

**Agriculture Committee February 19, 2019**

**HALLORAN:** According to my cell phone, it is 1:30 so we will begin. Welcome to the Agriculture Committee. I'm Senator Steve Halloran. I'm from Hastings, Nebraska, and represent the 33rd Legislative District. I serve as Chair of this committee. Committee will take up the bills 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 abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserve chairs when you are ready to testify. These are the first two chairs on either side of the aisle. 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 signing-- sign-in sheet that is on the table at the back of the room. Please fill out the gra-- the green, excuse me, 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 the page or to the committee clerk. This will help us 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 is a separate white sheet on the tables 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 you have 12 copies and give them to the page when you come up to testify and they will be distributed to those in the committee. If you do not have enough copies, the pages 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. Before I start with this, how many people are expressing an interest in, in testifying LB594, either for or against all total? OK. We will stick with the five minutes per testifier. You will have five 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 displays or support of opposition to a bill, vocal or otherwise, is allowed at a public hearing. Committee members with us today will introduce themselves starting on my far left.

**MOSER:** I am Mike Moser from District 22, Platte County, a little bit of Colfax County, and most of Stanton County.

**SLAMA:** Julie Slama, District 1, which includes Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

**LATHROP:** Steve Lathrop, District 12, which is in Douglas County, includes Ralston and parts of southwest Omaha.

**BLOOD:** Good afternoon. Senator Carol Blood from District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**HALLORAN:** And to my far right.

**B. HANSEN:** Senator Ben Hansen, District 16, Washington, Burt, and Cuming Counties.

**CHAMBERS:** Ernie Chambers, District 11, citizen of the world.

**BRANDT:** Tom Brandt, District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

**HALLORAN:** To my right is committee research analyst, Rick Leonard, and to my far left is committee clerk, Rod Krogh. Two of the more important people in this process are our pages. Would you ladies stand up, please. Brigita Rasmussen, she's a sophomore at UNL with a major in ag education; Katie Andersen, she is a senior at UNL with a double major in English and political science. Thank you, ladies. All right. We will begin with LB594, Senator Blood. Good afternoon, Senator. Welcome to your committee.

**BLOOD:** Thank you, Chairman Halloran, and good afternoon to you and the entire Ag Committee. My name, as I just said about two minutes ago, is Senator Carol Blood. That's spelled C-a-r-o-l B as in boy-l-o-o-d as in dog, and I represent District 3 in western Bellevue and southeastern Papillion, Nebraska. Today I bring you proposed legislation, LB594, that has taken on a variety of different forms and, should the Ag Committee see fit, will take on one more amendment before everything is said and done. Now I want to make sure you know that the concept behind all the drafts of this bill, including LB14 which I withdrew, have been the same. But we've changed logistics on how we want to arrive at that concept. But I'll revisit those logistics shortly. At its heart LB594's goal has always been the same. We want to make sure that when dealing with plant-based, insect-based, or lab-based food products the companies behind those

products are not fooling consumers into thinking that they are meat or include meat in the recipes. LB14 was somewhat based on the meat labeling bill from Missouri. After doing more research and talking with stakeholders and others, I determined that was like-- that that was likely going to be bringing threats of litigation from outside sources, costing our taxpayers unnecessary dollars when we could utilize an existing infrastructure in the area of consumer protection in state statute. LB594 was born as a way to try and head those threats off of the pass. Because if you know me, you know that I would much rather work with people to solve a problem than butt heads. I think anyone who has come to me or my office with concerns on a bill would tell you that I am always willing to listen, especially if done early in the process. Most bill stakeholders will tell you that my office usually reaches out to them before they have a chance to reach out to us. I'd like to include everyone locally in the process, be they for or against my bills, for the greater good. This is why I was a little more than disappointed when the Good Foods [SIC] Institute came to my office just a few days ago promising that if we continued with the bill, we would indeed be facing litigation. If I'm not mistaken, they contacted more than a few of you not long after they met with me telling you the exact same thing. Coming to my office and threatening lawsuits is never going to be appreciated, but it is especially not appreciated when we made it clear that we were bringing an amendment to LB594, which you should have in front of you right now. This amendment shifts the language of the bill in a fashion that eliminates the rationale for litigation. After all, we don't really want these East Coast bullies here in Nebraska. We are able to take care of our own. Last week I spoke with members of the Attorney General's Office, and we decided that AM313 would get to the heart of what I want to do for the ag producers of the state as well as consumers who will be shopping. The amendment would strike Section 1, taking out an attempt to define meat beyond what is already in federal statute and clearly defined, but also strike lines 15 through 17 on page 10 and instead insert "violates any provision of the Nebraska Pure Food Act relating to the labeling, packing, or packaging or advertising of food." This language would still be added to the Uniform Deceptive Trade Practices Act. Now I understand that there might be some who are a bit disappointed, but I think if they take a look at the broader picture they'll see this is not-- that this not only protects the number one industry in the state, which is cattle, but also protects every single one of the food producers and food consumers in Nebraska. This amendment would allow LB594 to cover any food product you're going to find on shelves and allow anyone who feels as

though there is marketing or packaging that is deceptive-- and I see some of you looking at my handout. Some of those were things that I found within a one-day period of some of the things that are out there. They might-- it's deceptive to have another means of making their voices heard. I believe it is important to have a consumer-driven system in place for anyone who feels as though a company is attempting to convince them their product is something it is not. By referencing the Nebraska Pure Food Act, 81-2,283, 81-2,284, and 81-2,285 and including it in the Uniform Deceptive Trade Practices Act, we are allowing the reporting measures to go through the Ag Department to the county attorneys and, if it's deemed necessary, to the Attorney General's Office. This was a direct request from the AG's Office. The extra layers of protection as well as the additional options that will be available to authorities when it comes to enforcement is a good thing. There are now additional consumers that will be protected and the additional organizations that are now going to be put on notice that they need to be cautious when it comes to being purposely deceitful or untruthful when they decide to package advertise and represent their products. I want to add that even if I had not brought the amendment that shifts the focus of the bill, LB594 would be a step towards protecting ag producers in this state that would be a great deal gentler than what we are seeing around the country and around the world. Before Missouri introduced its meat labeling bill that was recently challenged in court, France brought forward much more restrictive laws on meat labeling. Now I'm not aiming to be the word police and go after products like tofu burgers or soy milk. However, both were successfully outlawed by the new measure in France. Australia is taking a page from that book as well as it's moving towards banning any plant-based products as meat while also going after things like soy milk and making sure they are being called soy juice or something similar. Others in Europe are taking steps in this direction as well. Here in the United States, and I think you also have a handout on this, there are now 11 other states, not counting Missouri, that have had some kind of meat labeling bill introduced. Several of these are marching towards passage. Most have similar language to LB594 though some are far more specific in what meat is and how it can be defined. I bring this up to you because you are likely going to be hearing from testifiers about how evil LB594 is. I want to be sure that you realize that I went out of my way to try to put together a bill that took objections to what is already out there into account and tried to build legislation that we could get consensus on. Surely consumers who are militant about or not in favor of meat can see that the consumer-driven protections to prevent false advertising benefits everyone. This issue is about truth in

advertising and integrity in marketing. It isn't about us against them. And for those who believe so, I encourage them to take a step back and actually read the bill and the amendment. Having said all that, I don't like to spring things on people. Unfortunately, we got hit with a bit of bad luck with the legislative schedule as we didn't have the amendment ready for the prime time until after the adjournment for the week. That is literally the only time you can hear me complain about a recess day. If things have been a bit different, I would have filed the amendment so that anyone interested could see the change. That has been my approach in the past when you've had-- when we've had an amendment that made any substantial change to one of my bills. I will also add that I believe a representative from the Attorney General's Consumer Protection Bureau is here to testify in the neutral. She came at our request to walk the committee through why they and we felt this amendment was the best way to go about LB594. She can also likely answer the lawyerly questions far better than I can. And having said that, if you do have any questions I'd be happy to take them. I do want to point out in your handouts that that was just a-- it didn't take hardly any search at all. It was me being at two grocery stores and finding things on-line. And you can see that it's obvious that they are purposely trying to mislead consumers. If somebody adds beet juice to a plant-based product so it looks like it bleeds and it has the word "meat" on the label, you can't tell me they're not trying to be deceptive to the consumer. And to say something insulting like, well, the consumer shouldn't be so stupid, we have a lot of senior citizens who have vision issues. We have a lot of busy moms and dads and people who are rushing through the grocery store. They don't always have time to read what's on the package. They look for the biggest word possible on the package. As you can see by the examples that I provided, the biggest word on many of those packages are words like "meat." I don't care if somebody says the meat of a walnut. That is something different. They are telling you exactly what that is. But when somebody says "meat" and they have a cow head on the package, which I think you see an example from Walmart on that page, they are trying to be deceptive. Whether we agree with it or not, the word "meat" is a federally defined word and the federal government USDA says that it comes from livestock. We aren't going to be the meat police, but we certainly are going to be able, if we pass this bill, to allow consumers to take control when they feel they're being deceived. And that's a good thing. And the last thing I will add is that I glanced at the few opposition letters that we did receive, and I thought it was very interesting that they pointed out that there was a well-financed group and a nonprofit that would seek litigation

if we pushed this bill forward. I think it's interesting that instead of saying, hey, let's come to the table and find a resolution, all they've managed to do so far is to threaten us. And so with that, now I'd answer any questions.

**HALLORAN:** All right. Thank you, Senator Blood. Any questions from the committee? Senator Brandt.

**BRANDT:** Thank you, Chairman Halloran. Real quick, Senator Blood, if this law were in effect today, how would that affect the handout that you handed out?

**BLOOD:** Well, the cartoon on the bottom would be different. But as far as the food goes that's labeled on there-- sorry, you held up the cartoon--

**BRANDT:** Yeah.

**BLOOD:** So if I was a consumer and I purchased, say, that canned product, I think the word, right? That's a really good example. And I got home and found out that it, indeed, was not meat, I could call the Consumer Protection phone number and say, hey, I feel that I've been misled and that this is deceptive and I'd like to file a complaint. And then it's out of my hands and in the hands of professionals.

**BRANDT:** All right. Thank you.

**BLOOD:** You're welcome.

**HALLORAN:** Any further questions from the committee? Seeing none, thank you, Senator. You're going to stay for the closing?

**BLOOD:** Yes, sir. I will.

**HALLORAN:** Thank you. All right. Again if the proponents would first come up to the front two rows and we will proceed with proponents for LB594.

**DONNA BOLZ:** [INAUDIBLE]

**HALLORAN:** Have a seat. You're fine. If you'd go ahead and have a seat. You're fine.

**DONNA BOLZ:** Hello, Senators.

**HALLORAN:** Welcome.

**DONNA BOLZ:** This is the first time I've done this so I'm not sure which direction I'm going here. But anyway here is my information.

**HALLORAN:** Ma'am, can we start with your name and spell it, please.

**DONNA BOLZ:** Oh, OK, sure. My name is Donna Bolz, D-o-n-n-a, last name is Bolz, B as in boy- o-l-z. I represent Nebraska Women Involved in Farm Economics or Nebraska WIFE. I have written testimony for you, so you can look at that when you get a chance. I'll just summarize my points and it'll be short and to the point. Nebraska Women Involved in Farm Economics supports LB594 to provide for a deceptive trade practice relating to beef. Nebraska WIFE feels meat should be an edible portion of livestock or poultry carcass or part thereof and not insect-based plant or lab-grown products. Nebraska consumers should be able to go to the meat counter and know that they are getting meat grown from livestock and without having to worry about reading the fine print, and this bill would make that possible. We feel that this bill is important not only for the livestock producers, but the Nebraska consumers, and now's the time to pass it. Thank you for considering this bill. And if you have any questions, I can answer those, try to answer.

**HALLORAN:** Thank you, Miss Bolz. Any questions from the committee? Seeing none, thank you very much.

**DONNA BOLZ:** Thank you.

**HALLORAN:** Next proponent, please. Welcome.

**AL JUHNKE:** Thank you, Mr. Chairman and members of the committee. My name is Al Juhnke, A-l J-u-h-n-k-e. I'm the executive director of the Nebraska Pork Producers Association, and I appreciate you taking the time to-- to listen in today. And we thank Senator Blood for bringing this bill on behalf of the livestock and meat industry. I understand, if I'm correct, you're a vegetarian, right, which is really interesting to us. So thank you for that and thank you for the opportunity. What I handed out I'm not going to read, but it's a-- it's a handout on this topic from our national group, the National Pork Producers out of Des Moines. What I want to tell you today is we are not against any of these alternative protein products. OK? If you want to produce alternate proteins from, from plants or in the

laboratory or from insects or any other way you can dream up, the Pork Producers are not against that. We're more than happy to have you do what you do, we'll do what I-- we do, and we'll compete with you in the grocery store and in the market. We believe we grow a good, sustainable, mighty-good-tasting product and it's affordable and we will compete with anyone. However, our problem is what you call it. If I see pork sausage on a shelf in a store that's made out of a plant-based material, we've got an issue and the issue is a consumer issue. It's a consumer right to know and a consumer information issue. That's what we're about. Actually the lab-produced product is produced from animal cells. That's the starter. It's grown in a laboratory and that's as far as we know at this point. If you want to call it meat, you're gonna have to define what that meat is. It's a laboratory produce or an in vitro meat or whatever it is you're gonna have to describe it because there's truly definitions. And as you all know, and they're sitting in here I'm sure for the other bill, but milk ran into this trouble. Right? Almond milk, cashew milk, all the nut milks. I still run into people that will come up to me and tell me, well, almond milk is just almond flavored milk. Right? No, that's not right. It's almond juice actually. It's squeezed from the almonds and it's on the shel-- it's in the dairy case now right next to the milk. You can see where the confusion comes. So on our behalf, we want to make sure consumers are well informed. They're getting really good. The vegetable people especially, they can put together a product that looks like, nearly tastes like, and mimics ground beef or ground pork or, like I say, pork sausage or chicken products, poultry products, more power to them. But please do not call it meat. Meat comes from livestock. It's a USDA-defined definition. And we would like the consumers to know what they're getting and understand what they're getting. The oversight will come from D.C., but the labeling and the names on our store shelves hasn't been quite decided yet. So we appreciate Senator Blood coming here and laying this out like our neighbors in Missouri did and I believe there's a number of other bills that have been introduced. One of the things that happens to, I've mentioned, once you introduce and pass language like this, I think our federal partners start seeing the states put together this patchwork with you, if you will, of legislation and it causes them to move quicker and do something federally. So I don't think it's a good argument to let them do it in D.C. I think it's great when the states do this. This is where I think there's a lot more grassroots. And again, we appreciate you taking the bill up and look forward to working with you and Senator Blood as this progresses out onto the floor.



**HALLORAN:** Thank you, Mr. Juhnke. Any questions from the-- yes, Senator Chambers.

**CHAMBERS:** Have you ever heard the three-word formula for describing care-- elements on this earth as plant, animal, mineral?

**AL JUHNKE:** Mr. Chair, Senator Chambers, yes.

**CHAMBERS:** What, which-- an insect is not a plant; an insect is not a mineral. An insect grows, eats, and reproduces like a what?. Like an animal?

**AL JUHNKE:** Mr. Chair, Senator Chambers, I don't have a definition for what-- it's an insect, yes.

**CHAMBERS:** Would it be a member of the animal kingdom, the plant kingdom, or the mineral realm?

**AL JUHNKE:** Mr. Chair, Senator Chambers, not a biology major.  
[LAUGH]

**CHAMBERS:** Well, what do you do for a living?

**AL JUHNKE:** I'm the executive director of the Pork Producers and went to school at the University of Minnesota so you can pick on me for that.

**CHAMBERS:** You know the answer. You don't want to give it, but thank you. I enjoy the tete-a-tete.

**AL JUHNKE:** I do enjoy visiting with you, too, Mr. Chair and Senator Chambers.

**CHAMBERS:** OK.

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

**AL JUHNKE:** Thank you, Mr. Chair and members of the committee.

**HALLORAN:** Next proponent, please. Good afternoon.

**MIKE DRINNIN:** Good afternoon Chairman. My name is-- and also to the members of the committee. My name is Mike Drinnin, M-i-k-e D-r-i-n-n-i-n, and I'm a cattle feeder with operations in both

Columbus and Palmer, and I currently serve as president of the Nebraska Cattlemen. I'm here today on behalf of the Agricultural Leaders Working Group which is comprised [SIC] of elected leaders of the Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska Pork Producers Association, Nebraska Soybean Association, Nebraska State Dairy Association, and Nebraska's Wheat Growers Association. And Ag Leaders strongly supports LB594. I have also been asked as-- as your clerk has handed out some testimony-- written testimony to present for the support from Debbie Borg and that's what has been passed out to you. Nebraska farmers and ranchers take great pride in the high quality that we produce for the American table. As such, Ag Leaders firmly supports the notion that meat should be labeled as meat. LB594 will help ensure product labels are based on sound science and allow consumers to make an informed-- informed choice about what they are eating. Many Nebraskans depend on science-- scientifically accurate and honest product labels for numerous dietary and nutritional concerns. Accordingly, plant-based and lab-grown protein manufacturers must differentiate their products by identifying the pro-- production process used without infringing on traditional meat nomenclature. This is not only fair to livestock producers, but also to consumers who expect transparency in the safety of their food. Our producers are happy to compete for the center of the stage on the-- or the center of the plate. However, we are adamant that any alternative protein must comply with the same stringent food inspection standards as traditional meat products and be properly labeled in a way that benefits consumer transparency. Thank you, committee.

**HALLORAN:** Thank you, Mr. Drinnin. Senator Chambers, please.

**CHAMBERS:** Is meat, the term meat a dictionary-defined word or an industry-defined word or a government-defined word? Who defines in the final analysis what meat is?

**MIKE DRINNIN:** I wouldn't be sure of the correct answer, Senator Chambers.

**CHAMBERS:** Me-- that's why I was asking somebody I thought might be knowledgeable. If, if you were a person who would consume human flesh, would human flesh be considered meat?

**MIKE DRINNIN:** I wouldn't know how to answer that, Senator Chambers.

**CHAMBERS:** Then what is meat? In your-- let me ask it like this. What is the definition of meat that you would give that your organization would accept?

**MIKE DRINNIN:** It's animals that we grow and that are-- that we finish for, for consumption that is-- that is meat that is bought-- brought forth to the table.

**CHAMBERS:** Then deer meat would not count-- deer flesh wouldn't qualify as meat, would it, because it's not grown by human beings?

**MIKE DRINNIN:** I'm not sure about that, sir.

**CHAMBERS:** Well, you said it's-- your definition of meat is that which is grown by people I thought. I don't want to be argumentative I just want to know if, if, if those who object to this bill want to limit the term only to what is domestically produced by ranchers. That's all that they want to be described as meat.

**MIKE DRINNIN:** Senator, maybe to better answer your question we do grow meat off grass and the same thing can be held true for, for wildlife that, that eats the natural resources that's on our earth and beef can be raised that same way and for to produce meat for consumer consumption.

**CHAMBERS:** Would the flesh of a bird be considered meat? Would a dove? They hunt doves I think in Nebraska now. Would that be considered meat?

**MIKE DRINNIN:** I couldn't give you the exact answer on that, Senator.

**CHAMBERS:** OK. That's all I'll ask you. Thank you.

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

**B. HANSEN:** Thank you for coming. I never thought I'd say this, but to play off of Senator Chambers' words, there's a question in this bill-- this might be good for Senator Blood to answer too-- that she had it says the animals-- they list a whole bunch of animals-- is raised in confinement for human consumption. So what-- so how do we label like wild game meat? Like-- because you can buy it in stores. Would that have an effect maybe-- this bill have an effect on that at all? Because this says "raised in confinement for human consumption." But I know like Whole Foods

or other places you can buy wild game meat that was not raised in confinement. And so would this bill affect that at all do you think?

**MIKE DRINNIN:** Senator, I'm not sure how wild game meat would be monitored. Where our meat is monitored by USDA and so I would be unfamiliar with how, how wild game meat would be-- would fall under those same guidelines.

**B. HANSEN:** That's all I was wondering. [INAUDIBLE] maybe how this bill might affect that industry as well, just kind of curious about that. Thank you.

**HALLORAN:** Thank you, Senator Hansen. Any other questions for the committee? Seeing none, I thank you, Mr. Drinnin, for your testimony.

**MIKE DRINNIN:** Thank you, Chairman

**HALLORAN:** Next proponent. Good afternoon.

**MIKE BRIGGS:** Good afternoon, Senator-- Senator-- Chairman Holman [SIC] and Senators. I am Mike Briggs, M-i-k-e B-r-i-g-g-s. I'm a third-generation cattleman from Seward, Nebraska, and I came today mostly because my state senator, Mr. Kolterman, said, well, you need to go in and testify. So I am. I called him and I was rather shocked because I called him to tell him that I was in favor of this and he was rather surprised by that, which in turn surprised me. So I said I would come up and do this today. I think this-- that LB594 is important primarily for specificity for the consumer so he understands-- they understand what they're actually buying. I think meat should be designated as something that is flesh from an animal, muscle tissue from an animal, not something that's grown in a test tube or something that comes out of the ground. That's-- that's really what I think is most important. Because as we go through time, society becomes more and more urban and less and less rural and therefore they have less of an understanding of not only what we do and how we do it, but possibly what we're actually producing and therefore what they're buying in the store. So I think this is really important as we go through time that we make a designation in what meat actually is and that plant-based and test tube-grown stuff is navel-- labeled differently. That's all I had today. Thank you very much.

**HALLORAN:** Thank you, Mr. Briggs. Senator Chambers.

**CHAMBERS:** Is this primarily an economic issue? The-- those who raise cattle, hogs, chickens, whatnot are worried about the competition they would confront if that term were allowed to be applied to things other than what comes off of a farm.

**MIKE BRIGGS:** Senator Chambers, in my mind, no, I'm not afraid of the competition in any way, shape, nor form, as the Pork Producers-- the chairman of the Pork Producers said. I'm not concerned about that. I'm concerned about that the consumer gets what they want and what they understand that they're buying and not be deceived in some way.

**CHAMBERS:** As a consumer who doesn't always read labels but will watch news programs, there are numerous products whose labels are misleading, in the realm of cereals especially. You could say "juices." They might put grape juice and maybe there's nothing from the grape in it at all and then someplace it may say "artificial flavorings." I don't really think that the cattle producers and livestock producers are concerned about proper or fair labeling so that the consumer knows. Let me ask you this question. It might help you see where I'm going. Are there cheese products which are label-- labeled cheese, but they are not produced in the way that cheese-- cheese is produced?

**MIKE BRIGGS:** Senator, I-- Senator Chambers, I can't answer that question. I have no idea.

**CHAMBERS:** OK. That's all I would have.

**HALLORAN:** OK, thank you, Senator Chambers. Any further questions from the--

**CHAMBERS:** Oh, one other one.

**HALLORAN:** One more from Senator Chambers.

**CHAMBERS:** Just one. You said things that come out of the ground. When you say that, you mean like plants, not other-- not animals.

**MIKE BRIGGS:** Plant-based material, yes. I should have said that clearer.

**CHAMBERS:** OK. Now if you say it's muscle meat, snakes have muscles. And there are people who eat snake meat. They couldn't advertise that as meat?

**MIKE BRIGGS:** I have no idea if that stuff is for sale in the retail case. I'm concerned about what people buy in the retail case that's been approved by the USDA.

**CHAMBERS:** One other one. I have to.

**HALLORAN:** That's three, Senator. [LAUGHTER]

**CHAMBERS:** Fish-- can fish be labeled meat?

**MIKE BRIGGS:** Senator Chambers, I-- my understanding is that has to be labeled as fish, but I don't know.

**CHAMBERS:** I think there's something fishy about all [INAUDIBLE]. That's all I have. Thank you.

**HALLORAN:** That wasn't three strikes, but pretty close to it. Thank you, Senator Chambers. Next proponent, please. Good afternoon.

**JIM DINKLAGE:** Good afternoon. Jim Dinklage, J-i-m D-i-n-k-l-a-g-e. I represent myself and the Independent Cattlemen of Nebraska in favor of LB594. I would like to thank the committee for allowing me to speak and especially to thank Senator Carol Blood and her staff for introducing LB594. I feel the introduction of this bill is to further support the truth on food labels in this country. Today, too many people misconstrue true meanings of the words to mislead the public to gain an advantage either monetarily or for other reasons. In reference to guidelines when food products are labeled, the Webster's Dictionary defines the word "meat" as flesh from an animal as food distinguished from drink. If the word "meat" is used in the wording of a label of a plant-based food product, by Webster's Dictionary the words should not be used. Clean meat, also referred to as lab-grown meat, comes from taking a single cell from an animal species-- you can wonder what animal species-- the single cell is then multiplied by a process called mitosis. The final product is a glob of cells like a cancer tumor. What is the ultimate goal of this new industry and those who support it? Is it to grow clean meat artificially to protect the animals from our industry type husbandry and slaughter? Is clean meat developed to get rid of the cows because they cause global warming from the gas that they pass? Man does not belch and fart as much as a cow. Will they use human cell to make clean meat? The Good Foods Institute has lobbied the Agriculture Committee against this bill. Will they agree to have the species of the animal on the label even if it's a homospa-- Homo sapien? Not supporting bill LB594 would

help put beef producers such as myself out of business. Where then will Nebraska-- urban Nebraskans get the tax money to support this state once our pastures are turned into property tax exempt parks? Think about it. Thank you.

**HALLORAN:** Thank you, Mr. Dinklage. Any questions from the committee? Senator Chambers.

**CHAMBERS:** Looking at your fourth paragraph, no, the fifth about the clean meat. It comes from taking a single cell from an animal.

**JIM DINKLAGE:** Yes, sir.

**CHAMBERS:** That makes it meat no matter what else you say about it.

**JIM DINKLAGE:** Yes, sir.

**CHAMBERS:** Because it would not turn into a vegetable.

**JIM DINKLAGE:** Yes, sir.

**CHAMBERS:** It would not turn into a mineral.

**JIM DINKLAGE:** Yes.

**CHAMBERS:** So they should be allowed to use the term meat, shouldn't they?

**JIM DINKLAGE:** If they specify the species and it comes from that-- a meat-producing species.

**CHAMBERS:** Well, when I get-- I buy ground meat-- I don't get ground beef because that's got all kind of stuff in it. It might say ground sirloin. It doesn't say from a cow, a pig, or a chicken. If I buy a chicken, the name goes with what you're buying.

**JIM DINKLAGE:** Yes.

**CHAMBERS:** If I buy a sausage, it might say pork; but it doesn't say pig sausage. So why cannot, if this starts out with a meat cell, animal cell, then it would be animal. It's not anything else.

**JIM DINKLAGE:** Yes.

**CHAMBERS:** Is it?

**JIM DINKLAGE:** Yes. When you buy pork sausage, the word pork means that species. It's related to that species. So that's how they would identify it then.

**CHAMBERS:** Well, you say that but it doesn't tell me as a consumer where it comes from. I don't know what produces pork. Well, to me, farmers produce pork. So they're the species.

**JIM DINKLAGE:** Pardon me?

**CHAMBERS:** Farmers produce pork.

**JIM DINKLAGE:** Yes.

**CHAMBERS:** They are the species then from which pork comes.

**JIM DINKLAGE:** Yes. Well, Senator Chambers, you would hope the consumer would have some knowledge of what they're buying. Hopefully they're not totally ignorant about what the label is. It should be educated enough in this country to understand what some of those words mean.

**CHAMBERS:** Where are they going to get that education if they lived in the city all their life?

**JIM DINKLAGE:** They should get that from the school system.

**CHAMBERS:** Well, what you gave is a dig-- a definition from Webster. Is that the way the FDA gets its definitions, out of a dictionary?

**JIM DINKLAGE:** I do not know. I do not know.

**CHAMBERS:** Hmm.

**JIM DINKLAGE:** But the school systems, our school systems should have Webster's Dictionary in the system for the children to learn for-- or for the consumer to learn from.

**CHAMBERS:** Or some other dictionary?

**JIM DINKLAGE:** Yes, sir.



**CHAMBERS:** OK. That's all I would have.

**HALLORAN:** Thank you, Senator Chambers. Any further questions from the committee? Seeing none, I appreciate your testimony.

**JIM DINKLAGE:** Thank you.

**HALLORAN:** Good afternoon.

**RUSSELL WESTERHOLD:** Good afternoon, Chairman Halloran, members of the committee. My name is Russell, R-u-s-s-e-l-l, Westerhold, W-e-s-t-e-r-h-o-l-d. I'm a registered lobbyist appearing before you today on behalf of Nebraska Poultry Industries in support of LB594. Nebraska Poultry Industries or NPI is a leading trade organization for Nebraska's many poultry growers and producers. NPI supports LB594 because they believe this legislation promotes more transparent food labeling and should reduce consumer confusion at the point of sale. We also support LB594 because it will help protect the integrity of the food products that our growers and producers work hard every day to bring to market. And finally, we would simply like to thank Senator Blood for her interest in this subject matter and for her work on this bill. And with that, Mr. Chairman, I will conclude my testimony.

**HALLORAN:** Well, I want to thank all the testifiers to this point for being so brief and to the point. And with that, are there questions?

**LATHROP:** Yes.

**HALLORAN:** Yes, Senator Lathrop.

**LATHROP:** I have a question for you. And I'm hoping you're the right person to ask since you're a lawyer.

**RUSSELL WESTERHOLD:** I'll try.

**LATHROP:** In the amendment, basically we've stricken everything from the bill except we've added paragraph 23 to Section 2 that says: Violates any provision of the Nebraska Pure Food Drug Act relating to labeling, packaged-- packing, packaging, or advertising of food. But I-- I'm trying to find frantically on my iPad while we're talking the Nebraska Pure Food Drug Act. So what's the Nebraska Pure Food Drug Act say that's going to make this a good bill?

**RUSSELL WESTERHOLD:** I, I--

**LATHROP:** What's in there? What are we referring to in this particular paragraph?

**RUSSELL WESTERHOLD:** And I have, unfortunately, not had the benefit of seeing the amendment, Senator Lathrop. And so without that and without referencing it to the Pure Food and Drug Act, I don't think I'm in a position to answer your question.

**LATHROP:** So the entire bill is basically stricken except for this amendment, which I just read, is now added to it and it's making reference to the Nebraska Pure Food Drug Act. And I'm just wondering what's in the Pure Food Drug Act that solves this problem.

**RUSSELL WESTERHOLD:** I'm, I'm not aware what is. I'm only aware of what I learned when Senator Blood opened on her bill about the changes to it.

**LATHROP:** OK. And this is not my practice area and maybe never was yours either, but I'm going to ask you one more question.

**RUSSELL WESTERHOLD:** Sure.

**LATHROP:** In Section 2 of the bill it states, and I'm reading current law, 87-- now on page 7 of the bill-- line 5, 87-302 (a) "A person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, he or she:" and then I go down to paragraph (5) "Represents that" and I'm going to skip some words--

**RUSSELL WESTERHOLD:** Sure.

**LATHROP:** --that are not applicable-- "Represents that goods have ingredients they do not have." See that?

**RUSSELL WESTERHOLD:** I do.

**LATHROP:** So isn't that-- I'm reading that and thinking, OK, I understand what the point of this bill is. Don't-- don't call it pork sausage if it's not pork sausage, right, if it's made out of soy or--

**RUSSELL WESTERHOLD:** Correct.

**LATHROP:** --some organic material. But doesn't that solve the problem? In other words, don't we already have a law that I just

read in the deceptive trade practices found in 87-302 that addresses this very situation?

**RUSSELL WESTERHOLD:** Yeah, I don't disagree with your logic. However, I think-- and again without having seen the benefit of the amendment, this might simply be bringing a little bit more specificity to it to the meat industry. But I don't disagree with your logic [INAUDIBLE].

**LATHROP:** Because what I'm hearing people say today is when we look at these packages, and I-- and I saw what Senator Blood handed out and they're calling chicken, chicken legs and it says made from-- not from chickens or not-- and not a meat product that the problem seems to be already addressed in existing law as I read it. And yet if you haven't read the amendment or you can't tell me what the Nebraska Pure Food Drug Act does that improves existing law because that's what we're referring to in the amendment, then I guess you're not going to be helpful today.

**RUSSELL WESTERHOLD:** I'm afraid not.

**LATHROP:** Not deliberately unhelpful, but just not able to answer my question.

**RUSSELL WESTERHOLD:** I certainly see how you get there in subsection (5). But without the benefit of those other [INAUDIBLE] sorry.

**LATHROP:** OK. Thank you.

**HALLORAN:** Senator Chambers.

**CHAMBERS:** Before I proceed, I have to be certain that something I think I heard was correct. Are you indeed a lawyer?

**RUSSELL WESTERHOLD:** Yes, sir.

**CHAMBERS:** OK. Now when Senator Lathrop was reading the various pieces of information, you said you can appreciate his logic.

**RUSSELL WESTERHOLD:** Yes.

**CHAMBERS:** The reason I doubted that you were a lawyer is that you would say the law is not based on logic, the judicial interpretation. And many people who've looked at that will know

there's highly illogical things. And that's what [INAUDIBLE] from a lawyer. But since you accept that designation, I'm going to apply it. You are a lobbyist for the poultry industry?

**RUSSELL WESTERHOLD:** Correct.

**CHAMBERS:** OK. What is embraced by the term "poultry"?

**RUSSELL WESTERHOLD:** Traditionally, chickens and turkeys.

**CHAMBERS:** Not traditionally. In the universe of meat, a flesh, or whatever it is we're talking about, What would be included that you can think of?

**RUSSELL WESTERHOLD:** Chickens and turkeys that I know of.

**CHAMBERS:** Would a turkey buzzard be poultry?

**RUSSELL WESTERHOLD:** I don't think so.

**CHAMBERS:** Would there be some kind of descriptor that design-- first of all, are chickens birds?

**RUSSELL WESTERHOLD:** Yes.

**CHAMBERS:** Are turkeys birds?

**RUSSELL WESTERHOLD:** Yes.

**CHAMBERS:** Are robins birds?

**RUSSELL WESTERHOLD:** They are I believe.

**CHAMBERS:** Then a robin could be poultry as far as we've gone. We're using logic. Isn't that correct?

**RUSSELL WESTERHOLD:** I'm not sure anymore, but I think so.

**CHAMBERS:** Would we say all poultry-- all birds are poultry? Would we say that?

**RUSSELL WESTERHOLD:** No.

**CHAMBERS:** Okay. Would we say all poultry are birds? We would say that, wouldn't we?

**RUSSELL WESTERHOLD:** We would.

**CHAMBERS:** OK. Now you didn't fall into the trap with a major/minor premises and therefore the inescapable conclusion. So we're gonna have a discussion instead of a logical exercise. Where did you go to law school?

**RUSSELL WESTERHOLD:** The University of Nebraska.

**CHAMBERS:** OK. And I'm being serious now because we're talking about legalities. And if something is put into the statute and a person violates that, there will be a penalty assessed. And when a penalty is involved, I want to be sure because to me that's a criminal statute. And it should be narrowly construed. And nothing is a crime unless it's made so by a statute. From what I've read of some of the material relative to what happens in other states, they attach a penalty. Now you have read this bill.

**RUSSELL WESTERHOLD:** Yes.

**CHAMBERS:** Is there any penalty assessed for violation of this that we're talking about?

**RUSSELL WESTERHOLD:** So even with the amendment, I believe that this all still falls under our Deceptive Trade Practices Act. My understanding is that the remedies under that act-- and I believe they're found in Chapter 87, Section 303, Senator Chambers,-- are only equitable in nature. So the remedy is injunctive relief to cease the act that violates the terms of statute.

**CHAMBERS:** And we're putting very important things into the record. And I'm asking a lawyer so I'm not testifying and saying it, but [INAUDIBLE] a person testifying on the bill who is knowledgeable about the law. Is there a definition of poultry in this Deceptive Practices Act? And if not, where would we find a definition of poultry that could be utilized for this purpose, if you know?

**RUSSELL WESTERHOLD:** As it was drafted, again, without seeing the amendment, but as it was drafted and introduced, the definition that-- that-- that I have in my mind in the bill is on page 5 of the white copy, lines 5 through 13 where it does define poultry, Senator Chambers, and that's specifically on lines 11 through 13, as a "domesticated bird, including, but not limited to,

chickens, turkeys, ducks, and geese raised in confinement for human consumption."

**CHAMBERS:** Well, now when it says a "domesticated bird, but not limited to--"

**RUSSELL WESTERHOLD:** I understand that.

**CHAMBERS:** --not limited could apply to it's domesticated but not only these or to birds other than those who are domesticated. Would a pheasant be considered poultry?

**RUSSELL WESTERHOLD:** If raised in confinement for human consumption.

**CHAMBERS:** But if not, then-- so then what makes these things meat is that they have to be raised by human beings for human consumption. That's where I think your logic is forcing me to go for a conclusion.

**RUSSELL WESTERHOLD:** And I believe that I would agree with the conclusion you're reaching.

**CHAMBERS:** So then deer meat is not raised by humans for human consumption. So that which is taken from a deer would have to be called venison. It could not be referred to as meat. Correct?

**RUSSELL WESTERHOLD:** Looking at the definition of meat, again, as it was introduced, I think you may be correct.

**CHAMBERS:** Is the word fowl, f-o-w-l, a word that embraces members of a bird family only?

**RUSSELL WESTERHOLD:** I don't know.

**CHAMBERS:** Would an ostrich be a member of the fowl family? Would an ostrich be a bird? They say it's a flightless bird.

**RUSSELL WESTERHOLD:** I'm not sure.

**CHAMBERS:** Is a penguin a bird?

**RUSSELL WESTERHOLD:** [LAUGH] I'm going to go yes on that one.

**CHAMBERS:** Now would bear-- if you ate the-- if you processed the flesh of bears, you could not refer to that as meat, could you?

**RUSSELL WESTERHOLD:** Within the definition that we've just been discussing?

**CHAMBERS:** That the bill is as you understand it. I'm not going to argue with you, with what you understand it to be.

**RUSSELL WESTERHOLD:** Well, all right looking again, yeah, bear is not livestock, a bear is not poultry, and a bear is not raised in confinement for human consumption. So I--

**CHAMBERS:** So you couldn't use the word "meat" to advertise bear flesh.

**RUSSELL WESTERHOLD:** No.

**CHAMBERS:** And in my studies, I found out that there are some people who eat mountain lion or cougar meat. They say it tastes somewhat sweet and that it is edible and some people consider it a delicacy. But most people wouldn't even think about eating cougar or mountain lion meat. But those who eat it call it meat. They'll call it mountain lion or cougar meat. People who consume the flesh of bears call it bear meat.

**HALLORAN:** We don't want to miss a word, Senator.

**CHAMBERS:** The words that were not missed by him or the words least sincerely spoken. And the only reason I'm doing this with you, again, you are a lawyer. And I can't trap you in your words by just using semantics. But you gave the definition and I'm trying to go from the definition, not even expressing my attitude toward the bill itself. But now giving an opinion, I think strictly speaking insects could be part of the animal kingdom. Animals produce meat. It is the human beings' attitude towards certain living creatures that determines, first of all, whether they're even edible. Some people in some societies consume that produced by animals which others would find very disgusting. For instance when Terry Bradshaw was at a counter and they served sushi, he said, where I come from we call that bait. Is sushi meat or is it bait? Or does it depend on how you use it or how you perceive it?

**RUSSELL WESTERHOLD:** Probably the use.

**CHAMBERS:** OK. And that's all I will ask. I was trying to give kind of a discussion rather than just firm conclusions, but I appreciate your help. Thank you.

**RUSSELL WESTERHOLD:** Thank you.

**HALLORAN:** Any other questions by the committee? Yes, Senator Hansen.

**B. HANSEN:** I was going to mention something that Senator Lathrop was kind of leading towards, but maybe just a little more clarification for me. He was talking about in that section about representing ingredients that he or she does not have that would be described as deceptive trade practices.

**RUSSELL WESTERHOLD:** Yes.

**B. HANSEN:** It sounds like they're not really misrepresenting the ingredients because they actually put that on the labeling. Is it more what you're concerned about from your industry how they label the product? Because a lot of times they say meat but then in small print not really meat because it comes from plants. So is your guys's main concern from your industry saying we don't want the giant term meat on there because that seems deceptive to us?

**RUSSELL WESTERHOLD:** Correct.

**B. HANSEN:** OK. Because it seems like it lists out okay here because you're not misrepresenting the ingredients because they still put that in little print. But it's just maybe how the labeling is that seems deceptive.

**RUSSELL WESTERHOLD:** Yes, I agree.

**B. HANSEN:** OK. That's what I was kind of curious about. Thank you.

**HALLORAN:** Thank you, Senator Hansen. Any other questions? Senator Lathrop.

**LATHROP:** Well, that, that the misrepresentation is they're trying to take something that's a plant-based product and get the consumer to believe it's coming from something that was raised in a barnyard. When they call it pork sausage and then in fine print say "made from soybeans" or not-- not a meat product, it's either deceptive or it isn't deceptive. I, I guess I'm struggling now with now that there's an amendment here that strikes basically the bill and adds something else that says violates any provision of the Nebraska Pure Food Drug Act, I'm



not sure what is it about the Nebraska Pure Food Drug Act makes this reference enlightening.

**RUSSELL WESTERHOLD:** And nor am I, Senator.

**LATHROP:** OK.

**HALLORAN:** If I could add just a little information on the Pure Food-- Pure Food Act, enforcement act-- I'm just going to read from the act itself or from the description of the act-- enforcement activity and resources deployed under the Pure Food Act are focused primarily on safeguarding public health by enforcing standards intended to minimize opportunity for food to become contaminated with food-borne pathogens and to minimize the public's exposure to food-borne illnesses. The act does declare it unlawful act to misbrand food and provide that a food shall be deemed misbranded if (a) It does not bear labeling stating the identity of food in terms likely to be easily and accurately understood by the consumer or its labeling is false or misleading to the-- in any manner. If that helps or hurt, but that's why I think it's-- if I'm understanding Senator Blood's effort to bring it to the Pure Food Act that's, that's the rationale for that.

**RUSSELL WESTERHOLD:** OK.

**LATHROP:** But it's not misleading till we say it is. To-- and I'm, I'm now engaged in a conversation with him which is, I should direct to him.

**HALLORAN:** Yeah, direct it to him. I don't--

**LATHROP:** But the difficulty with that as I see it is we're saying you can't do something that's-- that's deceptive or misleading. But it's not misleading to call this stuff whatever they're calling it as long as there's an explanation on it until we say it's-- until we say you can't. And it's almost like using the word to, to give a definition of the word. It's not really prohibiting anything or delineating what is it-- what is it about these things that, that are now going to be against the law that isn't already true today?

**RUSSELL WESTERHOLD:** I'm not sure I have an answer.

**LATHROP:** OK. OK.

**HALLORAN:** OK.

**MOSER:** Mr. Chairman.

**HALLORAN:** Yes, Senator Moser.

**MOSER:** Oh, I'm sorry.

**HALLORAN:** Senator Moser, go ahead. He's my Vice Chair. He can wait.

**MOSER:** OK. Well, now that you're the moderator of this discussion, [LAUGHTER] let me ask you a question that you can refer back to Senator Lathrop. It's kind of like I'm not talking to him so you have to tell him what you think and he won't talk to me. The amendment though as I understand it, and I did get a little help from Senator Slama here, because I was-- it said striking lines 15 to 17 but then it says also striking Section 1. So Section 2 still stands. And it looks to me, and I'm not an attorney but I quite often watch Law and Order, and so I suppose that qualifies me. Would it attempt to define what consists of deceptive trade practices because the question that Senator Lathrop was asking about, you know, why do we need this law when it's already covered, I think that what they're trying to do here is to possibly expand what constitutes deceptive trade practices.

**RUSSELL WESTERHOLD:** I-- sure. I'm not sure if I follow your question, Senator Moser.

**MOSER:** I think Senator Chambers conditioned you to say yes.

**RUSSELL WESTERHOLD:** Well, I will, again, and I'm sort of answering Senator Lathrop's question and answering your question. Your points under Lathrop is how do we know what does or doesn't cause confusion? I believe that if, if I'm not mistaken the standard of proof for a claim under Deceptive Trade Practices Act is a simple preponderance. And so like many other standards that we have under the law, it's a question of fact. I don't know if it says it anywhere in the act. I would imagine it's based on the standard of a reasonable person. Would a reasonable person be confused by the action in question?

**HALLORAN:** Senator Brandt.

**BRANDT:** Thank you, Chairman Halloran. A little background, I worked in meatpacking for eight years. In that capacity, I worked in both a turkey plant, beef plant, and some pork plants. All of those had USDA inspection which is FSIS, Food Safety

Inspection Service. OK. And when I go to a grocery store, I look at, at meat and I maybe look at it a little more differently and I'm also a producer of this. And to me it's very, very specific. Meat was-- came from a plant that was USDA inspected. Everything else is food. OK. So given that and what we're discussing today, we're looking at pictures of food that is using the word "meat" and meat is very specific in USDA on what it is. And I think that's the issue that I see here. That given what you know, and you are the foil right now, that this would cover that, would it not?

**RUSSELL WESTERHOLD:** Yeah. Saying what you're saying a little bit differently, Senator, is that the USDA does not inspect things which are not meat, correct?

**BRANDT:** That is correct.

**RUSSELL WESTERHOLD:** OK. So I believe and, yes, you're-- you're correct.

**BRANDT:** All right. Thank you.

**HALLORAN:** Yes. Any other questions? Senator Chambers.

**CHAMBERS:** If we adopt the amendment, then everything goes away that is contained in the bill that was introduced. Correct? And it's in that bill that we come up with--

**SLAMA:** Senator Chambers, it's just Section 1 of--

**CHAMBERS:** --these different items where they describe produced in confinement or whatever for human consumption. I don't know if all of that language is included in the Deceptive Practices Act. Otherwise it would have necessary to itemize. For example, they list ostrich, emu, Slama, alpaca-- oh, she wasn't listening-- it says llama. But if you-- if you put the S in front of it, then it comes out Slama because I look at words-- and alpaca, bison, elk, goats, horses, and rabbits raised in confinement for human consumption. Now some people don't think horses should be eaten. But under this bill as it was introduced, horses, now their flesh becomes meat and you could order-- you could advertise horse meat as meat. And poultry it lists, it lists domesticated birds and then it says including but not limited to. Then it lists chickens, turkeys, ducks, geese raised in confinement. Now they're raised in confinement limits whether a turkey would be considered poultry or any of

these others. If they're not raised in confinement, they're not poultry based on the bill as introduced.

**RUSSELL WESTERHOLD:** That is the way that I read that language, yes.

**CHAMBERS:** Now tell me that that's not confusing to the public. If you say this is duck but that's not duck, but they're exactly the same as far as their genetic and other makeup and they come from the same part of the animal and they say, aha, gotcha. That duck was wild and was shot. This one was raised on a farm. But to a consumer, if that's the one we're interested in, both of them duck is duck. If it looks like a duck, if it walks like a duck, if it quacks like a duck, it's a chicken. [LAUGHTER] That's what the bill is saying. Isn't that what the bill is saying? It does everything that a duck would do, but it wasn't raised in confinement so it's not a duck. It is not meat.

**RUSSELL WESTERHOLD:** You are-- you are raising I think a good point as to the language that, that you and I have been studying.

**CHAMBERS:** Um-hum.

**RUSSELL WESTERHOLD:** I-- steering us perhaps back a little bit to the intent of the bill, there may be some issues distinguishing between wild and domesticated animals of the same species and whether or not they should all be considered meat under the bill. But I think that the main thrust of this was to try to distinguish between things that are animals and, you know, meat, animal meat and things that are livestock or not livestock, insect and plant-based.

**CHAMBERS:** Now I think trapping is barbaric, but there are people who trap for food. They're going to eat what they trap. But what they're trapping is not meat; but it's not a vegetable, it's not a mineral. And we're going to have to suspend voluntary suspension of disbelief as they call it in literature. We're going to have to voluntarily say that this that's on the table for Thanksgiving, it's-- it's not turkey really because it was shot. A hunter shot it so it wasn't raised in confinement so it's really not meat that you're eating. I think the bill, I hate to say, is illogical because all it's doing is artificially separating things that are identical. And the artificial separator is raised in confinement. So there could be a turkey who runs around the barnyard with all these other turkeys, but it's a wild turkey, not confined. It can come and go as it

pleases. But it's not meat. And you don't have to answer that. And the reason I'm saying it when the other people testify I'm not going to have a lot to say. But I have-- there are some things that I think should be in the record to show how difficult it is to simply use a method of definition to try to create an existential distinction where existentially there is no distinction. We're saying by definition alone we're going to make something what is not and say that something is not what it is. I believe a turkey is a turkey is a turkey. A duck is a duck is a duck. But if we go to the definition adopted by the Legislature, then a duck is not a duck and a turkey is not a turkey. And it's all done for the financial benefit of a niche industry. And I'm not in favor of corrupting the language to benefit people who are corrupting it only for the purpose of making money. This has nothing to do with protecting the public. The public is not in danger. There were people around Thanksgiving and Christmas and they're still being sickened now by salmonella infected domesticated turkeys. They were reared for sale. They were sold to the public. The public bought them and there are hundreds of people that have been sickened. The reason I know they're still being sickened, I saw a news story yesterday. So this is an area that I'm very reluctant about venturing into, but I'm just one person. And you are very capable of expressing yourself and understanding what questions are being put to you. So I believe that this exchange and Senator Lathrop was involved, others did. I think it'll be very helpful. So I appreciate your coming but you've more or less earned your money today.

**HALLORAN:** Thank you, Senator Chambers. Senator Chambers doesn't believe in trapping and neither do I. So if there are no further questions for Mr. Westerhold, I will-- all right. Thank you, sir.

**RUSSELL WESTERHOLD:** Thank you.

**HALLORAN:** Next proponent. Good afternoon.

**JOHN HANSEN:** Mr. Chairman, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union, and we are in support of Senator Blood's bill. We thank her for bringing LB594 forward. And we believe that in the interests of both consumers and livestock producers we need to have clear and reasonable definitions as to what it is that consumers are buying so they can make an informed decision at the point of purchase. So to her, Senator Blood's efforts to do this, my understanding of

what's on the table for the committee based on the proposed amendment is that you go back and strike Section 1 but not Section 2, which leaves Section 2 in place. And then when you get to the last page, which is page 10, lines 15 to 17, you strike that existing language and you substitute in the amendment which is "Violates any provision of the Nebraska Pure Food Act relating to the labeling, packing or packaging, or advertising of food." So that is where I think the committee is at based on the amendment. And I look forward to hearing what it is that the Nebraska Attorney General's Office is going to have to say on all of these issues that have been raised so far by the committee. And with that, I'll be glad to end my testimony and answer any questions if I could.

**HALLORAN:** Thank you, Mr. Hansen. Any questions? Yes, Senator Moser.

**MOSER:** Do you feel that the meat industry invests money in advertising their product in describing it as meat?

**JOHN HANSEN:** Yes.

**MOSER:** And do you feel it deceptive that others who make something that quacks like meat but maybe doesn't taste like meat are being deceptive in describing their products as meat?

**JOHN HANSEN:** I will tell you that the discussion at the Nebraska Farmers Union convention revolved around the fact that they did not think it was fair competition for products produced in a laboratory that had never had a heartbeat, had never been born, had never been raised were wanting to be able to portray themselves as a bona fide, traditionally understood meat product and that there were descriptions of these kinds of competing products that were using pictures of the animals in question as if they came from that animal, which they technically did, but in a laboratory and had never been technically alive or had been born or raised.

**MOSER:** Well, I would characterize your answer as being all those words mean yes.

**JOHN HANSEN:** Yep.

**MOSER:** OK. Thank you. I'm done. Thank you.

**HALLORAN:** Thank you both for your brevity. Any further questions? Senator Brandt.

**BRANDT:** Thank you, Chairman Halloran. Thank you, Mr. Hansen, for appearing today. Senator Chambers brought up a very good point about salmonella in some meat products that probably came through an inspected plant. But I do recall last year there were problems with lettuce and cantaloupe and a lot of vegetables out there that probably went right from the field or the farm right to a grocery store. And I guess I see what we're talking about here today is-- as a food safety issue, particularly as it relates to meat. Is that sort of how you guys see it?

**JOHN HANSEN:** Yes. And I would just offer that, you know, as you-- as based on your background you know you have overlapping jurisdictions in a less than clear lines to at least average consumers as to who is in charge of which particular part of food inspection and food labeling. And so you have those things going on at the national level. And so at what point in production which agency is in charge of what? And so I think that there is some merit in consideration of Senator Blood's efforts to amend her bill to bring it back to the Nebraska Pure Food Act.

**BRANDT:** Thank you.

**HALLORAN:** Senator Lathrop.

**LATHROP:** Here's the point I want to make which is people are testifying about intent which I appreciate. And I think I appreciate what people are trying to accomplish. The fact of the matter is that I'm looking at the amendment. The amendment takes all this language about meat and throws it out. Basically at the end of the day, we have a statute that deals with deceptive trade practices and we also have existing law dealing with Nebraska Pure Food Act. Right? They each regulate food in some way or how, how things are labeled. And all we're doing here is saying it's a violation of this law to violate this law, but we're not-- we're not amending anything about the Pure Food Act to address the issue. The Pure Food Drug Act as I've tried to find it, and I presume that the, that the reference is to Section 81-2,283 which is misbranded food, it's a prohibited act already. If it's a prohibited act and it can be a deceptive trade practice to misrepresent the ingredients of food, we're not-- we're not refining the definition of the food that we're trying to regulate here. All we're doing is just saying if you're violating this you're also violating that. But we're not saying what you-- what is it about this particular problem that we have distilled down to a definition that will stop the practice that you couldn't stop already with existing law?

Right? If-- if this stuff that was handed out today is a violation of the Nebraska Pure Food Drug Act, then it is. But-- but making reference to that particular act and saying it's a deceptive trade practice to violate that act without adding some addition to it or some clarification, we're not accomplishing anything. We're just making one violation of the food-- Pure Food Act a violation of the Deceptive Trade Practices Act at the same time. But we're not clarifying what we want people to do with their labels that they're not already doing. Because apparently if this was-- if this was a violation of the Nebraska Pure Food Drug Act, somebody would be doing something about it already. Or if it was a deceptive trade practice, somebody would be doing something about it. And in order for us to accomplish anything or the intent people have been talking about, we'd need a clarification. But apparently that attempt, which is to define meat, was so difficult to accomplish it was removed from the bill. So we're having a discussion about making one thing a violation of two things without clarifying exactly what it is that we're trying to stop. In other words, if it's-- this stuff's already a violation, somebody can enforce the act and the problem solved. That's my only point.

**HALLORAN:** Senator Slama.

**JOHN HANSEN:** Thank you, Senator Lathrop. And I--

**HALLORAN:** Go ahead.

**JOHN HANSEN:** I appreciate your, your point. To my mind, you're saying making it clear to regulators that one applies to the other so that you maybe highlight--

**LATHROP:** That's all this does. But--

**JOHN HANSEN:** Yes.

**LATHROP:** --you're not-- those have all, all existed while this has been happening, right? Both of them exist while this is happening. So apparently it's not enough for you or at least the intent people have expressed today, but we haven't done anything to clarify exactly what do you want people to stop doing that these acts don't stop you from doing right now. That's all.

**HALLORAN:** As I recall, I think Senator Blood said that the Attorney General's Office would be testifying and they may help clarify some of this.



**LATHROP:** Oh.

**HALLORAN:** Senator Slama.

**LATHROP:** Why didn't you tell me that sooner? [LAUGHTER]

**JOHN HANSEN:** Well, Senator Lathrop--

**LATHROP:** I'll look forward to that conversation.

**JOHN HANSEN:** Well, Senator Lathrop, with all due respect, I did mention that in my testimony earlier on.

**HALLORAN:** Yes, you did. So did Senator Blood.

**LATHROP:** You did, but I didn't understand what they'd be doing weighing in on policy.

**JOHN HANSEN:** It's the first time you and I have [INAUDIBLE].

**HALLORAN:** Senator Slama.

**SLAMA:** Yeah. And just to very quickly echo Senator Lathrop's testimony, I fully understand and empathize with the want to define meat as meat to defend our ag producers. But my issue with the amendment is, is that we're no longer defining meat. So how can we say that these packages which are currently being served in supermarkets that Senator Blood has provided us with examples of aren't meat? Because we're not defining it and we're not defining it in this bill either. So I guess that's my big hang-up is how can we say that someone is deceptively selling their product as meat when we don't have any definition on our end of what that meat should be?

**JOHN HANSEN:** Well, when in doubt, fall back on federal USDA definitional standards in my opinion.

**HALLORAN:** OK. Further questions for Mr. Hansen? Yes, Senator Moser.

**MOSER:** More of a comment for the Chairman. Seems like we're kind of debating the merits of the bill rather than getting input from the people who came to testify. And I think we'd be better served with our time and their time if we would accept their testimony and move on and then we'll have a chance to debate

this among ourselves and rather than torture them will torture each other as we do.

**HALLORAN:** All right. Thank you, Senator Moser, well, well advised. Thank you. Yes, Senator Chambers.

**CHAMBERS:** Sometimes a new person would do better to sit back and learn how the process works. Because if new people had ever watched testimony before Congressional committees or any kind of committee, questions are put to those who are testifying. And if it tortures the listener on the panel, the listener should either stop his ears or excuse himself but not try to dictate how other people are going to carry out their duties as a member of the Legislature. So here's what I would ask the witness. This is supposed to be a pro-life state. Are you aware of a process whereby an egg of a woman can be fertilized in a dish, so to speak, and then implanted in another woman to bring to term?

**JOHN HANSEN:** I am familiar with that.

**CHAMBERS:** They call it--

**JOHN HANSEN:** In vitro fertilization.

**CHAMBERS:** Um-hum. You've heard of that, haven't you?

**JOHN HANSEN:** Yes.

**CHAMBERS:** And that's where you just-- you do the fertilization because the man who was the father does not have sex with the woman who's going to give birth to the child.

**JOHN HANSEN:** I would say--

**CHAMBERS:** Fertilization doesn't occur by the man inserting a penis into a woman's vagina and the semen is transmitted into those repositories where the eggs are and they meet there. The meeting occurs somewhere else at a neutral site. Here's what I'm getting at. They want to talk about what is not done in a test tube is not meat. Then these test tube babies are not human beings. But the ones who argue about the test tube babies say that as soon as conception occurs, that means as soon as the cells are joined that's a human being they say. So if that little bit can be a human being, then that which starts as an animal cell is certainly meat. That's something you may comment on or choose not to.

**JOHN HANSEN:** We have 67 pages of policy for Nebraska Farmers Union. In that particular area, we do not have policy.

**CHAMBERS:** Then I'll ask you this. If what Senator Lathrop said is correct, and I think it is, why has not somebody in the farm community filed an action to get an injunction? Why haven't they done that? And if there is deceptiveness in what's being done, the remedy is gonna be in court anyway. The mere existence of a law does not stop people from engaging in contact that violent-- conduct that violates it. Our legal testifier pointed out that there is not a criminal sanction here. The remedy is equitable, which means by way of an injunction. You are ordered to cease doing what you're doing. If it's deceptive and the violation of that act provides equitable relief, then why doesn't somebody file an action right now and charge that what Senator Lathrop held up a picture of with being a violation of the law? Why hasn't the federal government done it, if you know or have an opinion?

**JOHN HANSEN:** There, there have been efforts at the federal level between the overlapping federal regulatory agencies to work on more of the clarification of standards and definitions. And so the industry's raised these issues at the federal level, and the federal regulatory agencies have been struggling with this. And I think that the ag community is standing back and trying to figure out whether or not progress has, in fact, been made in this particular-- on this particular issue.

**CHAMBERS:** If under the existing law there is a violation, there is a deceptive practice, there is mislabeling that would mislead the consumer, why doesn't Trump order the Attorney General to file an action in federal court to stop it? He can do it now.

**JOHN HANSEN:** I have not been contacted by the Trump administration or asked for guidance in any of these matters.

**CHAMBERS:** Well, you couldn't rely on what they told you anyway; so if they call you, tell them that's okay but thanks. But anyway I think if all, all of this that we're hearing testimony on today is such a concern, let them go to court and try to enforce the law that's right there right now. Because if this amendment is to be adopted, and if I understood it, it came from the Attorney General's Office. Maybe I misunderstood. Well, then the Attorney General can do something right now if he chooses to, but we'll wait and see what he says.

**JOHN HANSEN:** I think it would be fair to say, Senator Chambers, that the emergence of this particular kind of competing product in the food marketplace is new. And it's prompted angst within the ag community and that there is varying degrees of angst and frustration already within the ag community, depending on which player you talk to, about how well the marketplace is currently being policed relative to having clear, understandable definitions for the protection of both food consumers and food producers.

**CHAMBERS:** That's all I have.

**HALLORAN:** Thank you, Senator Chambers. Senator Moser.

**MOSER:** The-- I've conducted hundreds of public hearings, and I think it's a common practice to show respect for the testifiers and to let them testify and not argue with them. Senator Chambers is entitled to his opinion, but I didn't run for office to know my place and to sit back and let him speak for me. I'll speak for myself. And I apologize to you in behalf of the other people who asked you questions which you have no knowledge of and which are irrelevant, in my opinion, to what you're here to testify about.

**CHAMBERS:** Mr. Chair, Mr. Chair, now he referred to me. I've been here 44 years. I know more about the legislative procedure than you do. And you can say whatever you want--

**HALLORAN:** (Gavel)

**CHAMBERS:** --but you were insulting in what you said.

**HALLORAN:** (Gavel) Gent,-- gent--

**CHAMBERS:** Hitting it on the table is not going to stop me. I'm not a child.

**HALLORAN:** Gentlemen, we can take care of this in Exec Session.

**CHAMBERS:** You're going to have somebody take me out here, did you say?

**HALLORAN:** No.

**CHAMBERS:** What did you say?

**HALLORAN:** Mr. Hansen, thank you for your testimony.

**JOHN HANSEN:** Thank you.

**CHAMBERS:** You know you're playing with a grown man now. Who are you going to have take out of me-- out of here, did you say?

**HALLORAN:** I didn't ask anyone to take you out.

**MOSER:** He didn't say that.

**HALLORAN:** Next proponent, please. Next proponent. Are there any opponents? Any opponents? Anyone in the neutral capacity? Yes.

**KENT ROBERT:** Afternoon, Senator Halloran, members of the Agriculture Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here today in opposition of LB594, representing a company called Impossible Foods. The handout I'm handing you is for a couple of reasons, kind of gives you a little idea of what our-- their product is. And it shows you a couple of local menus and where their product is sold. It shows how that is being advertised where it's clearly-- it's clearly written and what kind of a product it is. Impossible Foods sells the Impossible Burger, which is a plant-based burger sold in restaurants across the country. Locations in Nebraska include HopCat and Miller Time pub in Lincoln; Angus Burgers in Kearney; Open Range in Ogallala. In Omaha there are several: Dave & Buster's, Charleston's, Village Bar, Burger Bar, the Dundee Dell, Cheesecake Factory, the TD Ameritrade Stadium coming soon, and Stella's Bar & Grill in Bellevue. To the green copy of the bill, I think in defining words in statute of how we advertise things, we've talked about this a little bit. There are a lot of things that are advertised and sold as such that may not be as the name might say, such as different kinds of milk: soy milk, coconut milk, oat milk, almond milk, coconut butter, peanut butter. They're not necessarily what we would consider the normal butter; popcorn shrimp; a couple of my favorites: Rocky Mountain oysters, not from the Rocky Mountains nor are they oysters; sweet bread which is not a bread. It's throats of goats or calves; head cheese, we know there's no cheese in head cheese; gummy bears; packaged crab meat; all those types of issues. They're-- they're-- they've got names but it's clearly labeled on the product what they are. I think we also need to talk about protecting people from themselves. I know many times I've come home from the store thinking I had a case of Diet Mountain Dew in my hand and I looked down and I wasn't reading carefully enough and I got a caffeine-free can of Mountain Dew and I don't

know what the purpose of that is actually, but I got some. Or I've come home with the wrong-sized shirt off the rack. I needed a large and I came home with a small. Or I was sent to the store to get baking powder and I came home with baking soda and I had to go back to the store, right, because I just wasn't paying close enough attention. We believe this is a federal issue that is already being covered under three federal agencies: the FDA, the USDA, and interstate commerce laws covered under the FTC. So I think there's plenty of people watching out whether we're advertising correctly. It's a First Amendment issue. We don't believe the government should probably be telling a company what they cannot K-- say or not say in describing a product as long as it's clear and not deceptive and see those examples that we talked about just a minute ago. Everybody's favorite two words: it's a slippery slope. This causes further regulation on a very already regulated industry. A law like this can lead to special interests seeking more labeling on lots of other projects based on other kinds of reasons that we don't even think of right at the moment. And to the amendment, and I thank Senator Blood and her staff for sharing it with us, we looked it over. And, Senator Lathrop, I think you're exactly right that it's already against the law. It's moving it to statute. What we believe it does is what it actually does is it increases the penalty being a part of the Deceptive Trade Practices Act versus where it's at now from 500 bucks to 1,000 bucks and up to six months in prison. Currently only actions can be brought by the Department of Ag and they're not. This would allow easier access through the Department of Justice. And it also allows just any private party to sue for no merit upon what they think may or may not be deceptive because it won't be defined in law. I made a few other notes but most of the comments we've-- we've taken. I did want to-- I did look up the definition of meat in several different locations and it-- here's a few of the definitions: edible part of fruit or nuts; the essence or chief part of something; food of any kind. Solid food is distinguished from drink or the edible part of something as distinguished from its covering, meaning not the husk or shell. So that's all I have and I'd be happy to answer any questions.

**HALLORAN:** OK. Thank you, Mr. Rogert. Any questions from the committee? Senator Chambers.

**CHAMBERS:** Mr. Rogert, were you in the Legislature?

**KENT ROBERT:** I was.

**CHAMBERS:** Did you sit on a committee?

**KENT ROBERT:** I did.

**CHAMBERS:** When people testified, did you ask them questions?

**KENT ROBERT:** Yes, I did.

**CHAMBERS:** Did they sometimes not know the answer to the question?

**KENT ROBERT:** Very often, Senator.

**CHAMBERS:** Thank you.

**HALLORAN:** Thank you, Senator Chambers. Senator Slama.

**SLAMA:** Thanks for coming out today. I was wondering what are the sources of your meat definitions, just for my reference?

**KENT ROBERT:** Google.

**SLAMA:** Google. OK.

**KENT ROBERT:** Yeah.

**SLAMA:** I didn't know if you [INAUDIBLE].

**KENT ROBERT:** I wrote them down right back there as we were discussing it so I just Googled it and that's what I came up with.

**SLAMA:** Thank you.

**KENT ROBERT:** You bet.

**HALLORAN:** OK. Thank you, Senator Slama. Any further questions? Thank you, Mr. Rogert.

**KENT ROBERT:** Thank you.

**HALLORAN:** Any further opponents?

**DAN COLEGROVE:** Yes.

**HALLORAN:** Good afternoon.

**DAN COLEGROVE:** Good afternoon, Mr. Chairman and members. Briefly, Dan Colegrove, that's D-a-n C-o-l-e-g-r-o-v-e. I'm here today on behalf of an organization called the Plant Based Foods Association which, as the name suggests, is exactly that-- the makers of products that are somewhat more traditional and that have been in-- on Nebraska grocery shelves for years, if not decades, in many cases, alternative meat products. We see this as one of those solutions in search of a problem issues that the makers of the products that our association represents are already in full compliance with federal and state laws in terms of marketing practices and adulteration, things of that nature, and really feel that this is probably best handled on a-- on a national level. It's interesting today it's been referenced a couple of times that this legislative cycle. In 2019, there's a number of states that are looking at this issue. I can guarantee you that because I've been all over the country. Just in the last week, I've been in three legislatures on the-- on the issue. I think we're about 15 or 16 states right now that are discussing this issue. Every one of the bills in those states is drafted differently-- every one. Some of them are in different code sections. They're in deceptive trade practicing sections such as what we're talking about here. Some are in adulterated food product sections. You can imagine the challenge that presents to companies that are just trying to market and sell things outside their own states should these things be passing all over the place. So with that in mind, the fact that they're already producing and in compliance with the regulations that are before them, we really urge you to con--reconsider this legislation on a state level and allow the federal regulators to do their jobs, which they're engaged in trying to do. That's all we have to say today and thank you very much. Happy to answer any questions.

**HALLORAN:** Thank you, Mr. Colegrove. Any questions from the committee? Senator Chambers.

**CHAMBERS:** To your knowledge, has your organization or any member of your organization been sued where the plaintiff would seek an injunction to prohibit the use of any terminology that your organization or members of your organization will apply to the products that you sell?

**DAN COLEGROVE:** Senator Chambers, this is somewhat speculative, but I think the answer is yes. I don't know if there are member companies or but I know companies have been subject to enforcement actions, often from states. That's the extent of my knowledge to the details. But I think the point being that--



that if companies in this industry or any other consumer products industry are engaged in some kind of questionable marketing practice there are already laws and regulations in place that can be employed to curb that. If that answers your question or not.

**CHAMBERS:** Yeah. That's the question I asked and that's the one you answered. Thank you.

**HALLORAN:** Thank you, Senator. Chambers. Any further questions in the committee? Seeing none, I thank you for your testimony. Any further opponents? Any further opponents? Anyone in the neutral capacity? Welcome.

**MEGHAN STOPPEL:** Good afternoon, Chairman and members of the committee. My name is Meghan Stoppel, M-e-g-h-a-n S-t-o-p-p-e-l, Assistant Attorney General and Chief of the Consumer Protection Division in the Nebraska Attorney General's Office. I'm here to testify in a neutral capacity on LB594. There's been a lot of conversation about LB594 already today. I'm going to try to speed through my prepared remarks and then try to address some of the questions that I think have come up that implicate both this bill and the Attorney General's Office more generally and our Deceptive Trade Practices Act. We believe Senator Blood has appropriately tailored LB594 to address the Attorney General's concerns while preserving her original intent of protecting consumers from deceptive meat labeling practices. As originally drafted, LB594 may have been challenged under the First Amendment as seen in Missouri last year following the adoption of legislation with similar intent. And as amended, LB594 makes a violation of the pure-- Nebraska Pure Food Act, specifically any violation related to the labeling, packaging, or advertising of food a violation of Nebraska's Uniform Deceptive Trade Practices Act. Currently, the Pure Food Act makes misbranding, deceptive packaging, and false advertising of food a Class IV misdemeanor. It is the duty of Nebraska's county attorneys, however, to prosecute violations of that act upon notice from the Nebraska Department of Agriculture. LB594 does nothing to diminish that authority. If anything, it supplements the county attorneys' authority as county attorneys already have the authority to pursue violations of our Deceptive Trade Practices Act with the consent and advice of the Attorney General. As Senator Blood recognized, our Consumer Protection Division is well equipped to identify and address deceptive trade practices. The language in the amended LB594 is similar to existing language in our Trade Practices Act. In fact, we have very similar language regarding the Nebraska Foreclosure Protection

Act where we do this incorporation by reference and say any violation of one act is a per se violation of another. And by incorporating the Pure Food Act by reference, LB594 eliminates the need to draft new and potentially inconsistent definitions for food or food products. Instead, our office can rely on existing federal definitions adopted by the Department of Agriculture and incorporated by reference in the Pure Food Act. I can provide you with those citations later upon request. From the Attorney General's perspective, this approach is less disruptive to industry while simultaneously consistent with consumer expectations in the marketplace. It also helps us avoid working at cross-purposes with our federal counterparts and the Nebraska Department of Agriculture. We thank Senator Blood for her thoughtful consideration of the Attorney General's comments on LB594 and her willingness to respond to our concerns. I'll now stand for questions.

**HALLORAN:** Thank you, Ms. Stoppel. Any questions? Senator Chambers.

**CHAMBERS:** When you mentioned the amended version, you mean the adoption of the amendment we've looked at--

**MEGHAN STOPPEL:** That's--

**CHAMBERS:** --that says get rid of everything in the bill and then substitute this statement at the very end?

**MEGHAN STOPPEL:** That's correct, Senator.

**CHAMBERS:** OK. Now let's say that that is done and these organizations, the Cattlemen and all the others, think that something is inappropriate in terms of the labeling. What would the avenue be for trying to address that? Well, I'll let you state it first. Then if I have questions, I'll ask them.

**MEGHAN STOPPEL:** Sure. So they probably have a couple of different avenues. The way the amendment is currently written they could go directly to the Department of Agriculture, although we just heard an opponent here today say the Pure Food Act is enforced by the Department of Agriculture and they're not doing anything about it or they're not doing that. I frankly cannot speak to that issue. I don't know what Department of Ag is or isn't doing with respect to the act. They could go there or they could come directly to our office and file a complaint. Our-- our complaint form is typically filled out by consumers but not always. And if we have sufficient complaints or

significant concern from the public regarding a specific advertising campaign or a trade practice, that would usually trigger an investigation within our office.

**CHAMBERS:** And if some action was deemed necessary, would the Attorney General's Office contact the one who is supposedly in violation of the law and say cease and desist? Or would the Attorney General's Office immediately go to court to seek an order from the court mandating that they cease?

**MEGHAN STOPPEL:** We actually have both options under statute. So if following an investigation we determine that the advertising campaign or the, the labeling on the package or the display in the store, whatever we're talking about, was in fact deceptive or we thought it was in violation of our statute, we do have the authority to issue cease and desist notices under our statute. I can tell you from experience we don't use that authority very often. Typically what we do is engage in a dialogue with the attorney or counsel representing the company and say this-- these are the violations that we're seeing. We will typically try to resolve the case out of court. We don't see enforcement action as the first step to resolving a case in our division. It's not unheard of for us to file one without notice to the other party. But typically those are reserved for instances where there's sort of imminent harm to the public or we feel that there's going to be dissipation of assets on behalf of the defendants. We will usually put a settlement offer in a demand letter in front of counsel for the company well in advance of filing anything with the court.

**CHAMBERS:** If this amendment is adopted, then the courts would be open to any aggrieved individual or organization if it's going to move in that fashion to go to court and seek remedies there. Correct?

**MEGHAN STOPPEL:** Yes. So the, the Uniform Deceptive Trade Practices Act has a private right of action in it. Private litigants have to provide notice to our office so that we can monitor that litigation. But, yes, you are correct. They could in theory enforce this language as drafted.

**CHAMBERS:** And that was for the sake of the record.

**MEGHAN STOPPEL:** Yes.

**CHAMBERS:** Thank you.

**HALLORAN:** Thank you, Senator Chambers. Any other questions?  
Senator Lathrop.

**LATHROP:** Thank you for being here. And I I really do appreciate the opportunity to try to get some clarity. There is a "distrected"-- Deceptive Trade Practice Act and then there's the Pure Food Act.

**MEGHAN STOPPEL:** That's correct.

**LATHROP:** Which one does your office enforce?

**MEGHAN STOPPEL:** Right now the Deceptive Trade Practices Act is the one that we have enforcement authority under.

**LATHROP:** OK. We're not going to change the criteria for making a determination as to whether any of this material is deceptive. We'll-- we'll rely on after, if this amendment were adopted, we would rely on the terminology and the criteria and the standard already found in the, in the act. Is that true?

**MEGHAN STOPPEL:** Yes. So if I could step back just a moment and walk the committee through sort of the rationale and the conversation that we had with Senator Blood when we initially saw the most recent version of the bill, what we saw was a proposed definition for meat and then that language in line 15 through 17 of page 10 that made a representation regarding meat a deceptive trade practice if it didn't meet that definition. And from our perspective in the consumer protection environment, if you look at the, the Deceptive Trade Practices Act, there is a litany of definitions for, for a variety of things, you know,-  
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**LATHROP:** Sure.

**MEGHAN STOPPEL:** --file sharing programs. I mean, we define a lot of things. But the definition for meat from our perspective was concerning for a couple of reasons. One, it's, it's contentious. Right? I mean we knew there probably wasn't going to be consensus from the marketplace about what that was and then we also knew that there was litigation ongoing in Missouri about this First Amendment issue about defining what is meat. So the conversation with Senator Blood had to do with how do we achieve the intent of the bill of protecting consumers while still giving our office the sort of targeted definition that we need to enforce this intent, right, to incorporate the federal definitions that the Pure Food Act pulls in without having to

actually put a pin in it. Right? And so that's what we really liked about the Pure Food Act is there was a section in the Pure Food Act that basically says the Department of Ag can incorporate by reference or does incorporate by reference any federal standard, definition, regulation that they see fit in the enforcement of the Pure Food Act. And so it doesn't set out what those definitions are. It doesn't cite to a particular FDA reg or rule or USDA reg or rule. But it gives the Department of Ag the authority to pick which of those definitions or regs it wants to incorporate for Nebraska's purposes and then apply them to the Nebraska marketplace.

**LATHROP:** And that's existing law. Right?

**MEGHAN STOPPEL:** That's what exists in the Pure Food Act right now. What it-- what wasn't-- what isn't happening right now in Nebraska law is there's nothing that links those definitions that are applied for purposes of enforcing the Pure Food Act with the definitions or enforcement of the Deceptive Trade Practices Act.

**LATHROP:** But the-- but the Pure Food Drug Act or the Pure Food Act, pardon me, that's state law. And by Department of Agriculture we're talking about the State Department of Agriculture.

**MEGHAN STOPPEL:** That's correct.

**LATHROP:** They could enforce that currently.

**MEGHAN STOPPEL:** Yes. The way-- the way it's worded is they have to notify the county attorney and then the county attorney brings it because it's a misdemeanor [INAUDIBLE].

**LATHROP:** But it's already available to them.

**MEGHAN STOPPEL:** It is. And so what this-- this amendment does or what LB594 does is it says to the Attorney General's Office, you now can also pursue those deceptive trade practices and incorporate those federal definitions that the Department of Ag is using. So it provides our office with a comfort level of using those federal definitions that, that otherwise we wouldn't have.

**LATHROP:** And we wouldn't be needing to do any of this if the Department of Agriculture was actually enforcing the food-- the Pure Food Act.

**MEGHAN STOPPEL:** I can't speak to whether it would be necessary. It certainly wouldn't be possible. Our office just wouldn't--

**LATHROP:** Right.

**MEGHAN STOPPEL:** Actually, I shouldn't say it wouldn't be possible. It would be a much different legal argument under our Deceptive Trade Practices Act.

**LATHROP:** OK. So now what we've done is we've made it possible for the Attorney General's Office to do what the Department of Agriculture could do but as--

**MEGHAN STOPPEL:** It makes it impossible for us to do the same thing. I guess I'm not comfortable saying that they're not doing it. I just-- I can't speak to that issue.

**LATHROP:** Well, have you had any complaints?

**MEGHAN STOPPEL:** We looked. In the last year, we have not had complaints on this specific issue of meat labeling.

**LATHROP:** OK.

**MEGHAN STOPPEL:** We don't categorize our complaints by, you know, label issues so it was a little difficult for us to put a pin on it. But we were not able to find any in the last year.

**LATHROP:** How about last five years?

**MEGHAN STOPPEL:** We did not look that far back.

**LATHROP:** OK. So as far back as you looked you didn't have any complaint.

**MEGHAN STOPPEL:** We didn't find any specifically related to meat labeling, no.

**LATHROP:** OK. That's all I have. Thank you.

**HALLORAN:** Thank you, Senator Lathrop. Any other questions from the committee? Seeing none, I appreciate your testimony. Thank you.

**MEGHAN STOPPEL:** Thank you.

**HALLORAN:** Any further in the neutral capacity? Seeing none, I would invite Senator Blood to close. And while she is approaching, we have letters to be entered into the record. Proponent, we have Kevin Cooksley, Nebraska State Grange; Rocky Weber, Nebraska Cooperative Council; Jessica Kolterman, Lincoln Premium Poultry; Dan Morgan, Morgan Ranch Beef; Mo Neal for himself. Opponents we have Dan Colegrove, Plant Based Food Association, and Bonnie Price for herself. Welcome back.

**BLOOD:** Thank you, Senator Halloran. It was an entertaining conversation I got to watch and I took a lot of notes and I'm hoping I can address some of the things. I was very happy the Attorney General's Office could wrap things up with a bow. I should have said that louder I think in my introduction because I'm not sure I impressed upon people that she was going to be here. So first, I want to talk about the definition of meat. So I actually want to back up even before that. So there may be a misconception that somebody brought this bill to me and that is not the case. And I bet you I have some heads nodding behind me. I was at a health food store this summer, Fresh Thyme grocery store, and there is two women a couple of years older than me that were arguing over what they had in their hands, if it was meat or if it was ground turkey because they had them side by side. I think I even have a picture from Hy-Vee of two things side by side in that handout I gave you. And I started listening to what they were saying and these ladies, based on the conversation I heard, were clearly educated or at least I would say had a good vocabulary and I was impressed with the words they used. They weren't stupid, but they were confused. And that's when I started researching this bill and it wasn't until I contacted the Cattlemen, the Pork Producers, the Poultry Producers, Farm Bureau, Farmers Union and I brought forward a stakeholder meeting did they even know that I was going to be carrying this bill. So first I want to make that really clear. So unlike the other states-- in fact, there's a story in the New York Times about this story because I was one of the few senators bringing forward a bill like this that wasn't a cattleman, a rancher, somebody who wasn't a farmer. So it's very unique, the fact that I'm bringing this forward and I-- and I know that. But I was trying to solve a true problem. And so initially for me, based on the research that I've done, I thought, hey, we need a definition of meat in order to push any kind of legislation forward. And so what was very clear to me in my research was that the USDA FSIS, which they've talked about several times already today, has a federally defined definition of meat. Whether we agree with it or not, it is federally defined. And I think that when or I know when they look at

federal legislation that is a definition that they use. And so for me for a foundation for this bill it seemed smart to utilize something that the federal government has said this is what we use. And this is what people should use when they create laws. But the longer that I dealt with this-- and you guys were a really good example-- the definition of meat can be defined further and can be confusing and can open us up to litigation. And that's why we took the word out. But it's still the foundation of what we're trying to do, right? Because we, we need to start somewhere. And so I want to address the part about the corrupt industry. Certainly it has something to do with industry, but it doesn't have anything to do with industry. It has something to do with industry in the way that it's a double win. And the fact that not only do we protect consumers but we do protect Nebraska's number one industry, whether you agree with it or not. It protects the cattle industry that gives billions of dollars to our economy every year. And in this small population state, we would be screwed without that industry. And again whether we like it or not, there is probably a pork producer in every one of your districts. It is what it is. That's Nebraska and Nebraska is heavily dependent on ag. Senator Chambers, in reference to cheese, France has made it very clear that if it's not made from the milk of a cow or the milk of a goat it's not cheese. And other states are going in that direction as well. And I'm sure they're having the same lively discussions that we are having. I thought it was really interesting when Mr. Dinklage talked about cell-based foods, how it's based on a cell on it and it grows into their interpretation of meat. So some of the concerns that I have with that, when it comes to cell-based foods, is that if you look at-- and I'm glad that somebody was here to represent Impossible Burger. If you look at what their mission statement is on their Web site, their main goal, which is great for their stakeholders, is to purposely disrupt the meat industry and be the leader in that industry by 2025. And good for them. Well they should be doing that. But they don't care how they get there and that's the issue that I have. They are welcome to compete. They are welcome to disrupt the market. But if they're going to do it, they need to be truthful about it. And if they're being truthful about it, then they shouldn't care about this bill. Right? But again as I said in my opening, if a business is putting in beet juice in what looks like ground meat and then you see the word meat and you see a cow head on the package, is that or not, is that not deceptive? To me, that's deceptive. We all know-- and again, there's at least two attorneys on here, maybe more. I don't know, three? We know that commercial speech does not have as much protection under the



First Amendment. And so when people come and say that it violates their First Amendment rights, I think we have a gray area there. We talk a lot about-- and I think actually it was one of the pro people talked about cows farting and methane gas and how it disrupts, how it's bad for the environment. Well, here's the bottom line and I say this as a vegetarian: I don't eat quinoa. I don't drink almond milk. Those are really bad for the environment and they're ruining the aquifer. Everybody's got their gray area. We have to be really careful with how we describe things and what we're talking about when it comes to what's good and what isn't good about the environment. You know, the bottom line is that pretty much I'm guessing everybody at this table eats meat. And where do you think that meat comes from? There's no meat fairy and it's not a pretty industry for those of us that grew up on farms. There is nothing glamorous about how you butcher meat. But it is what it is because we choose to eat that. And then we talked about suing somebody for no merit. Again, if someone's being deceitful, purposely deceitful, I think that that brings great merit. I don't think we're keeping these-- this industry from being successful. All we're asking them to do is go through the same hoops that we make our meat producers go through. I'm here to tell you that if I had a steak handed to me and on the package it said plant-based steak, I'd take issue with that too. Truth in advertising. And then I heard the person who spoke in front about Impossible Foods. He actually-- he-- he counter-- he counteracted what he said. He talked about it's going to cause more regulation in a highly regulated industry. But then in that same breath he said he was already a highly regulated industry. So nobody-- we're not really creating more rules. So I'm not really sure how that applied. But what we are doing is we're moving something to an existing infrastructure which is the county, excuse me, the state Attorney General's Office. They've proven to be successful in how they deal with complaints like this. We're not making anybody jump through more hoops. And, yes, the benefit is that it does protect the cattle, the pork, the poultry industry. But what it does is it gives the power to the people and isn't that what legislation is supposed to be all about? It's not supposed to be about us sitting here and making big grandiose laws as much as making the laws so they can be interpreted by our consumers so they can take action should they see fit. And if a consumer never takes action, so be it. But why wouldn't we want to give them the tools to make it easier for them to do this under the guidance of the Attorney General's Office who, if you look at some of the other things that they've handled in this area under deceptive practices, have been very successful and worked very well with consumers because I've sent constituents

from Bellevue to them before and they do an exceptional job. And then I would state one last thing. And there's a lot more notes that I took, but I'm just trying to get to the main points because everybody looks really sleep because this has been a long hearing. In 2018, the U.S. Cattlemen gave a 15-page petition about alternative meat sources to the Department of Ag, and the problem is right now we have a pretty dysfunctional federal government in my personal opinion. And there are a lot of things that should be getting handled at the federal level that aren't being handled at the federal level. An example was a bill that I had last year that pertained to the military families and consumer protection and we had to close a loophole because nobody could get it done at the federal level. Sometimes we do have to do things at the state level. And I do worry about some of the plant-based foods. I'm a purist. To me, these plant-based foods you can't pronounce what's on the label. But when I eat a-- when I used to eat a steak-- when you eat a steak, what's on that label? Meat, right? I just, whether we like it or not, the stuff's going to be more and more-- and good for people that choose to be plant-based. Everybody does it for different reasons. But if they're going to do it and they're gonna sell in Nebraska, I think we have the right to stand our ground. I would have preferred to have left the definition of meat in the bill, but my preference is to not create unnecessary lawsuits for the state of Nebraska. And when and if this bill gets passed, we know that we have enthusiastic communities here in the state of Nebraska that will say to people, you know what, you're absolutely right. This, as you can see in the pictures, and those aren't old pictures; those are new pictures-- this is being marketed in a way that is deceptive. And here you can call the state Attorney General's Office and you can file a complaint. And well they should.

**HALLORAN:** Thank you, Senator Blood. Are there any final questions for Senator Blood? Seeing none, I appreciate you being here and bringing this bill. Thank you.

**BLOOD:** Thank you for having me. Thank you for the entertaining hearing.

**HALLORAN:** We will recess for five minutes and reestablish the hearings at 3:35.

[BREAK]

**HALLORAN:** Welcome back to the Agriculture Committee. We have LR13 provided to us by Senator Murman. Welcome, Senator Murman, to your committee.

**MURMAN:** Thanks.

**HALLORAN:** You're good.

**MURMAN:** OK. Chairman Halloran and Agriculture Committee, my name is Dave Murman, and for the record, that's spelled D-a-v-e M-u-r-m-a-n. And I represent District 38, the counties of Clay, Nuckolls, Webster, Franklin, Kearney, Phelps, and a quarter of Buffalo County. Today, I bring LR13 to the Agriculture Committee to urge the respective federal agencies to enforce their standards for labeling milk and dairy products and immediately end the use of the term milk on nondairy products. The Food and Drug Administration has regulations that define milk and cream as the lacteal secretion practically free from colostrum obtained by the complete milking of one or more healthy cows. This definition further applies to milk used to create other dairy products, including yogurt, butter, ice cream, and cheese. Today more than ever, consumers are being-- becoming more aware of what they are feeding themselves and their families. Many families are very busy and often don't have time to be misled by food labels. Plant-based products labeled as milk are misleading to consumers, especially when these products are packaged in identical ways and are placed in the same location in grocery stores. Imitation dairy products such as plant-based products derived from rice, nuts, soybeans, hemp, coconut, algae, and other foods that imitate milk, yogurt, and cheese often do not provide the same nutritional content as real milk, cheese, and yogurt derived from dairy cows. Earlier this year, supporters and farmers from across the country submitted roughly 13,000 comments to the FDA, urging them to reserve the use of the terms milk, yogurt, butter, ice cream, and cheese for products derived from real dairy origination when they are labeled-- labeling products. In the document that I have distributed, you will see different numbers from studies regarding consumer beliefs in these plant-based products ranging from protein value to comparable nutrition value. This isn't happening abroad. In both Canada and the United Kingdom, they label these products appropriately with the term beverage or drink. By using the word milk, we are misleading-- misleading consumers in a time that transparency is important. On a personal note, I have been working on this issue for about 15 years through dairy organization-- organizations such as Dairy Farmers of America, Nebraska State Dairy Association, and the Nebraska Dairy

Industry Development Board. The Nebraska Dairy Industry Development Board administers the dairy checkoff in Nebraska. The purpose of the checkoff is research and development and also promotion and advertising of dairy products. Dairy farmers have invested a lot of time and money to enhance and promote milk, yogurt, butter, ice cream, and cheese for decades. In recent years, dairy farmers have been taken advantage of by other products using dairy-specific labels. All we want to do is support the FDA in-- in enforcing its own policy on the definition of milk. I urge this committee to vote yes on this legislative resolution so that we can show not only Nebraskans but the FD-- FDA that we do care about the well-being of the consumer. I welcome any questions from the committee.

**HALLORAN:** Thank you, Senator Murman. Any questions? Senator Blood.

**BLOOD:** Thank you, Chairman Halloran and thank you for bringing your resolution forward. I think this is-- is consistent with some of the things I'm trying to do right now. Can you speak on how important the dairy industry is to Nebraska?

**MURMAN:** I think there's some others behind me that can do it more effectively than-- than I can, but we are--

**BLOOD:** Are you a dairy farmer?

**MURMAN:** Yes, I am. Well, as of 2.5 years ago I was, yes.

**BLOOD:** OK.

**MURMAN:** But yes, we are trying to promote economic development in the state by expanding our dairy industry in the state of Nebraska. The dairy industry, as far as the number of farms, has declined over the years. The number of cows, I think can be spoken to better behind me, but I think it's maintained approximately the same over the years. There is a very important economic development element to dairy. I think I've heard statistics like the dollars is resolved like seven times when it's paid to a dairy farmer. So very important to the state.

**BLOOD:** So would you say that this resol-- resolution is putting your proverbial foot down and saying, hey, we want to protect this industry, we want truth in marketing, and we just want everyone to be aware that this is where we stand?

**MURMAN:** Yes, I think as a state that would be very important. You know, this is an FDA resolution so it would be enforced on the national level. But that would be very important to this state and to our country to support our dairy industry.

**BLOOD:** What is your fear if the dairy industry were to go away?

**MURMAN:** Well, we'd lose that economic development. You know, the dairy cattle eat a lot of feed that's produced in the state. And we do have processors in the state also, so a lot of important things go on because of the dairy industry.

**BLOOD:** What about consumer rights?

**MURMAN:** Well, milk and dairy products are very healthy to consumers.

**BLOOD:** Do you think the prices might go up if [INAUDIBLE]?

**MURMAN:** Well sure, if-- if we lost the dairy industry in the state, the milk would have to be-- or the dairy products would have to be transported. So that would increase the cost of dairy products in the state to consumers. Yeah.

**BLOOD:** Thank you.

**HALLORAN:** Thanks, Senator Blood. Any other questions from the committee? Seeing none, thank you, Senator Murman.

**MURMAN:** Yep.

**HALLORAN:** Any proponents for LR13, which is a lucky number by the way, Senator Murman? Welcome.

**ROD JOHNSON:** Good afternoon, Senator Halloran and the committee members. My name is Rod, R-o-d, Johnson, J-o-h-n-s-o-n. I am the executive director of the Nebraska State Dairy Association speaking on behalf of our dairy farmers that produce, our member dairy farmers that produce, about 80 to 85 percent of all the milk produced in Nebraska. Jumping back to the question of Senator Blood, there are about 150 dairy farms in Nebraska. They're producing about 4 million pounds of milk per day which is about 1.5 billion pounds a year. And we can brag about our dairy farmers in Nebraska. We rank about sixth in the country as far as production per cow, so that's a testament to the fact that our water, our crops, our farmers are very good at what they do here in Nebraska. And so we're very, very proud of that.

Back in-- on September 10, 1998, Governor Ben Nelson declared milk to be the official state beverage and reading from his-- his statement at that time, "Overall, milk and dairy products are an important part of Nebraska's economy. But even more important than the economic value of milk and the dairy industry is the nutritional value of milk and dairy products to our citizens - especially children." This is one of the areas that we are very concerned about. I patiently sat through the hearing prior to this, and a lot of the comments that were made related to consumer deception apply exactly to what we're talking about here today. The definition of milk that I have from the Cambridge-- Cambridge English Dictionary is that it is the liquid-- it is the white liquid produced by cows, goats, and sheep and used by humans as a drink for-- as a drink or for making butter and cheese. The FDA also has standards for milk and they specify that milk is the product of an animal. The problem we're running into right now is the enforcement of the standards that FDA currently has. There are a lot of products on the market that are using the term milk but have no milk in them, and so that's a very deceptive thing because over the years, milk has a good reputation. We've always promoted the fact that there are nine essential nutrients in our milk products. And when you start comparing what's happening with some of these other products that are using the term milk, there's a reason they're calling it milk because they know milk is a very good product. But the standard that they have for their product obviously does not meet the same standard that we have in the dairy industry. So for years, the dairy farmers have been working with the FDA to try to get them to enforce the standards that are currently out there. Recently, they finally took note of the situation and have started looking into the current situation. Like Senator Murman stated, they are-- they have taken a lot of comments, and a lot of people commented on the-- the situation that they're working on right now to try to resolve the-- the labeling issues that are out there. I appreciated Senator Blood's comments earlier about what's happening in Europe and also in Canada where these various products are called beverages, not milk. In some situations, the same company that sells a let's say almond beverage in Europe or in Canada calls it almond milk in the U.S. It's the same product. So it's-- it's a deception trying to use the good name of milk to promote their product. We're concerned about the consumer that is not getting the product that they think they're getting unless they are very diligent at reading-- reading the labels. So over the years, we've worked very hard on this. The one thing that-- that I would like to point out to you is, if you turn to the handout, the differences between-- the last

couple pages in the handout, the graphics there, the differences between milk product and some of the other products. The first one is talking about protein per cup. And as you can see on the graphic, there's eight grams of protein in dairy milk. And then as you move down through the soy, coconut, rice, and almond milk, it drops way down to less than one gram of protein in that product. Consumer sees the word milk, they think they're getting the same thing that they're getting from real milk. Same thing as you look down through there for calcium, for phosphorus there, and I did not go through all-- or potassium, I should say. I did not go through all the nine ingredients, but the same situation applies in most of those. And lastly, the number of ingredients, milk is a pure product. All those-- those nutrients, those nine nutrients, are in the product naturally. The last graph shows that there's three ingredients. Milk is mandated to put added vitamins into it, so that is milk and added vitamins A and D. The rest of those-- those products, as you look down, they range from 10 to 15 different ingredients to make up their product. And in this day and age of everybody wanting pure product as compared to processed foods, why, it's very clearly that as they buy these products with all those ingredients, that's more of a processed food than it is a pure product. So we ask that you advance this resolution. I realize it does not impact anything directly here in Nebraska. But because Nebraska has recognized the value of milk as a commodity, as a product, as the state beverage, we ask that you forward this resolution and send that to Washington to send a message from Nebraska that we support real milk. I would be glad to take any questions.

**HALLORAN:** OK. Thank you, Mr. Johnson. Senator Blood?

**BLOOD:** Is that better?

**HALLORAN:** There you go.

**BLOOD:** Thank you, Chairman Halloran. Thank you for your testimony. Are you familiar with some of the marketing plans that the faux milk people are using, kind of just like the meat versus plant-based industry in that area, where their goal is to purposely disrupt the market and to label things, if you look on their Web sites, label things that are familiar to people so consumers will want to buy those products? Are you familiar with any of that?

**ROD JOHNSON:** I guess if you ever watch TV, you're very familiar with those kind of marketing schemes--

**BLOOD:** Right.

**ROD JOHNSON:** --and so, yes, we're familiar with that and--

**BLOOD:** Schemes or strategies, wouldn't be bad to say strategies, right? Yeah.

**ROD JOHNSON:** Well, each person can call it what they want to.

**BLOOD:** So are you familiar with what Silk has done recently?

**ROD JOHNSON:** Yes.

**BLOOD:** And what have they done?

**ROD JOHNSON:** They have gone-- they have gone more to using the word silk which a play-- which naturally is a play off of the word milk. But I will give them credit for making a little bit of an effort to separate themselves from-- from calling-- actually calling themselves milk.

**BLOOD:** And why do you think they're doing that? Is it that the writing's on the wall?

**ROD JOHNSON:** Because they see the pressure-- they see the pressure that is coming down the road, they-- the efforts that are being done through the dairy industry and at the FDA level. I think they're just trying to get ahead of the game.

**BLOOD:** There are-- there are a lot of movements. Wouldn't you agree that where the plant-based industry has-- has made it very clear that they don't care how they get there, they're just going to get there, and they have basically agreed that they may be-- very well be using deceiving language as long as they get to where they want to be?

**ROD JOHNSON:** Yeah. Yeah.

**BLOOD:** Thank you.

**ROD JOHNSON:** That's the-- that's what we're after, is to make sure the consumer is not confused.

**BLOOD:** It's all about consumer.



**HALLORAN:** Thank you, Senator Blood. Any further questions?  
Senator Brandt.

**BRANDT:** Thank you, Chairman Halloran. Thank you, Mr. Johnson,  
for testifying today. The Nebraska State Dairy Association, is  
that strictly cattle or does that also represent sheep and  
goats?

**ROD JOHNSON:** Strictly the dairy, the cattle dairy industry, yes.

**BRANDT:** OK. So and the reason I ask that is in the first  
paragraph of the bill, complete milking of one or more healthy  
cows, and cows are the only thing referenced in the-- in the  
legislative resolution. And your definition of milk here  
includes goats and sheep. And I know in my district, I have  
people that do this. It's more of a niche market.

**ROD JOHNSON:** Right.

**BRANDT:** I understand that. So I don't-- I don't know if that was  
intentional just-- just to have cows or if you would be open to  
including sheep and goats into that also.

**ROD JOHNSON:** I'm not prejudiced at all. I have no problem with  
the sheep and goats. We represent the-- the cattle industry in  
the dairy industry, and so as far as milk being from other  
species or the goats or sheep, I have no problem with that  
whatsoever.

**BRANDT:** Right. Thank you.

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

**LATHROP:** Can I ask just one quickie?

**HALLORAN:** Yes, Senator Lathrop.

**LATHROP:** Is there a problem with-- is this just the federal  
government? Let me back up. Do we already have a good definition  
in federal law?

**ROD JOHNSON:** Yes.

**LATHROP:** So really what we're doing is we're encouraging them to  
enforce existing federal law.

**ROD JOHNSON:** That is correct.

**LATHROP:** OK.

**ROD JOHNSON:** Before they would take that step to become more actively enforcing it, they wanted the consumers' and the industry's input, and so they took comments. They had three different deadlines for receiving comments, and they were getting so many comments that they kept extending the deadline. But the bottom line is they need to take action at that level.

**LATHROP:** OK.

**HALLORAN:** Thank you, Senator Lathrop. Any further questions from the committee? Seeing none, thank you, Mr. Johnson.

**ROD JOHNSON:** Thank you.

**HALLORAN:** Next proponent? Welcome.

**AL DAVIS:** Good afternoon, Senator Halloran, committee. So John Hansen was here earlier, and he had to leave asking me to testify instead for him. I am Al Davis, A-l D-a-v-i-s from Hyannis, Nebraska, originally; live here in Lincoln today. And I want to thank you for the opportunity to have this bill, and I thank Senator Murman for bringing it. Nebraska Farmers Union supports LR13 because it seeks to encourage the Food and Drug Administration to exclusively reserve the right, the use of the term milk, yogurt, butter, ice cream, and cheese from products derived from real dairy origin. Our organization has worked on this labeling issue at the national level for many years. We support LR13 for the same basic reasons we support LB594. Consumers have the right to know where they're buying-- where there are buying-- what they are buying so they can make an informed food-buying decision in the marketplace when they buy foods for their families to eat. Deception should not be tolerated. Likewise, dairy producers need to be able to identify and differentiate the high-quality milk products from competing products that want to use milk product's good earned reputation to materially misrepresent their own competing nonmilk products. U.S. dairy producers deserve honest and accurate labeling from their own government. I'd like to say that resolutions of this kind, I think, carry a lot more power at the federal level than anybody would ever anticipate because it demonstrates the will of the state of Nebraska to stand up for its ag producers which is why it's so important for us to move on-- on opportunities like this when we have those. So just in-- in-- in terms of what

we have to say, you know, we support the bill-- the resolution fully. And we'd like to ask Senator Brandt if rattlesnake milk would also be considered. Thank you. Any questions?

**HALLORAN:** Thank you, Senator Davis. Are there any questions from the committee? Seeing none and no comment from Senator Brandt on that.

**BRANDT:** No comment. Not today.

**HALLORAN:** Ok. Thank you, Senator.

**AL DAVIS:** Thank you.

**HALLORAN:** Good afternoon, sir.

**BRUCE RIEKER:** Good afternoon.

**HALLORAN:** Proceed.

**BRUCE RIEKER:** Chairman Halloran, members of the committee, my name is Bruce Rieker, B-r-u-c-e R-i-e-k-e-r. I'm here on behalf of Nebraska Farm Bureau in support of LR13. While Nebraska and American Farm Bureau policy opposes labeling plant-based beverages as milk, the issue before us is much more complicated than most think which is obviously the proof of the last hearing as well. Innovation in food and farming is occurring rapidly. While this has the potential to continually improve consumer choice and nutrition, food labeling is a key component of this discussion. Consumers, as many of you have recognized already, need to have access to science-based, accurate information about the foods they eat. Labels inform consumers about what they're buying. They must be truthful, not misleading. And standards of identity are key to ensuring that the foods have the characteristics expected by the consumers. The issue is related to a broader need for the federal government to modernize the framework for food standards. Dairy products represent approximately one-third of the 280 federal food standards identity. And the dairy industry has several outstanding petitions, some nearly 20 years old, asking the Governor to-- our government to modernize the standards. These standards are significantly outdated and stand in the way of new technologies, ingredients, and novel processes for dairy foods. The Food and Drug Administration needs to make completing its rule-making process on pending dairy product petitions a top priority and complete a longer-term effort of understanding-- or undertaking a holistic approach to modernizing food standards. Throughout

history, improvements in diet and nutrition have offered some opportunities to profoundly impact human health. We believe it's important to-- for the federal government to complete its undertaking of this rule-making process. And for those reasons, we support LR13.

**HALLORAN:** OK. Thank you, Mr. Rieker. Any questions for Mr. Rieker? Nobody mentions ice cream. You know, we could-- we could-- we could probably conclude this hearing very quickly if we just passed out ice cream and called it a day.

**BRUCE RIEKER:** I would like to amend my testimony. [LAUGHTER]

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

**BRUCE RIEKER:** OK. Thank you.

**HALLORAN:** Any additional proponents? Any additional proponents? Are there some opponents to LR13? No opponents to ice cream? That's good. Are there any neutral on LR13? OK. Seeing none, that concludes-- Senator Murman, if you'd like to close. Before you do, I'll read in two letters entered into the record, proponents: Kevin Cooksley, Nebraska State Grange; Rocky Weber, Nebraska Cooperative Council. There were no written opponents. Senator Murman.

**MURMAN:** OK, thanks. I want to thank the Agriculture Committee for their time and consideration today of LR13. As I stated before, dairy farmers have invested a lot of time and money to enhance and promote milk, yogurt, butter, ice cream, and cheese. Both dairy farmers and consumers are being taken advantage of by products using dairy-specific labels. I urge this committee to vote yes on LR13 so that we can show not only Nebraskans, but the FDA, that we do care about the well-being of the consumer.

**HALLORAN:** OK. Thank you, Senator Murman. Any final questions for Senator Murman? Seeing none, very, very good. Thank you, sir.

**MURMAN:** Thanks a lot.

**HALLORAN:** All right. This closes the hearing on LR13, and the timing is perfect. Hi, Senator Walz.

**WALZ:** Hi.

**HALLORAN:** We will now hear LB729 sponsored by Senator Walz.

**WALZ:** How are you?

**HALLORAN:** Welcome to your committee.

**WALZ:** Thank you. Good afternoon, Senator Halloran and members of the Agricultural Committee. For the record, my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15 of Dodge County. I'm here today to introduce LB729, a bill for an act relating to agriculture, to adopt the Soil Health and Productivity Incentive Act. I'm really excited about this bill. LB729 directs the Department of Agriculture to award incentives to farmers in order to encourage them to plant cover crops. Implementation of this bill would be phased in through zones for a few reasons. One is that it might take a little while for the money to come down from the federal level-- level, and initially, there may not be large sums of money available from other grants. And second, as my handout shows, there are areas of the state currently dealing with higher nitrate runoff than others. With these initially limited funds, we would like to ensure the incentives are targeted towards areas that are at higher risk. All of the funding for this program would come from any federal state and local grants along with any other funds designated for the purposes of this act. Some of you may already be aware that the farm bill recently passed by Congress has a section in it that dedicates funding to states for this specific pers-- purpose. This bill is important because it sets up a program in anticipation of the state receiving these federal funds. The focus of this bill is to encourage farmers to plant these crops along the waterways of our state, specifically within 2.5 miles of a river, in an effort to reduce the nitrate runoff. An increase in this practice would add a number of benefits to citizens across the state. Farmers using this program would see an increase in soil health due to the fact that these cover crops help put nutrients back into the ground. Increasing the amount of nutrients into the ground helps with soil fertility, improves future crop yields, and protects one of Nebraska's best natural resources, our land. Some could argue that this is an indirect measure to deliver a small amount of property tax relief by offsetting costs paid by the farmer. Citizens who drink this water would also be put at greater ease since there would be less nitrate runoff into the rivers resulting in safer drinking water. In addition, water ratepayers could potentially see a decrease in costs due to the fact we would need less investment into our water filtration systems. I believe promoting this practice is something that all sides can see as beneficial. The incentives allocated through this program are \$20 per acre for a single species cover crop and \$45 per

acre for a multi-species cover crop. Multi-species cover crops are more expensive, but they provide a greater benefit to the soil. And I wanted to ensure that they give a greater emphasis-- that they are given greater emphasis in this program. In an effort to support small farms and individuals struggling with the current property tax issue, this bill limits those eligible to receive these incentives to only those farms who employ no more than eight full-time employees who work as part of the farming operation. Finally, this bill set some standards on what should be on the application to receive these incentives and allows the Department of Agriculture to add any other required information if they deem necessary. Thank you for your time, and I hope I can answer any questions you may have. Otherwise, I know there are people behind me who can.

**HALLORAN:** Any questions for Senator Walz? Seeing none, we'll save them for the close.

**WALZ:** Thank you.

**HALLORAN:** Thank you. First opponent, please. Good afternoon.

**GRAHAM CHRISTENSEN:** Good afternoon. Greetings, Senator Halloran-- Chairman Halloran and members of the Agricultural Committee. Thank you for having this hearing today. First I did-- there was someone who's participating that had to leave, Humberto Blanco from the University of Nebraska Lincoln Horticulture and Agronomy Department. So I've just submitted his letter that he wanted to have entered into the record here before I get started. But my name is Graham Christensen, G-r-a-h-a-m C-h-r-i-s-t-e-n-s-e-n. I'm-- I represent GC Resolve. It's a consulting business that I put together about 3.5 years ago that focuses a lot on public health, soil health, and water quality issues, amongst some other things. I'm also a northeast Nebraska family farmer, and our farm is one that's a transitioning farm. And my brother and I have been looking at soil health principles that we can move forward on our farm. We're starting to learn a little bit about them ourselves, so I do have just a little bit of knowledge from actual practice too. But there's-- I'm really excited because there's a lot of excitement around soil health and around this bill. And first of all, we view this bill as a complementary bill to another soil health bill that-- that you guys have already had up in front of you thanks to Senator Gragert's vision and efforts. His would create a long-term, statewide plan by establishing a task force. But ours gets after some of the more sensitive areas quickly and more urgently, so we can start dealing with that and as we create the long-term

plan, we can-- we can fill in more of a statewide agenda here for soil health. I want to just use my time to answer a couple of questions that will probably come up throughout the hearing. And so the first one is, no, hemp is probably not a cover crop. I keep getting that, but it's probably not. It's probably a rotational crop; could be a third rotation with corn and soybeans. Second of all, there's more emphasis on the multi-species element of this for many reasons. The senator pointed out a few. But yes, soil-- soil productivity is increased, the benefits of soil health are increased when you use multi-species varieties. There's more habitat for pollinators as well. And of course, this just adds to more marketability options for-- for farmers that are applying the multi-species versions of the cover cropping. I've asked for-- I've been asked many times for-- number three, I've been asked for-- many times for clarification on filter strips versus cover crops. Under this bill currently, unless this needs to be more defined, single species grass filter strips would fit under the-- the smaller level, the \$20 per acre level. So filter strips, you know, currently would be allowed under this if a farmer so choose to make that, you know, his option in-- in one of these-- one of these targeted areas. The primary goal here is to get bare ground covered as much as humanly possible so we can stop the erosion and, you know, stop move-- movement of contaminants into our-- into our waterways. The same could also be said under that lower level for-- for grass and rangeland restoration on sandier soils a little bit further to the west of here. And then I think the big-- the-- you know, the big questions in the room are around the funding sources, this is important because of the conversation that's been ongoing for several months now. You'll notice the fiscal note, it deals more with a role that the Department of Ag would have to facilitate the project, but we-- what's going on is, we've had conversations for several months now with all kinds of different folks. A couple of examples would be NR--NRCS, NDEQ, the Nebraska Environmental Trust, and some other groups as well, just to understand what kind of funding is actually out there. And the conversations have just been open conversations with nothing said or done. But-- but we've wanted to bring these together for a more focused version on how we can get the best bang for our buck on these programs. And while the-- while the NRCS is probably the key pivotal piece to this because in conversations with them it came up that there's going to be about two to three potentially more months of research on the just newly passed farm bill that has increased funding on the conservation title, we're waiting to interpret what that means for the state of Nebraska. And then we'd pull together round-table discussions with key

stakeholders, primarily the funders and others that are involved, to be able to solidify that. So I'm asking for your support on this bill. I definitely support the bill but with the understanding that these conversations would resume through the year, probably get solidified in the summer. And the second half of the session would be an opportunity to move this bill forward should those round-table discussions be able to yield an actual solidified funding route that matches up the goals. Thank you.

**HALLORAN:** OK. Thank you, Mr. Christensen. Any questions? Yes, Senator Brandt.

**BRANDT:** Thank you, Chairman Halloran. Thank you, Mr. Christensen, for testifying. I guess in my mind, does the passage of this bill enhance Nebraska's chances of getting a lot more federal money for this purpose?

**GRAHAM CHRISTENSEN:** I think it refocuses the federal money into areas that-- that need it most. And potentially, those are questions for the NRCS, but things that we've talked about are also make the application process easier for the farmer for these programs.

**BRANDT:** Maybe you're not the one to ask, maybe the NRCS is, but do you have any idea of how much funding we would initially be talking about, like first year, zone one?

**GRAHAM CHRISTENSEN:** I don't. When-- in my conversations, multiple conversations, with some of the leaders at NRCS, they had made it clear that with the new passage, they were just scratching the surface of diving into, you know, what this looks like for Nebraska. And as they continued to have a better understanding, they deemed, at probably the last conversations a couple weeks back they deemed that this is still going to take three months approximately to hash out. They would let us know at that point. And the NRCS piece, of course, with the farm bill, the good news is the conservation title did increase funding for cover cropping programs. So we know we have an increased opportunity on-- on prior funds. But exactly what that block is, I don't know. We just know that it could be significant, and this could be a mechanism to streamline the process, to get more activity out of farmers, you know, with-- with-- through the conservation-titled NRCS of the farm bill.

**BRANDT:** Right. Thank you.



**HALLORAN:** Thank you, Senator Brandt. Any further questions?  
Senator Lathrop.

**LATHROP:** I want to ask some questions that are-- that might be questions from somebody that doesn't know that much about agriculture. If you-- if you qualify for this and you plant cover crops, is that primarily grass?

**GRAHAM CHRISTENSEN:** Cover crops can be all kinds of different things. You could have legumes, chickpeas, and different forms of beans like garbanzo beans and different things mixed in these multi-species covers. But grasses like oats or wheat or some of the just basic kind of native grasses that we're accustomed to, you know, in the ditches that we see and stuff like that, those could all be considered cover, you know, kind of more depending on the way that they're used. And that's by implementation of this on the bare ground that, after harvest, exists and also in those months to the spring, you know, before the planters come out and put in the other commodity.

**LATHROP:** And you may have answered the next question I have which is, can you make money off these cover crops?

**GRAHAM CHRISTENSEN:** You can.

**LATHROP:** So you plant alfalfa. Is that a cover crop?

**GRAHAM CHRISTENSEN:** Alfalfa probably-- would probably be considered more of, you know, an annual crop like-- like corn and soy.

**LATHROP:** OK. Well, then maybe I'll just use grass because we cut grass and bale it for feed, don't we?

**GRAHAM CHRISTENSEN:** Yes.

**LATHROP:** OK. So you could still-- you get money to plant this stuff and then you would be able to harvest it as well.

**GRAHAM CHRISTENSEN:** It would be a-- there would be a potential depending on what your farm system, you know, is all about, to use this in multiple ways. So on our farm, right now, we're planting single species cover crops to eliminate erosion because we're losing so much topsoil on side slopes. But of course, you know, oats, wheat, and some of these other crops are marketable as an additional crop to give the farmer more access to more markets. And then thirdly, there's an addition-- there's another

opportunity to diversify the farm because as we get more of these things out, they can also-- these kind of different kinds of cover crops out, we can reutilize that ground again for grazing, you know, when there's not corn or soybeans growing on this ground. So getting the animals around-- back on the land is a benefit of this, and, of course, adds another opportunity for the farmer.

**LATHROP:** OK. I appreciate this-- this began sort of with the federal farm bill. But is there something about these cover crops that-- that they don't produce enough income, that we have to incentivize it?

**GRAHAM CHRISTENSEN:** When we-- yeah.

**LATHROP:** Why aren't we-- why-- why don't-- why don't we just do this in the first place?

**GRAHAM CHRISTENSEN:** Let me just give you-- let me just give you a glimpse from the conversation at our kitchen table because I think this is a real conversation. For the fifth year in a row, we don't use a lot of income for our employees on the farm because it's basically our family, so we only use what we can. So while our farm's in a solid place, there's a lot of folks that aren't and aren't willing to take risk by trying a new practice that they're not as familiar with, even if their grandparents may have been very familiar with this practice. So on-- on our farm we-- last year, we actually put oats down to stop this erosion problem for the first time. As an experiment, on a 40-acre experiment, that only cost us about \$550 or \$600, just for the seed purchase. Now that doesn't cover the-- the labor or expense or anything like that. But I was not able to justify this transition to my farmers-- or to my parents on a larger scale because they thought it was too expensive and too risky. And even though we know we can save on input costs with better soil health in the future, they weren't willing, in this tough time, to build a transition easily without some kind of incentive. So this would help get all these farmers into the next stage and start being able to realize some of these additional opportunities as well as input cost savings, and that's where we want our farmers-- what direction we want our farmers to head in.

**LATHROP:** So we're jumpstarting these things.

**GRAHAM CHRISTENSEN:** That's right.

**LATHROP:** OK. I get it. Thank you.

**GRAHAM CHRISTENSEN:** You're welcome. Thank you, Senator.

**HALLORAN:** Senator Hansen.

**B. HANSEN:** Thanks for coming. Do you see this having some kind of positive side effect on wildlife like maybe possibly for hunting and pheasants and turkey and stuff like that because I know we lost a little bit over the years with increased farming of corn, and I don't know if you see some positive side effects to that at all.

**GRAHAM CHRISTENSEN:** Yeah. Actually this is-- the folks that have hunted some of our draws down on our farm for years are asking us where all the pheasants have gone. So part of this is to be able to create another piece of habitat. This is one of the extended or even indirect benefits, create additional habitat for-- for birds and other kinds of-- species of wildlife to be able to, you know, live in-- that-- that we haven't had in Nebraska. You see in South Dakota, you have more of these-- these kind of birds and so hunting is-- hunters are going up in that direction now more than they are a lot of times in Nebraska because of that very reason. This would restore some of that habitat for wildlife too.

**B. HANSEN:** Thank you.

**GRAHAM CHRISTENSEN:** Thank you.

**HALLORAN:** Senator Moser.

**MOSER:** These little cross hatched areas around the Platte River. Are they a particular width? Is there an eligible area? Do you have to live within a certain distance of the river to qualify for those [INAUDIBLE]?

**GRAHAM CHRISTENSEN:** That's a good question. So the map that was handed out was a mock up done by the Nebraska Department of Environmental Quality. Now this is not an endorsement of this bill, but this is helping us understand how programs could fit together with enhanced discussions. Those-- those-- those boundaries, this kind of squiggly line you see going along the waterways, they represent two-and-a-half-mile borders on each side of those waterways that would be eligible for this program. And if you look closer in this and dive into this further, you can see how it lays over with already-existing state funds that

the Nebraska Department of Environmental Quality has for-- for nonpoint source pollution sources utilizing farmers as the solution to build it, put cover crops and, you know, various types of other grasses and water filtration down. So while we acknowledge the funding's probably going to dictate what we can actually do with these zones and that's going to be part of the conversation as these conversations continue into the future, right now we targeted the most sensitive areas as our first priorities that impact the most people and then open it up eventually to the entire state. Once again, I think we'll know more about what this actually means once we have that funding pinned down. But that's-- that's about a 2.5 swath on each side in those marked areas that this program would go for.

**MOSER:** Well, I was-- this-- the reason for my question kind of leads into-- this next question is, you know, there are some other tributaries that dump into the Platte or dump into the Loup that are pretty muddy, murky waters normally.

**GRAHAM CHRISTENSEN:** Um-hum.

**MOSER:** And I-- I was curious, you know, why those aren't included at this point.

**GRAHAM CHRISTENSEN:** They are included. They would be included under zone four which opens it up to the rest of the state. And you see, it's not as clear as those, you know, kind of outlines that go--but if you look closely and you look down at zone four on that first cover page, you can see it's got the slanted kind of orange-ish lines? That covers the entire rest of the state--

**MOSER:** Oh. Oh. Oh.

**GRAHAM CHRISTENSEN:** --in a lot of ways, areas that would be eligible so. You know, I think the funding once again is going to dictate where we're at, and we're going to have to have those conversations. But it actually is inclusive of every waterway in the state at some point as the bill is written right now.

**MOSER:** Those just kind of drew my eye, and I kind of lost focus on the hazy part. Sorry.

**GRAHAM CHRISTENSEN:** I did the same thing when I read it initially.

**HALLORAN:** OK. Any further questions? I have a few questions if not. So these-- these zones one through four, and four going out

further from the tributary, are they-- are we talking a permanent or semipermanent cover crop like grasses would be? Grass would be a perennial and would, you know, not have to be sown every year. Or are we talking, as this flyer suggested, that shows a pivot that had corn in it cut for insulation which typically is finished up in August or so--

**GRAHAM CHRISTENSEN:** Um-hum.

**HALLORAN:** --and is bare? And in growing crops on that, if this-- if this is within that zone it would have the opportunity to have these funds to put a cover crop?

**GRAHAM CHRISTENSEN:** If it's adding cover in areas outside of our typical soybean and corn harvest and getting that area covered in addition to what we're already doing, no matter really what form or what plant, you know, is used for the cover, that would currently be eligible under what we're talking about.

**HALLORAN:** I guess part of my question lies in is-- is this ground that you're talking about, some of it will and some of it won't necessarily be very productive cash crop soils.

**GRAHAM CHRISTENSEN:** Correct.

**HALLORAN:** Right? They might be close to the rivers. So we're not expecting the farmer to take that out of production and have a cover crop for-- through a crop season, I would not imagine. Are we?

**GRAHAM CHRISTENSEN:** Correct, but the farmer has the, you know, has the freedom to be able to decide if this program that would allow \$20 per acre for a filter strip, you know, is a better situation for them than being able to do what their current conventional farmer. There's no mandate here. It leaves a lot of these decisions up to the individual farmer business.

**HALLORAN:** And that's-- that's-- that's-- and that's the way it should be, and that's great.

**GRAHAM CHRISTENSEN:** Yep.

**HALLORAN:** I guess my question is, what would prompt a farmer to do that when he's got property taxes of say \$90 an acre, and he's going to put in a cover crop that's not going to generate any cash income on the ground?

**GRAHAM CHRISTENSEN:** Because there's lots of studies right now, including a recent one from Iowa State on analysis of Boone County, that are showing with the addition of cover and even more enhanced livestock being on the ground, that you're able within a decade to cut out synthetic input costs. So you're producing these nutrients that you need now without having to yield those costs. So this is the bridge to get the farmers to start practicing this so they can tighten their belts up no matter how they're going to use that cover cropping, you know, on expenses.

**HALLORAN:** And again, I'm not trying to be argumentative--

**GRAHAM CHRISTENSEN:** No, I know.

**HALLORAN:** --but I'm trying to get some clarity here. That's quite a long bridge, right? Eight, ten years? And so a farmer would have to have this land out of production for that period of time to achieve?

**GRAHAM CHRISTENSEN:** Once again, it's the farmer's complete discretion on if they want to utilize this program to change their farming practice because it's more economical, in their benefit. But I can speak from our farm perspective is that, on our farm, if we're getting paid \$45 an acre for multi-species cover cropping, we would be-- and we were eligible, we would be implementing cover cropping over our entire farm and trying to find another way to make that marketable so-- but primarily so-- with the primary reason is to improve soil health and make our soil more productive. So we can actually have a better net per acre type situation on our farm--

**HALLORAN:** Down the road.

**GRAHAM CHRISTENSEN:** --down the road.

**HALLORAN:** OK.

**GRAHAM CHRISTENSEN:** Now-- now some of these changes start happening pretty quickly. You start seeing these things at years three, years four, and I've had folks that have noticed like big changes within the first season of planting these kind of things. But we-- but it's very important the farmers take some of these kind of steps, and this is designed to get them there. Now how long will this go for the farmer? As long as the funding allows. And once again, we need to understand the guidelines of the NRCS updated farm bill program to kind of know what that

looks like, and also what the DEQ's funding, the Environmental Trust's funding, etcetera would look like.

**HALLORAN:** Right. I'm just trying to play the devil's advocate because--

**GRAHAM CHRISTENSEN:** Sure.

**HALLORAN:** --you've got to sell farmers on this, right?

**GRAHAM CHRISTENSEN:** Um-hum.

**HALLORAN:** I mean you're not going to mandate they do this. They're going to opt into it because there's some benefit they perceive, and all the while, every year, there's property taxes on that land that they're paying. And I'm just asking, can they intercede commercial crop into that cover crop--

**GRAHAM CHRISTENSEN:** Yes.

**HALLORAN:** --and still harvest that commercial cash crop and not destroy so much of the cover crop it loses its benefit?

**GRAHAM CHRISTENSEN:** It depends what kinds. But yes, sir, you actually can. You know the-- the-- on-- on our-- on our farm, for instance, once again, it's easiest for me to draw that visual-- visual comparison. We're a corn/soybean operation like a lot of the operations are in eastern Nebraska. But as soon as the soybeans were cut out, I was out there drilling oats into the field so that I could get that stand then, you know, before the cold weather came. Some of those crops, they don't die down with the cold like oats do. Some of them are intended to come up the next year. And they get the cattle right out there. Then they plant-- come back in with the corn and plant the corn. So that would be an example of how you work this whole system together.

**HALLORAN:** OK. Thank you.

**GRAHAM CHRISTENSEN:** Thank you.

**HALLORAN:** Any further questions for Mr. Christensen? Very nice. Thank you.

**GRAHAM CHRISTENSEN:** Thank you.

**HALLORAN:** Any additional proponents? Welcome.

**ELEANOR ROGAN:** Good afternoon. My name is Eleanor Rogan, E-l-e-a-n-o-r R-o-g-a-n. I'm a professor and chair of the Department of Environmental, Agricultural, and Occupational Health in the College of Public Health at the University of Nebraska Medical Center. I have lived in Nebraska for more than 45 years. Today, I'm speaking as a private citizen on LB729, the Soil Health and Productivity Incentive Act. I do not speak for the university, and my comments do not represent an official position of the University of Nebraska. I've spent my entire career conducting scientific research to improve the health of people and the environment. I care about the health of the environment for itself and for its ability to give life to plants, animals, and community-- people, and communities. I am currently involved in three different projects that investigate the possible role of degraded Nebraska waterways on-- in adverse health-- human health effects. In one study, we're investigating the possible role of agrichemicals and nitrate in the development of pediatric cancers, birth defects, and Parkinson's disease throughout the state. In this study, we're looking at the data by watershed areas because this is how contaminants would move in a region. While we do not-- we have not completed our research, and we don't have any completed results yet, we do have a handful of areas in Nebraska in which both the levels of nitrate and atrazine are high and the incidence of pediatric cancer is high. In another project, we are investigating various contaminants in the Elkhorn River. Because of my interest in protecting human and environmental health, I've come today to testify in favor of LB729. The provisions of this bill would provide incentives to farmers to plant a variety of cover crops on their land. The cover crops would accomplish two important goals. First, they would improve the quality of soil where they're planted, thus preparing the fields for greater productivity. In addition, the cover crops would soak up agrichemicals and nitrates, preventing them from running off into Nebraska waterways. This would significantly reduce the level of contamination of waterways, improving our human and environmental health. We're all familiar with the toxic algae blooms that occur in some Nebraska lakes and ponds in the summer. These are in part a result of too much nitrate in the water. This is one example, and I'm sure you're familiar with this, but, you know, dogs die and you can't swim and all these-- these problems with this. The effects on human health in general are more subtle and they're generally harder to pinpoint the cause. But they have been recognized in extreme circumstances. In children, for example, it's known that contaminated water can



stunt grow-- growth and brain development. This is proven. Effects on young farm animals have also been noted. One of the solid principles in public health is that prevention is the best cure. Much of our work is aimed at preventing a wide variety of diseases and damaging conditions for people and communities. A key component of healthy living is access to clean water. Provisions in LB729 would promote clear water, particularly for the many families living in rural areas of the state. This is why I'm supporting LB729, and I thank you for your time.

**HALLORAN:** Thank you, Ms. Rogan. Any questions from the committee? Seeing none, appreciate your testimony. Any additional proponents? Welcome.

**JULIE HINDMARSH:** Thank you. Thank you, Chairman and committee members. I'm Julie Hindmarsh, J-u-l-i-e H-i-n-d-m-a-r-s-h. I'm from Fremont, Nebraska. I'm testifying in support of LB729. Today, I'm wearing two hats. I am a fourth-generation farmer in Dodge County, and I am a public health professional. I taught public health nursing at Johns Hopkins University until I retired several years ago. First, I would like to commend Senator Walz for sponsoring this bill. She attended the 2018 Nebraska Farmers Union Convention where we presented the preliminary results on nitrates and phosphates in well and surface water which were compiled by the Citizen Scientists Program. Walz saw the need for mitigation of nitrates in the water and the benefit of cover crops, and she took action. The Citizen Scientists Program is jointly sponsored by UNMC School of Public Health, as Ellen has worked with us, the Division of Agriculture and Occupational Health, the Department of Civil Engineering at UNL, and GC Resolve. We train citizens to test surface and groundwater for nitrates, nitrites, and phosphates. The results, so far, are preliminary, but we are ongoing. And one of the outstanding results is from Burt County. We did have 40 samples of surface water in Burt County, and the highest ranking was 12.3 parts per million. The highest permitted safe drinking water is ten parts per million-- million. And when we look overall, the University of Nebraska estimates that 80 percent of private wells may well exceed the drinking water standard for nitrates. So with my hat as a public health professional, I am concerned about the nitrate level in water-- drinking water. And as professor preceding me said, there are many consequences. Some of the ones I'd like to highlight for you are increased thyroid problems, diabetes, as well as various cancers, and methemoglobinemia, better known as the blue baby syndrome. We need to mitigate this problem. Cover crops is one way to keep chemicals from the waterways and to protect the

public's health. It is also good for the waterways and good for aquatic life. So there is the environmental component also in this bill. As a farm manager, I share the concern with the chairman that there needs to be an educational component to teach farmers how the benefits will benefit them in the long term. We know that farmers in Nebraska are good stewards of the land. They want what is going to make their soil healthy and more productive over the long term. But this is a new initiative for many farmers, and we all know that we are in a difficult financial state for farming in this state. We know that we need relief from property taxes. No one is going to try anything new that has some risk to it unless there are financial incentives. And that's one of the beauties of this bill, is that there is a mitigated risk for the farmer financially because there is the incentive, the payment for these cover crops. Cover crops enhance the soil's ability to capture and hold nutrients as well as transport helpful microorganisms. They really create an ecosystem that allows the soil to build itself up, to break down organic material, make organic matter that can be used long-term. So in summary, this bill is good for the public's health. This bill is good for keeping chemicals out of the waterways. This bill is good for soil health, and this good-- bill is good for the farmer's budget. So overall, it's a win-win-win situation. I encourage you to support LB729. Thank you.

**HALLORAN:** Thank you, Ms. Hindmarsh. Any questions from the committee? Seeing none, thank you for your testimony.

**JULIE HINDMARSH:** Thank you.

**HALLORAN:** Additional proponents.

**RANDY RUPPERT:** Thank you. Good afternoon, and thank you for having this hearing. My name is Randy Ruppert, R-a-n-d-y R-u-p-p-e-r-t. I'm from Fremont, Nebraska. We have a small farm north of-- north of there. Want to go back and answer one of Senator Chamber's questions from earlier. Insects are from the animal kingdom. [LAUGHTER] They are part of the animal kingdom. We're losing, worldwide, about six species a day. They are incredibly important for the food production that we-- that we depend-- we depend on. Talking about wildlife, the reason our pheasant and quail populations are down is because in the spring, when the chicks are born, there are no insects in monocropping for them to eat, to feed. So with-- with soil-- with-- with these cover crops, you're not only bringing pollinators back which at this time 75 percent of our food is-- is-- is pollinated by bees, butterflies, wasps, ants, you name it. We need pollinators. We

have the opportunity with this bill to get these cover crops back into a rotation. To answer your question, Senator Halloran, you don't have to take ground out of production. These are-- these are intermediate crops that help build the soils while you're going into your next seasonal rotations. There are-- there are many, many types of-- many types of them that will be discussed here in a little bit. But besides the-- besides the insects, it is the water issue. NDEQ has 480 streams, lakes, and rivers in the state that are from-- anywhere from category two to category five with nitrogen, phosphorus, atrazine pollution. We, as a citizenry of the state, of this nation, of this world, don't need to have that. We have the solutions at hand. Our farmer, we've been talking with him to put cover crops in, and as Julie just referred to, most Nebraska farmers are pretty wary guys. You know, they're-- at \$3.65 corn, we-- we didn't put in any new-- any new tractor barns this year. You know, there's no money there. So we do need the incentives to-- to-- to move this forward. Iowa has 13,000 CAFOs, millions and millions of tons of animal waste that they put on their ground every year, and yet they've only reduced their petroleum-based inputs by 3 percent. That's because their soil, like our soil, is becoming void of the environmental-- of the nutrients that good soil has that is brought on by bacterial and fungi functions in the soil. Cover-cropping brings those functions back. And that's all I had to say. I wasn't even planning on speaking so that's why I've been stuttering. Thank you.

**HALLORAN:** Did a nice job, Mr. Ruppert. Any questions for Mr. Ruppert? Seeing none, thank you, sir. Any other proponents? Welcome.

**NATE BELCHER:** Thank you. My name is Nate Belcher, that's N-a-t-e B-e-l-c-h-e-r. I am in the cover crop industry. So I'm here to testify in support of LB729. I'll keep this brief in case you guys have some questions on, you know, actual application field, what that looks like, you know, from a farmer's perspective maybe because that's-- I work directly with farmers. I think the-- you know, after sitting in here today and kind of listening to prior bills go through, I think everyone would agree that it's very important that as consumers we have a choice. And in that choice is transparency so we know what we're getting. Water is one of those things that you don't really have a choice, right? You could drink pop, beer, coffee, whatever, but at the end of the day, it's water. So protecting our waterways, I mean, is really absolutely critical to consumer protection, consumer health, and really, just society as a whole. We all depend on water. So what I like about this bill is

it really focuses on those waterways, within a certain distance from them, to help mitigate soil erosion, fertilizer and chemical contamination, things of those nature that cover crops are phenomenally well at doing-- you know, they're well-adapted to do those things, depending on what species we're planting. And that will vary depending on what the application is, where that planting is located, what the farmer's rotation is, and things of that nature. So you know, sometimes it can seem rigid. But when you get down to it, it is very flexible. And cover crops can do a multitude of different things depending on what we do. So I'm not going to go through any stats or anything like that, but I will end on this. If you look back in agriculture, you see these big waves of-- of innovation, if you will, right? So just the plow, mechanization, fertilizers, chemicals, no-till, I mean, you could go on and on. And when you look at the numbers, and working with farmers day to day it's what I do, regenerative agriculture, and I'll define that as an agricultural systems that are highly productive, low input, and produce a-- a food stocks whether that's feed, fruits, vegetables, doesn't matter what it is, of a higher nutritional quality. So regenerative ag is the new-- it will be the new frontier. It's not here now, but it will be in the next five to ten years. It'll be very mainstream. And I think Nebraska needs to be a leader. You know, we have a rich history in agriculture. We need to be at the front lines of that new wave because we have the soils to do it. We have the farmers to do it that are highly intelligent. And I think we could be a-- an example to the rest of the world of what truly highly productive, safe, nutritious food production looks like. And I will end with that.

**HALLORAN:** Thank you, Mr. Belcher. Any questions from the committee? Seeing none, thank you, sir. Any additional proponents? Welcome back.

**AL DAVIS:** Senator Halloran, members of the Ag Committee, I'm Al Davis, A-l D-a-v-i-s. First of all, I want to let you know it's snowing really hard outside, so I'm going to just be brief. Passing out testimony on behalf of the Nebraska Farmers Union which is in support of this bill. We think that it is something that will be helpful to Nebraska's farmers and ranchers. One of the primary focuses of the bill is-- is addressing the issue of watershed, det-- detrimental effects to watersheds. That is the objective that I think everyone in the state shares. We all have a wonderful system, NRDs that have done a great job managing water. This is another tool that I think is out there that we can use. That said, I think there are some issues that probably need to be looked at in the bill, and you heard Graham

Christensen talk earlier about maybe holding the bill over through next summer to let the federal government sort of work out the issues that are going to be associated with the conservation titling of the farm bill. I think that's really good advice. Most of the testimony that I put together is in my letter. I'm not going to waste more of your time today with my thoughts and opinions, so you can read that over. But I just want you to know that Farmers Union does support the bill.

**HALLORAN:** OK. Thank you, Senator Davis.

**LATHROP:** Can I ask another urban guy question?

**HALLORAN:** Well, you sure-- certainly can. Senator Lathrop for the record.

**LATHROP:** Al, is the-- can you-- can I-- help me understand. If you put a cover crop in, there's nitrates in the soil, and do the cover crops take the nitrates out of the soil? Is that what happens? Do they kind of pull it out of the soil as they--

**AL DAVIS:** So it-- there are-- there are some cover crops that fix nitrate. The lagoons, primarily, are nitrate fixers. They can actually put nitro-- nitrogen back into the soil. But when you stabilize and you develop a root system that can use the nitrates that are there over time, you will dissipate the nitrates that have built up in the soil there. But what you're really trying to do is prevent these products from washing into the creek and river which could happen with an uncovered field.

**LATHROP:** So if I own a piece of property that, let's say it's 40 acres and there's a creek on it, do I plant this stuff along the creek so that the water that's washing down goes through the cover crop?

**AL DAVIS:** So-- so strips.

**LATHROP:** Is that the idea?

**AL DAVIS:** Yes. Strips are used along the edges of creeks and-- and rivers to do that. Anytime you've got highly erodible soil, which Nebraska has, if you can protect that and-- and keep your watersheds in good shape, you're going to help the-- the health of the people who live in the state.

**LATHROP:** OK. Thank you.

**HALLORAN:** Yes, Senator Hansen.

**B. HANSEN:** Just to make sure, all these cover crops that we're thinking about planting, they don't require any kind of chemicals, pesticides and like that? Somebody who puts out a cover crop wouldn't use any of that [INAUDIBLE], would they?

**AL DAVIS:** So I'm a rancher like by profession, and we don't use anything like that where we are. I can't really speak to specific instances of crops-- cover crops that might be used because that would be on an individual basis. I would think that if the focus is going to be an organic sort of approach, that you wouldn't want to use anything like that and so.

**B. HANSEN:** And then, maybe one more question. I don't know if you know this or not, but would any-- like planting cover crops, especially along creeks, do you think that would affect any kind of FEMA-designated flood plain status folk?

**AL DAVIS:** No.

**B. HANSEN:** OK. Didn't know for sure if it might or not.

**AL DAVIS:** I don't know, but I wouldn't think so.

**B. HANSEN:** OK. Thank you.

**HALLORAN:** OK. Any additional questions? Senator Chambers? OK. All right. Thank you, sir.

**AL DAVIS:** If that's all, thank you.

**HALLORAN:** Any additional proponents? Good afternoon.

**MATT GREGORY:** Good afternoon, Chair Halloran and members of the Ag Committee. I think all the experts have gone, so I guess that means I'm up. My name is Matt Gregory, M-a-t-t G-r-e-g-o-r-y. I work on renewable energy and climate change for a few organizations, but I'm here today representing myself. I actually live in a community garden here in Lincoln called the Hawley Hamlet that has two-thirds of an acre of growing space, and we grow cover crops there. So I'm here today in support of LB729. I'd like to thank Senator Walz for introducing it. I will try to gloss over some of this; a lot's been said. You know, this will lead to healthier soils. That means better yields. And in the current commodity price market, farmers need all the help they can get. And financial incentives to grow cover crops which

are currently only grown on 2 percent of crop land would help farmers in the present economic climate of corn and soy prices, international trade disputes as well as extreme weather due to climate change. And as has been mentioned, this bill puts a heavier focus on multi-species cover cropping which adds even greater health benefits to the soil, including increased pollinator habitats. And just a word about that, you know, it's like a chain. If there's-- if you're growing more different kinds of crops then we're talking about, that not only helps pollinator gardens, that brings in other insects as well which could bring in birds, perhaps snakes. And we see the chain and how the habitat gets improved. So it also gives farmers more opportunities to diversify, increase farm income by adding more cover for grazing, new opportunities for market-- marketing those crops and-- and it was briefly mentioned, regenerative agriculture, which you heard about today and back when we heard from Senator Gragert's LB243. So I want to say that regenerative ag is one of the solutions to climate change, and I'd like to see Nebraska's farmers reap the benefits of addressing it. As has been said, I think we need to see-- we might need to wait to see what's happening on the national level in terms of funding, but I believe this bill will move us toward healthier soils and a more-- more robust agricultural system for us and future generations. That's it.

**HALLORAN:** OK. Thank you, Mr. Gregory. Any questions from the committee? Seeing none, thank you for your testimony. Additional proponents? Good afternoon.

**MELISSA BAKER:** Good afternoon. I hope-- I think I'm the last one, so I'll try to make it as brief as possible. It just dawned on me that I've sat in some of these hearings and this is the first time I've actually sat and spoke to a committee. So pardon my nerves. My name's Melissa Baker, M-e-l-i-s-s-a B-a-k-e-r. I'm born and raised right here in Lincoln, Nebraska, and I'm in District 26. And I'm here today as a private citizen to represent myself and to let you guys know how important soil health is. I recently was at the UNL regional food summit, and that topic, soil health, came up consistently with all the different people at all the different tables. It's a huge topic, as is regenerative-focused stuff. So I'll stick to my quick letter. And if you have any questions, I'm not a pro, but I'll do my best to answer them. So I strongly encourage you to consider the positive impact of LB729. And thank you to Senator Walz for bringing this-- for bringing this to the table. It is far past due to have a bill promoting soil health in Nebraska, and I ask you to take this, as an urgent state of our soil

health, seriously and vote in support of LB729. I am concerned about our state's water resources, soil health, and it is my civic duty to speak up. I volunteer on the mayor's Environmental Task Force, on the water committee, and I'm also on the board for Lincoln Earth Day. I'm just very passionate about leaving the city and this place a better place than I left it. I have two little kids at home that remind me of that every day. So these two issues, the water quality and quantity and the soil health, these are critical to ensure the productivity, growth, and success as a state. And they're absolutely necessary for our survival. In the beginning science classes, I'm a big science nerd so, you know, you learn that water supports all life, that water is connected with the soil. Healthy soil's essential to water retention. Both are fundamentally-- fundamentally connected to fungus, trees, plants, flowers, bees, bugs, animals. It's the circle of life. If we do not care for the earth, the earth cannot care for us. Some of the alarming information that I've recently learned in this book, Kiss the Ground, which is extremely awesome, I highly recommend it, is that Josh Tickell, the author, says we are dancing on a razor's edge of blowing what little soil we have away. It takes nature about 500 years to build one inch of topsoil, and in the U.S. we're losing soil ten times faster than the natural replenishing rate. China and India are losing about 30 to 40 times faster. But in the past 40 years, almost a third of the world's crop land, which is 1.5 billion hectares, has been abandoned due to soil degeneration. No topsoil equals no food. So that's why I'm so alarmed and passionate about getting involved in these environmental reasons. So a quote, a rough calculation of current rates of soil degeneration suggests that we have about 60 years of topsoil left. That statistic was from 2012 in a Time magazine article called, What If the World's Soil Runs Out?, by Professor John Crawford from the University of Sydney. Future generations are looking to you and to us to act now on solutions to the issues that we face. I cannot bear to look my two children in the face and said I-- and tell them I stood by just watching and I didn't get involved. Please be the change that we-- the world needs. And as our elected officials, I ask you to hear the voices of the people that serve you saying, we want healthy soil, clean water, biodiversity that increases the organic soil matter, the nutritional value of the soil, and that has an economical value as well. That's very important. But the opportunity of what we call the good life here in Nebraska, it's extremely important. And thank you, everybody, for your time today and your attention in this matter. Any questions?

**HALLORAN:** Any questions--



**MELISSA BAKER:** I'll do my best.

**HALLORAN:** --from the committee? No?

**MELISSA BAKER:** Thank you.

**HALLORAN:** I have a question.

**MELISSA BAKER:** Yeah.

**HALLORAN:** Where again, did you get the information or someone suggested there's 60 years of top soil left?

**MELISSA BAKER:** Yes. So the quotes and the info I got directly from this book called Kiss the Ground. We're currently doing just a seminar that's based out of the-- out of California. So tonight at 9:00 p.m., I'll be watching it on Zoom. We have one week left, but it's just to get more involved and try to understand. I just want to learn more. So this book has been really helpful. That particular statistic is from-- it's a Time magazine article from 2012. It is from Professor John Crawford from the University of Sydney, and the article's name was-- I apologize here. It is What If the World's Soil Runs Out? So actually tagged it in the book here as well. And there's the sources in the back of the book for the other statistic.

**HALLORAN:** OK, I appreciate that. Just a-- just a point of personal information from my perspective. I'm a fifth-generation farmer, OK? My great-great-grandfather came over from Ireland, dropped the O' off his name, went into coal mining in southern Illinois, decided that wasn't his forte. And he packed up his six children. He was a widow, came to Nebraska, homesteaded Nebraska and could farm quite a few acres because he had six kids. But that all being said, soap-- soil profile on our farm hasn't changed measurably at all over 130 years. And I just caution people to-- to not fall into a state of panic over things when you read. I mean, just the title alone is something that should be-- should cause you pause--

**MELISSA BAKER:** Yeah.

**HALLORAN:** --to think that that's not going to be the case. Soil-- topsoil's not going to run out in 60 years.

**MELISSA BAKER:** Yeah. It is-- it is alarming, and that's why I'm constantly trying to read more and educate myself. Yeah.

**HALLORAN:** I just caution you that the world's not going to come to an end in 60 years, top soil.

**MELISSA BAKER:** Yeah.

**HALLORAN:** Just so you sleep better tonight.

**MELISSA BAKER:** Right. No, I-- no, I appreciate that.

**HALLORAN:** OK. I'm not trying to lecture you but I'm just saying--

**MELISSA BAKER:** No. That's--

**HALLORAN:** --you read a lot of these things.

**MELISSA BAKER:** Yeah.

**HALLORAN:** Some people say the world's going to come to an end in 12 years if we don't do certain things. I'm not-- I'm a little more ambivalent about it than that.

**MELISSA BAKER:** Yeah.

**HALLORAN:** I think we have more time than that. Not saying we should waste time.

**MELISSA BAKER:** Yeah.

**HALLORAN:** But I just want you to sleep better tonight if not [INAUDIBLE].

**MELISSA BAKER:** Well, thank you, because, yeah, my two toddlers definitely don't let me sleep a full night very often. But no, I-- I-- I totally agree. My concerns are-- are that of many. I mean, I think the average for Nebraska is, and somebody correct me if I'm wrong because I have other people that might be able to testify to this, but the statistic average was four tons of topsoil per acre per year in Nebraska. I think it's closer to three tons of topsoil per acre per year that we lose. So it is something I'm worried about. I don't believe the world's going to come to an end in 12 years. I think that there are a lot of great people doing a lot of great things to combat, you know, some of the issues that we face. And I definitely think the regenerative movement is really important. And taking care of

our soil and health is-- soil health and our water is extremely important as well.

**HALLORAN:** Don't misunderstand. I appreciate your concern.

**MELISSA BAKER:** Yeah.

**HALLORAN:** I know it comes from the heart.

**MELISSA BAKER:** Yeah.

**HALLORAN:** Any additional questions from the committee? OK. Thank you.

**MELISSA BAKER:** Thank you.

**HALLORAN:** For your first time, you did a very nice job.

**MELISSA BAKER:** OK. Thank you.

**HALLORAN:** Any further proponents? Good afternoon.

**EDISON McDONALD:** Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I'm testifying on my own behalf in support of this bill. And the answer to the previous citation, it was the UN's Agriculture Organization that went and had put together that study. I want to support what's been said on this before, and I've come before this committee before to talk about my support of cover crops. I think, really, the story here is just like my grandfather went and planted trees to go and help protect our soil line, I think that it's important that we go and plant cover crops to continue those steps forward in protecting our soil. And really, that's where it comes for me personally. But I think the other thing that hasn't really been mentioned here very well is what Senator Halloran went and brought up, is what are we going to do about the taxes? And I think one important aspect is-- one of the things that we share in common is our love of the area of District 33 and the time I spent in Hastings. And recently Hastings is-- had to go and spend \$46 million to go and ensure that their water got denitrified. That's a lot of money. I think that's really a huge source of where we're looking and something that we're trying to go and prevent. We're trying to ensure that we don't have to pay that down the line. We're trying to ensure that that doesn't happen, especially in the northeast. But I think probably about the only thing that should be changed about this bill is looking

at raising the priority of the areas around Hastings. So thank you very much for your time. Any questions?

**HALLORAN:** Thank you, Mr. McDonald. Senator Chambers.

**CHAMBERS:** Mr. McDonald, are you a farmer?

**EDISON McDONALD:** My family farms.

**CHAMBERS:** You don't farm?

**EDISON McDONALD:** I do not personally.

**CHAMBERS:** I'm pleased. Senator Halloran was talking about the end of the world, and signs and symbols are important. This morning I, for some reason, wrote a song called Young McDonald had a Farm. Then when young McDonald came, I thought that was a sign since you're a farmer. You just saved the world--

**EDISON McDONALD:** OK.

**CHAMBERS:** --and I want everybody to know it. Thank you.

**EDISON McDONALD:** Yeah. But you know, we're just going and testing out cover crops this year on my family farm. We're testing out winter rye. That's been a conversation that, you know, I think like Mr. Christensen, you know, as we're going and looking towards the next generation, that we've been engaging in and saying what are we going to look for down the line and in the future. And for my family, you know, I think that that's really an important step, that we go and ensure that that land is there for generations to come with that same level of soil health.

**CHAMBERS:** Very good. Thank you.

**BRANDT:** Any more questions for Mr. McDonald?

**EDISON McDONALD:** Young McDonald.

**BRANDT:** Yeah, young McDonald. All right. Thank you.

**EDISON McDONALD:** Thanks.

**BRANDT:** Proponents? Any more proponents? Any opponents? Anyone to testify in the neutral capacity?

**BRITT WEISER:** Thank you, Mr. Vice Chairman and committee members. My name is Britt Weiser, B-r-i-t-t W-e-i-s-e-r. I work for the Natural Resources Conservation Service here in Lincoln, Nebraska. As Mr. Christensen said, our acronym typically people refer to us as NRCS. We're an agency within the U.S. Department of Agriculture. So today I am providing neutral testimony. While we definitely support soil health and the benefits that it accrues, our agency always provides a neutral testimony in regards to any kind of legislation. So I just wanted you to know that we always provide neutral testimony. I'm going to try to give you a little background on NRCS, a little bit about the benefits of cover crops although there's been a lot of testimony already to that, so I won't, hopefully, duplicate that, and then thirdly, a couple of provisions from the farm bill that may be of interest to the committee as you look at this piece of legislation. The Nebraska NRCS has about 300 employees in 77 field offices across the state. These field office employees work directly with farmers and ranchers voluntarily seeking help to conserve and enhance natural resources on their land. Assisting farmers with improving the health of their soil is a high priority for NRCS. Healthy soils provide numerous environmental and production benefits, including enhanced infiltration and storage of precipitation, reduced runoff and flooding, improved cycling of nutrients, and sequestration of carbon just to name a few. Today, I will focus on the water quality benefits derived from planting cover crops and improving the health of our soils. And as I mentioned, in addition, I'll highlight a few sections from the 2018 farm bill that may be of interest regarding this LB729. No-till farming, cover crops, and other practices improve the structure of the soil and allow greater infiltration of rainfall events. This results in less runoff water that can potentially transport fertilizer and other chemicals to our streams and results in an improvement of the stream's water quality. In addition, cover crops sequester nitrogen, in other words they take it up and store it in the plant to prevent it from being leached, that may be remaining after the harvest of a grain crop and prevents the nitrates from being leached into our groundwater. Furthermore, the improvement in the soil's structure and increased organic matter will provide more resiliency to the farmland to infiltrate larger storm events and to store more water that crops can use during periods of drought. Then I just transition into the farm bill. As you probably have seen, December 20 that was signed into law. The farm bill outlines requirements and priorities for the conservation programs that NRCS and other agencies administer. The main programs that NRCS administers that address soil health and water quality include the Environmental Quality Incentives

Program, the Conservation Stewardship Program, and the Regional Conservation Partnership Program. I just took two things out of the farm bill there that I thought may be of interest regarding cover crops and water quality. And so I listed those with the two bullet points there. The farm bill requires a targeting of a minimum of 10 percent of the funds from all conservation programs for the protection of drinking water sources. Now again, all this will have to be outlined exactly what that means, but that's the language directly on the farm bill. In addition, the farm bill provides funding for on-farm conservation innovation trials to demonstrate soil health management systems and other innovative conservation practices. Again, a lot of definition will need to go into some of those. In addition, there may be opportunities for collaboration on projects between NRCS and state and local entities. Our national staff is currently updating our program policies according to the new farm bill. I would anticipate by October, these new policies would be in place, and the NRCS can elaborate on these new soil health and water quality collaboration opportunities. We may know more during the summer, but we operate on an October 1 to September 30 fiscal year. So I would anticipate that this would go into place for our program starting October 1, would be my-- my estimation. Also over the last several years, the Nebraska NRCS has been promoting the many benefits associated with improving soil health. We have established 17 soil health demonstration farms across the state. We have also assisted hundreds of producers with planning and implementing cover crops on their land. We support the efforts of our conservation partners to regenerate healthy soil for current and future generations. Thank you for your time.

**BRANDT:** Thank you, Mr. Weiser. Questions by anybody on the committee? I guess I've got a couple for you. Under-- under this, if LB729 were to pass and I would go into my local NCRS office, would it be possible to double-dip in that I could qualify under EQIP funding and also qualify for LB729 funds?

**BRITT WEISER:** That is possible. Our programs, though, prevent a farmer from receiving over 100 percent of the cost of a practice. So we have-- the cover crops would cost \$50, and you know, the two programs together would not be able to exceed \$50.

**BRANDT:** And cover cropping has been pretty active in the state. Can you give the committee an idea of the percent of the state that uses cover cropping or the acres under cover crop right now, the scope of cover crops in the state of Nebraska?

**BRITT WEISER:** Right. We have not done an extensive survey, but my professional judgment is it's between 2 and 5 percent.

**BRANDT:** And what percent would you, as the NRCS, like to see us get to?

**BRITT WEISER:** Well, as close to a hundred as possible. I think there's lots of benefits from that. And maybe just to go into detail of where I see where we're at, if you look at the social science and how people adopt new technologies, whether it's a new cell phone or anything, cover crops being a new adoption, you first have, in that 2 to 5 percent range, what they call early adopters. Those are the people who are always looking out for the new thing. When you go into the stage past that, the early majority, they take a little more encouragement to get into that next group of people. And so from the 5 percent up to the 50 percent will take probably some additional education incentives and other things, more information, for them to consider adopting something new to their operation.

**BRANDT:** All right. Thank you, Mr. Weiser. I don't think there's any further questions. Anybody else in the neutral?

**DEAN EDSON:** Thank you, Senator Brandt, members of the Ag Committee. My name's Dean Edson, D-e-a-n E-d-s-o-n. I'm the executive director of the Nebraska Association of Resources Districts presenting neut-- testimony in the neutral capacity on LB729 on behalf of the Association. First of all, I'd like to thank Senator Walz for introducing the bill and starting some discussion on doing some things with soil health and improving productivity on farms and-- by-- by planting cover crops. Currently, we have five natural resource districts that have their own cost-share programs for planting cover crops. These programs are limited in local funding based upon the local boards budgeting decisions, but they're not limited to farm size or distances to rivers. They're more tailored toward whatever that district-- what problems they're trying to address, and try to make them as broad as they can possibly make them. The whole thought process behind this is to try to improve soil health and take-- encourage farmers to take practices that improve that and reduce-- reduce the reliance on commercial fertilizers. I've included a copy of the Lower Elkhorn NRD's cover crop program for your information. The other districts that do the cover crops cost-share are Lower Platte South, Central Platte, Lewis and Clark, and Lower Loup. One of the issues, and I'm glad Senator Walz wants to wait a while on-- on this bill, one of the issues that we discussed at our meeting last month on this issue

was, we're concerned about if this bill advanced, that it would become a mandate upon the NRDs that we had to develop cover crop programs. And we don't want to see that have a mandate. We'd like to work with the Legislature and the other parties to make something work where we're creating some synergies. I'm glad that Britt Weiser was here from NRCS because what we do is we tailor our programs that dovetail in with NRCS programs. If the state would-- wants to get involved with a cover crop program, we want to make sure we're coordinating between all the NRDs, the federal programs, and the state programs. One other issue to discuss, and there were some questions on this, is what crop mixes work best. Currently, all of the districts were working with UNL Extension to do some research projects on this and get some more data. We want to make sure that the cost benefits are available to the producers. We want to make sure that we're using the right cover crops with the right soils in the right crop rotation so that this all turns out to be a benefit not only for the farmers and their pocketbook, but also turns out to be a benefit, long-term, for soil health and water quality. We've got a lot of preliminary data, but we don't have enough empirical data to know exactly which ones work the best in what-- in different situations. If you're interested in that, one thing to take a look at is on UNL's Web site is their crop-- cropwatch program. So it's [www.cropwatch.unl.edu](http://www.cropwatch.unl.edu). Some other questions or comments were brought up today, if we're looking at waterways and pivot corners, there might be some other programs that are existing today that would be available for those producers. I'd be willing to discuss that a lot more in detail at another time. So thanks, again, to Senator Walz and to the committee for taking the time. Be glad to answer any questions you might have.

**BRANDT:** Thank you, Mr. Edson. Any questions? Seeing none, thank you.

**DEAN EDSON:** Yep.

**BRANDT:** Anybody else to testify in the neutral capacity? Senator Walz, you're welcome to close. And while she's coming up here, we have some letters for the record. We've got about nine here: Sherry Miller, League of Women Voters are the-- is a proponent; Del Ficke; Anne Thompson; Steve Tucker; Laura Priest with the Douglas County Farmers Union; Laura Thomas; Katie Jeffers; Mary Stegman; Cyril Leise; Renee O'Brien; Ben Stallings; and, Don Zebolsky, all proponents. No opponents. Nobody representing themselves in the neutral capacity. And these are all in your book in front of you. You're welcome to close, Senator Walz.



**WALZ:** Thank you. I'm just going to make this very quick. I, first of all, want to thank all the people who came to testify today. They are the experts. I introduced this bill because I just think it's a good thing Nebr-- for Nebraska. I grew up on a farm. I think it's a good thing for small family farms. I think it's a good thing for our public health and also to conserve our natural resources, so that's why I brought the bill. And again, I'm so glad that they came to explain the technical pieces of the bill. I think this bill would work very well with Senator Gragert's Soil Health Task Force, and I am supportive of his bill as well. I think that if we pass this bill this year, we would be ready to start the program when funds are available. So I think that's something that we could think about as well. And just thanks again for listening. I'm excited about this bill.

**BRANDT:** Any questions for Senator Walz? I guess I've got one. Would you let me cosign, OK, cosponsor?

**WALZ:** Yes. Absolutely. Thank you.

**BRANDT:** And with that, the hearing is over. Well, the gavel's clear over there. I don't have a gavel.