled. We have stories of contaminated food being served at wedding receptions and wedding guests who have been hospitalized while the bride and groom fell ill on their honeymoon. Foodborne illnesses are certainly unpleasant, but sometimes they can be severe, like in the cases of all, involving salmonella or internal hemorrhagic E. coli. Certain strains of E. coli can result in hemolytic uremic syndrome, which is HUS, which can damage red blood cells and lead to kidney failure. Children are

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especially susceptible to E. coli. If food is not prepared or held at appropriate temperatures and is for sale to consumers, public health could be compromised putting Nebraskans at risk for severe foodborne illness. We are aware that amendments are being worked on for LB321 and we would like to be included as a stakeholder and work on any future amendments that are drafted. Thank you for your time today. I'd be happy to answer any questions.

**HALLORAN:** OK, thank you for your testimony. Any questions from the committee? Senator Hughes.

**HUGHES:** Thanks for coming. So with the amendment that he brought in, what in addition to that, what other changes do you think need to be made to make it that it would be safe for?

**LAURA McDOUGALL:** Right. So you heard some previous testimony where they had very good plans for keeping things cool and the equipment that's needed. You know, some of the equipment that's needed to really prepare food safely and hold it safely are things like PH meters and the equipment that needs to be calibrated. The inspections are really crucial in making sure that a home kitchen is sanitary and clean. Also, you know, looking at appropriate training for the food, those who are preparing the food at home is really important. So those would be some things that we would really have in mind. But the main, main thing is that we are, we're really concerned just about safety when it, we want these products to be safe. We want to, we want to support entrepreneurs in doing that.

**HALLORAN:** Yes, Senator Raybould.

**RAYBOULD:** Thank you for coming to testify. Can you tell us a little bit about the certification process and licensing that the cottage industry has to go through? And, and the, how often are the inspections of the kitchens where production is taking place?

**LAURA McDOUGALL:** I would have to defer to someone else on that. I am personally, our health department does not do any food inspections. It's the Department of Agriculture in our area, but I can try to find out and get back to you.

**RAYBOULD:** Thank you.

**HALLORAN:** Senator Brewer.

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**BREWER:** Thank you, Mr. Chairman. All right, understand we don't live in a perfect world. So what you're talking about here, I mean my comments earlier about it's a self-correcting issue. If you're willing to sacrifice your name, your business, your reputation, all that to make a product that's going to make people sick, it's going to self-correct pretty fast. Now, I understand the idea is that no one ever gets sick because everything is perfect and you're never going to go and even restaurants and I'm not a great example because I got a garbage gut, I can eat anything but there's a lot of folks that you see that, that have challenges with the restaurants. My concern is that we're going to try and find this perfect world and, and it be a farmers market. You know, there are things naturally about a farmers market that I don't know how you can inspect it and not have a, you know, a battalion of inspectors out there touching everything that everyone is going to have at that market. And there's a point that there's so much government involvement in this and so much cost that you can't have a product to sell to the people. So I understand what you're saying with this, but where do we draw the line? How do we, how do we have a product and yet have the government inspect it all?

**LAURA McDOUGALL:** Again, I, you know, I, I would just emphasize that safety is really key. And what we're concerned about are those who perhaps, there are always good and bad examples of, of what can happen. And what tends to run across our radar are those examples where food safety has not been observed. And when, when we have children who have kids are in the hospital with kidney failure, it becomes a really, you see the impact on families. And that's where we and when we have hospitalized people. And, and I think that is where, you know, where we want to try to catch those things if possible.

**BREWER:** OK. How do we do that without hiring this battalion of inspectors?

**LAURA McDOUGALL:** I, I would have to, I don't, I do not have the answer to that.

**BREWER:** All right. Thank you.

**IBACH:** Question.

**HALLORAN:** Senator Ibach.

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**IBACH:** This might be, thank you for testifying by the way. This might be a question for the department. But are there any rules or laws out there? I shouldn't say laws, rules that define a disclaimer for cottage foods. So if I'm going to the farmers market, is there any, does the farmers market supply a disclaimer, or do any of the individual vendors provide a disclaimer?

**LAURA McDOUGALL:** I would have to defer again to the rules of the department on that.

**IBACH:** OK.

**LAURA McDOUGALL:** I'll, I'd have to get back to you.

**IBACH:** Thank you.

**HALLORAN:** Senator Riepe.

**RIEPE:** Thank you very much. Thank you for being here. My question is to availability of inspectors so that, and also then the frequency of those inspections. I mean, if they're once a year, there is a lot of occurrences that can happen, I mean, so.

**LAURA McDOUGALL:** So.

**RIEPE:** You can have an inspection one day and a problem the next, so inspections are somewhat faulty as well.

**LAURA McDOUGALL:** One of the things that inspectors are very good at is education. And when they're able to inspect a restaurant or a, a preparation area, they can also work with the preparers to educate them, point out troubles or problems that might be within the environment. And so that's also a very important part of this process is just education. In our area, the Department of Agriculture does all of the inspections for restaurants and, and institutional hospitals, nursing homes, schools.

**RIEPE:** So what if this was in a rural remote, five miles out of town?

**LAURA McDOUGALL:** Yeah, there would, there would need to be additional inspector capacity.

**HALLORAN:** Senator Hansen. Are you finished?



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**RIEPE:** Yes, I am. Thank you.

**HALLORAN:** Senator Hansen.

**HANSEN:** Thank you, Chairman.

**HALLORAN:** The real Senator Hansen.

**HANSEN:** Yes, thanks, it's me. I appreciate you coming here. I understand you're doing your job too. You sound exactly like the same arguments that we heard three years ago, especially the wedding, the wedding reception, cheesecake or something like that somebody, we're worried about the wedding receptions and everyone getting E. coli. The biggest thing I remember hearing three years ago was, it might have been from public health again, their biggest concern was somebody having a whole bunch of raw meat on the counter and then not cleaning it and then serving the meal, making cookies right over the raw meat. You know, I mean, some of the most, you know, you know, I think kind of insane ideas about how people actually cook foods at home. And so to my knowledge, I don't think we've seen any issues so far since 2019. At least, I don't think that we've heard any reports of the people who incorporate the cottage food bill and grown their business. You know, you'd think we'd see at least some kind of increase in the amount of, you know, concern of public health, you know, public health concerns since then. So far, haven't seen it. One of the things I wanted to ask you was, in your opinion, maybe as a public health professional, the people who are doing this businesses out of their homes, do you think they don't know what they're doing?

**LAURA McDOUGALL:** Well, so to begin to answer this in a couple of different ways. First of all, the existing cottage food law is, is with foods that have a much lower chance of, of being able to support the growth of pathogenic bacteria. With water activity, the amount of water in food is really key in how bacteria can grow in foods. And so right now, you know, the foods that are supported in the cottage food bill, they're prepared in a way that really does not support the growth of bacteria. So you can, you can take them to a farmers market. They can be in a warm place. And it's not going, they're not going to support the growth of bacteria. When you start talking about these temperature sensitive foods that need to stay cooled, bacteria, can, they, they multiply exponentially and it doesn't take very long for you to have a real serious problem. And, you know, we, we have

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actually had a group of people get sick from a cheesecake in my district and were very, very sick. So I do believe people want to do the right thing. And we also want to support our entrepreneurs. The key is to find ways, though, to make that just happen in a safer manner.

**HANSEN:** OK. I'll ask my question differently because I don't think you quite answered it. Do you feel that people who are having these businesses at home, do you think they're competent enough to cook these types of foods out of their homes in a responsible manner? Do you personally feel like they would be responsible and, and be able to follow temperature controls, PH balances? Even some of the stuff that we heard before, testimony very similar to yours, we've incorporated into the bill last time, which had to do with making sure that you use certain kinds of water which is regulated for bacteria and nitrates. And one of the concerns you had was their ability to educational purposes. In the bill, there's something very specific about prior to conducting food sales, they have to successfully complete in a nationally accredited food safety and handling education course that covers topics such as the ones you brought up. So technically, they are regulated to make sure that they do take some of these educational courses to make sure that they're doing the right things. So I think some of the concerns that you had before seemed like we've adopted in the bill previously, which were valid concerns. I'm not saying they're not. And so we're moving into a different realm now as I see some of the other kind of concerns. And so I have faith that they're going to follow through when they have the educational, you know, knowledge and the intent to make sure that obviously like Senator Brewer said, if they don't do good, they're going to go out of business pretty darn quick, right? And I don't know, I haven't heard of too many instances. You mentioned one example of a cheesecake causing illness. I haven't heard of too many of them over the course of I don't how many years. So do you think in your opinion they would be, have use the knowledge and the skills and the responsibility to follow through with making sure that the food is safe?

**LAURA McDOUGALL:** You know, I do believe that people are competent in that we can, especially with appropriate training. And also, you know, that inspection is part of, of a training. It's an educational, people don't always know, maybe wouldn't recognize of a hazard in their own home and it can be pointed out by an inspector as well.

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But, you know, I do acknowledge that people are with training, it would be a much safer environment to provide food and prepare food.

**HANSEN:** More than the nationally accredited food safety handling courses they already have to take?

**LAURA McDOUGALL:** So I, there would be additional training is my understanding that wouldn't, a new, an additional training would have to be prepared to make sure that they're, they're being trained on those time sensitive foods. It would be similar to what, you know, restaurants would, would have to follow. It would be additional training more than what is presently required for cottage foods.

**HANSEN:** OK.

**LAURA McDOUGALL:** As they are right now.

**HANSEN:** I appreciate you answering questions. I appreciate it. Thank you.

**LAURA McDOUGALL:** Yes.

**HALLORAN:** Thank you, Senator Hansen. Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right, let's go back to, we'll take your cheesecake as an example. What's to say that I buy this cheesecake that has been well made, well prepped, and everything else and I leave it sitting out too long and then I eat it. I'm going to end up in the hospital. I'm going to say it was a cheesecake. I mean, how, how do we not know that these issues are generated by the individual buying the product rather than the individual who made it or the company that made it?

**LAURA McDOUGALL:** That, that can certainly happen. And that, you know, our goal is to get it to the consumer in a safe manner. And what happens after that is really not, it's out of our control. But we do want that cheesecake to get to the consumer in a safe manner. And we would also really want that cheesecake to not already contain bacteria that would grow and and make them sick. That it would be, we wouldn't want it to even have a low level of (INAUDIBLE) as it arrives to the consumer. If it's prepared properly, it shouldn't have those things.

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**BREWER:** The thing that we keep cycling back, though, is in order to give that guarantee for this program (INAUDIBLE), how on earth would we ever have enough inspectors, instructors, how we want to put that, that could do that and not crush the ability to have farmers markets and these small town entrepreneurial opportunities?

**LAURA McDOUGALL:** This is, this is, it definitely would be a lift to, if these kinds of foods were made available at farmers markets, if we would inspect all the ones.

**BREWER:** Thank you.

**HALLORAN:** Thank you, Senator Brewer. Any further questions? I have a couple of questions, and I need to give a caveat. And I would, you know, our goal here is not to grill you, so I hope you don't go away. Think you're well-done grilled.

**LAURA McDOUGALL:** That's all right.

**HALLORAN:** But they've--

**LAURA McDOUGALL:** I've been grilled before. (LAUGHTER)

**HALLORAN:** But I think they've been good questions. They've been good questions. You're educating us and that's what we need to have, so. But I need to give a caveat. I'm in the restaurant business. I have investment restaurants and I'm not going to name the restaurant, but part of my secondary role is, I do corporate visits, right? My corporate visits mostly is dealing with, you know, time and temperature issues, food safety. And, I get to look at the department's health inspection review and I do my own, right. And so I'm kind of familiar with this whole process of time and temperature sensitive foods. And this is not a trick question, but maybe it is. Can you, can you, can you tell me how long it takes before food poisoning kicks in typically, after eating something that's.

**LAURA McDOUGALL:** So after you, after you ingest it, it depends on the type of bacteria that is in a food. There are some foods if, if staphylococcus is the agent, it actually produces toxin in the food and you become, you can become ill an hour later from the toxin in the food with violent vomiting and gastrointestinal illness. On the other hand, if you're talking about salmonella, you could ingest something, 12 hours later become sick or even, even a day or two

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later, you can still become sick. So there's always an incubation period following ingesting food. And it also depends on how many bacteria, what the level is in the food.

**HALLORAN:** And I think that's important to note, because I know we have, hate to admit this, but we'll have people that will dine in our restaurant and then a half an hour later call up and say they are dying from food poisoning because they ate at our restaurant. Where to, you know, Senator Brewer's point, it could have been that tuna fish sandwich that they ate two and a half days ago that's finally kicking in.

**LAURA McDOUGALL:** Absolutely.

**HALLORAN:** So it is really hard to connect those, connect those dots of cause and effect between what was eaten and what caused the symptoms that someone's experiencing. So it's a tough issue and I don't, a lot of it is, I mean, one of the, one of the oldest axioms in the law is caveat emptor. Right? Let the buyer beware. You know, part of it is educating the public in general about, I mean, for example, when I go to picnics, I don't eat homemade potato salad. I just don't do it. I don't care who made it.

**LAURA McDOUGALL:** Some bad experience, yeah.

**HALLORAN:** Well, but you know, and part of that is in, and you see it also, I guess I'm pontificating here, but you also see it in the meat industry. Hamburger specifically, or meat in general, where people will say, well, hamburger, you know, you can cook it medium rare, you can have it rare. I'm sorry. No, you know, those pathogens are blended into the meat potentially, you know. As opposed to a steak, you can cook it to temperature on both sides and those pathogens are going to die. You know, it's safe. So, I mean, part of it is education of the public, you know. I'm not burdening you with that job. But, but, but the public has to be aware of what they're doing when it comes to cooking in medium. That was pontificating. I apologize for that. But, but I hate to put all the burden and blame on a cheesecake that's eaten at a wedding reception on necessarily who, who made it, but maybe on who handled it later and mishandled it time of temperature wise, but, I'm sorry. I apologize for that. Do you have any comments, further comments on it?

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**LAURA McDOUGALL:** I don't really. I, it, we do know that we, that food poisonings are underreported. And a lot of times it is because there is, you know, people, it maybe isn't as severe as, the illness isn't is, is unpleasant but it's not putting you in the hospital So, and when your neighbors are cooking food and, or your friends and, you know, there's also a hesitancy to get your neighbor in trouble or your friend in trouble. So, you know, we just, we're just really, again, I go back to our main objective here is we just want the food to be safe for people. So thank you. Thank you for your time.

**HALLORAN:** Appreciate it. Appreciate your time. No further questions, thanks for your testimony. Is there additional opposition to LB321? Again, it's helpful if you're going to testify to move up to the front row so that we are aware that you're going to testify. Good morning.

**ZOE OLSON:** Good morning, Senator Halloran and members of the committee. My name is Zoe, Z-o-e, Olson, O-l-s-o-n, and I'm executive director of the Nebraska Hospitality Association. We used to be known as the Nebraska Restaurant Association until January of last year, when the hoteliers and lodging joined with us. We are, I am testifying in opposition to the bill. I appreciate Senator Brandt's work on the bill. Our main object, our main opposition, is the lack of regulation and inspection. Restaurants are regulated, they are inspected, and we believe food safety is the number one thing we do. And we would like to see that continued in this bill and if we can work on that with Senator Brandt, then that would be where we would come down on it. Senator Hansen, I know you talked about, you know, you can get stuff anywhere, you can get sick anywhere. During COVID, I made a lot of my friends angry because I said, I have friends that I will not go eat at their houses because I, I just won't eat food at their house. And they said, well, how do we know we're that person? And I'm like, invite me. I may not come, but I know what we do in the industry. And the inspections part of it, I think will be addressed in the next bill. But you're right, we need more inspectors. Senator Brewer, absolutely do. But it's not a member, it's not a matter of going to a restaurant and inspecting every item that goes out. There's a general list of things that they follow. Same with with grocery stores. There are dates of expiration. When you use something and you put it back or if you were buying a cheesecake at a grocery store, there would be, use by date, or a sell by date on that. And that's how you know that that's at least reasonably safe. So we just,

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we would like the playing field leveled a little bit. We're, in our business, everybody's been an entrepreneur. Everybody started their own business in one way or another. And we don't think it's fair to regulate one part of the food industry and not another. Thank you.

**HALLORAN:** Thank you. Any questions from the committee? Senator Brewer.

**BREWER:** All right. Just for clarification, I'm not a fan of inspectors. I understand they've got a role, but I come from a different perspective on everything, because keep in mind, I'll give you an example. This summer in Ukraine, we killed a wild hog, ground it up in a bunker, added raw egg and onion and ate it raw. So I come from a--

**ZOE OLSON:** Good for you.

**BREWER:** --whole different place when it comes to standards of eating. But with that said, my concern is that we make it so difficult that no one wants to start a small business. So thread the needle so that we, were able to give opportunity to folks because a lot of times it really is someone working out of their kitchen and being able to take it down to that local market and have that product available and all of a sudden it's a hit and people love it and then they, they start expanding and, you know, somebody loses their garage because that becomes the new place where they expand and work on it. So I understand there has to be some inspection at some point. My issue is, I want it at the smallest level possible so that we don't, for one, have bigger government because we have all this inspection, and two, that we make it so that nobody wants to start a business because it's just so difficult that it's not realistic.

**ZOE OLSON:** OK, and I appreciate that. I will tell you that our number one concern in our industry is food safety. We believe that food safety is national security, in honesty. If your food supply goes and not everybody could eat the wild boar with the eggs mixed up in it and eat it raw.

**BREWER:** Is too bad, but OK.

**ZOE OLSON:** That, that'd be me. I mean, I like my steak raw, but.

**BREWER:** It's called pork taco.

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**ZOE OLSON:** Yeah, but, you know, we'll just, you know.

**BREWER:** I'm with you.

**ZOE OLSON:** Yeah, but, but food safety is our number one thing. And I think people might be surprised for all the committees on food safety that I see, that I sit on, that I'd be the one proposing the stricter inspection because we just don't want people to get ill.

**HALLORAN:** Yes, Senator Hughes.

**HUGHES:** I don't know that this is a question for you to answer, but it, like when I listen to this, I think a restaurant gets inspected and they come there. Is it twice a year, whatever the rules are? I know it can be a surprise and all that.

**ZOE OLSON:** They are surprised.

**HUGHES:** They should be surprised.

**ZOE OLSON:** They are surprised, yes.

**HUGHES:** But it's also probably, I would imagine it's that way because a restaurant potentially is serving thousands of people over, because they're there every day potentially.

**ZOE OLSON:** Absolutely.

**HUGHES:** Where we're talking, the gal that came and spoke, she works full time. She goes to the farmers market once a week for a couple of months or or maybe I do stuff out of my home and I, I have, you know, 20 customers every so often. It's also a little bit of mass, right? You got to protect the masses like a grocery store where people are coming in all the time. So I don't know. And again, I don't know what the procedure is. Is there a line of when you've got so much business, that's when you start getting inspected, or.

**ZOE OLSON:** Food trucks are inspected.

**HUGHES:** Food trucks are inspected.

**ZOE OLSON:** Food trucks are inspected and should be, and.

**HUGHES:** Right.



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**ZOE OLSON:** Yeah. So food trucks don't do thousands and thousands of people a day. They're inspected.

**HUGHES:** Yeah.

**ZOE OLSON:** It's, it really is a matter of food safety. I hope I can do this without being too gross. Probably not.

**HUGHES:** Yeah, bring it on.

**ZOE OLSON:** So I know of a health department in the state that got a complaint about food poisoning at a wedding. A lot of people came away with E. coli and they did their whole breakdown of everything. The E. coli was determined that it came from a little boy who had been, had diarrhea, and his mother decided to wash his clothes in the sink in the bathroom and cleaned everything up there. It wasn't the food that made the people sick. It was that. So when there is a big outbreak, your health department will come in and figure that out. What happened? How did it happen? They can trace it back. I have, I have a lot of faith in our health department and I, again, I do have a dear friend who is in the cottage food business and I will buy it from her. But she has a separate kitchen that she made and I've seen her and she does follow everything. Do I believe everybody is competent? No. Do I believe everybody in the restaurant industry is competent? No. But we work really hard to make sure that those who are not competent aren't in business. So I guess that's where I would end.

**HALLORAN:** OK. Any further questions? Senator Hansen.

**HANSEN:** Thank you. I think what Senator Holleran was saying before about sometimes you don't know for sure exactly where stuff comes from is spot on, right?

**ZOE OLSON:** Absolutely.

**HANSEN:** I know one of the best tools you use in public health, like you do with COVID is contact tracing, right? Kind of--

**ZOE OLSON:** Exactly.

**HANSEN:** --find out where things comes from. That's typically the best kind of way to find out where those kind of things come from. So

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sometimes overregulate the people who are doing it isn't necessarily the answer. It's more kind of finding out where it comes from, so long as it's proper labeling where you, so you know where it comes from. And I think on the bill, they've addressed that as well with the labeling about who's, who's making the food, where it's coming from. So in case there ever is a foodborne illness, you can contact trace first, things come back to you. Instead of overregulating on the front end, right, because sometimes you don't know where a lot of things come from. Another thing is I agree with you when it comes to standards, right? I just think it should be the other way around. I think actually restaurants should be less regulated as opposed to the other end being more regulated because restaurants even with the overregulation, in my opinion, but the adequate types of regulation, inspection, people still get sick in restaurants, right?

**ZOE OLSON:** Tell me when.

**HANSEN:** Tell me when. Tell you when?

**ZOE OLSON:** Yeah. Give me an example.

**HANSEN:** Well, I can't right off the top of my head, but I've heard painful instances of, you know, over the course of time where people have got sick at restaurants, right? From foodborne illnesses such as E.coli or, you know, right? Or nobody ever gets sick in a restaurant.

**ZOE OLSON:** I'm not saying nobody ever gets sick. But when you're asking, you're asking for, for specific instances from others, give me a specific instance.

**HALLORAN:** We don't question the senators, but.

**HANSEN:** Either way, you mean it's, it's the overarching kind of point I'm trying to make, is that even though we have a lot of regulation on restaurants, people still get sick.

**ZOE OLSON:** Right.

**HANSEN:** And so I think we, I think with the bill and the amendment especially, that they've addressed, I think a lot of the concerns that the people up here so far are coming up with. They've had proper education. They are making sure that their water is adequate. Is this more of the idea of, are they going to be responsible? And, and I

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could ask the same, in the same way, I don't think, and you were right, too, restaurants sometimes are responsible.

**ZOE OLSON:** Absolutely.

**HANSEN:** People making cottage foods are not responsible sometimes.

**ZOE OLSON:** Absolutely.

**HANSEN:** But then how do you regulate that, right? I mean, do you put too much burdens on the people who try to think that you're regulating it? Or do you just have to trust the individual and see what happens with contact tracing? If something happens, then, okay, we've got a problem here and we should pump the brakes. So far, I haven't seen.

**ZOE OLSON:** Yeah.

**HANSEN:** Right. And so I think the bill adequately addresses a lot of the concerns so far that I've heard.

**ZOE OLSON:** The other concern we have in this is with the explosion of said, of social media. When you start having people talking about, well, I got sick, I got sick, I got sick. In the food industry, it becomes cumulative and there's a blaming. And if people start feeling they're not safe when they go, wherever they get their food, that becomes a cumulative, cumulative effect for our industry as a whole. And that's a concern for us.

**HANSEN:** Sure.

**ZOE OLSON:** So we, we, and the other part to the part that the public health person said that when you get that annual inspection every six months, whatever, there is that educational factor, there is that chance to say, is there a problem, Let's address it now rather than, oh, if we had a bunch of people got sick and they got really sick, I guess we better do something. I would rather see, I know that there are a lot of states around us that are doing their own thing and we want to follow them. I'd rather see Nebraska be a leader and say, we have an inspection of our cottage food industry rather than following the crowd. I'd like to see Nebraska be that leader.

**HANSEN:** Sure. Makes sense. Thank you.

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**HALLORAN:** OK, thank you, Senator Hansen. An further questions? Seeing none, thanks for your testimony.

**ZOE OLSON:** Thank you so much.

**HALLORAN:** Good morning. Welcome to the Agriculture Committee.

**ANSLEY FELLERS:** Good morning. Thank you.

**HALLORAN:** Another drill.

**ANSLEY FELLERS:** Yes, I do know the drill. Seeing some of you not that long. Thank you, Chairman Halloran and members of the committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s, and I'm here on behalf of the Nebraska Grocery Industry Association, testifying in opposition to LB321. Quick note for everyone. It's my understanding that farmers markets are inspected. I would like the record to reflect what we think, cottage food issues are very tricky. We thank Senator Brandt for bringing this bill and working with the Department of Ag to improve some of the language. Obviously, the businesses and individuals I represent here today have no interest in standing in the way of folks trying to grow their business. We do believe, though, that any sort of regulatory reduction should first consider food safety and at some level business parity. Our members aren't just large grocers, small meat processors. Other food sellers have, in fact, gone through the regulatory process we're talking about today. It's my understanding the grocery industry came around a couple of years ago when the cottage food law was implemented. Senator Hansen's cottage food law. To be clear, that bill that passed and the existing law regulates what is traditionally defined as cottage food. I didn't bring a handout here, but I'll send an email to the committee and I welcome you to just Google it very quickly. Most states do what Nebraska currently does, allowing things like bakery products, jams, jellies, coffee and other dry goods, candy, fruit butter, fruit butter, something, things like that, to be sold as cottage foods. The products we're talking about here, which are like dairy and leafy greens, are often the cause of foodborne illness. They're often pinpointed. I think it's important to remember you might not have heard about people getting sick from these products because they're very highly regulated. Foodborne illness might be to some extent self-correcting, but the industry impacted suffers In the meantime. Even if there isn't an actual outbreak, even

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a rumor that someone's at risk from a certain type of product will send consumers running. The beef industry knows this. Sometimes we take the food safety we enjoy for granted. Additionally, because communities vary in population as well as the number and size of food service establishments, the federal and state governments have found it necessary to set basic standards for food safety, but reserved the rights of local governments to adopt stricter standards. The Nebraska Food Code, adapted from the FDA Food Code, provides the foundation from which local communities develop and enforce regulations to ensure a high standard of food safety and minimize opportunities for outbreaks. When outbreaks do occur, the system also allows regulatory agencies to localize the effects through early detection and location of the source. So we don't like the idea of preempting local governments, doing some of their, some of the things necessary for the size of their communities. We echo other sentiments and welcome continued discussions with Senator Brandt and the proponents of this bill. As it stands, we ask the committee to hold it until the public health stakeholders are on board. Thank you. I'd be happy to answer any questions.

**HALLORAN:** OK. Any questions from the committee? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. Ansley, Ansley, Ansley, what are we doing to do with you?

**ANSLEY FELLERS:** Isn't the way I want.

**BREWER:** All right. So what you're saying is local control in this case probably isn't going to be the solution.

**ANSLEY FELLERS:** I think preempting local control is a bad idea, and that's what this bill does.

**BREWER:** OK, I'm glad you define that. Now, if you remember back in your younger days when you might have worked for a different firm, we had a meat locker bill that came before the Legislature. It was from a number of, of meat locker operators, and their problem was that inspections were not available to them or inspectors to inspect, and as a result of that, they could only kill once every two weeks. Well, because of, of that, they were essentially going out of business because they could not cycle enough carcasses through to process to have a viable business. And we looked at options in order to have

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more inspectors and it, it came with a pretty hefty price tag. And then we tried to look at other options. And one of those was to say, have veterinarians function as an inspector. We weren't able to fix that. Sorry. And so essentially, the bill died. It never went anywhere. I still think there's a need. So how do you get enough inspectors to do what you need to have done and still meet the requirements? Have you got any thoughts on that?

**ANSLEY FELLERS:** Yeah, actually. So my, you know, this will come up on the next bill and we're a little bit, we're in a very neutral capacity on that for a number of reasons. And I'll explain that on the next bill and maybe a little bit different than restaurants in the Health Department, because I do think that getting more inspectors, making them available is a really important issue. I know maybe the department will mention this, that at one point in central Nebraska, there was a food inspector position open for like 36 months or more than two years, I think. There, it's really, I think that we don't necessarily, in those instances want to make the requirements too lax. We obviously want people that are responsible that take the job seriously. But I think there are ways that we could make finding and hiring the people that could do these jobs really well easier. And I think to your point, veterinarians, people that are familiar with carcasses, I think, you know, yeah, at the time the meat and I don't need to talk about meat inspection, but the, your question about inspectors is really relevant to this discussion and I think there's more work to be done.

**BREWER:** Thank you. That was a well-thought-through answer.

**ANSLEY FELLERS:** Thank you.

**HALLORAN:** Thank you, Senator Brewer. Further questions? OK, thank you very much.

**ANSLEY FELLERS:** Thank you.

**HALLORAN:** Is there additional opposition to LB321? Final call. Opposition to LB321? Seeing none, is there anyone in the neutral on LB321? Good morning.

**BILL HAWKINS:** Good morning, Senator Halloran, members of the Agriculture Committee. My name is Bill Hawkins, B-i-l-l

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H-a-w-k-i-n-s. Originally I wasn't going to testify on this bill, but in hearing both sides, I felt a need to give you my experience with food safety and farmers markets. I've been a farmers marketer my whole life, an entrepreneur. I've done food safety classes. I live outside, so I can greatly relate with Senator Brewer on being able to eat anything laying around. But my instances of food poisoning have been from restaurants, 12-hour incubation and I'm sick. Because I'm single, I go to restaurants a lot. Fast food deals. The turnover in our fast food industry now is every other day, so I don't see how any of them gets food training safety. To Senator Hansen's questions on the uneducated, noncaring entrepreneurs who want to produce a well-developed product for their people. This young lady who testified when I came in, she wants to make sure this food is as safe as possible. These are her customers. These are her friends, people who are expanding her business. It's not the same as a, and not to bash the restaurant industry, but uncaring people who are there for a job. These are people who are, have a dream and they are building this dream. And here we have a bureaucracy that is attacking them who don't think they are educated enough, are trained enough, yet they have to go through national food accreditation. So I just see this opposition, as you know, I appreciate it. Food safety is very important, but I feel that this cottage industry knows food safety almost more than anybody. And to Senator Brewer's part, we need local food processing. We need to be able to food, feed.

**HALLORAN:** Sir, I'm having difficulty seeing the neutrality of your testimony.

**BILL HAWKINS:** I certainly understand that and neutrality is a very fine line. And so the bill itself, I'm neutral in. And so that, I guess, would be the neutrality. And that is always a fine line is neutrality. But it's also a public comment, period. And so with this bill, I greatly appreciate the health department coming in and wanting to have us have food safety. I feel that the kitchens are inspected, the people are trained and so I guess that is my neutral position in that. You know, I appreciate both sides. And so as long as I guess I have a green light, then I can continue to make comment on, you know, we need to promote entrepreneurship and local food in the state of Nebraska. And so I guess I would appreciate the senators to really look at this bill, make amendments that will work with everybody. And I guess I can't encourage you to move the bill along because I'm in a neutral position. But I would appreciate you looking

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at this situation and bringing both sides together. That's a neutral statement. So I thank you for your time and would be happy to take any questions.

**HALLORAN:** OK. Thanks for your neutral testimony and any questions? Senator Brewer.

**BREWER:** All right, Bill.

**BILL HAWKINS:** Yes, Senator.

**BREWER:** First of all, thanks for coming in.

**BILL HAWKINS:** Certainly.

**BREWER:** As you can see, we have plenty of testifiers who are paid to come and testify. The idea of the second house is bringing in folks that actually live it and understand it and want to share information and no one's paying them to do it, it's just from the heart. So that's what you're doing. Thank you for that.

**BILL HAWKINS:** I appreciate that very much, Senator.

**BREWER:** I think sometimes we don't give out enough Darwin Awards because people will be idiots and work hard at really, really hard. I mean, if you get sushi from a gas station, you probably need to be sick, because somethings wrong with you--

**BILL HAWKINS:** Sure, you bet.

**BREWER:** --if you're not bright enough to figure that out. Well, unfortunately, in our world we've, we blame someone when, when things don't go perfect. And this is kind of circling back to the whole issue here, that if we were to figure out a way to inspect at a level where everyone has peace of mind and we're living in this perfect world, government would be so big we couldn't afford to to do the things that we should be able to live a good life with. And so, you know, we're going to have to sort that out with the bill and what that verbiage looks like. But, I just, I wanted to, I guess share with you that the fact that you're willing to come in and testify and that you just do it from a common person attitude is refreshing. So thank you.



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**BILL HAWKINS:** Well, I appreciate that. And I do take the second house as a citizen very seriously. And I have been on the ground living this stuff for a long time, so.

**HALLORAN:** All right. Thank you, sir. Appreciate your testimony. Thank you.

**BILL HAWKINS:** Thank you, Senators.

**HALLORAN:** Is there additional neutral on LB321? Welcome, soon to be confirmed, Director of the Agriculture.

**SHERRY VINTON:** Good morning, Senator Halloran and members of the committee. And yes, my name is Sherry Vinton, S-h-e-r-r-y V-i-n-t-o-n, and hopefully I will be soon confirmed Director of Nebraska Department of Agriculture. LB321 amends the Nebraska Pure Food Act to augment the types of food which may be sold under the cottage food provisions. Well, and I am here to testify in a neutral capacity. I didn't say that. While we are firmly committed to food safety, we also understand the benefit of encouraging home-based businesses which can help local economies. The bill, as amended, clarifies that the cottage food exemption only applies to food that is prepared in a private home. The bill also clarifies that some hazardous foods the public may believe can be sold without a permit, such as sprouts, infused oils and honey, fermented, infused oils and honey, fermented products in some canned foods do, in fact, need a permit to be sold. The department already spends a significant amount of time answering questions regarding which food may be sold, under what circumstances the food may be sold without obtaining a food establishment permit. The department has never received any funding for implementing the cottage food provisions, and there are already over a thousand registered cottage food operations in the state. Broadening the types of foods sold will increase the questions and complaints received by the department. With the changes in LB321, the department would need to hire a program specialist to effectively administer the program and provide timely responses to public inquiries and complaints. The position would also manage existing administrative duties related to all the cottage food registrations and requirements. With that, I'd like to thank Senator Brandt for his willingness to work with us, and I'd be happy to answer any questions you might have.

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**HALLORAN:** Well, thank you so much for your testimony this morning. Any questions? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. Well, first off, thank you for being here and thanks for coming in a neutral position. When I brought the small town meat locker bill. the Secretary of Agriculture came in opposition to it. And, and I struggled with it because I was saying, listen, I want to help figure out a way to keep it viable for small towns to have meat lockers. And my plan may not be the best plan, but I need help to figure out what right looks like. And he wouldn't help me and then put such a huge A bill on it that it was unrealistic, and then came and spoke in opposition to it. And I. I just thought, I'm trying to help. I want to find a solution here. You, on the other hand, are saying, hey, we're going to, we're going to figure out how to do this and we'll figure out what right looks like and I'm going to come in here in neutral. So thank you for trying to be that person to help us find a solution and I think the Governor made a great choice.

**SHERRY VINTON:** Thank you, Senator Brewer. I didn't hear a question. (LAUGHTER)

**HALLORAN:** Any further questions?

**BREWER:** No, that's my question.

**HALLORAN:** That was your question? Senator Hughes.

**HUGHES:** Good morning. As far as your staffing for agents that go out and do inspection, are you guys fully staffed now? I think there was mentioned that a central area was unstaffed for months and months or maybe, do you have that information?

**SHERRY VINTON:** I do believe I have an answer for you. And if it's not correct, I hope someone will correct me. But currently, right now, the cottage food industry isn't inspected. But the inspectors, they were referring to are food sanitariums and that's a different program. And we have had issues with staffing there, and we'll be speaking to that on the next bill.

**HUGHES:** Am I, I guess my point to that is if we would add this to it, oh my gosh, the amount needed.

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**SHERRY VINTON:** Currently right now, when I spoke to the focus area administrator on this, this has been absorbed. As you've heard, in the last three years this program has exploded and there are currently a thousand registered cottage food industries. But we have absorbed, the department has absorbed the increased workflow and questioning due to that. But they say it takes about a half time, half of one person's time to do this but we've managed. We would anticipate increased usage if this were to pass. And so we are to the point now after the last three years with a thousand people in the program are ready to properly administer it, it would require a full-time position at this point if you're going to add more workload. And that's why we put one FTE in.

**HUGHES:** Thank you.

**HALLORAN:** Thank you, Senator Hughes. Any further questions from the committee? Senator Raybould.

**RAYBOULD:** Yes, thank you, Director Vinton. We're glad you're here. And I guess I would like to to get a little bit of clarification on the inspections required of the cottage industry. So I heard you say that they're not required to be inspected by anyone at all.

**SHERRY VINTON:** As far as I'm aware, their kitchens are not inspected. So, no, their kitchens aren't inspected. That's, it's-- hence the cottage food industry. They are required to take a food safety class. That is part of the original bill. That requirement would still remain. We have no dedicated staff at NDA to oversee this project currently. Like I said, it has been absorbed and that is the answer.

**RAYBOULD:** Then do, is it customary to leave it to the local public health department to take on those inspections? Because I know that they, they do it for restaurants and grocery stores, the local.

**SHERRY VINTON:** Commercial kitchens.

**RAYBOULD:** Commercial kitchens.

**SHERRY VINTON:** But I think that's the point is, this program doesn't require that. Its cottage-based food in-home. Labeling is required, but a kitchen inspection is not required.

**RAYBOULD:** Thank you.

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**HALLORAN:** OK, thank you, Senator Raybould. Any additional questions? Senator Hansen.

**HANSEN:** I think you bring up a good point about inspections. I think with a budding industry such as this and we're something new that's in Nebraska, I think is maybe in this aspect of my personal feeling that should be government's responsibility, reactive instead of proactive, right? Give us a reason to inspect you, right? So far, it didn't seem like there are a lot of reasons to overly inspect people, you know, regulating out or putting food out of their home such as this. I'm glad you brought up sprouts. What was your point with sprouts? If I can eat, is there, according to this bill, they cannot have sprouts, or they can.

**SHERRY VINTON:** They cannot. There were a list of foods that were added. We discovered that there were foods that there are a lot of complaints on nationally.

**HANSEN:** Why, because I think recently, actually in December, there was a huge issue with alfalfa sprouts that they're still, they're still trying to figure out. And actually last year, I think is was brussel sprouts is another one that had a big E. Coli outbreak, if I remember right. Listeria, I can't remember if our industry with Listeria is typical with the area, but I think those are typically some of the more kind of, you know, foods that you might see issues with when it comes to foodborne illnesses. And so I think when I see the bill, I think it addresses a lot of the concerns so far. It looks like Senator Brandt has done a good job with this. In your opinion, do you think and I think you kind of addressed if. I just want to make sure I just kind of get that right. With the bill currently, especially with the amendments, do you think they address a lot of the concerns so far you've heard, like I know you're coming out neutral so I don't want to kind of.

**SHERRY VINTON:** From the people I have talked to at the department, there was a concern with sprouts, with infused oils and infused honey, not, not plain honey, infused honey with botulism. And I, you know, those are dangerous situations and I believe those have been addressed. There are a list of foods, it still requires food safety training.

**HANSEN:** OK.

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**SHERRY VINTON:** So the requirements are currently as they are, except for a few time and temperature controlled foods.

**HANSEN:** Thank you. You just record those sprouts where they're served in a restaurant or from a grocery store.

**SHERRY VINTON:** I do not know.

**HANSEN:** I do. I just had to say it. So, thanks.

**HALLORAN:** Any additional questions from the committee?

**IBACH:** Just have one.

**HALLORAN:** Yes, Senator Ibach.

**IBACH:** This is just to, maybe you can clarify. So on the fiscal note, it's asking for an ag program specialist. And would you anticipate that we would, knowing the number, the thousand, or the thousand cottage food industry vendors, would you anticipate that we would need to add--

**SHERRY VINTON:** More than one?

**IBACH:** --more than one?

**SHERRY VINTON:** I do not. They have currently handled the workload as they are, spreading it around. And it's been, it's been handled up to this point. I'm told it takes about half time.

**IBACH:** OK.

**SHERRY VINTON:** So even if we added more, I think a full-time person could handle it. And I'm presuming that this person could be housed out of the, the Lincoln office. And so I wouldn't anticipate as much of a problem in hiring as a food inspector out, outstate Nebraska.

**IBACH:** Thank you.

**SHERRY VINTON:** Thank you.

**IBACH:** Thank you, Mr. Chairman.

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**HALLORAN:** Thank you, Senator Ibach. Any further questions? OK. Seeing none. I don't think it's too presumptuous for me to declare or to address you as Director Vinton before the confirmation. So thank you, Director Vinton, for being here.

**SHERRY VINTON:** Thank you, Senator Halloran.

**HALLORAN:** All right. Any additional neutral testimony for LB321? Seeing none. Senator Brandt, before Senator Brandt comes up, we have written testimony. There were four proponents for LB321 and one neutral and those are in your manuals, Senators, committee members. Welcome back, Senator Brandt.

**BREWER:** Thank you, Chairman Halloran, and I'd like to thank everybody that testified today. It was a great discussion. I'm impressed by the knowledge of the Ag Committee on the subject of food safety. I mean, everybody has a different, different look on food safety. I'd like to bring up this point: 40 per cent of the population of the state of Nebraska lives in three counties; 60 per cent of us live in the other 90 counties and a lot of these tend to be food deserts. You wouldn't think that in rural Nebraska, probably the third largest ag economy in the nation, there aren't a lot of food options out there. And we may call this cottage food bill for the last three years, but growing up, we always had people in the community that made wedding cakes or cupcakes or something like this. The reason this is so popular is we kind of brought it, brought it out of the darkness and legalized it. And Senator Hansen remembers this from, from three years ago. This is a very robust discussion. So it's sort of a different perspective when you're in rural Nebraska maybe versus Lincoln or Omaha, where you have a lot of food choices or grocery stores or bakers or things like that. These cottage food people do a great job of food safety. They take an online food safety course. The whole point of cottage foods was they didn't have to have a commercial kitchen. I mean, if you, if, a commercial kitchen is a very expensive operation, you know, and you're ramping up to, to be a business that you really never intended to be. We have over a thousand, they're in 83 counties today. This is from Nicole Fox with the Platte Institute. To date, we've had no foodborne illnesses documented from cottage foods for the last three years. The testifier, the first testifier that sells in the farmers market, her sales have quadrupled. She's using it for retirement income. The next testifier on gluten free items actually created a market for fresh gluten free items and created a customer

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base for that, is able to stay home with her, with her children. I think Senator Brewer brought up a very good point on some of these products. How do we know that, that I as a customer didn't leave the mayonnaise out on the counter or the cheesecake on the counter for, you know, too long? You know, and I'm not as tough as he is. You know, my, my wife, you know, I always say, I've got food poisoning from something and she always gives me crap about I, I don't, but. What else have we got here? OK. Director Vinton, thank you for working with us. We spent a quality hour with an attorney in the department, and this is the amendment you have before you. It's a much better bill than how we started. We're willing to work with the opponents. You know, the Legislature shouldn't stand in the way of entrepreneurship. You know, a lot of the testimony is based on "what ifs". We cannot, "what if" stuff in every committee we all work on whatever the issue is. I don't, I think we've got a track record here. We've got three years underneath our belt. All we're asking for is just to expand some of the opportunities out there. In the point of cottage foods, is less inspection. And, and we've, we've shown that this, this model has worked for Nebraska, and it's also working in some of our surrounding states. And with that, I would take any questions from the committee.

**HALLORAN:** OK. Thank you, Senator. Any questions? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right. So the, the initial idea of the original bill came from just feedback from folks that are involved in the cottage industry?

**BRANDT:** I think Senator Crawford sponsored the original bill, and Senator Hansen nodded his head over here. My understanding when we, our class came to the Legislature, this bill had been defeated several times prior to that. What the track record was, who originally introduced it. I'm unable to answer that, but maybe we can research that and get back to you.

**BREWER:** All right. So you dropped the bill, then through communications with the secretary or the Director of Ag or the Department of Ag, it was determined that things needed to have some changes, some tweaking.

**BRANDT:** Sure.

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**BREWER:** That's what this amendment is.

**BRANDT:** That's right.

**BREWER:** And you're going to look to see if there's anything else that you may have not covered in that.

**BRANDT:** If, if there are any legitimate concerns from some of the opponents. And, you know, I think the bill, when they read the amendment, I mean, we dropped the amendment this morning. We got it from bill drafters this morning. I apologize for that, but that's how this place works. They may not have had an opportunity to review some of those things in the amendment. You know, I'd ask everybody to look at that versus the original bill. But we, we did insert those concerns based on the attorney from the Department of Agriculture to get things square.

**BREWER:** All right. Thank you for that understanding. Appreciate it.

**HALLORAN:** Thank you, Senator Brewer. Senator Raybould.

**RAYBOULD:** Senator Brandt, thank you very much. I guess I did have a chance to quickly read through the amendment. And the one concern I have is with the farmers market to sell these additional expanded food items that have additional safety requirements. I didn't see it, talked about refrigeration. That was one of the questions I asked, and I didn't really hear that, you know, how they transport it to the farmers market, how they store it and keep it refrigerated. I know they referenced some people have a generator in one of their trucks and stuff like that. But what, at each individual stand are they doing the appropriate dry icing? The, the one young mother spoke about how she packs adding dry ice as she transports it to her customers in Lexington and Gothenburg. But I didn't hear that specificity on refrigeration, which these food products, additional expanded food products require. And so if you, when you go back, I think maybe that needs to be enhanced for the cottage food industry, not only in the transport but in the presentation and storage during the farmers markets where we know it can be really cold or can be really hot. And you know, you have to really watch the temperature.

**BRANDT:** Well, we'll take a look at that, Senator, and get back to you.



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**RAYBOULD:** OK.

**BRANDT:** But I, I, some of the farmers markets that I've participated in, we used to sell sweet corn and they would have some baked goods and stuff like that at some of these. It isn't the producers, it's the customers. I mean, they'll jam that, that item just in a Walmart bag and, and throw it in the back of their car and who knows how long that thing's going to sit there. I think the point was made the cottage food producers want to produce a quality product and give you their very best and, and you're going to pay a premium for that. And I think people are foolish if they don't protect that at that step. And if they're going to the farmers market, they're buying a refrigerated food, they're probably bringing a cooler of some sort to put those foods in. So, I mean, once that, that exchange is made, it's, it's on the shoulders of the customer.

**RAYBOULD:** I think that part is clear.

**BRANDT:** OK. We'll, we'll take a look and get back to you.

**RAYBOULD:** Thank you very much.

**HALLORAN:** Thank you, Senator Raybould. Any further questions? All right. Thank you, Senator Brandt.

**BRANDT:** Thank you.

**HALLORAN:** All right. That concludes the hearing on LB321. We will move on with LB262. LB262 is, is becoming a Agriculture Committee bill. It was brought to us at the request of the Department of Agriculture, and it deals with change in provisions of the Nebraska Pure Food Act. And I will ask Rick Leonard, our committee research analyst, to present the bill to the committee.

**RICK LEONARD:** Very good. Thank you, Chairman Halloran and members of the committee. I'm Rick Leonard, as the Senator mentioned, R-i-c-k L-e-o-n-a-r-d, and I'm the research analyst for the committee. LB262, as the Senator mentioned, is introduced by the committee at the request of the Department of Agriculture. I will briefly introduce the bill and will be followed by the agency testifiers who will go into further detail regarding the changes in the bill and the purposes for which they are being brought. LB262 would make a series of revisions to the Nebraska Pure Food Act recommended by the

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Department. Specifically, LB262 would accomplish the following: It modifies the water requirements for food establishments. The bill would repeal the current state variance from the Food Code recommendations that is more stringent by requiring established to have permanent water source. The Food Code recommendation that the bill refers to bottled water to be used in some circumstances. Adds an option for food safety course, for a food safety course, the cottage food operators must complete in order to qualify for registration with the Department of Agriculture. Consolidates, clarifies, simplifies some terminology in food establishment classifications to eliminate unnecessary classification, to provide for better uniformity and clarity in the types of permits issued. Creates a permit exemption for establishments that are already permitted, but selling food within another food establishment; clarifies requirements regarding the locations where permits must be posted; provides that permits are invalid if, provides for resolution of permits that are chronically late in renewal and payment of the renewal fees. Adopts the Food Code recommendation regarding meaningful, meaningful, minimal qualifications for, for food safety inspectors. The Nebraska Pure Food Act currently specifies that inspectors must be registered an environmental health specialist. LB262 would allow for use of inspectors as specified for the food code as specified within the food code. I am aware that the Department of Agriculture will offer an amendment to this, that last particular provision of the bill. In the briefing materials I sent prior to the hearing, I included the section by section summary. The Department will provide a more detailed section by section summary with its testimony. If there are any questions, I'll be happy to try to answer them.

**HALLORAN:** OK. Thank you, Mr. Leonard. Any questions? Senator Raybould.

**RAYBOULD:** Mr. Leonard, I just want to say thank you. Thank you for summarizing the bill, giving it a very thoughtful interpretation of the changes. I really commend you because this is so helpful in allowing us to really absorb the data quickly and jump right into the hearings and to be able to answer or ask some thoughtful questions. So I really appreciate all the effort you have put into this because it really assist us in doing our job. So thank you very much.

**RICK LEONARD:** Thank you. Appreciate that. Thank you.

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**HALLORAN:** Thank you, Senator Raybould. He will now be asking for a raise. (LAUGHTER)

**RAYBOULD:** I approve that.

**HALLORAN:** No, my kudos too. Mr. Leonard does a great job on analyzing these bills. Any further questions? Seeing none. OK. Thank you, Mr. Leonard. All right. We will start off with proponents of LB262. Welcome back, Director Vinton.

**SHERRY VINTON:** Good morning again, Chairman Halloran and members of the Agriculture Committee. Once again, my name is Sherry Vinton, S-h-e-r-r-y V-i-n-t-o-n, and I am the Director of the Nebraska Department of Agriculture. I'm here today to testify in support of LB262 and would like to thank the Agriculture Committee for introducing this bill regarding the Nebraska Pure Food Act. LB262 amends the Nebraska Pure Food Act to streamline operations of the Department and aligns provisions with the FDA Food Code. Currently, the Nebraska Pure Food Act is more stringent than the FDA Food Code regarding the credentialing of food inspectors. The Nebraska Pure Food Act authorizes the department to perform inspections or to enter into agreements with local health departments to perform the inspections. Currently, the department contracts with Douglas County, Lincoln, Lancaster County and the Central District, District Health Department to perform inspections under the Act. LB262 would continue to allow for Registered Environmental Health Specialists or REHS credentialing but would no longer mandate it. Not only does the FDA not mandate REHS credentials, most of their areas states do not require this specific credentialing for food inspectors. Sixty percent of the training to obtain REHS credentialing does not pertain to the department's food inspectors day-to-day work. Examples of areas covered by the REHS exam, which do not apply to our food inspections, include inspections of wastewater, hazardous waste facilities, inspections of swimming pools, body art providers in group homes, and lead and impedance, epidemiology investigations, as well as developing environmental public health emergency response plans. Our inspectors must spend significant time studying for the REHS exam in topic areas they don't use in their work, and this takes away from their performing food inspections. The change to allow other credentialing rather than REHS does not limit the training and the credentials the local health departments can require of their own employees. The changes in LB262 will help the department carry out

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its mission to protect food safety in the state. We know everyone has had staffing issues, but when the department cannot hire food inspectors, food inspections do not get done and the lack of regular inspections is an obvious threat to food safety. As the statute is currently worded, a newly hired food inspector must walk in the door with a bachelor's degree and 30 hours of science. The department is statutorily not allowed to hire based on work experience. The inspector for area two, the area two position, which is North Platte and north, was vacant for 24 out of the last 36 months because we couldn't find and keep qualified candidates. Other inspectors had to travel to fill in, which took considerable time away from completing their own inspections. We've heard concerns from our industry partners that this change could be perceived as weakening our food inspection program. To address these concerns, we're asking for an amendment to clarify the department would utilize a certified professional food safety credential examination. The department plans to require food inspectors to obtain credentialing under the National Environmental Health Association, which allows experience to replace some of the education required by REHS. The amendment would require that food inspectors obtaining this credential pass the exam within 36 months of being hired. A copy of the requested amendment is included with the materials I submitted. In a written testimony, you will find that the training, the training that would continue to be required for food inspectors information regarding our REHS requirements, as well as the requirements for the credentialing specified in the amendment. Additionally, LB262 would align Nebraska requirements with the FDA food code by allowing food establishments to obtain water in ways other than permanent water sources, as is currently required by the statute. The FDA food code specifically allows water to come from water containers. Mobile food establishments rely on the ability to use water from this type of nonpermanent source. The bill would also allow permitted food establishments to sell food inside other food establishments without obtaining a new permit for each location. An example of this is when a restaurant sells food at a grocery store, but the grocery store never takes ownership of the food being sold by the restaurant. The restaurant would not need to have a separate permit for each of the grocery stores where it chooses to locate its food for individual purpose. Finally, the bill modifies language relating to the cottage food businesses so that a course offered by UNL can clearly be used to meet food safety, the food safety course requirement for these

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businesses. The bill also clears up definitions to streamline the permitting process. Detailed descriptions of the consolidation and clarification of permit types are also included in the written testimony. Food safety is always the priority under the Pure Food Act, and we will continue to carry out quality inspections while maintaining fiscal responsibility. I would be happy to answer any questions you may have. Thank you.

**HALLORAN:** Thank you, Director Vinton. Any questions from the committee? It's been pretty thorough. Oh, Senator Ibach.

**IBACH:** If you need a question, I'll ask it.

**HALLORAN:** I don't.

**IBACH:** This is really helpful. There's no fee for, currently no fee for any licensing or exams that would be required.

**SHERRY VINTON:** Oh, there is a fee. REHS exam and I just looked this up yesterday because I keep needing to look up Registered Environmental Health Specialist and it's a four-letter acronym, not the three-letter ones we've talked about before. But the current fee was \$420 if you're a member and like 600 and some dollars if you're not a member, plus you can get training materials for like another 150 bucks. And I'm told many people have to take this exam more than once, once. Most people don't pass it on the first time. So, yes, there is a fee and I don't believe the department covers that, but I can't tell you that.

**IBACH:** I have an inspector in my district that has had some lengthy conversation with me over some of the, the lack of number of inspectors, but also some of these issues. So that's very helpful. Thank you. Thank you, Mr. Chairman.

**HALLORAN:** Thank you, Senator Ibach. Any further questions? Seeing none, thank you so much. Are there additional proponents for LB262? OK. Seeing none, is there anyone in opposition to LB262? Good morning.

**COLTON WOLINSKI:** Good morning.

**HALLORAN:** Please state your name and spell your name for us.

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**COLTON WOLINSKI:** My name is Colton Wolinski, C-o-l-t-o-n W-o-l-i-n-s-k-i. Good morning, Senator. Senator Halloran and members of the Agriculture Committee. My name is Colton Wolinski. I'm a Registered Environmental Health Specialist in Nebraska, and I conduct food inspections. Registered Environmental Health Specialists are the unseen force protecting Nebraskans from contaminated food, water and air. Inspectors who maintain their REHS in Nebraska work hard every day to protect Nebraskans, Nebraskans health by inspecting, educating and enforcing Nebraska's environmental health laws. There are currently about 50 regulatory food inspectors throughout our state ensuring the food you and your family eat is safe. We inspect every grocery store, restaurant, gas station, bar and school across the state. We are at the State Fair, be called to World Series, Taste of Omaha, farmers markets. We work days and nights. We work weekends. We work tirelessly to ensure food safety in Nebraska. And we do this because we care about our communities and we want to prevent foodborne illnesses. I'm here today speaking on behalf of the Nebraska Environmental Health Association, better known as NEHA. NEHA represents environmental public health professionals across the state and provides avenues for Registered Environmental Health Specialists to obtain continuing education. The REHS certification requires one to hold a bachelor's degree from an accredited college or university, and complete at least 45 credit hours or 30 semester hours of academic work in the basic natural sciences and pass an exam, examination to obtain an REHS certification. And this is through the National Environmental Health Association. This certification requires 24 hours of continuing education to be completed every two years. I'm here today because one of the proposed changes to the Nebraska Pure Food Act in LB262 would no longer require a food safety inspector to obtain an REHS certification for inspecting food establishments. The proposed change references Section 8-402.10 of the FDA Food Code, which states that a person conducting food inspections will have the knowledge, skills and ability to adequately perform the required duties. The proposed change is extremely vague, allowing for a wide range of interpretation from agencies to determine what knowledge, skills and ability would be required for inspectors to adequately perform food inspections. If this bill is passed without these changes to the section, the food inspector would not need a college degree, any assigned training on food safety, continuing education, certification or testing. Nebraska's licensure of a professional, of the profession of environmental health exists

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to ensure that those who are entrusted to protect the health of Nebraskans are properly educated, qualified and trained. The rules change would eliminate the requirement of an REHS certification to conduct food inspections. This would be a big step backwards for Nebraskans and for food safety. NEHA respectfully asks the Agriculture Committee to amend this bill and keep the requirement for food inspections to be conducted by an REHS. Thank you for your time today.

**HALLORAN:** OK. Thank you for your testimony. Are there any questions from the committee? A lot to digest here in a short period of time.

**COLTON WOLINSKI:** Yes.

**HALLORAN:** All right, seeing none, thank you for your testimony.

**COLTON WOLINSKI:** OK. Thank you.

**HALLORAN:** The next opponent to LB262. Good morning. Welcome.

**JEREMY COLLINSON:** Good morning. Thank you. Senator, Senator Halloran and members Agriculture Committee. Thank you for allowing me this time to speak. My name is Jeremy Collinson, J-e-r-e-m-y C-o-l-l-i-n-s-o-n. I am the environmental health manager of the Central District Health Department, Grand Island. I also oversee the food inspection program at the Central District Health Department. I am also a member of the Nebraska Board of Registered Environmental Health Specialists. I am here today speaking on behalf of the Board of Registered Environmental Health Specialists. RH, REHS Board opposes LB262 based on the reduction of educational standards required for food inspectors conducting food inspections. The proposed changes do not set a minimum educational standard, nor provide for continuing education requirements. As a member of the state REHS Board, we are tasked with three objectives. We ensure that candidates applying to take the test or to be certified are educated. They have continued or, excuse me, that they continue with continuing education. And we also are the governing authority that oversees that REHS certificate. As far as the proper background, a bachelor's degree that includes 30 semester hours of college credit, basic science work from accredited college is required to obtain the RGS certificate. Without the requirement of the REHS, food inspectors may not have that knowledge needed to perform the duties of a Nebraska

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food inspector. Many times during food inspection, an inspector will come across something that isn't covered as far as food goes. It may be something associated with water, maybe wastewater, and maybe an issue regarding chemistry. You know, do we need to make our sanitizer stronger, lesser? So there are many things that that college education can help with the food inspector. One of the things in Grand Island with our inspectors, they teach a food safety course. You know, if somebody hasn't been involved in a lot of food safety issues, these inspectors can go out, they can put the class together. They can teach a class. Teach it through a, one restaurant. They can teach it to a group of people. In our case, we teach food safety courses at the State Fair. It takes a little bit of time to set that up. You need to know what you're talking about and have confidence in speaking to a group of people to be able to them. Without that college education, you would be lacking that. Food inspectors are not just conducting inspect, inspections to find violations. A big portion of any food inspection is the education opportunity associated with the inspection. Yeah, granted, we go out, we check temperatures, we look for violations, we write them up. But in most cases, the inspection takes just as long to sit down with those people and go over the violations and tell them why it's wrong. You know, what do they need to do? And then how do they fix that? And what are the implications to foodborne illness risk factors? During a food inspection, there are so many things that occur. Sometimes we are dealing with pests. You know, we may have to sit down and implement a pest integration system with, with the establishment. The business of food is a fast growing industry. Without continuing the education requirements that is being proposed, inspectors will not be able to thoroughly consult, educate and inspect facilities. Currently, food inspectors are required to have 24 hours of continuing education every two years. This helps them keep up with changes. This is just enough to keep up with the changes. This is also going to reduce the requirements food inspectors that will be able to look over something. As of right now, if you have an REHS certificate, the RH Board oversees and makes sure everyone has a proper continuing education. By requiring the REHS for food inspectors, you are ensuring that there is a regulatory authority overseeing the profession. We hate to say it, but there are times when people do the wrong thing. The RH Board is there to protect the public. We are able to take complaints. We are able to take action on a specific person. If something had happened, we can suspend, we can



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fine, we can revoke licenses. There are currently 54 environmental health specialists in the state. Ten provisional meeting and training. We are small, but we are mighty. You know, moving forward, we know that the Department of Agriculture is the lead agency for food inspections. We tend to follow that. But as we move forward, if the local health departments are the only one to have the REHS requirements, then are we the authority? Thank you. And can I answer any questions?

**HALLORAN:** OK. Thanks for your testimony. Any questions? Senator Hughes.

**HUGHES:** This is a little bit of a clarification. I, what I'm reading is our Department of Ag is saying that right now Nebraska is more stringent than what the FDA code is. And so we are requiring this type of degree. But as a, the FDA does not?

**JEREMY COLLINSON:** Correct. The--

**HUGHES:** And so, I mean, I kind of fall under, we had some stuff in General Affairs yesterday that are our law is a little different than federal law. I mean, that's the, that's the overall one. So I think we should always follow that. So do you think as a nation, we're not being very safe, other states then if they're not following--

**JEREMY COLLINSON:** I can speak on the behalf here in Nebraska. You know, we are up here. The RHES is a very high credential. And the way it is proposed now, it is going way down the pole. You know, there is no college education. There's very little educational requirements to be able to, to be a food inspector now. You know, there may be a little bit of time experience, but, you know, time experience working at a fast food place may or may not be what we want when it comes to a food inspector, so the RHES is the top. Nebraska does recognize that.

**HUGHES:** And, I mean, if issue is getting pushed because we don't have people, right? We don't have workers across the board in any industry. And I think the person right before you, and what's your suggestion then on getting, because I'd rather have a food inspector than none.

**JEREMY COLLINSON:** Right. So.

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**HUGHES:** Then it's really unsafe.

**JEREMY COLLINSON:** And it was even mentioned earlier regarding the difficulty hiring food service workers right now. So we have people even getting in the service that are less experienced than they were three or four years ago. That is where the food inspector comes into play. They are there to help educate, to help, you know, to get these people started, to make them, you know, be aware of what's the right thing to do. The three health departments that were mentioned that are contracted with the state to do food inspections, I do know that our salary is higher than the states. You know, we haven't had a, once in a while we'll have problems getting somebody hired, but we really don't go too long, you know, So our fees, are they higher? Do we generate more money? Probably. But we are able to, at the local level, hire the staff that meets the requirements.

**HUGHES:** Thank you.

**JEREMY COLLINSON:** Yeah.

**HALLORAN:** Any additional questions? Is that a yes, Senator Brewer?

**BREWER:** Yes.

**HALLORAN:** OK. Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right. Now you're in the Grand Island office.

**JEREMY COLLINSON:** Yes.

**BREWER:** How many work in this office?

**JEREMY COLLINSON:** How was that?

**BREWER:** How many work in this office?

**JEREMY COLLINSON:** As far as food inspectors go, we have two that are food inspectors. In Grand Island, we're a little bit a general. We do more than just food. But I would say our two workers spend 70, 80 per cent of their week on food service inspections.

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**BREWER:** And how many of these food safety classes do they teach a year?

**JEREMY COLLINSON:** Three. Probably each one.

**BREWER:** OK. Thank you.

**HALLORAN:** Any additional questions? I've got a quick question or two. So you have the authority to suspend or revoke?

**JEREMY COLLINSON:** It can go through the Board. Based on some instances, could be. Have they been, I don't know. We've had them in the past, I guess where they have been fraudulent, taking the money or bribes. I wasn't part of the Board, so I don't know. This is kind of going through hearsay.

**HALLORAN:** So without naming names, have you revoked?

**JEREMY COLLINSON:** Since I've been on the Board, we have not revoked any licenses of food inspectors.

**HALLORAN:** No, I'm not talking about the inspectors, I'm talking about the places you inspect.

**JEREMY COLLINSON:** Oh, do we inspect. Yes, we do.

**HALLORAN:** OK. I don't need to have names.

**JEREMY COLLINSON:** Yeah.

**HALLORAN:** Protect the guilty here. But I'm just curious. On an annual basis, over the last one or two years, let's say, how many suspensions or revocations of food establishments have you done?

**JEREMY COLLINSON:** In Grand Island, I would say a half a dozen a year, maybe. Six to 10 a year, roughly.

**HALLORAN:** Are there any currently still open food establishments that you would not go eating at?

**JEREMY COLLINSON:** I don't eat out a lot. (LAUGHTER)

**RAYBOULD:** Good answer.

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**HALLORAN:** Well, OK. Are there any food establishments in the area that you would not recommend friends to go to?

**JEREMY COLLINSON:** If people asked me if I eat there, I will tell them yes or no. If friends asked me, yes. You know, and our information is open to the public. Anybody is more than welcome to get our inspection forms. They can look at, at what has been found. A lot of times, the places that we pull their licenses from them, such as you were talking about, we, we may give them two days. Say, here's your two days. They'll fix the room. They'll remedy the situation. We'll come back in two days. If the problem is corrected, can open back up. A lot of it depends on what the problem was.

**HALLORAN:** Sure. So it's kind of a leading question and, and wasn't trying to set you up, but if there are places that you would not recommend your friends to eat out, since you don't eat out very often, if there are those kind of places, why haven't they been closed down?

**JEREMY COLLINSON:** It could be taste, could be flavor.

**HALLORAN:** Let me rephrase that. Based upon your knowledge about the way the places are operated, not on the taste of the food or the type of.

**JEREMY COLLINSON:** I have ate at some places I would not recommend my friends, but there's just those places that, you know, that aren't going to suit that person's.

**HALLORAN:** OK. No, that's fine. I was just trying to find out.

**JEREMY COLLINSON:** I know, there are better places. There's places out there that get A's. There's places out there that get C's if you were to grade them. We do not grade them, but, but there are some places that do better than others.

**HALLORAN:** How does what you do compare with, I think the name of the, is ServSafe.

**JEREMY COLLINSON:** As far as the classes we do?

**HALLORAN:** Right.

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**JEREMY COLLINSON:** We actually partner with the Nebraska, state of Nebraska on teaching ServSafe course, courses through the extension agency.

**HALLORAN:** OK. That's a very good program.

**JEREMY COLLINSON:** Yeah. Yes.

**HALLORAN:** All right. Any additional questions? I dominated that too much. Seeing none, thanks for your testimony.

**JEREMY COLLINSON:** Thank you.

**HALLORAN:** Good morning.

**JEREMY ESCHLIMAN:** Good morning.

**HALLORAN:** Welcome to the Ag Committee.

**JEREMY ESCHLIMAN:** Yeah, thank you.

**HALLORAN:** Please state and spell your last name.

**JEREMY ESCHLIMAN:** Yep. Good morning, Chairman Halloran, and members of the Agriculture Committee. My name is Jeremy Eschliman, J-e-r-e-m-y E-s-c-h-l-i-m-a-n, and I'm proud to say that Senator Halloran and Senator Ibach's districts are within my purvey for my constituency, I guess. I serve the constituents in Buffalo, Dawson, Franklin, Gosper, Harlan, Kearney and Phelps Counties of 100,000 people. I'm here today on behalf of Friends of Public Health in Nebraska to testify in opposition to LB262. Before I get there, I want to address just a few questions that came up the last round so, under Jeremy Collinson. So first, Senator Hughes, I know she stepped away for just a second. She had asked about the bandwidth of inspectors. Quite honestly, I think there's an opportunity and this would be a further discussion outside this conversation, but as has been mentioned, there are several local health departments that currently contract with the department. I think that's an untapped resource in a lot of ways. So I'll put that out there. And also, Senator Halloran, regarding your question, where would you go to? I used to be a food inspector and my response would be similar with a little bit different flavor, a no pun intended. That any time you go out to eat, there's risk. And it's just like if you go to have

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surgery, do you want a surgeon that has an A or a C? They're called the same thing, they're surgeons, right? But there's risk with that, you know, from an operative standpoint. So, but I digress. So LB262 as presented effectively diminishes the standard for inspectors, decreases essential technical assistance to food establishments, and increases foodborne illness risk, especially in rural Nebraska. Local health sponsors are responsible for disease investigation in their respective districts, while only a few, as we have discussed, are contracted with the department to conduct food establishment inspections. All overall requirements conduct foodborne health investigations, as you previously, previously heard in other hearings. The state of Nebraska currently holds individuals who conduct retail food establishment inspections to the standard of either a certified environmental specialist or provisional environmental specialist credential. Individuals holding this REHS credential show promising a broad range of environmental issues has been or been mentioned, such as vector control, water quality, wastewater treatment, hazardous materials, air quality, built environment and food safety. Registered Environmental Specialists commonly respond to routine or emergency environmental health situations and provide education to their communities. While the, in the amendment that's being proposed, the Certified Professional Food Safety Credential is often suggested for industry professionals, it's not equivalent to REHS. A key differentiation between REHS credential and the Certified Professional Food Safety Credential is an educational attainment. The Certified Professional Food Safety Credential can be obtained with a minimum educational attainment, high school diploma and progressive experience in food-related work. According to the brochure, the CPF's brochure, only 80 per cent of them contacted (INAUDIBLE) to responded to emergencies. As a previous food inspector myself, I can personally attest the need for well-organized education in natural sciences. As food inspectors commonly respond to calls for truck wrecks involving food, floods, fires, electrical outages, things of that nature, or just generally wholly unsanitary situations, often working independently in communities, especially in rural communities. And as often as we think that people are connected via technology, there are places in Nebraska, believe it or not, that you can't get connection with cell phone and there may be your local favorite pub or bar or things like that there. So many concerns beyond how to prepare food safely can arise, such as water source, safety, wastewater treatment, vector

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control, etcetera. One of the underlying areas of concern presented by the department in presenting the change to lower the standard for food inspectors is the inability to attract and maintain staffing across Nebraska to provide sufficient food, shelter inspection to maintain overall food safety as you've already heard. I can personally attest to the challenges of hiring individuals in this area as I recently hired someone at my local firm in Kearney, Nebraska. In, in my experience, when the employment market moves, an employer makes two choices. You have two choices. One, you move with the market, increase wages, increase benefits in that nature or you don't, and you lose talent and you struggle to fill the positions. I really think in my personal opinion, the latter is the case here is that and as an example, the starting wage at my department, Two Rivers Local Farm is about \$5 to \$6 higher than the Department of Agriculture. So and we had no challenges filling a position. To provide example a different context, if you're building a bridge and you can't find an engineer to provide the design specifications, but instead you hire a road maintenance professional, the bridge will likely get built. Might look great. You hope it looks great, but you may not realize the risk of improper engineering and the safety risk in particular until it's too late. By diminishing the standard for food inspectors in Nebraska, the risk of foodborne illness increases. In summary, as LB262 is presented, effectively dimensions measure the standard of inspectors, decreases essential technical assistance to food solutions and increases foodborne health risk, especially in rural Nebraska. Thank you.

**HALLORAN:** Thanks for your testimony. Any questions? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right. Let's see where do we begin here. So how many of these emergencies in your office have you had this last year that you had to react to?

**JEREMY ESCHLIMAN:** So to be clear, Senator Brewer, had two requests for health department. We don't contract with the department, so I'm basing this on my previous experience. I'm going to go back a few years ago. I was a food inspector for about ten, 15 years, about ten years ago. So I would say the calls during that timeframe were sporadic, maybe six to half a dozen to a dozen across a year.

**BREWER:** OK. I understand where it come from here. So we have the Nebraska Environmental Health Association, we have the Nebraska Board

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of Registered Environmental Health Specialists. We have the Friends of Public Health in Nebraska, which we appreciate having all the friends, but what I'm worried is, do you use this analogy of, do you want an A doctor or a C doctor? My concern is that, that you guys aren't all here because it's kind of a self-looking ice cream cone thing where this thing moves to where the Department of Ag wants it, and now all of a sudden you guys aren't really a priority as much as you are now. Is that kind of how you see it?

**JEREMY ESCHLIMAN:** I hear what you're saying. If I'm not currently a food inspector, it doesn't directly impact me as much. But I also to be clear, I am a registered environmental specialist. I maintain that because I see the value in maintaining that over time. As a health director, now to rivers, there's often situations where we are exposed to a wide variety of things, obviously. Now in this specific situation, I hear what you're saying as far as being a self-fulfilled prophecy of some type, you know, protecting that turf in a lot of ways, I don't see it that way personally. I see it as a situation where there's people out there. The wages in this particular situation, I think, are too low for this position. Rather than diluting their credential, I think the wage needs to float up to the current value where it should be.

**BREWER:** OK. Thank you.

**HALLORAN:** Any additional questions? Senator Hansen.

**HANSEN:** Just, it's more of a statistical question. What other states follow just the FDA code? Like what this is trying to, what this is trying to do? Do you know how many other states do that? I'm sorry, go ahead.

**JEREMY ESCHLIMAN:** Oh, sorry, Senator Hansen. So in my experience and I've had previous interactions with, as I was a food inspector, on what the department had, it's a retail board industry and in regulatory officials, the model food code as presented by the feds is just that. It's an example that each state can kind of tweak a little bit, adopt it as you see fit. In my experience, that's going back a little bit in time, that every state they make small changes too, and they may make major changes too. So the model food code as presented, changes. And I'm going to it further and I think maybe this is what you're going down this path with that one. I presume, that regarding



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the criteria for food inspections, it does vary from state to state. And to be fair, I even look at, go to the East Coast, you know, go to New Jersey, it's one that pops up, I think when I do a quick search, it's required to be a registered environmental specialist. You go to Wyoming, maybe not so much. You know, it's kind of cross the board, I guess.

**HANSEN:** OK. And I think you're kind of hitting on it a little bit there. It's more of a comparative analysis, I think, right? To find out, OK, those states who have kind of thought a little more closer to just the FDA code, kind of similar maybe to what we're doing and other are all the same and those have gone to a higher standard. What's the rate of foodborne illness, you know, or other kinds of illnesses in the state, comparatively, I think, right? Because if we're seeing a lot of ones that are kind of following more what we're trying to do and like, I think there's not really a whole lot. They're just the same as all the other ones, right? I think maybe, I think that might be a positive argument for what was trying to get accomplished here. I just don't know that for sure. I just didn't know if you know that off the top of your head.

**JEREMY ESCHLIMAN:** Our department had no, but I can sure do some research and get back to you.

**HANSEN:** You seem like a really smart guy, so.

**JEREMY ESCHLIMAN:** Well, I appreciate that, but I'll take it as a compliment.

**HANSEN:** Thanks. I appreciate it, though. Thank you.

**JEREMY ESCHLIMAN:** Thank you.

**HALLORAN:** Thank you, Senator Hansen. He's never said that about me. (LAUGHTER) Any further questions? Senator Ibach.

**IBACH:** I just have one. So I'm looking at the, at the difference in qualifications and the credentials. And I'm assuming that and knowing that you, you know, the change to the lower standard of food establishment inspectors, how many of each do you have in your office? Do you have both the credentialed and the the food safety credentialed or the the lesser credentialed people in your office?

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**JEREMY ESCHLIMAN:** Well. Hello, Senator. I'm back, when we had met in person, I talked to your staff. Thank you very much. To answer your question directly, we have in process an environmental specialist. She's been on the job three months. She's a, her background is in microbiology, microbiology in specialty. So her, as we don't, we aren't contracted with the Department of Ag to food inspections. We don't have that exact connection like you may have heard from Central District or Lincoln, Lancaster or Douglas County per se. But, you know, as an example, if we went down this pathway as the Health Department or we did, we would likely encourage our staff to go, to have actually (INAUDIBLE). There's a value in seeing that. I haven't personally taken the test for the certified food professional. I have taught survey classes. Also, it's a great class. I think this new credential that's been promoted by the national organization, I think it's a good one. It has a fit. In my personal opinion, I don't think it should replace RHES.

**IBACH:** OK. You are a really smart person, I agree with Senator Hansen. Thank you.

**JEREMY COLLINSON:** Thank you for the compliment too.

**HALLORAN:** All right. Thank you, Senators, for your questions. Just a quick aside here. Do you know what they call the individual who has the lowest graduating score in medical school?

**IBACH:** A doctor.

**HALLORAN:** Doctor. OK. Just to humble us all a little bit. Sometimes, some, sometimes just passing something isn't necessary. I mean, we're all good at it. I can attest to that. So any further questions? A quick question. Have you had a chance to read the amendment?

**JEREMY ESCHLIMAN:** I have seen it, yes. And I also, I want to commend Mr. Leonard. I talked to him the other day on the phone, very cordial, very knowledgeable. I can tell from this conversation how much research he's done. Thank you.

**HALLORAN:** Mr. Leonard. (INAUDIBLE). No, it's, it's well, well-justified. So, does it, does the amendment mitigate any of your concerns, some of your concerns?

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**JEREMY ESCHLIMAN:** I don't feel it does. No, and that's as I looked at that, I appreciate the movement from the department to discuss that and would be willing to discuss more. I don't say this is an issue that can't be resolved. Often public health workforce want to work with, with agencies to do that.

**HALLORAN:** So everybody else has probably caught this and it went right past me. But I'm, I'm a little curious. I don't, it's not clear to me who hires your,

**JEREMY ESCHLIMAN:** Hires food inspectors, or--

**HALLORAN:** Who hires REHS?

**JEREMY ESCHLIMAN:** Oh, so it typically, it tends to be establishments that are regulatory nature. So it could be Department of Agriculture, it could be the Department of Energy Environment, it could be FDA. You know, it could be local health departments.

**HALLORAN:** OK. All right. Thanks. Any other questions? Seeing none, I thank you for your testimony. Any additional opposition for LB262? OK. Seeing none, anyone in the neutral for LB262? Oh, OK. Good morning again.

**ANSLEY FELLERS:** Good morning. Thank you, Chairman and members of the committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s, and I'm here on behalf of the Nebraska Grocery Industry Association, testifying very quickly in a neutral capacity on LB262. Very quickly, I'd like to thank the Department of Ag for working with our industry to establish parameters for one permit holders selling product within another permit holders location. The Department has assured us if this bill passes and we'd like the record to reflect, they will work with us to clarify via some sort of guidance document how exactly inspectors are to handle the violation. Additionally, I think the conversation about making it easier to find and hire inspectors is an important one. I can't testify in total support of the amendment from the department to provide some flexibility in hiring inspectors, we just got the final language back, but I sense folks in my industry are open to common sense changes that provide for enough trained inspectors to help with business compliance and consumer confidence. It's important to note for this committee and new members of the Legislature that our State Department of Agriculture has been great

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from our perspective about focusing on industry compliance, not just enforcement. It's refreshing when a regulatory body is willing to give folks the benefit of the doubt and work to ensure compliance. We are confident that under the new almost director, that will continue. Thank you. I'd be happy to answer any questions.

**HALLORAN:** Thank you. Any questions from the Committee?

**HANSEN:** One real quick question.

**HALLORAN:** One real quick question, Senator.

**HANSEN:** Yes.

**HALLORAN:** Senator Hansen.

**HANSEN:** So in the industry that you represent, have you ever had to, having or not slow business down, but alter their business because of a lack of inspectors. Like, so we don't have an inspector here, so I can't move forward with something. I'm trying to figure out like the necessity for a lot, you know, if that's the case, and yeah, we need, we need more inspectors because I don't want to hold up a private business because the government can't do the job.

**ANSLEY FELLERS:** I can tell you, not necessarily in the grocery industry since I've joined the association, so in the last two years I have not got that complaint. I have heard it from other industries.

**HANSEN:** OK. Thank you.

**ANSLEY FELLERS:** Thank you.

**HALLORAN:** Thank you, Senator Hansen. Thank you. Any further questions? Thanks for your testimony.

**ANSLEY FELLERS:** Thank you.

**HALLORAN:** Any additional neutral testimony? Good morning.

**ZOE OLSON:** Good morning, Senator Halloran, members of the committee. My name is Zoe Olson. Z-o-e O-l-s-o-n, and I am executive director of the Nebraska Hospitality Association. And we have moved from opposing to neutral on this after working with the Department of Ag last week

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and, and I'm going to call our director, and also. We were concerned that, about not having any certification and we worked that out. While we know this is not the perfect solution for everybody, we believe in compromise. They don't believe there's been an industry that's been hit any harder than ours was on being able to find people, and we recognize that's an issue, so we are neutral.

**HALLORAN:** OK. Thank you so much. Any questions from the committee? Seeing none, thanks for your testimony.

**ZOE OLSON:** Thank you.

**HALLORAN:** Any further neutral testimony? Seeing none, that will conclude January 31 Agriculture Committee hearings for the morning. Thanks for being here. Oops. Yup, the record. Are we still on, transcribers? OK. For the record, we had one opponent, one neutral and one proponent for LB262.

[BREAK]

**HALLORAN:** Good afternoon. Welcome to Agriculture Committee. I am Senator Steve Halloran and I'm from Hastings, Nebraska and represent the 33rd Legislative District. I serve as Chair of this committee. The committee will take up the bills and confirmations in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing, this is just part of the process as we have bills to introduce in other committees. I ask that you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs when you are ready to testify. These are the first two chairs on either side of the first row. Introducers will make initial statements followed by proponents, opponents and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table in the back of the room. Please fill out the green sign-in sheet before you testify. Please print, and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or committee clerk. This will help us make a more accurate public record. If you do not wish to testify today but would like to

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record your name as being present at the hearing, there is a separate white sheet on the table that you can sign for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will distribute those to the committee. If you do not have enough copies, a page will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We'll be using the light system for all testifiers. You will have 5 minutes to make your initial remarks to the committee. When you see the yellow light comes on, that does not mean squeeze the limit, that means you have one minute left. It's not like a traffic signal, but it's close. When the red light indicates your time is ended, questions from the committee will follow. No displays of support or opposition to a bill, vocal or otherwise, are allowed at a public hearing. Committee members with us today will introduce themselves, starting at my left to my far left.

**RAYBOULD:** Good afternoon, everyone. Jane Raybould, Legislative District 28, which is the heart of Lincoln.

**HUGHES:** Jana Hughes, Legislative District 24, Seward, York, Polk and a little bit of Butler County.

**BREWER:** Tom Brewer, District 43, which is 11 counties of western Nebraska.

**IBACH:** Teresa Ibach, District 44, which is 8 counties in southwest Nebraska.

**HALLORAN:** Teresa Ibach is the Vice Chair of this committee. To my far right.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**RIEPE:** Merv Riepe, District 12, which is southwest Omaha and the little town of Ralston.

**HALLORAN:** OK. Senator Hansen's not here, but he'll introduce himself when he comes. To my immediate, immediate right is committee research analyst, Rick Leonard. And to my left, far left is committee clerk, Andrew Ojeda. Our pages for the committee today are Landon Sunde,

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Sunde, from Omaha. He's studying history and political science at the University of Nebraska-Lincoln and Kait, have I got that right? Fill in the.

**AMELIA STONER:** Amelia.

**HALLORAN:** Amelia. Amelia Stoner from Juniata. She is studying political science at the University of Nebraska at Lincoln, and I was remiss in not recognizing her. She's a constituent from Juniata, Nebraska. All right. Thank you both. We will begin, begin today with confirmation hearings. And we will start with Beth Smith. Welcome, a familiar face. Good to see you.

**BETH SMITH:** Thank you. Thank you, Chairman Halloran. My name is Beth Smith. I'm from Lincoln. I'm the Governor's appointee to the Nebraska State Fair.

**HALLORAN:** Spell your name.

**BETH SMITH:** B-e-t-h S-m-i-t-h. I am in my third term of a three-year term. I was before your committee three years ago. It was a different time at the Fair. We'd just gone through a major flood. We were having some financial issues, some personnel issues. It was a tough time. So three years later, I'm delighted to say we're in much better shape. I think the Fair is flourishing. Our finding, our finances are great. We have replenished our operating reserves, our capital reserves. We've passed conservative budgets. We're in really good financial shape. Thanks to the 1868 Foundation, we had a master plan done last year which enabled us to ask for ARPA funds. And thanks to the Governor and the legislative body, we were granted \$20 million to improve our infrastructure, so thanks for all of your support on that and we're excited about what lies ahead for the Fair. Any questions?

**HALLORAN:** OK, well, thank you. Any questions from the committee?

**BETH SMITH:** Yeah.

**HALLORAN:** Senator Hughes.

**HUGHES:** Thanks for coming, Beth, and thanks for volunteering.

**BETH SMITH:** Yep.

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**HUGHES:** So I love the State Fair. I've gone, I think, almost every year of my life. I love it out in Grand Island now too. I think Grand Island is great as started already, what is that? I'm just curious. What's the \$20 million going to be used for?

**BETH SMITH:** Well, it was, it was really from the flooding that happened in 2019.

**HUGHES:** OK.

**BETH SMITH:** So I don't know, so many people saw the picture on the front of the World-Herald.

**HUGHES:** Yeah.

**BETH SMITH:** The guy in the kayak going down our main stretch. So we think we can make some serious improvements to, you know, we really, they plopped the Fair down on Fonner Park track, and they did it very quickly so we wouldn't miss a Fair. And I just think there's work to be done or we can make it a much better experience.

**HUGHES:** OK. Yeah. Can I ask a second one?

**BETH SMITH:** Yeah. Yeah.

**HUGHES:** So we had another director that left this fall, and since it's been in Grand Island, there's been three. Now we're on four. Is that right?

**BETH SMITH:** Yes. And I do, because she's here, I do want to introduce Jaime Parr, who in December was voted in as our--

**HUGHES:** Oh.

**BETH SMITH:** --current executive director. She is a longtime State Fair staffer. She said, I think she's on her 22nd year. She's a native of Grand Island. She's an engaged, respected member of the Grand Island community, and we're just thrilled to have her at the helm. And I think she will be at the fair for years.

**HUGHES:** That was kind of my next question, like what's the board doing to try to get someone that will hopefully stay vested? And we're feeling like four time's a charm and--



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**BETH SMITH:** Yeah. And I appreciate that she, I mean, that she's a Nebraskan at heart and she's a Fair person at heart. And I don't think we could have asked for a better person. And she's, she's got a great staff around her that I think will be there for quite a while now too.

**HUGHES:** Very good. Thank you.

**BETH SMITH:** Yeah, good questions.

**HALLORAN:** Senator Brewer.

**BETH SMITH:** Senator Brewer.

**BREWER:** Sorry, you stole the question. (LAUGHTER)

**HUGHES:** Uh-oh. He's pouting.

**HALLORAN:** You don't want to steal.

**HUGHES:** Oh, Merv's got one.

**HALLORAN:** You don't want to steal Senator Brewer's thunder, and you'll pay for that. Senator Riepe.

**RIEPE:** Thank you, sir. My question, first of all, my statement would be, as I like a lot of continuity, you have been there, and that's important to any organization. My question is, do you have one program that you would like to see, given the fact that I think you've turned the corner, you back into the, if you will, the good side of life. Is there any particular program, I'll be a little naive here--

**BETH SMITH:** Yeah.

**RIEPE:** Is there a rodeo out at the State Fair?

**BETH SMITH:** The high school rodeo, right?

**RIEPE:** High school.

**BETH SMITH:** Comes.

**RIEPE:** OK.

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**BETH SMITH:** You know, we're actually it's such an exciting time because we actually have the ability to think about what do we want to upgrade at the Fair. And the Fair has been in Grand Island now 13 years. So there are some of our facilities do need some upgrading, like the the screens that you all see in the big arena. Some of our technology just needs to be upgraded. So I'm excited to kind of, I think we're going to be able to make those changes. So I think we'll be upgrading the facilities.

**RIEPE:** OK. Well, thank you very much. Thank you for being here.

**BETH SMITH:** Yeah.

**RIEPE:** Thank you for your service.

**HALLORAN:** Any additional questions from the committee? Seeing none, I thank you very much for all you do.

**BETH SMITH:** Thank you, Senator.

**HALLORAN:** All right. Next, we will ask for Dawn Caldwell to come up. We're saving the grilling. (LAUGHTER) Good afternoon.

**DAWN CALDWELL:** All right. Good afternoon, Senator Halloran and committee members. My name is Dawn Caldwell, D-a-w-n C-a-l-d-w-e-l-l. I am asking for your confirmation or your vote to confirm me for my second term on the Nebraska State Fair Board. And I was asked the other day why I'm a year late in having this hearing and I don't know. I don't know the answer. I had submitted my name to be renewed. Last year was a very short session. We had a lot going on with the ARPA projects and talking to Matt Miltenberger several times through the year. He just said, we'll get you there, we'll get you there. And I said, maybe I don't want there, jokingly. And so here I am again in front of you and really honored to be here. Like Beth, we've been through some really challenging times at the Fair and her leadership was, was instrumental in getting us through some of those really tough, tough decisions to make. And sitting on the executive committee during that process has been a steep learning curve. It's been a tremendous time commitment and it's one I'm really proud of because our family, for multiple generations, at least since my grandpa, if not my great-grandpa, has shown at the Nebraska State Fair and I have a grandbaby now that I, I sure intend to get there in

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the next few years. So you ask about programs and a significant change that we made since COVID, we had during COVID, we didn't have a full Fair. But what we did do was hold the very important youth competitions. So the 4-H and FFA that the Fair is, that is the foundation of the reason to have the Fair and everything around it is a festival and a celebration, but really making sure we take care of those youth competitions. We moved them to separate weekends to have more space in the barns. That year we had the time because we didn't have as many other events. The families really liked that. We did a poll after that and said, do you want to keep this? And, and it was no small task for our staff to, to alter schedule on many other things, including, how do we still keep a draft horse display at the Fair but not have that full first weekend be the draft horse show. So I did have a very sound piece of advice given to me early on when I got on this board and it was take care of the youth competitions and events and the rest of the State Fair will go extremely well regardless. And that has been good advice. And I'm, I'm so glad that I have worked hard to follow that. And we continue with those separate weekends for 4-H and FFA now. Any other questions? Beth covered a lot of the basics, that's really good news, so.

**HALLORAN:** Senator Riepe.

**RIEPE:** Quick question. Thank you for being here. Are you responsible over the horse racing at Fonner Park? Was that a--

**DAWN CALDWELL:** We are--

**RIEPE:** --complementary kind of--

**DAWN CALDWELL:** Yeah, that's, it just sits on the same campus. So we are a tenant of Fonner Park. We lease Fonner Park property for 60 days of the year and so that we can hold our events, the State Fair and Aksarben. And then Fonner Park as a separate association is responsible for, for racing as well as the casino.

**RIEPE:** Thank you.

**HALLORAN:** Additional questions? Senator Raybould.

**RAYBOULD:** Well, thank you so much and Beth for your, your volunteerism and making the State Fair so special for all families. The question I have for you, you know, we're talking about funding

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and projects, I always think of the parking lot. You know, whenever we go, it's either really muddy, super, super muddy, and I would just say maybe you can put more rock down or just, you know, put more concrete.

**DAWN CALDWELL:** So that is a project we did a couple of years ago. We did do the rock, rock the lot, thank you to the foundation for helping that. So we rocked the paving lanes and part of the ARPA project, which has been a massive undertaking to figure out how things fit within the state revolving fund, how we can complete other parts of the project that maybe because we're not a municipality, don't work as well through the state revolving fund, but would still be a great use of ARPA dollars. A big portion of that is refurbishing and updating parking, especially on the west side of the fairgrounds.

**RAYBOULD:** Thank you so much.

**DAWN CALDWELL:** Yes, you're welcome.

**RAYBOULD:** I'm so excited.

**HALLORAN:** OK, thank you, Senator Raybould.

**DAWN CALDWELL:** Anything else?

**HALLORAN:** I must say, your youth programs are just stellar.

**DAWN CALDWELL:** Thank you.

**HALLORAN:** I have the, had the privilege of being asked to participate in a 4-H celebrity showmanship.

**DAWN CALDWELL:** Showmanship.

**HALLORAN:** Yeah. I don't know how I qualify for the celebrity status, but, but it was, it was exciting. I mean, I was paired with a young, young female 4-H'er from York. And trust me, I was far more impressed with her than she was with me. But, I got the opportunity to have her teach me the rudiments of leading an Angus heifer around the, around the arena. And trust me, the Angus led me, but, but it was a fun experience and she was a brilliant young lady. I mean, it was, it was, it was truly an inspiration. So I commend you on all you do for for the youth and the 4-H particularly.

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**DAWN CALDWELL:** Thank you.

**HALLORAN:** OK. Thank you very much.

**DAWN CALDWELL:** Thank you.

**HALLORAN:** All right, now, someone that's, someone that's new to us, would like to invite Brett Lindstrom. Good afternoon, sir.

**BRETT LINDSTROM:** Good afternoon, Chairman Halloran and members of the Ag Committee. I actually am new to this committee. I don't know if I ever testified in here before. So my name is Brett Lindstrom. B-r-e-t-t L-i-n-d-s-t-r-o-m, formerly representing District 18 and from Omaha, Nebraska. And just ask for your confirmation today on my appointment. I got a nice call from the Governor several weeks back, and it wasn't something I necessarily thought of, but it was a nice surprise. And so he said, would you be interested in serving on this board? I thought, yeah, I would. I had the opportunity to attend the Fair last year. I took my youngest out there and she loved it. She loved the pig races and we walked around and saw all the, all the sights and participated in a lot of things. And so jumped at the chance to be able to do that. And I think just, well, a couple of weeks ago, two weeks ago, went out to my first board meeting. And it's a, it's a wonderful organization. A lot of great people that you've already heard from today. So I feel really good about the prospects of the organization going forward. I was aware of a few of the hiccups along the way, but I can tell you, sitting in the board room and listening to the folks we're in good shape and will continue to do that and be good stewards of, of the dollars moving forward. So I'd be happy to answer any questions that you may have. It's good to see everybody.

**HALLORAN:** Senator Riepe.

**RIEPE:** Welcome.

**BRETT LINDSTROM:** Thank you.

**RIEPE:** I had the honor of serving with you, and I was very, you did a commendable job, and I couldn't be more excited to see you in this particular role now. So thank you for your willingness.

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**BRETT LINDSTROM:** Thank you, Senator. You know, when being termed out, I thought, you know, am I going to come back to the Legislature? And I was fortunate to get the call, so I, you know, here I am. And walk down here I might testify on another bill in a different hearing, so I thought I'd probably knock the rust off a little.

**HALLORAN:** Senator Brewer.

**BREWER:** Brett, Brett, Brett. (LAUGHTER).

**BRETT LINDSTROM:** Well, here we go.

**BREWER:** You're going to be the new face and one of the challenges has been, I think, that's spot on with the youth programs and a lot of the State Fair is built around agriculture. But to really make it, what I think everyone would like to see is, we got to draw more people out of Lincoln and Omaha, I guess.

**BRETT LINDSTROM:** Right.

**BREWER:** Got any ideas on things we could do out there that might give us a better footprint out of the Lincoln-Omaha area to come to the Fair?

**BRETT LINDSTROM:** Well, we were just talking at a lunch before this. There are different bands that will be announced at some point here and, and I think that will draw a lot of people from the urban communities. One of the things that just as a board member and being involved and around radio and TV, I mean I'm going to make it my mission, mission on a volunteer basis just to get the word out either through social media or going on certain radio programs. And I'm sure a lot of them will allow me to get on there and talk for about 15 minutes. You know, it's unfortunate, sometimes people in Omaha view Elkhorn as the furthest part of Nebraska to the west. So one of the nice things about being out there and going is just getting the word out. And so we'll be promoting that. And from what I can do in there is just talking to the families that I know because I think it's a great place to take your kids. It really is. So I'll be promoting that a lot as we lead up to it this late summer.

**BREWER:** All right, thanks.

**BRETT LINDSTROM:** Yeah.

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**HALLORAN:** Senator Ibach.

**IBACH:** Thank you, Mr. Chairman. Thank you for coming to give us your testimony today.

**BRETT LINDSTROM:** Sure.

**IBACH:** So my question is probably antiquated, but we in the agriculture field just need to know what your favorite food is at the Fair.

**BRETT LINDSTROM:** Oh, sucker for corn dogs. Although I, I did, you know, it's kind of funny because I'm kind of a foodie. I don't really don't want to get off on some things, but it's always this back and forth. So as, as that, I've seen the Iowa State Fair and the food type of situation that they have. It's pretty well known. I've watched a lot of the travel channel that has all those things, so I'll maybe be able to give you a better answer if we can find some of those unique things with regards like the fried butter and all those other things. (LAUGH) But the corn dogs, I would say are something I don't really have too often but when I go to the Fair, I have plenty.

**IBACH:** Well, I would encourage you to also visit the beef.

**BRETT LINDSTROM:** OK.

**IBACH:** And maybe even take in a term or two behind the counter.

**BRETT LINDSTROM:** I could do that.

**IBACH:** Kind of fun to work with the guys, so.

**BRETT LINDSTROM:** Absolutely.

**IBACH:** Anyway, thank you.

**BRETT LINDSTROM:** I appreciate it.

**IBACH:** And I believe you'll do a great job.

**BRETT LINDSTROM:** Oh, thank you. I appreciate it very much.

**HALLORAN:** Senator Riepe.

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**RIEPE:** I had the opportunity to visit the Fair one time, and I think the opportunity for marketing here is to market. Have your oldest daughter, who did a great job on some commercials, to have her market for kids because parents are inclined to, if the kids clamor enough, the parents are inclined to respond. I know when I visited, they had a hog, a sow who was delivering piglets at the time and although I was a farm kid, you know, it's still very intriguing, and I think it's something that kids from urban areas would benefit from having. So I believe in going, guiltling the parents into taking the kids.

**BRETT LINDSTROM:** I don't disagree.

**RIEPE:** You have kids, you know how it is.

**BRETT LINDSTROM:** Well, maybe we'll see what's in the budget for some marketing in television. But I think, you know, they've announced it with the flavor as part of the deal. And there's actually a young girl on there about probably the same age as my daughter and so there's, yeah, there's something to that, I think. It really is a great place for families to, especially, especially in urban areas you just don't see that. And I joke, you know, I went to Burt County Fair a lot as a kid and observed all the 4-H and observed things. Unfortunately, in Omaha, they don't let you have a, you know, a show, pig or hog or steer in the back, in the, in the backyard. So that was my way of observing that. I think when I took just my youngest daughter and I will take the whole family this time, but they loved it. Actually, it's kind of, I know it's in Grand Island, but we, we sometimes stay in Kearney. And we've done a few trips, Disney and Chicago and actually they rank Kearney right up there with all of them. They like the waterslides out there. They ask me all the time, can we go to Kearney again? Yeah, that sounds great.

**RIEPE:** Grand Island, you didn't get off at the right exit and you ended up in Kearney.

**BRETT LINDSTROM:** Well, for this meeting we stayed there and so we took them out last summer there too. But Grand Island, and I mean, I, we do both. They just really enjoy going out and seeing more of Nebraska, more of the state.

**HALLORAN:** Any further questions? Seeing none. You don't want to ever forget to top the evening off with a funnel cake.



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**BRETT LINDSTROM:** Yeah, that's true.

**HALLORAN:** It's an inspiration that you are willing to, willing to take up the, the response, the offer to be part of the Fair Board. I think having someone that's well known in Omaha is a, is a big, big plus. And, and you're a smart guy. You got good ideas. So we appreciate you giving your time.

**BRETT LINDSTROM:** Yeah. We'll do our best to grow it and make sure it's a success and I appreciate the opportunity to be in front of you today.

**HALLORAN:** All right. Thank you, sir.

**BRETT LINDSTROM:** OK. Thank you.

**\*ELLE HANSEN:** Greetings to those serving on the Agriculture Committee. Since many of you had the experience of serving alongside Mr Lindstrom in the legislature you know as I do that he is an honest person of goodwill who has been a catalyst for many positive initiatives in our state. For those who have not yet become acquainted with Mr Lindstrom please allow me to assure you that he is an outstanding nominee for appointment to our Nebraska State Fair Board. Throughout my time working on matters of policy within the legislature Mr Lindstrom stands out as an upright person of integrity who always treats others with respect and demonstrated honorable conduct at all times. Considering the troubles recently afflicting the business aspects of our State Fair and Mr Lindstrom's background in finance I can think of no one better suited to ensure that our beloved Nebraska State Fair is responsibly-managed and remains a fixture where wonderful memories can be made for many years to come. With this in mind, I encourage each of you to vote in favor of confirming Mr. Brett Lindstrom. Respectfully submitted, Elle Hansen.

**HALLORAN:** All right. We will move on to LB591. Senator Hardin, establish date to terminate an oral agricultural land lease. Welcome, Senator Hardin.

**HARDIN:** Thank you, Senator Halloran and good afternoon, fellow senators of the Agriculture Committee. I'm Senator Brian Hardin. For the record, that's B-r-i-a-n H-a-r-d-i-n, and I represent Banner, Kimball and Scotts Bluff Counties of the 48th Legislative District in

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western Nebraska. I'm here to introduce LB591. Across Nebraska, farmland is leased by oral agreements, handshakes between two members of the community that know that their word is their bond. Currently, there is nothing in our laws regarding the deadline for notice of termination of an oral lease agreement, just case law and a longstanding tradition of notice given by September 1 for the lease to be terminated on March 1 of the following year. The idea for LB591 is to push back the deadline for notice of termination and leaves the effective date of March 1 in place. I believe that the current six-month window between September 1 and March 1 is too big. On September 1, there are many unknowns in both the producer and landowner's playbook, unknowns that can have an effect on producer or landowner's ability to continue on with an oral lease into the next year, unknowns that get answered in the remaining months of the year. Moving the notice deadline to January 1 will allow both producers and landowners to get through their end of year financials and make an informed decision on what they will be able to commit to for the following year. Establishing the first of the year as the notification deadline, after harvest has been completed and the checkbooks have been balanced, helps all parties in knowing what course of action for their operations is best when deciding to continue with the oral agreement for another year or not. I understand that there are still some issues to be worked out with this legislation. Oral leases are used for a multitude of different agricultural operations. Agreements for irrigated cropland versus dryland production are handled differently, and the agreements for rangeland are different than those. I look forward to working with the committee and any of those in opposition or who have questions to make this legislation better and work for all those in agriculture who do business with their word as their bond. I realize this might be a strange concept to many people, but a handshake is still what gets 'er done out where I'm from. Thank you.

**HALLORAN:** OK, thank you, Senator Hardin. Questions from the committee? Senator Raybould.

**RAYBOULD:** Thank you, Senator Hardin. So I read the change. How do you propose to get the word out to all of the ranchers and the farmers so that they know that this change has been made because somebody might say, hey, you know, I'm ready to commit in September and they do.

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**HARDIN:** If you don't listen to rural radio out in Nebraska, you kind of don't do anything, so. But yeah, in a nutshell, I think we would probably appeal to our stalwart radio allies to help get word out among other media sources. And usually gossip travels pretty fast where I'm from as well, a little faster than Lightspeed, so it would definitely get circulated.

**RAYBOULD:** OK, because I'd hate for somebody to think that, you know, they thought that they had a little bit longer time or maybe, you know, they thought they already made the commitment in September and.

**HARDIN:** Yeah. In a nutshell, there's also nothing in any of this that would betray a written lease. Good old written leases can still go on as they always have so this in no way would exclude written leases. And I think if you're not from our neck of the woods, for a lot of people I think the whole idea of, hey, we're just going to do this standing between a couple of pickups along the side of the road, sounds like a very strange and foreign idea. But there's nothing that says in any way, shape or form that the decisions can't frankly be made before these deadlines. It's just to say that, let's move it to a place where it makes more sense and possibly different deadlines. In fact, for dryland, where we, then works for the irrigated world, same way for foraging in cattle land.

**RAYBOULD:** OK.

**HARDIN:** Forage jobs.

**HALLORAN:** Thank you, Senator Raybould. Any further questions? Senator Riepe.

**RIEPE:** Senator, would you help me? Thank you for being here. Now, I'm a little bit confused with the September and the January and the March. The March's, and in your neck of the woods it's also the neck of the woods in Iowa, where the magic date is the 1st of March, which allows both the landowner and the tenant to get through their end of the year financials for tax purposes. So they understand, both sides understand how much money maybe is available for the lease. So in Iowa, it's March 1, only one date, and that's March 1. It's been that way and it's also an oral agreement. Has been for a long time. So what, your motivation, if I understand this, is to move to January 1?

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**HARDIN:** Right.

**RIEPE:** And tell me what the win is there?

**HARDIN:** The win is that if you are the landowner and Senator Holdcroft would like to lease your land when he is done, you have to make a commitment to him as the landowner before he has combined one kernel of corn off of that land. So you don't know what your outcomes are when you make that decision. So at this point it's 9-1 is the deadline for the oral lease agreement once it runs.

**RIEPE:** In Nebraska, huh?

**HARDIN:** In Nebraska. And I'm really talking in the realm of era, which it's for everything. But I'm saying there are some pragmatic aspects to this where there's a different world involved. If you're talking about, again, dryland farming kind of deals with a different calendar, right, than if you're dealing with irrigated lands performing. Right now, it's a challenge.

**RIEPE:** Probably they don't irrigate, but that's another deal.

**HARDIN:** Okay. But in a nutshell, it makes it tough because can you imagine if, for example, you were a retailer selling whatever you would sell and, in fact, you're going to be making your decisions for next year before we get around to the fourth quarter, when you sell most of what you sell in a retail store because of Christmas. That's essentially what we're putting these landowners in the corner to do. They've got to make their decision before the bulk of their income comes in.

**RIEPE:** OK.

**HARDIN:** Yeah. And so they're operating blindly. We've done it that way for a long time. Again, this is not the only way that a decision or a contract can be put in place. We can certainly do it in paper, but it's based on these longstanding traditions in case law.

**RIEPE:** Does the University of Nebraska-Lincoln kind of provide a breakdown of what the land leases are? I know Iowa State University does. It breaks Iowa land into like eight zones and it will tell you fundamentally what the average land rent is so that a farmer doesn't have to look at it and say, you know, I'm going to have so much for

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my corn and beans and yadda, yadda, yadda. This is kind of like the university in its research. I don't know whether Lincoln does that or not.

**HARDIN:** I believe they do.

**RIEPE:** Do they?

**HARDIN:** More to the point, though, I think with this it's more of a quality of perhaps farmer option A as a farmer who wants to lease your land is not as good as farmer option B at taking care of that same land and therefore the yields that can come off of that crop once harvested.

**RIEPE:** But the value of the rent is whether it's A ,B, C or good, bad or indifferent farmer, the rent still has a certain value based on the value of the property.

**HARDIN:** Yes and no, because there's cash rent, and then there is essentially crop share.

**RIEPE:** Yes.

**HARDIN:** So you can decide that, you know, clearly if it's cash rent.

**RIEPE:** OK.

**HARDIN:** You're right, it stays the same.

**RIEPE:** I was--

**HARDIN:** Going to take a percentage of it.

**RIEPE:** Yeah.

**HARDIN:** Then it completely changes the rubric.

**RIEPE:** OK. Thank you.

**HALLORAN:** Thank you, Senator Riepe. If I may make a kind of humorous correction on, in Iowa, they don't irrigate because God irrigates for them.

**RIEPE:** They're close to God.

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**HALLORAN:** They are close to God. So any further questions for Senator Hardin? I'm a firm believer in written agreements, and it's not that I don't trust oral agreements, but it eliminates a lot of ambiguity or memory issues, particularly if you got a landlord my age, I forget what I said and so written to me. And I know this is about oral agreements, but.

**HARDIN:** Trust your neighbors and lock your doors.

**HALLORAN:** You know, and padlocks are for honest people. I get that, so OK.

**HARDIN:** Thank you.

**HALLORAN:** All right. Thank you, Senator Hardin. We'll start with proponents. You'll stay for close?

**HARDIN:** I shall.

**HALLORAN:** OK. All right, we'll open it up for proponents for LB591. You want to come back up, Senator Hardin? No, I'm just kidding. All right. No proponents. Are there, is there opposition to LB591? And if there are future, if there are future testifiers on this bill, if you'd move up to the front row, the seat on either side of the front row. Good afternoon and welcome to the Agriculture Committee.

**DAVID GRIMES:** Good afternoon. Good afternoon, Chairman Halloran and members of the Ag Committee. My name is David Grimes, D-a-v-i-d G-r-i-m-e-s, and I'm a farmer from Minden. I serve as a board member for the Nebraska Farm Bureau, and I'm here today to testify in opposition to LB591 on behalf of Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska Pork Producers Association, Nebraska Soybean Association, the State Dairy Association, Nebraska Wheat Growers and the Renewable Fuels Nebraska. While we appreciate Senator Hardin bringing the concept to clarify, clarify in statute on verbal leases, we believe the longstanding case law, common law of a September 1 date to notify termination of verbal lease has had little to no issues. Moving the date to January 1 simply doesn't work for a majority of ag lease arrangements across the state. The months of September through December are integral to land preparation, manure applications, finance planning and purchasing of seed, fertilizer, equipment, additives and other inputs. Not to mention, this simply

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doesn't work for specific lease arrangements such as range or pasture land, winter wheat and I'm sure other, there are others. Farming is an industry where costs can get out of hand very quickly and may mean the difference between providing for your family and having a bad year. Any producer will tell you that it's a year round, a job that requires constant attention to detail. To open the door for those who lease land to invest time, money, effort and equipment time only to have the rug pulled out from under them on January 1 is something that would severely impact, negatively impact the state's largest industry. I've been a farmer for 48 years. I've been on both sides of lease agreements. At one time I had over a dozen landlords when I was younger and I've also been a, been a landlord as well as a tenant, and I've communicated with others like me. As landowners and producers, we always strive for good relationships with those that we lease the land to or from in order to maintain a good business friendly relationship and continue it the next year. This bill jeopardizes that relationship. I also think it's important to point out that if the current common law practice of September 1 does not meet the needs of your specific situation, a written lease can be used where the termination date is determined by the terms of the written lease with any date that's agreeable to both parties and that can be used. Thank you for your time and attention. The organizations I'm representing today did not feel that there's a need to change the common law date of termination of oral, verbal leases to January 1. And I encourage you not to advance this bill out of the committee. Rural Nebraska is a vast area, and I agree with a lot of what Senator Hardin said about that handshake deal. And I also agree with Senator Halloran. It's probably best to get things in writing. That way nobody misunderstands, nobody forgets. But a lot of agreements, rental agreements are still done based on a verbal lease, a handshake lease. Over the years, I can remember having leases where we wrote everything down the first year and things went good. And after that first year we said, well, should we change anything? No, I think it's okay and we should have written a new lease and dated it, but we didn't. So I'm not sure if we had a written lease or a verbal lease. As a landlord, I always thought it was in my best interest that if something was going to change, that I needed to make that decision early. And as a tenant, I always appreciated that, if any advance notice was given to me. I think it's best rather than try to write a perfect law that would be hard to write, that we continue to abide in

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the common law that takes care of this issue in Nebraska. And I'd be open for any questions.

**HARDIN:** All right. Thank you, Mr. Grimes, for your testimony. Yes, Senator Raybould.

**RAYBOULD:** Thank you, Mr. Grimes. You know, I grew up in the grocery business, and I remember my dad had a verbal agreement to, to open up a new Super Saver, our very first Super Saver stores. That was a verbal agreement. Now I'm in the next generation and I do leases and I do leasing transactions, so I know that's important. So I'm kind of curious, out in Nebraska what is the percentage of leases that are still done by oral agreements versus, are farmers and ranchers going the route that I've gone, which is more writing it down so people don't forget what they said and, and they meant what they said, so?

**DAVID GRIMES:** I do not know the percent that are written and not written, but I would, I'm confident in saying that over time more leases are written. And it's interesting, I look back at some of the leases that I saved, and it's very common to, to accept that those, that common law provisions though for verbal leases to accept those and use them in a written lease. And most of the written leases that I've been a part of had a, and it's not, the law isn't September 1, it's 180 days before the termination of the lease, which is March 1, commonly for, for cropland. For pastureland, it's a little different. Lots of times there's a five-month grazing season even in western Nebraska, possibly where I know in central Nebraska is, it's May 1 through September 30. So I found an old pasture lease and the termination date was November 1, but that was written in to those agreements. And even I, and I didn't save everything over the years. I wish I had saved more last night. But even in dealing with farm managers, you know, like Farmers National or the banks that I rented from, it was still common to put that 180-day or September 1 provision in there, although with a written lease, it's whatever you agree to do and it's written down so you don't forget.

**RAYBOULD:** Thank you very much.

**DAVID GRIMES:** Thank you.

**HALLORAN:** Thank you, Senator Raybould. Any further questions from the committee? OK. Seeing none, thank you for your testimony.



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**DAVID GRIMES:** Thank you for giving me the opportunity.

**HALLORAN:** OK, is there any additional opponent? Welcome.

**JOHN HANSEN:** Chairman Halloran and members of the Ag Committee. For the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. And as much as it pains me to admit it, I agree with everything that was just said by my colleague. I, it, it mirrors the conversation we had at yesterday's Nebraska Farmers Union Board meeting. And so of all the bills that we talked about and all the ground that we covered, when we got to this one, three of my board members said, well, I think the intentions are good, but everybody knows what the rules of the road are. And if you change it, there's going to be confusion and all it does is give additional advantage to the landlords, so why would we change it? And so that was the sentiment of our board and all, for a lot of the same reasons that have just been stated. And I've certainly been a, both a renter and a landlord on both sides of both, oral agreements and written agreements. And I think that it's accurate to say that the shift is definitely toward written agreements. And it's, I think in the case where you're renting to friends and/or family, it's probably even more important to have written agreements than it is oral agreements with the folks that you don't know as well. And so it helps clarify the rules of the road so that there's no ambiguity or, or complaint later on about, well, I thought you said this, or I thought you meant that. And, and so if somebody mentioned something during the course of the year about something they like one way or the other, that doesn't necessarily constitute a change in the handshake agreement. That was just a comment that was made. And so I think for a lot of reasons, it's, it's definitely during my career shifted toward written agreements. And I just think it's a much cleaner, neater thing to do. But when I asked my board yesterday if they, what they thought about this bill, there was, there was no support for making a change. So I'm here today in that capacity to represent my board's recommendations. I'll be glad to answer any questions if you have any.

**HALLORAN:** Any questions from the committee? Seeing none.

**RIEPE:** I have.

**HALLORAN:** I'm sorry. Senator Riepe.

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**RIEPE:** Can, to avoid getting a six-page lease agreement from a legal counsel, is one able to go online and find a simple one-page lease? I am trying to not help the Attorneys Unemployment Act.

**JOHN HANSEN:** I have a simple two-page agreement that I've sort of developed over time where I've taken from leases that I've had, and I just kind of keep modifying it. But it puts all this stuff in there that I want. Is the landlord in there relative to the rules of the road, keeping up the farmstead, etcetera, etcetera, and mowing the road ditches, all those, just kind of simple things that. But you can get all that on two pages. At least, you know, and I have looked at some of the sample agreements and to see if there's a provision that I like better that I can add into our, our family agreements, but I haven't, so.

**RIEPE:** OK. Thank you.

**JOHN HANSEN:** You bet.

**HALLORAN:** Thank you, Senator Riepe. Yes, Senator Hughes.

**HUGHES:** If we can do this, that sheet that was handed out before. I don't know if it was from Nebraska Extension or Institute of Ag. It has AgLease101.org and they are sample leases that they can download and use or whatever. So I'm guessing there are some varied materials you can access online for that.

**HALLORAN:** Very good. And that was Senator Raybould asked a question whether there was some source of accumulated aggregated information on what, say, for example, cash rents were. And, of course, that varies with every piece of ground there is. And the thing about cash rents or bushel rents is, there's nothing the farmer is more confidential about than, than talking about cash rent, for example, or bushel rent. It's information he, he doesn't necessarily share with other people. It's confidential information. And so, it's not commonly talked about at the coffee shop. Yields are talked about at the coffee shop because the first liar never stands a chance. Yields keep going higher as the coffee pot keeps pouring coffee.

**JOHN HANSEN:** Well, thank you for that, Senator Halloran. You just stole my close.

**HALLORAN:** OK.

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Agriculture Committee January 31, 2023

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**JOHN HANSEN:** As a former seed corn salesman as well, that is certainly the case.

**HALLORAN:** All right. Thank you, Mr. Hansen.

**JOHN HANSEN:** Thank you.

**HALLORAN:** Is there any additional opposition to LB591? Anyone in the neutral capacity? That's where the gearshift knob goes and that you don't go anywhere because you're in neutral. Nobody in the neutral? OK. Senator Hardin, you're welcome to come back up. We had comments, online comments. One proponent for LB591, proponent of LB591.

**HARDIN:** Thank you, Chairman Halloran. Thanks to everyone who testified. And it was a CPA who brought this to my attention and he was representing a number of his clients who were farm landowners. And it's not just from the last year, but from several years. So it's evidently been something that is growing, if you will. We were glad to hear the opposition today. Interesting that we did not hear from any of the opposition up before this moment, which is normally something that happens, but did not in this case. As it is now, the tenant can walk away essentially at any time. So, as we do it with this current oral lease tradition, it's heavily favoring that tenant and not the landowner. So the tenant, I would point out, can have other legitimate reasons for backing out late. As I was just presenting now, someone texted me and said I just had a tenant back out on me yesterday due to a health issue. This has happened before. So there are things that happen in life that can make that go as unplanned. There's also volatility of input costs. Nobody three years ago could have guessed what was going to happen two years ago with input costs in fertilizer, herbicide and so forth. All of this affects outcomes. And do we do a cash lease or cash rent? Do we do sharing and so forth? What this is after is a leveling of the playing field, to be fair to both sides. Any other questions?

**HALLORAN:** Any other questions from committee? Seeing none, thank you, Senator Hardin.

**HARDIN:** Thank you.

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**HALLORAN:** That concludes LB591. We will move on to LB264, which I've declared to be an Ag Committee bill and I have asked Rick Leonard, our committee research analyst, to present the bill to the committee.

**RICK LEONARD:** Thank you again, Senator, Chairman Halloran and members of the committee. I'm Rick Leonard, research analyst for the committee. LB262 (sic LB264) is introduced by the committee at the request of and in collaboration with the Public Service Commission. LB264 would make a series of revisions to the Nebraska Grain Dealers Act and the Nebraska Grain Warehouse Act. In a nutshell, these acts provide for the licensure of grain dealers and grain warehouses specifying minimum financial standards in bonding and security to qualify for licensure and governs the conditions under which grain sellers or storers may claim against the dealer security. During the 2022 interim, the Agriculture Committee reviewed the Nebraska Grain Dealer Act for purposes of the Occupational Board and Reform Act. While reviewing the grain dealer licensing provisions, the Public Service Commission was invited to offer any potential updates to the state grain laws generally. These were presented to the committee during its December 2 hearing and LB264 contains a number of these recommendations. First, the bill would address an ambiguity whether the acts applied to persons dealing in warehousing, organic, certified or other types of crops that are often sold through segregated, segregated marketing channels. LB264 would essentially codify existing interpretation that these are not exempt. The bill adopts the use of the preferred term warehouse operator, referring to persons offering grain warehousing services and be consistent with terminology used under the Federal Warehouse Act and perhaps elsewhere. LB264 also clarifies an existing exemption to a criminal history check for license applications who submitted a criminal history report for a previous application. Revision would be consistent with current practice and legislative intent. Finally, the bill would increase the statutory maximum amount of bond or other forms of security maintained by licensees as a condition of licensure. The current maximum is \$300,000 for grain dealers and \$500,000 for grain warehouse licensees. LB264 increases the maximum to \$1 million in both cases. The current statutory maximums were set, last set in 2003. The bill would strike a statutory formula for cake-- for calculating the amount of bond for grain dealers and essentially defer to the Commission to establish the formula by rule and regulation, which is currently the case under the Grain Warehouse

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Act. I'll be happy to answer any questions. I will be followed by agency testifiers who, who can go into further detail regarding the changes in the bill and the purposes that are being brought.

**HALLORAN:** Thank you, Mr. Leonard. Questions from the committee? There's no better person to ask than this guy if you have a question. Seeing none. Thank you, Mr. Leonard. We'll move on to proponents. Welcome to your Agriculture Committee.

**DAN WATERMEIER:** Thank you, Chair Halloran. Having a lively discussion here today. Good afternoon, Chair Halloran and members of the Ag Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the Nebraska Public Service Commission, First District, and I'm here to testify in support of LB264. The Commission testified in December before this committee at the fall Occupational Regulation Review hearing for grain dealer licenses. The testimony included several legislative items for consideration. Many of those items are reflected in this bill, such as the harmonization of the definition of grain and are both the Warehouse and the Grain Dealer Acts, adding organic and non-GMO grains to the grain definition and updating the term warehouseman to warehouse operator to align with the terms used by the USDA in the federal rules. We are also pleased to see that the proposed changes to both the background check frequency and the increased security requirements for both dealers and warehouses. This is requiring background checks for subsequent applications by primary parties, ensures that primary parties continue to meet minimum fitness requirements to be granted a warehouse or a dealer license. Increases in the amount of security provides necessary protection to Nebraska producers should issues arise. Again, I appreciate the committee's addressing these issues through LB264. I'd be glad to answer some questions if I can. I appreciate your time. I do have the director of our division here today, Terri Fritz, who maybe will answer with more of the history on the back and how we've regulated this in the past. So thank you for having me here today.

**HALLORAN:** Thank you, Mr. Watermeier. Any questions from the committee? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right, Dan, whenever you spoke, I always paid attention because you always had something interesting to say.

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**DAN WATERMEIER:** Oh, oh.

**BREWER:** This might be the one exception because--

**DAN WATERMEIER:** Maybe I said something.

**BREWER:** --it's a little dry. But is this, (LAUGHTER) is this basically just kind of a cleanup bill?

**DAN WATERMEIER:** Oh, that's a dangerous term because it's a little more than that.

**BREWER:** Little pieces and parts that are kind of getting put in the right alignment so that--

**DAN WATERMEIER:** This security agreement is more than a cleanup bill. I would tell you that. This is important for the state of Nebraska and the producers and that are at risk. And this is a big deal, I believe, and that's why we would very rarely probably support a bill when in the fact that this directly affects producers. And that's what we feel our role is, is to be able to harm, you know, harmonize that, protect the producer.

**BREWER:** That's all I was looking for, thank you.

**DAN WATERMEIER:** Yeah.

**HALLORAN:** OK. Thank you, Senator Brewer. Senator Ibach.

**IBACH:** I just have one.

**DAN WATERMEIER:** Yes.

**IBACH:** Question that I should know the answer to this and I don't.

**DAN WATERMEIER:** I may not.

**IBACH:** I bet you do. Why do we have, regarding inspections, why do we have the Department of Ag and the Public Service Commission both. And they still do inspect warehouses, correct?

**DAN WATERMEIER:** I don't believe they do. There's no crossover here on the Department of Ag.

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**IBACH:** OK.

**DAN WATERMEIER:** The Department of, we actually inspect the grain licensors and their books, the warehousemen and their books as far as inventory and their moisture meters as well in the grain industry. The Department of Ag is highly involved in things like the weights and measures, but we do not cross over--

**IBACH:** OK.

**DAN WATERMEIER:** --into that at all.

**IBACH:** All right. That clarifies it. Thank you.

**DAN WATERMEIER:** Yes.

**HALLORAN:** Thank you, Senator Ibach. Any further questions from the committee? OK. Seeing none, thank you,--

**DAN WATERMEIER:** Thank you.

**HALLORAN:** --Mr. Watermeier. Further proponents for LB264. Good afternoon.

**RYAN McINTOSH:** Good afternoon, Chairperson Halloran, members of the Agriculture Committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, and I appear before you today as registered lobbyist on behalf of the Nebraska Bankers Association to testify in support of LB264. In the unfortunate event that a grain dealer or grain warehouse is rendered insolvent, the insolvency can have significant, if not catastrophic, catastrophic impact on farm producers who have crops held with a dealer or in storage at a warehouse under deferred payment agreement. While even the maximum bond requirements that are proposed under LB264 will far, fall far short of making producers whole, they will provide an extra modicum of protection for producers sustaining a loss as a result of a grain dealer or grain warehouse failure. We're not unmindful of the costs associated with increased bond, bonding or security requirements, but do not believe that the increases proposed under LB264 will adversely impact the availability of bond coverage. As a result, the significant volume of grain handled by dealers and warehouses, LB264 strikes a reasonable balance between increasing the cost of doing business for dealers and warehouses in providing an extra measure of protection for farm producers. For those reasons,

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the NBA supports LB264 and would respectfully request the bill be advanced to the floor. Thank you.

**HALLORAN:** OK. Thanks for your testimony. Any questions from the committee? OK. Seeing none, thank you. Additional proponents for LB264? Seeing none. Opposition for LB264? Seeing none. Neutral for LB264? Welcome.

**ROCKY WEBER:** Thank you. Good afternoon, Senator Halloran, members of the Agriculture Committee. I'm Rocky Weber. I'm president and general counsel of the Nebraska Cooperative Council. We are appearing here today in a neutral position on LB264. Before I start my testimony, I want to commend the Public Service Commission members and staff who have been very open and candid with the industry. And in talking to us about some of the changes they were seeking in this legislation, they got the industry involved. They've given us an opportunity to appear and set forth our opinions on the changes we see in LB264 and this has been a very positive and good process. For some context: 22 of our farmer owned cooperatives hold a grain dealer's license; 12 are also Nebraska licensed warehouses; 10 of those grain dealers are USDA federally licensed warehouses. Prior to 2005, no license to warehouse in Nebraska was required to be also a grain dealer. In 2005, LB439 was passed by the Legislature and at that time to allow for direct shipping of grain, which is grain merchant buying from a producer and having produce shipped directly to an ethanol plant, livestock feed or other end user, and the grain never comes through the elevator for those direct ship purposes. Warehouses were required if they were going to conduct any type of direct ship business to become grain dealers. So since 2005, all of our members have had to, if they are in the grain business, have had to have both a dealer's license and a warehouse license. Our membership is supportive of almost all of the provisions of LB264. And the reason I'm here in neutral is because they have concerns about the financial security amount going up so quickly, especially when they're required to have both licenses. And we are, you know, fully aware of what the value of grain is today. We are aware that \$300,000 and \$500,000 may not be sufficient and certainly for standalone grain dealers who are not also owned by grain warehouses and don't have the other assets of grain warehouses and marketing and supply businesses, those grain dealers may need to post more security because they may not have the assets to stand behind their commitments. But when a grain dealer is also a licensed grain warehouse, there's typically significant



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company-owned grain, as well as other assets to stand behind the commitments on the grain dealer side of this legislation. I checked, I did a survey of our membership. The current bonding amounts for the \$300,000 grain dealer bond ranged from and I don't know why there was this difference, but they ranged from, I believe, \$1,800 to \$4,000 a year. And on the grain warehouse bonds, the \$500,000 bond, the costs ranged from about \$2,500 a year to \$5,500 a year. I think it just depends on which insurance company is providing the surety and things of that nature. I did ask one of the insurance companies that do business in this sector if any of our cooperatives would have a problem getting a \$1 million bond and they said no, they did not believe that would be the case. And while the grain dealer bonds would certainly cost more than \$1 million, they did not believe that the cost would necessarily be two and three times the current amounts just because the bond is going up two or three times that amount. But I'm appearing today to tell you that we believe that for any grain dealer that is also a grain warehouse, this bill should, would have been better off accommodating those types of situations and not having such a high bond amount on both sides for the dealer and the warehouse. And I think that as we go into rulemaking with the public service, can I finish, Senator? As we go into rulemaking with the Public Service Commission, we're certainly going to be appearing and talking about these kinds of issues. We also believe strongly that audited financial statements of all dealer licensees and warehouse licensees should be required by the commission. That would also provide support for the financial well-being of these companies and if these companies should post their audited results on Web sites, and so producers can have full knowledge and know who they're dealing with. And with that, I'll complete my testimony.

**HALLORAN:** Very good. Thank you, sir, for your testimony. Any questions from the committee? No, none, seeing none, thank you very much.

**ROCKY WEBER:** Thank you.

**HALLORAN:** Is there further neutral testimony on LB264? All right. Seeing none. We have one written comment or online comments, proponents for LB264. All right, that concludes our hearing for LB264. I'm not going to ask Rick to close. We will move on to LB305, which is my bill, so I will ask Vice Chair Ibach to take the Chair, and I will get in the hot seat.

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**IBACH:** All right. Thank you. If you would state your name and spell it, please, for the committee.

**HALLORAN:** Thank you, Vice Chairperson Ibach. My name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, representing District 33. LB305 would remove a duty and authority of the Public Service Commission under 81-541 of the Grain Warehouse Act to set storage rates that may be charged by state licensed grain warehouses. In effect, the bill would largely deregulate storage rates. Currently, the Grain Warehouse Act states that the Commission shall annually set reasonable rates. Current law also provides that individual warehouses may not deviate from this rate either higher or lower without first requesting a hearing before the Commission. I should acknowledge that in practice, the Commission has implemented this provision by setting a maximum rate, relying on input from the industry regarding where that rate should be and not intervening if warehouses charge less than that rate. I would also like to acknowledge that this bill is not brought out of any belief that the Commission has not carried out its rate setting function under current law fairly and competently. In its last rate setting order in August, the Commission responded to industry requests to increase the maximum rate by 50 percent. Previously, the rates had been adjusted in 2015, but the inflationary environment experienced economywide has put tremendous pressure on commercial storage rates, cost, I mean, due to the concern of private sector warehouses to be able to timely adjust rates as necessary to recover costs and accurately single storage prices to the public. This bill is introduced at the urging of the industry participants. I anticipate witnesses to follow will elaborate on their needs to have the ability to respond to marketplace conditions. It is my understanding that Nebraska is the only state of our surrounding states that currently exercise storage rate regulation. Additionally, federally licensed warehouses are not subject to such regulation, and this is one factor warehouses consider in deciding whether to be state or federally licensed. I would point out that while this bill would defer to the marketplace to set storage rates and relates to handling charges, it is not absolute deregulation. The bill would require warehouses to be in compliance with notice and transparency provisions. A warehouse must post its rates in a conspicuous place, and such posted rates shall disclose all cost of storing grain, including the storage rates in any related handling charges. Additionally, warehouses must give 30

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days' advance notice to the Commission and its customers before any rate change could take effect. LB305 would honor our faith that the marketplace is more reasonable system for Nebraska licensed grain warehouses to be able to price their rates in order to cover their costs. If the market allows as well as creating a competitive market system, that should operate to keep rates reasonable for producers storing grain in Nebraska licensed warehouses. With that, I will conclude my opening and respond to any questions that I am able.

**IBACH:** Thank you, Senator. Are there any questions from the committee? Senator Riepe.

**RIEPE:** Thank you, Chairwoman. Senator Halloran, my question is, I think you stated this. I'm just going to ask you to restate it, who would ask you to bring this bill forward?

**HALLORAN:** This was the Public Service.

**RICK LEONARD:** The--

**HALLORAN:** No.

**RICK LEONARD:** Cooperative Council.

**HALLORAN:** Cooperative Council, excuse me.

**RIEPE:** Cooperative Council?

**HALLORAN:** Yes. I'm sorry.

**RIEPE:** Thank you very much.

**HALLORAN:** Yep.

**IBACH:** Thank you, Senator. Are there other questions from the committee? Seeing none, oops.

**HALLORAN:** Senator Hughes.

**IBACH:** Senator Hughes.

**HUGHES:** Why was it regulated in the first place?

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**HALLORAN:** Well, that's a good question. It's probably one that I will defer to someone that will follow--

**HUGHES:** OK.

**HALLORAN:** --that will have a better history of that. But I could, I could give you an assumption answer, but it probably wouldn't be the right answer.

**IBACH:** Thank you, Senator. You'll close?

**HALLORAN:** I will.

**IBACH:** OK. Thank you. Are there any proponents of LB305?

**ROCKY WEBER:** Good afternoon, members of the committee. Rocky Weber, R-o-c-k-y W-e-b-e-r, president and general counsel of the Nebraska Cooperative Council, appearing in support of LB305. We'd like to thank Senator Halloran for introducing this legislation. It just so happened that in 2022, in April of this year, the Public Service Commission held its annual rate setting hearing to determine if they would change the rates, which had been in effect since 2015 and unchanged since that time. In April, a committee of our members got together. We looked at the policy. We looked at what had happened since 2015 with regard to costs for construction, maintenance, insurance, labor, all things associated with maintaining grain warehouses and what those costs had done in the last several years. And we therefore went to the Public Service Commission to the hearing and requested a 50 percent increase in rates. Before this, the rate per bushel for all nonsoybean commodities was five, approximately 5 cents a bushel per month. For soybeans, it was about 5.6 cents per bushel per month. And so we requested a rate increase of sep-- up to 7.5 cents per bushel per month for nonsoybean commodities and 8.4 cents per bushel per month for soybean commodities. We provided testimony and support in terms of the costs which had increased and in August of this year the Public Service Commission did increase those rates. For a point of reference, almost all grain merchandising and purchasing is done based upon the Chicago Mercantile Exchange futures price and a local basis. So the Chicago Mercantile Exchange bears great weight in the grain industry in terms of costs. As part of their structure, they have an 8 cent per bushel fee should someone ever deliver on a futures contract and that 8 cents per bushel fee

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has been in place since 2018 and that, some of my members say would be a good rate to have because it's consistent with the pricing structure of the grain, that farmers are used to that and everything else. We did not ask for that much. I did a survey this last fall and actually since the first of the year I've confirmed this. Two, we have two Kansas cooperatives that are members of the Nebraska Cooperative Council. They both reported to me that their current rate was 5 cents a bushel on all commodities. So they're lower and they are not regulated. I also asked my counterpart in Iowa at the Iowa Institute of Cooperatives about their rate structure there, and he sent me a posted rate for one of his cooperative members, as well as told me that generally around 5 cents, the posted rate he sent me was 5.6 cents. My two Kansas cooperatives indicated to me that they were likely raising their rates at the beginning of this year for the same reason that the industry in Nebraska sought a rate increase last April from the Public Service Commission. And so one of the biggest issues that my members face is of the 12 farmer cooperatives that have Nebraska grain warehouse licenses, they're always limited by this maximum rate. The ten USDA federally licensed cooperative warehouses are not limited by that rate. And this has been an issue as to why some have switched from a Nebraska license to a USDA license over the years, even though the USDA license does kind of cost more money from a, from a licensing standpoint and those kinds of thing. We believe that letting the marketplace set the storage rates will benefit producers and will provide an opportunity for industry to raise rates as necessary when their cost structures change, or lower the rates should the competition have lower rates and draw more grain away from them. I think we see this happening in our neighboring states with what the rates are there, and I anticipate that not everybody wants the maximum rate when we raised it this year. And I'm confident that they will continue to compete against each other and do what they can to attract as much grain as possible. And with that, I'll conclude my testimony and answer any questions.

**IBACH:** Thank you very much. Are there questions from the committee? Senator Riepe.

**RIEPE:** Thank you, Chairwoman. Rocky, good to see you again. My question would be this. If you go to the free market but you happen to have a monopoly and there aren't other co-ops for grain, you know,

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how does that, is it really to turn to being a free market or is it a monopoly?

**ROCKY WEBER:** Well, first of all, Senator, the co-ops compete heartily against each other, number one, and there are still--

**RIEPE:** I thought you were a co-op.

**ROCKY WEBER:** Well, but they're separately owned co-ops, though.

**RIEPE:** Oh.

**ROCKY WEBER:** So they like to compete against each other very much. And they're not shameful about undercutting price to compete against each other. And also, I will say that there are still several independent grain companies operating in the state of Nebraska. And so it's not just a cooperative issue, it's, it's all the grain companies and there still will be significant competition for grain, regardless of whether the Public Service Commission has this regulatory role or not.

**RIEPE:** So they're not a cartel?

**ROCKY WEBER:** No, not a cartel.

**RIEPE:** Thank you.

**IBACH:** Thank you, Senator. Are there other questions? Senator Hansen.

**HANSEN:** Thank you. Thanks, Senator Riepe, you stole my thunder.

**ROCKY WEBER:** OK.

**HANSEN:** I wouldn't have used the word cartel. Geez. (LAUGHTER) No, I see along the same line of questioning, that's kind of what I had is, like, how does somebody become a warehouse, like can an individual just start a new company to do this? Like, like, I like the idea of, like, turn off the competition, the free market approach, but that also then going to have to allow for people to kind of get into the industry and not price them out because of licensing and other kinds of requirements.

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**ROCKY WEBER:** I believe that the Public Service Commission requirements for obtaining a grain warehouse license has several thresholds that must be met, including a net worth threshold and bonding and financial security requirements and are they able to get that bonding and financial security? You know, the condition of the warehouse facilities, a number of things are set out in the regulations of the Public Service Commission. Chairman Watermeier may be able to answer that question better than I, because we haven't seen. I haven't seen a new grain warehouse start in my years in this business. We've certainly seen grain warehouses change hands and be purchased, but I haven't seen a new facility just, just kind of spring up out of a green-field as a brand new facility so.

**HANSEN:** OK. No, I apologize, I just, somewhat new. I'm trying to figure out some of this stuff, so I appreciate it. Thank you.

**IBACH:** Thank you, Senator Hansen. Other questions? Not, thank you for your testimony.

**ROCKY WEBER:** Thank you.

**IBACH:** Other proponents? Are there any opponents to LB305? And is there anyone that wants to testify in the neutral position? Thank you again.

**DAN WATERMEIER:** Yeah. Good afternoon. Vice Chair Ibach, Agriculture Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent the Nebraska Public Service Commission's First District and here to provide testimony regarding LB305 in a neutral capacity. As part of the Commission's regulatory authority over grain warehouses, the Commission is tasked with determining reasonable rates and charges for grain storage. A hearing is held annually and in order to enter the set, the rates for the upcoming storage year, staff creates and distributes the rates on posters to all warehouses to post in a conspicuous place. The charges make up the full compensation for receiving, handling, storing, delivering and insuring the grain. LB305 would eliminate the Commission's responsibility to determine the rates and allow warehouses to determine their own rates and charges. Warehouses would need to notify the Commission and grain owners of any increases or decreases to the rates not less than 30 days prior to the change. Posting requirements, as well as a requirement that the rates and changes, charges must be the for

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compensation and not discriminate between different consumers would remain with the current process. In addition to the proposed language, the Commission would recommend additional language to require the Commission to be notified of rates for the initial granting of a license to preserve the ability to issue the required posters to the warehouses and to provide recourse for any grain owners charged a rate contrary to rates on file with the Commission. This concludes my testimony. I thank you for your time. And as I mentioned earlier, I do have the director here with me and Director Fritz. She may be able to give you a lot better history than what I would really have as far as a couple of the questions that came up there, but I'd be glad to try to answer them so.

**IBACH:** Very good. Thank you. Are there questions from the committee?

**DAN WATERMEIER:** All right.

**IBACH:** Senator Hughes.

**DAN WATERMEIER:** Yes.

**HUGHES:** So where is it at, why, like how I got regulated in the first place?

**DAN WATERMEIER:** I'm sorry. I couldn't--

**HUGHES:** How did they get regulated in the first place?

**DAN WATERMEIER:** You know, we started out as a railroad commission, and I just have to think that it probably began in the very early stages about the monopoly conversation and making sure that they were fair. We are a place where two different, a producer could go to and ask for, resolve an issue where the rates weren't the same from one producer to the other. And I'm just going to guess that that's probably where that idea was born.

**HUGHES:** OK.

**DAN WATERMEIER:** Yeah.

**IBACH:** Other questions? Thank you.

**DAN WATERMEIER:** All right.



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**IBACH:** I would echo Senator Brewer's comments in that whenever you come forward, we always walk away with a good answer, so.

**DAN WATERMEIER:** Thank you.

**IBACH:** I appreciate your--

**DAN WATERMEIER:** All right. Very good.

**IBACH:** --thoroughness as well. Thank you. Are there other folks testifying in the neutral position? Seeing none. Senator Halloran, would you like to close? And he waives. That will conclude the hearing. There was one online comment in opposition. So thank you. That concludes the hearing.