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Agriculture Committee
January 18, 2011

[LB109 LB110 CONFIRMATION]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, January 18, 2011, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB109 and LB110 and gubernatorial appointments. Senators present: Tom Carlson, Chairperson; Norm Wallman, Vice Chairperson; Dave Bloomfield; Lydia Brasch; Burke Harr; Tyson Larson; and Steve Lathrop. Senators absent: Russ Karpisek. [CONFIRMATION]

SENATOR CARLSON: Okay, we'll get started here. Welcome to the January 18 legislative Agriculture Committee hearing. I'm Tom Carlson, Chair of the committee. Our research analyst is Rick Leonard and our committee clerk is Barb DeRiese, and our page is Kate DeLashmutt and I'll...if I didn't get that exactly right, Kate, I'll get it right before too long here, but she's our page. Now senators to my right, Senator Norm Wallman from Cortland; Senator Lydia Brasch from Bancroft; Senator Burke Harr from Omaha; Senator Dave Bloomfield from Hoskins; and to my left, Senator Karpisek is not going to be with us today, but Senator Steve Lathrop from Omaha; and Senator Tyson Larson from O'Neill. Speaking to myself as well as you, before we start, please turn off your cell phones, if you haven't done that. Now those wishing to testify should come to the chair across from me to be heard, and there's the sign-in sheet that everyone that's going to testify should sign before you testify. And then give that to our page and she'll bring it. Barb needs that to keep everything accurate. And these, again, need to be filled out by everybody that is testifying. If you're testifying on more than one bill, you need to complete the form for each bill. Please do that. And don't turn in the sheet before you testify, but turn it in as you do. And that's important for our transcribers to have accurate information. And then as you start your testimony, if you don't do it, I'll remind you to, but tell us your name and spell it for the record, even if it's an easy name like Carlson. Now if you choose not to testify but like your name entered in the official record as being present at the hearing, there's a white form by the door that you can sign and this will be made a part of the official record of the hearing. And also if you don't choose to testify, you can submit your comments in writing and have them read into the official record. However, you won't be listed on the committee statement unless you come to the microphone and actually testify, even if you just state your name and position. If you do have handout material, give it to our page Kate and she will distribute it to the committee. And we have four new members on our Ag Committee. Looking forward to working with them, but for their benefit, many of you that have testified know this, but we don't have any vocal displays of support or opposition to a bill. Any questions before we proceed? Okay, our first item of business is a reappointment of Tam Allan to the State Fair Board. And so, Tam, would you come forward, and again state your name and spell it. And then as I say, we've got some new members of our committee, so tell us whatever we need to know about you. [CONFIRMATION]

TAM ALLAN: Chairman Carlson and members of the committee, my name is Tam Allan,

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

Agriculture Committee
January 18, 2011

1045 Lincoln Mall, here in Lincoln. I am a member, have been a member for two terms of the Nebraska State Fair Board. And this...we have two different type of ways to be on the State Fair Board, on our board of 13. Actually we have three different ways. There are... [CONFIRMATION]

SENATOR CARLSON: Tam, I'm going to stop you. Spell it, would you?
[CONFIRMATION]

TAM ALLAN: Tam, T-a-m. Allan, A-l-l-a-n. [CONFIRMATION]

SENATOR CARLSON: Good. Thank you. [CONFIRMATION]

TAM ALLAN: I am one of the four Governor appointees. There are district appointees of the different fair districts across the state and then we have ex officio representative of the 4-H and the FFA. And so this would be appointment to my third and it would be my final term on the board. Quite a lot has happened during my term on the board and it's certainly through, in no small amount, the good efforts of this committee in this legislative body along with the Governor. As you well know, we just completed our first State Fair in a different location. And whatever planning that we can do in advance, whatever assistance that a lot of you provided, and I know that Senator Dubas is no longer on this committee, but, I mean, we...volunteers from Senator Gloor from Grand Island or Senator Dubas. All that, it took a whole state to make the fair successful and it turned out to be very successful. And so we're very pleased with the results. We're hoping...the board certainly means that this committee and this Legislature are pleased with the results so far, but I have my executive director with me sitting behind so I can address this to him. It was a success to even accomplish to be able to conduct a fair basically within a year's time in moving from one city to another city. And what I've told Joseph McDermott, he's our executive director, while we had a very successful first year, there's many, many different things that we can improve upon for our second year, for we were in Lincoln for 104 years, so for our next 100 years. It's been a great pleasure and a great honor to be able to serve on the fair board. There's some things still outstanding that I would like to finish up as far as the transition there. I was the person in charge of the relocation and the building of the buildings. There's still some things that need to be done out there and the one thing that I've always enjoyed saying to this committee, saying to another, legislators through this entire process and moving the fair, we don't want anything from you other than your good support. We had a budget of \$42 million to move the fair. Just briefly, it was \$5 million by the state of Nebraska. The university put in \$21.5 million when they took over the, what is now Innovation Park. The city of Grand Island came forward with \$8.5 million and the State Fair had \$7 million. And I guess I can report to you as we are on budget and we are on time. We have some short-term financing that we will be able to pay off in the next couple of years. But the goal of the State Fair in moving was to be debt free, to be in the best position as possible, and then the folks came. It came in as successful and I still

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

Agriculture Committee
January 18, 2011

think there's many opportunities for us to improve the fair. So, with that, I would be happy to answer any questions that you might have. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you for your testimony. Do we have any questions of Mr. Allan? What would you say was your most positive experience in the completion of the first State Fair in Grand Island and what was the biggest frustration?
[CONFIRMATION]

TAM ALLAN: That we were able to finish 414 days, I believe, that we finished from groundbreaking to that. We're very proud of that. It took a lot of efforts, a lot of people. Personally for me, you know, let's face it, is you do what you can, you do the right things, which you believe is the best. We didn't know what the results were going to be and the people coming and they came. They came in droves. We have to work on parking problems. We have to work on different scheduling. You know, I'll just use one example is, in Lincoln on changeover day, Tuesday is the slowest day of the week. We would have that day for Older Nebraskans Day. We had an open air auditorium at the former state fairgrounds that filled up to 2,500 people and that's about what we did. What I refer to this year as the Mel Tillis incident. Mel Tillis, for those that you don't know, is a 78-year-old country entertainer that was our Older Nebraskan Day scheduled for a 11:30 concert. The State Patrol started blocking buses at 10:37 and wouldn't let the old people, (laughter) and I think of myself as an old people, these are people that have traveled great distance. They wanted to go to the bathroom, they were tired, and some of them wanted hard liquor. (Laughter) And we pleaded, and so it was the largest crowd, over 7,500, in the history of the Heartland Event Center, and we pleaded with Mr. Tillis to do another show at whatever cost and we couldn't get that done. But it just goes to show you, just a very pleasant experience of things happening. And things worked logistically pretty darn well for the first year. And so we have adjusted, made a lot of adjustments. We think we're ready for the next year and we want to keep growing this. And Senator Carlson, I'm giving you a long answer to this. Another thing I was very surprised at is that there's a new definition of "where do you live" because we would ask people where...we just wanted to know where the people came from, is where do you live? And it was near there, near here, and near here often meant distances of 100, 150 miles and there were repeat people that came. And they were hungry and they spent a lot of money and, hopefully, they enjoyed the fair. So the frustrating thing was far outweighed by the pleasurable things on there. I think we can do a better job on some of the logistics things, but I can't say that there were too many other frustrations other than just serving all of our good Nebraskans. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. Any other questions? Okay, thank you, Tam.
[CONFIRMATION]

TAM ALLAN: Thank you. [CONFIRMATION]

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

Agriculture Committee
January 18, 2011

SENATOR CARLSON: Appreciate your testimony. Do we have anybody testifying as a proponent? [CONFIRMATION]

JOSEPH McDERMOTT: Chairman Carlson, members of the committee, my name is Joseph McDermott. I'm the executive director of the Nebraska State Fair. McDermott is spelled M-c-D-e-r-m-o-t-t. I'm here in favor of Tam's renomination. Tam is a developer by trade, so he is familiar with architects, engineers, construction budgets, and the construction process. Hopefully, you have heard a lot of positive things about the new facilities in Grand Island. I will tell you I don't believe that we would have moved the fair on time, quite honestly, but much less had the positive response as a result of those facilities without Tam's direction. Tam also serves on our executive committee and I, along with other board members, rely on Tam for advice quite frequently and he's always willing to provide that. As you know, not all appointments have the passion necessary to serve. Tam has that passion. I've seen it many times. And when you get someone who has that much passion for your cause, in this case the Nebraska State Fair, you want to keep them serving as long as possible. So I am here in support of Tam's renomination and I ask you to consider that. Any questions? [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. McDermott? Okay, thank you. [CONFIRMATION]

JOSEPH McDERMOTT: Thank you. [CONFIRMATION]

SENATOR CARLSON: (Exhibit 1) Anyone else testifying as a proponent? Anyone testifying in opposition to this appointment? And anyone testifying in a neutral capacity? For the record, we do have a letter from Allen Beermann in support of the confirmation of Tam Allan. And I would say to both of you, that was a tremendous job that you did. And we're grateful as an Ag Committee that it makes us look pretty decent too that things came off the way they did, so thank you for what you've done. Thanks for coming today and that will conclude our hearing on the reappointment of Tam Allan. We will open the hearing on LB109, and you have that information in your notebooks. And I'll ask Rick Leonard to open the hearing. [LB109]

RICK LEONARD: (Exhibits 1 and 2) Thank you, Chairman Carlson. Thank you, Chairman Carlson and members of the committee, I'm Rick Leonard, L-e-o-n-a-r-d, research analyst for the Agriculture Committee. Senator Carlson asked me to introduce this bill on his behalf. This bill, LB109, is brought to us at the request of the Department of Agriculture. Quite simply, the bill removes...the gist of the bill removes the registration. LB109 amends the Agricultural Liming Materials Act to remove the requirement that agricultural liming materials products be annually registered with the Department of Agriculture. This does not change the requirements for label, what is to be on the label, the Department's label enforcement mechanisms or effort. I would point out to the committee, in your book it's in the front...inside the front cover, I placed a

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

Agriculture Committee
January 18, 2011

couple additional reference items for the committee. One is a copy of a letter or the Department's response to a series of inquires from Senator Carlson about both of these bills, LB109 and LB110. And you'll see the second item is just a staff produced document that compares information provided with the product registration as well to the requirements under the law for statements and information to be included on the labeling. That would be my introduction. I'd take any questions. [LB109]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Leonard? [LB109]

SENATOR LATHROP: Can I start out with an easy one? [LB109]

SENATOR CARLSON: Yes. Senator Lathrop. [LB109]

SENATOR LATHROP: Thank you, Senator Carlson. Can you tell me what this stuff is? [LB109]

RICK LEONARD: Ag liming material, it's a soil amendment. We do have the people behind me who will have a much better answer, but liming material is basically a product to, I think, primarily to affect the pH of soil. Now we'll have a soil conditioner next, will be products that amend soil qualities, tilth, and other aspects of the soil itself. [LB109]

SENATOR LATHROP: And why is it necessary that we're regulating it at all? [LB109]

RICK LEONARD: Both of these bills...and we have a number in the Ag Committee. I call them our ag input. They're kind of truth in labeling bills. Essentially, these bills or these areas of regulation essentially they're a...I get...the Department gets what is represented that when I represent a product as containing X...for instance, 30 percent phosphorus, 10 percent nitrogen, those mixed, it does indeed meet those qualifications, so a producer is getting what he pays for. Both...many of these ag product legislation requires label disclosures of content, efficacy, active ingredient, so that's essentially the purpose so that...it's a discipline of the marketplace so products that are on the market are accurately labeled, producers are getting the value that they pay for. [LB109]

SENATOR LATHROP: Another question I have, are we saving any money by eliminating this requirement? I saw the fiscal note, says that there's no effect and I'm wondering, is this part of the LR542 process? [LB109]

RICK LEONARD: This one was not part of the LR542 process. Again this was brought to us by the Department of Ag. The department has explained, and they'll be here to explain further, although the bill itself is not anticipated as a money saver, but mainly the department, like with all agencies, is dealing with an attrition in the number of people and resources they have to enforce the laws. And my understanding, they bring this bill

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

Agriculture Committee
January 18, 2011

to us in that the registration, freeing from the registration requirement would free up staff time. One of the questions we ask in here is, what is the amount of staff time and resources you're devoted to this registration requirement? Both the administrative part of receiving the filing as well as any enforcement activity that takes place with the registration at this time, I think it's primarily the department and I'll let them speak for themselves I guess, but I believe they can free up some staff time to devote to more core activities. [LB109]

SENATOR CARLSON: Okay. Any other questions? Okay. Thank you, Mr. Leonard. Do we have proponents to testify? Welcome to the committee and go ahead. [LB109]

GREG IBACH: (Exhibit 3) Thank you. Thank you, Senator Carlson and members of the Agriculture Committee. My name is Greg Ibach, G-r-e-g I-b-a-c-h, and I am the director for the Nebraska Department of Agriculture. I appreciate the opportunity to testify in favor of LB109 and I would like to thank Senator Carlson for introducing this bill on behalf of the department. There's some additional written testimony that is part of the handout that you're receiving as well as we were happy to supply the answer to the questions that Senator Carlson had forwarded to the department that are also part of your packet. I have Rich Reiman with me today, who is the administrator for the Bureau of Plant Industry. If we get technical questions much harder than the ones that Rick already answered, we may be referring to him. But we'll...Rick did a pretty good job. You went outside of the boundaries as far as I was concerned with your answers, (laugh) so you had it figured out. LB109 amends the Agricultural Liming Materials Act and the act is administered by the Nebraska Department of Agriculture, originally adopted by LB396 in 1981. LB109 amends the act by removing the requirement that all agricultural liming products be annually registered with the department. The department deems such product registration to be redundant and unnecessary. Department staff are trained to review labels at distribution points to make certain labeling requirements are met and are in compliances. Thus, what the department proposes by this change is to eliminate the, if you would, desk audit labels on the products, and the desk audit of the registrations filed, and instead concentrate on reviewing the labels on the products in the distribution chain. This is a more accurate review of the actual product to be sold to the consumer and the label on such product. In addition, due to the reduction in department staff as Mr. Leonard referred to, the work involved in registering products is not the most productive use of the limited resources. Eliminating the registration requirement also harmonizes provisions for agricultural liming with the provisions for commercial fertilizers and commercial feeds, which are also under the Department of Agriculture's jurisdiction, and there are no registration requirements for these products. For clarification, LB109 retains the current requirement that any manufacturer, distributor or retailer of agricultural liming products obtain a license from the department. The bill also retains the requirement that the department maintain a record of the total tonnage sold in the state. And we have worked with the industry over the course of presenting, asking, approaching the senator to introduce this bill on behalf of the

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

Agriculture Committee
January 18, 2011

department. Last week during the industry's organization's board meeting there were some concerns brought up by the board and the industry has some concerns upon moving forward with this bill. From a department standpoint, while we do gain some efficiencies and eliminate some redundancies, I don't feel that it is in the best interest of the department or the industry to have a conflict over this. And so while we continue our discussion with the industry, I would ask that perhaps the Ag Committee give us some additional time and not move this bill forward until we can resolve any concerns that the industry may have with this elimination of the desk audit. With that, that concludes my testimony. I'd be happy to answer any questions. [LB109]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Ibach? Let's...part of this whole process, which we're all aware of, is perhaps reducing the size of government, if possible, without creating risk to the citizens of the state. So in this area of registration versus what's on the label, are we adding any risk? If this bill would go through, are we adding any risk? [LB109]

GREG IBACH: I think that, you know, the way we view it from a department standpoint is that right now, and if Rich disagrees with my description he can tap me on the shoulder and I'll recognize him, but right now we ask the company to send in a copy of their label. And staff at the department would look at that label and say, yep, that looks like a label and we would have it registered. What we're...and then we would also, when we're out in the...doing a field inspection, we would again look at that label, look at the product, and see it in its actual setting that where it is being used by consumers, and in this case, farmers are the consumers, to try to make sure that there is some protection from those consumers, the farmers, that what they're purchasing and what their label, is on the label, is actually in the product that they are receiving. And so what, you know, we're proposing in this is that we would eliminate that first step of having them actually, you know, provide us with that label and doing that desk audit. We would do it all in one step at the site. [LB109]

SENATOR CARLSON: What triggers an inspection? [LB109]

GREG IBACH: Rich, I think there is...why don't you go ahead and answer that. That way I won't be... [LB109]

SENATOR CARLSON: And Rich, to do that, please state your name, spell it. [LB109]

RICHARD REIMAN: Senator Carlson, my name is Richard Reiman, R-e-i-m-a-n. Now in response to the question, what prompts an inspection, normally people that have license with us or some type of permits, we know that they are selling particular products and we will do inspections at those facilities. Also our field staff, we have six field staff to take care of, right now, feeds, fertilizers, and some FDA work. Each of them have a territory. They know what dealers are out there. They know the dealers, what

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

Agriculture Committee
January 18, 2011

kind of materials that they sell. And basically, we tell them as they come across these products to randomly collect those samples and submit them to our laboratory for analysis. [LB109]

SENATOR CARLSON: So you don't feel that if this bill went forward that we're adding risk to anybody in the state that uses the product. [LB109]

RICHARD REIMAN: We feel that it's important to look at the products on the shelf as they're being sold and then also for the analysis. We've determined sometimes in the past that maybe what a company, in fact, registers with us may not always be the exact same product that we find out in the field. So we feel it's very important to have it out in the field and in this case, looking at resources that we have available. We just had somebody that recently retired. We're just trying to become a little bit more efficient in the department. [LB109]

SENATOR CARLSON: In this area, do you have any complaints on a regular basis by anybody that's purchased a product and applying it? [LB109]

RICHARD REIMAN: This particular bill, LB109, deals with agricultural liming materials. And primarily there's about five or six different grades of liming materials that are sold in the state. You have primarily a pelletized product that's somewhere in the 90 percent of ECCE value and then we've got about two or three that are in the 70 percent area. And then we have a slurry product, which is normally guaranteed around 50 percent calcium carbonate equivalent. And historically, when we get those samples, they're very close to the guarantees. Ag lime, in itself, is a very reasonably priced product. It probably runs in the area of \$4 to \$5 a ton and actually the application cost is more than what the product is worth. So from my standpoint, I don't think there's a lot of misuse of product or overapplication. It's a very reasonably priced product and farmers just assume that it's going to be somewhere in that area and they're fine with it. [LB109]

GREG IBACH: As far as, maybe answering your question about complaints, you know, a producer wouldn't have the resources to be able to really gauge whether or not there was the accuracy in the guaranteed analysis. And so the random sampling that is done when the department is out there is what really holds the company and the industry, the suppliers' feet to the fire, if you will, as far as making sure that what they tell the consumer, in this case again the farmer, that he's going to receive is actually what he does receive for guaranteed analysis. [LB109]

SENATOR CARLSON: Okay. Thank you. Yes, Senator Bloomfield. [LB109]

SENATOR BLOOMFIELD: What percentage of this product is sold in bulk versus in bag where the farmer, in all probability, never sees the label? [LB109]

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

Agriculture Committee
January 18, 2011

RICHARD REIMAN: Basically, everything is sold in bulk. The only time you ever see any bag material would be if you're going to, like an Earl May store, where you can buy a small packet and it's to be added to your house plants. But other than that, it's quite normally, you'll be driving out in the countryside and you just see a big pile of this white stuff and that's what it is. [LB109]

GREG IBACH: And again, you know, the co-ops and the private dealers that, you know, farmers contract with to deliver this bulk material to their fields in many cases are also reliant on the department to do that check of the guaranteed ingredients to make sure that's correct. And in some cases, they're, you know, kind of an agent for the farmer as well and, you know, it's important to them to know that we're helping them be good stewards as well as to the farmer. [LB109]

SENATOR BLOOMFIELD: That's why I asked that. In the past when I put on any lime, I just told the co-op come out and put some lime on. But I never even considered what was in it. That's why I asked that question. [LB109]

SENATOR CARLSON: Okay. Any other questions? Senator Wallman. [LB109]

SENATOR WALLMAN: Thank you, Senator Carlson. Yes, Director, do you give guidelines for different quarries? You know there's quite a bit of difference in the active ingredients in different quarries, so. My county agent gives that to me. [LB109]

GREG IBACH: Well, that as far as what your soil needs as to the... [LB109]

SENATOR WALLMAN: Yeah, I mean the quality of lime, the quality of lime. The active ingredient. You know, pellet lime is pretty well around 9-10 percent. [LB109]

RICHARD REIMAN: The quality is determined by using sieves to see exactly how much of it will shift through or sift through and normally what's coming out of the quarries in Nebraska, we're in the 70 to 76 percentile of the calcium carbonate equivalent. [LB109]

SENATOR WALLMAN: Thank you. [LB109]

SENATOR CARLSON: Okay. Any other questions? Hearing none, thank you for your testimony. Any other proponents? Anyone testifying in opposition? [LB109]

JEFF PRIBNOW: (Exhibit 4) Chairman Carlson and members of the Agriculture Committee, my name is Jeff Pribnow, J-e-f-f P-r-i-b-n-o-w. I serve as vice chairman of the Nebraska Agri-Business Association. I am also the agronomy manager at Kaup Seed and Fertilizer in West Point, Nebraska. I appear before you in opposition of LB109. I would also like to talk about LB110 because they are similar in nature, if that's okay. [LB109]

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

Agriculture Committee
January 18, 2011

SENATOR CARLSON: We're actually just focusing on LB109. [LB109]

JEFF PRIBNOW: Okay. [LB109]

SENATOR CARLSON: We need to keep it that way. [LB109]

JEFF PRIBNOW: Okay. This piece of legislation would remove the requirements of registration from liming materials by Nebraska Department of Agriculture. The Nebraska Agri-Business Association represents fertilizer, ag chemicals, and seed retailers, both cooperative and independent, product manufacturers, soil testing laboratories, and related equipment manufacturers in Nebraska. The fertilizer and agricultural chemical industry is fairly young as compared to other industries in the country. Crop nutrients were introduced in the early 1950s following World War II, as nitrogen fertilizer was a by-product in manufacturing ammunition during the war. There are three basic fertilizers used for plant nutrition, which are nitrogen, phosphorus and potassium. In addition, fertilizers may include trace elements and minerals which are necessary for plant growth. Soil conditioners are another class of plant nutrition or enhancement, which became prevalent in the late 1960s and early in the 1970s. Many of these products may still be used today. However, at this time, there are a proliferation of products which made broad claims increasing yields to 300 bushels an acre, would make water wetter, and other claims. In some cases, these products sold for extremely high prices and were generally manure extracts and were derivatives of algae, seaweed, leonardites, but could have been simply just detergent-based products. Agricultural lime is a soil additive from pulverized limestone or chalk. The primary active component is calcium carbonate. Additional chemicals vary depending on the mineral source and may include calcium oxide, magnesium oxide or magnesium carbonate. The product provides for an increase of soil pH to correct the acidity of the soil. The higher the pH, the less acid the soil. In the source of calcium or magnesium for plants, it permits water penetration for acid soils and improves an uptake of plant nutrients for plants growing in acid soils. There's many...talking about other sources of lime. I know there's acetylene plants that sell lime for calcium carbonate and it's probably not up to snuff as far as what they say. So there is concern in our industry is making sure that the farmer is...they get what they pay for. In the 1970s and then in the 1980s, legislation was passed to place registration requirements on liming products to make certain that active ingredients were listed on the product label and the products were registered with the Nebraska Department of Agriculture. In today's highly scientific agriculture, agronomists and consultants provide sophisticated soil samples for the farmers to assure that the soil management gives them the most economic prescription of fertilizer, micronutrients, liming materials, and, of course, soil conditioners to grow crops with maximum economic yields with maximum environmental benefits. If the requirement is registered, these products from the department is removed. A stopgap source will be removed to make certain that these products are properly labeled for required nutrient needs. If a farmer is approached to

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

Agriculture Committee
January 18, 2011

purchase one of these products, he has the option to contact the Department of Agriculture to determine if the product has been registered with the state. Even though the bills do not relieve the manufacturer for these products from labeling, the seller of one of these products, particularly soil conditioners, could be long gone before an inspector from the Nebraska Department of Agriculture could determine if the product is registered properly in the state. Whenever the fertilizer prices rise, that is a tendency for a proliferation of products such as soil conditioners to enter the market which have claims to greatly enhance yields without having to use perhaps the appropriate amount of fertilizer. In today's marketplace, a price of the fertilizer generally follows what is happening with the price of natural gas, as natural gas is a feeder stock for the manufacture of all nitrogen fertilizers. I need not educate this committee on what has happened to our energy prices in the most recent years. Liming materials are sold predominately in the eastern part of the state due to the soil acidity. Although liming materials are not that expensive, the majority of the cost lies in the transportation of the product. For the protection of the Nebraska farmers, we believe continuing to have soil conditioners and liming materials registered is a wise and prudent move. It allows for the farmer to be assured that the product has been registered in the state of Nebraska, and they have a location to check if a product and its label have met the legal requirements of showing active ingredients of the product. We realize that removing this requirement would eliminate some work and the cost for the Nebraska Department of Agriculture. However, we also believe that there is a protection with the requirement of registration. Thank you for allowing me to testify today. If you have any questions, I would be happy to answer them. Respectfully submitted, Jeff Pribnow, Nebraska Agri-Business Association. [LB109]

SENATOR CARLSON: Okay. Thank you, Jeff, for your testimony. Do we have questions? Senator Lathrop. [LB109]

SENATOR LATHROP: I just have a very simple one. Are you here today for your business or for your entire association? [LB109]

JEFF PRIBNOW: For the association. [LB109]

SENATOR LATHROP: So the entire Nebraska Agri-Business Association feels the same way you do or you're expressing their view on the bill? [LB109]

JEFF PRIBNOW: That is correct. [LB109]

SENATOR LATHROP: Okay. [LB109]

SENATOR CARLSON: Any other questions? I want to go back to page three. This could be, in my mind, a point that I think you've made here. Even though the bills do not relieve the manufacturer of these products from labeling, the seller of one of these

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

Agriculture Committee
January 18, 2011

products, particularly soil conditioners, could be long gone before an inspector could determine if the product is registered properly in the state. So we have registration, which you want to keep as a part of the policy, and then we have truth in labeling. So keeping that, does that still prevent this from happening? [LB109]

JEFF PRIBNOW: That's a good question and products come and go so fast on some of these newer stuff and especially on the soil conditioner side, probably not on liming, that I don't know that everybody is...has found out about it before it's come and got registered. And it probably...the legislation, I don't know that it would...I guess we want them to be all registered so the farmer is actually paying for what he gets. That's the main thing. [LB109]

SENATOR CARLSON: Well, you want them all registered, I understand that. But you have truth in labeling and in an inspection if the department determines that there's a discrepancy there, they're going to act on that. So I'm still having difficulty seeing how that the registration requirement itself really enhances this whole thing to make sure that the truth in labeling is followed. And I'm not...I'm trying to ask a hard question, I'm not...we're going to cooperate and work as a committee because that's what we're here to do. But help me see a little bit more why this really is important. [LB109]

JEFF PRIBNOW: Well, as an industry, I think it's very important that the grower is...again, he is getting what he pays for and there's something that's not misrepresented when it's put on his land that he pays more and it's not really worth what he pays. That's the concern. [LB109]

SENATOR CARLSON: So I'd say that the goal is the same. It's just a matter of how we get there and what's necessary to get there, would that be fair? [LB109]

JEFF PRIBNOW: Yeah, that would be fair. [LB109]

SENATOR CARLSON: Okay. Thank you. Any other questions? Okay, thank you for your testimony. Anybody else testifying in opposition? [LB109]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record my name is John K. Hansen, J-o-h-n H-a-n-s-e-n, and I appear before you today as the president of Nebraska Farmers Union. We are, obviously, as a general farm organization interested in making sure that the products that we buy are, in fact, the products that we thought we bought. And so the labeling part of this process, keeping it in place, is very important and we are comfortable with that part of it. We're less than confident or comfortable with relieving the manufacturers, the distributors, of having to register their products. And it would seem that in the check and balance of how this process works, as best as we can figure, that you have a registration, you have a label, you have a test that's done up-front to make sure that the product actually meets the label requirements. And then

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Agriculture Committee
January 18, 2011

the fallback is that you hope that you have enough field staff that you're doing checks out in the field to make sure the product that's being used is actually what the product is supposed to be. I used to be a fertilizer dealer for 20 years. I've never had anybody ever inspect anything I ever sold in 20 years. I suspect that our inspection system is not what we call robust. There's lots of product that's delivered directly to large customers anymore. So at the point at which the department would catch somebody selling a product that wasn't what it was supposed to be would be pretty much after the fact anyway. So it would seem, if our understanding of how the process works is correct, which it might not be, but if it is correct, it seems like there is a reduction in the amount of confidence that our farmers might have in the label of a product. And so if we're not saving significant amounts of money, the amount of risk that we take probably doesn't justify moving forward until at least those concerns could be addressed. And with that I'd be glad to answer any questions in the off chance that I could. [LB109]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Hansen? Yes, Senator Harr. [LB109]

SENATOR HARR: Thank you, Senator Carlson. How is this process done in other states, if you know? [LB109]

JOHN HANSEN: I do not know. [LB109]

SENATOR HARR: Okay. [LB109]

JOHN HANSEN: I'm sorry, but I don't. [LB109]

SENATOR CARLSON: Okay. And we'll try to find that out, so. Senator Lathrop. [LB109]

SENATOR LATHROP: I maybe want to take a stab at the question Senator Carlson had which...John, if...the statute still requires that the distributor register their product, right? Or that their label be...that they have a label and that the label represent what's inside the bag or what's being delivered. And I think the question that we have as we address whether we should repeal the requirement that somebody mail in their label to the department is, what's that...is that a redundancy? Does it add anything to the process to assure that farmers are getting what they think they bought? In other words, there's a label on the product that they buy regardless of what we do here with the registration. There's supposed to be some level of inspection. What's the registration of that label add to this process? [LB109]

JOHN HANSEN: Well, Senator, it would seem to me that both as a consumer, but also as a fertilizer dealer, it provides a certain measure of confidence that someone would have first of all said, okay, we're going to do business in Nebraska, we're going to sell this product and we are registered and we've sent in a label and tests have been done

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

Agriculture Committee
January 18, 2011

to make sure that we have at least met our label requirements. [LB109]

SENATOR LATHROP: Don't they have to be licensed right now, though? I think the act requires that they be licensed already, right? [LB109]

JOHN HANSEN: Well, yes. [LB109]

SENATOR LATHROP: So all we're doing is having them mail a label in? [LB109]

JOHN HANSEN: I'm not sure about that particular part of the process. The thing that kind of caught my eye as I went through and as I thought through the process was, are we encouraging a situation where, you know, in the heat of battle, during the course of the season, as supplies get tight you fill in with different sources from different places. Are you... [LB109]

SENATOR LATHROP: But even if they do, even if they do, aren't they going to have a label on the bag of the stuff they're selling to the producer? [LB109]

JOHN HANSEN: Yes, they are. [LB109]

SENATOR LATHROP: And that, that...regardless of whether we pass this or not, they're still required to have the active ingredients labeled...on the label of the bag, am I right? [LB109]

JOHN HANSEN: They are. It, I guess, gets to the business of whether or not you've got enforcement and whether or not this bill would strengthen or weaken enforcement. And my concern is that doing field tests of product, I would hate to wager just what percentage of products actually get field tested. [LB109]

SENATOR LATHROP: But that's a problem independent of what this bill is addressing, isn't it? [LB109]

JOHN HANSEN: Sure. Sure. [LB109]

SENATOR LATHROP: And so if you still have to have a certain label, a true label, an accurate label on the bag of whatever this stuff is, mailing the label over to the department, what's that add to it? I understand the question Senator Carlson had and I...what I don't understand is your opposition. Presumably, there's some enforcement piece or some part of policing this process that you think this adds something to it and I'm missing it. [LB109]

JOHN HANSEN: Well, it would seem that the up-front part would be that you had to meet the license. The licensee would have to meet the label requirements up-front

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

Agriculture Committee
January 18, 2011

earlier in the process. That would be check one. And then check two is whether or not they actually do it out in the field. That would be my understanding. And so if they can't meet at level one, they probably aren't meeting at level two. But you have at least.... [LB109]

SENATOR LATHROP: So what you're suggesting is, that there are certain things that need to be in the label and at least by making him mail one in to the department, the department looks it over and says, yeah, this label meets the requirements of a label regardless of the whether the bag's full of sawdust or lime. [LB109]

JOHN HANSEN: Yes. Right. Yes and I...we're certainly open to discussions, but if we're not saving a bunch of money, we want to make sure that we're also not just stopping doing something that actually provides a major protection that is useful. I mean, there's a reason why we were put in a position as an industry where we came to the Legislature to ask the department to do these kinds of things because we were buying stuff that just simply wasn't what it was. And that's... [LB109]

SENATOR LATHROP: But that's kind of what needs to happen out in the field where the department goes out, opens a bag, and tests it. [LB109]

JOHN HANSEN: It would seem to me that it ought to happen both places. And as me as a consumer, as a dealer or as a customer, if I have some questions about whether or not somebody is reputable or not, it would be helpful to know that they met the label requirements up-front rather than after the fact, I think. [LB109]

SENATOR LATHROP: Okay. [LB109]

SENATOR CARLSON: Okay. Any further questions? Senator Larson. [LB109]

SENATOR LARSON: Mr. Hansen, you have discussed how you want the first check on this, the label requirements and how it offers so much to producers. What do you think...do you think that they should also send a sample along with the label for the Department of Agriculture to look at to make sure that it is what it says it is? [LB109]

JOHN HANSEN: Oh, I assume that the department does something to make sure that the label is what it is supposed to be. And if that's not the case, then I'm open to further discussion, but my assumption is that there's some sort of process to make sure that the label is consistent. [LB109]

SENATOR LARSON: Well, I'm not sure if they do or not. [LB109]

JOHN HANSEN: And I'm not either, Senator. [LB109]

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

Agriculture Committee
January 18, 2011

SENATOR LARSON: But if they don't already, I think we do have a redundant process at this point. And I'd have to question, you know, do we need...unless the Department of Agriculture is taking an actual sample, you know, do we need to have this extra level and, you know, maybe the time and cost savings are justified. [LB109]

SENATOR CARLSON: Okay. Yes, Senator Brasch. [LB109]

SENATOR BRASCH: My understanding would be that the registration is for accountability of the licensee showing that they're accountable for the product, the lime that's delivered. That if there's a discrepancy, you can say this was delivered but that's not what you registered. Is that part of the process? Is that what you're believing holding them accountable by the registration to what is actually delivered to the co-op and out to the field? Whether it's by the ton or that's the purpose for that one piece. It's a safety measure or an accountability piece, holding their feet to the fire on that basically. [LB109]

JOHN HANSEN: Well, yes, Senator, and making sure you know who is actually doing what where to sample and those other things. And I...my understanding of the particulars are not as good as they should be. But the fact that the fertilizer and chemical dealers looked at it and it raised concerns with them, raised concerns with us, because they deal with it in a lot more intimate basis than we do. Our interest is to make sure that you're actually not weakening the credibility and the confidence level in the inspection process. And that we don't want to set a precedent where we just go back down the road and we get back to where it is, where we started. And, you know, there were substantial problems. And, you know, and quite frankly there is some very reputable companies and there is also some folks that would cut corners if they had the opportunity to do so in this area. And so we want to make sure that we're as straight up with our producers as we possibly can. So we're open to discussions about how all the particulars of this goes, but I wanted to mostly...I debated, Senator Carlson, I thought it was too early in the session for me to come in, in a neutral capacity. (Laughter) I thought I would wait until later into the session when I had been beat more to a pulp, that I would come in, in a neutral capacity. But I thought the chances of the department working with the fertilizer and chemical dealers were substantially better if I came in, in the negative position. [LB109]

SENATOR CARLSON: Okay. Senator Harr. [LB109]

SENATOR HARR: Okay. Thank you, Senator Carlson. And I'm a greenhorn, I know, young buck, I don't understand everything. So I just want to review what the process is and make sure I have it right in my head. As I understand it, a dealer would...or excuse me, a fertilizer company would first register with the state. It's my belief that I don't believe that there's a testing done of the fertilizer at that time, but it's more to create a record of, hey, this is what we represent our fertilizer that we sell is. It's X amount lime.

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

Agriculture Committee
January 18, 2011

It's then sent out to the field. And that's just for registration and for recording purposes, no testing. Then you don't normally buy lime by the bag but rather by the truckload. So, therefore, there wouldn't be a label on a bag. So if a farmer had a question, hey, what are you selling? They can then call in to the Department of Agriculture and say, hey, here is where it is, this is what the percentage is if this is brand X. Is that the purpose of this, as you understand what the purpose of the statute is now? [LB109]

JOHN HANSEN: I think that's as good of a story as any, Senator, on how it works. And also, you know, while you're, you know, in the middle of season, supplies of things change and so you might sell three different cuts, three different products that came from the same company that had different levels of product in it. And so my quest will be to sit down with the Department of Ag in more detail and ask more of those kinds of questions of just exactly what are we doing here. And if we're convinced that we're not going to reduce any of the protections to our farmers, we're more agreeable. [LB109]

SENATOR HARR: And that's my follow-up. If I may follow-up then, so what this would do was get...now let's say, this is important if there is ever a dispute as to what is delivered or what was guaranteed to be delivered, is that the purpose of this as far as I can tell? So that down the road you say, oh, by the way, this was only 25 percent lime and I asked for the 50 percent lime, well we can go, here's what's on record of what is supposed to be delivered if this is product X. Is that my understanding of this? So if this is eliminated, there might be dispute as to what the record should be, product, what product X should be? [LB109]

JOHN HANSEN: It would seem that if it were more...if it were...you had the up-front part of it, then you have a more clear test against what it is that it was supposed to be when it actually gets sampled further downstream. [LB109]

SENATOR HAAR: So if there was a dispute, now we have this as what it was supposed to be. So if there is future litigation or whatever, we know what the standard is supposed to be, is that correct? [LB109]

JOHN HANSEN: I would assume so. But I would suspect in this area that there's not going to be much litigation, not over lime. (Laugh) Our concern is, as you get into the more expensive items that you're actually, you know...I wouldn't say the lime isn't worth fighting over, but it's more the precedent that comes with it, because there's a lot of other things that are more expensive and are worth fighting over. [LB109]

SENATOR HARR: Thank you. [LB109]

JOHN HANSEN: Thank you. [LB109]

SENATOR CARLSON: Okay. Senator Bloomfield. [LB109]

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

Agriculture Committee
January 18, 2011

SENATOR BLOOMFIELD: My question would be, from limited experience, I order a load of lime, the co-op brings it out, it's on the field an hour and a half later. Nobody has any idea what the label said or any way of proving what was in the product at that point. I don't see where the additional labeling that we're talking about removing is doing anybody any good. [LB109]

JOHN HANSEN: Well, you may be right. On the other hand, if it provides a measure of confidence for the dealer to make sure that what you're getting hauled out there is right, well, then that's where our issue comes in. [LB109]

SENATOR CARLSON: Senator Lathrop. [LB109]

SENATOR LATHROP: I have a...I know this is...the city guys are making their ignorance, well, it's on display today, but if you're buying this stuff at the co-op, maybe you know the answer to this, John, I assume you do. If you're buying this stuff by the truckload at the co-op, how does the producer ever see what the label looks like? Do you get it on a bill or does the co-op bring something out and say, this is what you get? Do you know the answer to that? [LB109]

JOHN HANSEN: Well, normally when you call up, you would say, I need to lime this quarter or I need to lime these patches or, you know, spots or whatever. And the dealer would say, okay, I have...you know, I can get lime in or I have lime on hand, here's what I have. And then, you know, based on whether it's more or less, you know, what percentage it is, that should be all factored into based on what your soil sample said you needed. [LB109]

SENATOR LATHROP: My question, though, is about the label that would come with a truckload of lime. [LB109]

JOHN HANSEN: You wouldn't see the label. You would more likely ask what they had and it would be more a matter of trying to take what percentage you had and balance it against the soil test to make sure that you ended up with approximately the right amount of lime based on availability and percentage and the application rate. [LB109]

SENATOR CARLSON: Okay. Any other questions? All right. Thank you for your testimony. You got more than you bargained for today, Mr. Hansen. [LB109]

JOHN HANSEN: Well, it was quite an inaugural tour for me as well as members of the committee. Thank you. [LB109]

SENATOR CARLSON: Okay. Do we have anybody else in opposition? Welcome, Alice. [LB109]

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

Agriculture Committee
January 18, 2011

ALICE LICHT: Thank you. Good afternoon, Senator Carlson. My name is Alice Licht, A-l-i-c-e L-i-c-h-t, also representing the Nebraska Agri-Business Association. I was preceded by our vice chairman, Mr. Pribnow. I was not intending to testify today, but I just thought I would address a couple of questions. The fertilizer industry, if you could liken this a little bit to a pharmacist, it might make a little bit better sense for you. When FDA licenses drugs, it gives the pharmacist, which an ag retailer is, an opportunity to call FDA and say, we have Tagamet. We've gotten a shipment in and it says it's 18 milligrams or 100 milligrams, dah-dah-dah-dah-dah about this product. Is this licensed with FDA, is it the appropriate dosage? It's not that exact as medicines but it's very similar because ag retailers go out and take soil samples and you'll hear a lot about that more in this session. And they prescribe for land, whether it be fertilizers, which are nitrogen, potassium, and phosphorus, or trace elements, iron, zinc, various things the plants need. They prescribe lime predominantly in the eastern part of the state because of soil acidity, and soil conditioners which can be additional things that provide for acidity. I learned of a new one today. Is it humeric or humic acid that they use in the western part of the state that they take from the top of coal mines and they put it in furrows. And we're enhancing plants now, bigger, and doing things that we've never done in the past before on crop yields. And we're finding that we're treating plants very much like we treat humans with nutrients. And so we were very thankful the department is willing to work with us on this because granted, out in the field, if the label is on the product that is a stopgap. But Senator Wallman and I discussed this, this morning. We remember some years when fertilizer prices get high, when crop prices get high, there are opportunistic people who will come into the state and tell farmers, gee, we've got this stuff that makes water wetter and I remember it well. It was Oxydol soap mixed with water, wasn't it? And you put it on your plants and, yes, it made water wetter because it had some phosphate in it. And those are the things that we're concerned about. And so if you think in terms of prescribing, like you do medicine, our people sell these products. And we're not belittling soil conditioners, although there are some that are bad. But it gives us a stopgap to call in and say to the department, here's a product ABC, tell me what the label they registered with you on it. And if they registered a label, and I just asked Rich if it says 0 percent, 0 percent, 0 percent of nothing, at least I know I'm getting nothing. But out in the field, they may have switched that label and said, oh, this has got 10 percent this, 7 percent that, those people who are going to bilk farmers are going to do that. They may register that label with the department as something else, go out in the field and sell it to them, they're from Oklahoma City, you'll never see them again. And before the department can even get out and inspect, because they're inspectors, they don't have enough to be there on call 24 hours a day, somebody can get hurt. And so we're willing...we're very thankful the department wants to sit down with us. We have offered if we need to up our tonnage tax a little bit on fertilizer to help them pay for this, we are more than willing to do that. But those are the reasons that we are concerned that something might be out there. The label they put to the department, for example, on lime has to show the calcium carbonate equivalent. And if out in the field

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

Agriculture Committee
January 18, 2011

that label doesn't say that, you've got a countercheck on it. And in answer to the question on, are these things in bulk labeled, they are required. And Rich, I'll ask you, on their invoices to list the equivalency when they sell them to the farmer. You may not see it, Senator, the day it comes out in the field but you probably get it when you get your bill, the equivalent. So I don't know if that answers your question a little bit, but we sell those products too. And our concern is, is what's in the field really what they registered with the department because they would check what's on a label, and something out in the field may have an entirely different label. [LB109]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Senator Larson. [LB109]

SENATOR LARSON: Thank you, Alice, especially for your explanation. How many, guessing, how many calls are there a year into the Department of Ag requesting what is...or in terms of the labels and what these labels are? [LB109]

ALICE LICHT: You know, I would not have an answer to that. They could answer. I know that we get a lot of calls, not so much on what's on the label but is this person bona fide to sell in the state, whether it be fertilizer, and we'll turn those over to the department. But you would have to ask them. I don't know how many they do. [LB109]

SENATOR LARSON: Okay. And how many sellers or people are you representing in terms of Agri-Business? [LB109]

ALICE LICHT: We have 650-some members of the association. Of that, approximately, nearly 400, it might be 375, are retailers, who retail to the farmers. The rest would be manufacturers and equipment people. [LB109]

SENATOR LARSON: Thank you. [LB109]

SENATOR CARLSON: Okay, any...yes, Senator Brasch. [LB109]

SENATOR BRASCH: Is registration electronic? Is it something they have to put a stamp on, mail in? Can they just get on-line, and...no? [LB109]

SENATOR CARLSON: We've got to keep our questions to who is at the... [LB109]

ALICE LICHT: I'm assuming that a label is sent in and is kept at the department, whether they are in an electronic position or not, I would ask you to ask them at this point. [LB109]

SENATOR BRASCH: Thank you. [LB109]

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

Agriculture Committee
January 18, 2011

SENATOR CARLSON: Any other questions? Okay. [LB110]

ALICE LICHT: Thank you. [LB110]

SENATOR CARLSON: Thank you for your testimony. Anyone else in opposition? Anyone testifying in a neutral position? Hearing none, thank you for your testimony. We'll close the hearing on LB109 and proceed with LB110. I'll ask Rick to open again. [LB110]

RICK LEONARD: Thank you, Senator Carlson and members of the committee, and my time sheet is handed in to Barb, or my sign-in sheet. Again my name is Rick Leonard, research analyst for the committee. That's L-e-o-n-a-r-d. Again LB110 is very similar to the bill we just heard, LB109. We heard a lot of testimony that's probably applicable to both bills. The products are a little bit different, but LB110 again, the primary thrust of the bill is that it would remove...amend Nebraska Fertilizer and Soil Conditioner Act to remove a requirement that soil conditioner products be registered with the Department of Agriculture as a condition of distribution in the state. Again this does not eliminate the licensing of distributors as well as the label requirements disclosure statements and requirements and guarantees that are required to be on the products. And again with products delivered in bulk, the statute does provide that similar statements of disclosure be...accompany the documentation that accompanies the sale of that product. Let's see, oh, LB110 does have one small additional feature in that it clarifies the late inspection filing fees assessed by statute are for reimbursement of additional administrative expense in collecting the underlying inspection fee. This is a clarification of that. My understanding is that that clarification reinforces and does not change the current distribution of any late filing fees that are collected. Again the articles that I pointed to you as additional reference items that were in the front folder, those apply to both LB109 and LB110, and I conclude my statement. [LB110]

SENATOR CARLSON: Okay. Thank for your introduction. Any questions of Mr. Leonard? Okay. Thank you. And now we're ready to hear proponent for LB110. [LB110]

GREG IBACH: (Exhibit 1) Senator Carlson and members of the Ag Committee, again I am Greg Ibach, G-r-e-g I-b-a-c-h. I am the director for the Nebraska Department of Agriculture. And again I want to thank you for...thank Senator Carlson for agreeing to introduce this bill on behalf of the department. I still have Rich Reiman available to answer more technical questions that may come up as we discuss the merits of LB110. LB110 would amend the Nebraska Commercial Fertilizer and Soil Conditioner Act which is administered by the Department of Agriculture. In LB109 that we just discussed, lime and lime amendments have very specific active ingredients that farmers are looking at applying to their land, and utilizing soil conditioners probably are at the opposite end of that spectrum where they may have scientifically proven benefits or benefits that may be in products that I might should have used a few years ago that would have retained

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

Agriculture Committee
January 18, 2011

my hair a little bit to a higher degree, but perceived benefits as opposed to scientifically proven benefits. So there are some additional challenges here with soil conditioners. LB110 amends the act by removing the requirement that all soil conditioner products be annually registered with the department very similarly to LB109. The department again deems such registration to be redundant and unnecessary. Department staff are trained to review the labels at distribution points to make certain labeling requirements are met and are in compliance. And, thus, what the department proposes by this, changes again to eliminate the desk audit of the registrations filed and instead concentrate on reviewing the labels on the products in the distribution chain. This is a more accurate review of the actual product to be sold to the consumer and the label on such product. In addition, due to the reduction in department staff, the work involved in registering these products is not the most productive use of limited resources. Eliminating the registration requirement harmonizes the provisions for the soil conditioners with the provisions for the commercial fertilizer and commercial feeds which also, you know, they don't register those fertilizers or register those feeds up-front. But we will, upon our inspection process, take samples to make sure that the label is consistent with what the product that the farmer/consumer is receiving. And there is no registration again for those products. Just as in LB109, this still retains the requirement that people that sell soil conditioners into the marketplace would obtain a license which would include notification to the public of where they're located and where their business is headquartered out of. LB110 also clarifies the labeling requirements for soil conditioners. Soil conditioners shall be labeled with either the name and address of the manufacturer or the person guaranteeing the product to provide additional information to either producers or those partners, industry partners with producers who help them in delivering these products to their fields. The current law is somewhat confusing as to what information needs to be on that label. And finally, LB110 clarifies that late filing fees, as Mr. Leonard referred to, are collected by the department are to cover the administrative costs of collecting and reminding those people to register. And they're not submitted as...when their inspection fees aren't submitted as required by statute. And the language makes it clear in the act that the intended reason for and use of the late filing fees are to cover those costs of collecting those inspection fees. Again I'd like to point out that, you know, I think the industry and the department have the same goal. We want to make sure that consumers, in this case again, farmers and industry representatives and partners of those farmers, are not taken advantage of by fraudulent activities or fraudulent products. And so, you know, we, again, understand that the industry has concerns about the registration, and we hope to work with them to help them understand the department's position as well as address their concerns. And so, you know, we'd also like to work with the committee and ask that your consideration be given. We would like to be a partner with the industry as we move this legislation forward. And so that would conclude my testimony, and I would be happy to answer any questions or ask Rich to come forward if we get too technical on questions. [LB110]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions of Director

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

Agriculture Committee
January 18, 2011

Ibach? Senator Lathrop. [LB110]

SENATOR LATHROP: Director, I understand the lime thing because that seems to be everybody uses that. You got to change the pH in the soil. I get that much. This stuff, soil conditioner can be not all, but a scientifically proof would be helpful, right? [LB110]

GREG IBACH: I think that's a fair statement, yes. [LB110]

SENATOR LATHROP: And I'm wondering if that doesn't make this a different bill than the last one in this sense. Does the Department of Agriculture...let's say that the label that I send in is a soil conditioner is 100 percent sawdust and it doesn't do anything, assuming that sawdust does nothing for that to condition the soil. Would the department look at that and say, wait a minute, this guy is selling snake oil? [LB110]

GREG IBACH: The label would come in and it would say what kind of ingredients it has. I think Rich has an example of the label with him. And, you know, we would not pass judgment on that as to whether or not we think that it is a wise purchase. We would simply look at it and say, yeah, he's... [LB110]

SENATOR LATHROP: Well, wise purchase can be whether or not it's overpriced too. [LB110]

GREG IBACH: Yeah. [LB110]

SENATOR LATHROP: My question is whether or not you pass judgment on whether it's effective as an additive to the soil for a producer. [LB110]

GREG IBACH: No, we would not pass judgment on that either. That's what I meant by wise... [LB110]

SENATOR LATHROP: Okay, once they send this label in that it is an additive, you don't say, this is nonsense. [LB110]

GREG IBACH: We also, you know, would not...we don't request a sample to be sent in with the label either so there's no up-front testing but, you know, that would be...if a company is wanting to defraud a producer, you'd probably send in the accurate sample and then just do something different in the distribution chain. But we do not take a sample up-front with the registration. [LB110]

SENATOR LATHROP: Okay. [LB110]

SENATOR CARLSON: Okay. Senator Harr. [LB110]

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Transcriber's Office

Agriculture Committee
January 18, 2011

SENATOR HARR: Thank you, Senator Carlson. So the purpose of this again, and I asked this earlier, is basically so they're on record of saying what their product is. So that, for instance, if it is 100 percent sawdust, and they sell it as an X-grade saying, hey, we told you it was sawdust. Is that pretty much basically the purpose? I'm still trying to understand conceptually what the underlying purpose of this statute as it's currently written is. [LB110]

GREG IBACH: Well, I think that's a fair question. I think that's part of what we, as the department, are asking and have suggested that we are...we don't see where the consumer gains a benefit from this part of the statute. And so we think that it's, by the fact that we look at labels and look at actual product and take samples at different times, we think we are looking out for producers. I'm a producer myself for those of you that are new to the Ag Committee that may not know my history. I have an active farm and ranch in central Nebraska. So I'm a citizen as well as a servant and, you know, I am as concerned in my operation that when I purchase feed, fertilizer, or soil conditioners that I receive what I think I am buying. And so as I approach the regulatory process in the department, I want to put together a process that protects me on my farm and ranch as much as holds...as any other producer in Nebraska. [LB110]

SENATOR HARR: So the concern to me would seem to be not that the Department of Ag is doing too much but, perhaps, is not doing enough. [LB110]

GREG IBACH: In some of the testimony under the previous, under LB109, you know, some of the suggestions of what might be appropriate would actually be an expansion of what we're currently doing that would, you know, make it seem like you were getting some type of assurance or analysis up-front that we do not do now. [LB110]

SENATOR HARR: Okay. So I guess the issue at this stage of time is to get rid of the registering. Would there be more time for testing and would you take advantage of that time for more testing? [LB110]

GREG IBACH: We would by not having to, you know, go through the registration process, that would free up employees' time. Now whether or not, you know, I don't think I would...I don't think we are not sampling enough right now. I think we are doing an adequate job in taking enough samples. There may be other jobs or statutes that the department may need to spend more time on that we're not asking to be repealed because we feel they're valuable, that the plant division would spend time working on. It may not be necessarily more testing of limes or soil conditioners. [LB110]

SENATOR HARR: Thank you very much. I appreciate that. [LB110]

SENATOR CARLSON: Okay. Any other questions? Yes, Senator Larson. [LB110]

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

Agriculture Committee
January 18, 2011

SENATOR LARSON: Thank you, Director Ibach. You already answered my question on whether you sample all the new registering and I asked this question on the last bill. How many calls a year do you get from retailers asking, you know, what exactly is registered? [LB110]

GREG IBACH: If I read Rich's hand signals right when that question was asked before, it's one or two, so not very many. [LB110]

SENATOR LARSON: One or two a year, okay. And so...and the estimation of the Department of Agriculture, you know, what is the time and cost savings from a result of eliminating this requirement? [LB110]

GREG IBACH: You know, I think that, you know, over the course of the last few years and the budget cycle that the whole state has gone through, you know, we used to have the luxury as a state agency to measure cost savings and is this significant cost savings. And you know, that meant that they were large dollar amounts. You know, we're now under a, you know, tight enough in matching our staffing resources to our statutory requirements that any type of savings or reduction of redundancy makes our department able to focus more on those tasks that we think are of a higher priority or actually provide valuable services to the constituents of the department. And so, you know, I haven't quantified them, you know, and I don't know that that would necessarily be easy to do. But I think that, you know, we're trying to make government efficient and effective and, you know, anytime that we can identify something that is less than efficient or effective, I think it enables us to do a better job at what we think is efficient and effective. [LB110]

SENATOR LARSON: And if these were, you know, if the registration were to be eliminated, and would the department still be capable to answer those one or two calls a year to go out and check what is being requested of them? [LB110]

GREG IBACH: What we would be able to answer is, you know, they would call in and say, XYZ Company has this soil conditioner they're offering us. We would be able to say, yes, XYZ Company is registered with the department. We wouldn't necessarily, you know, vouch for their product. It's just like a feed right now. We would say that XYZ Feed Company is licensed but we, you know, as a producer I may have a custom mix I asked be made for a feed and, you know, we wouldn't have to have them register that product prior to selling me my custom mix. [LB110]

SENATOR LARSON: Thank you for your testimony. [LB110]

SENATOR CARLSON: Okay. Any other questions? Senator Brasch. [LB110]

SENATOR BRASCH: Do you think maybe the registration process gives a false sense

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

Agriculture Committee
January 18, 2011

of security to the producer if it's registered with the state, then it's got to be good? Where you're just saying, if it's registered, it's registered. And you don't validate that the content, you know, other...do I understand that? [LB110]

GREG IBACH: From listening to the testimony of the opponents on LB109, I think that there is a perception that the department does more with those registrations than we do. [LB110]

SENATOR BRASCH: Right now, it's just a log of who sells it, not is the product (inaudible). Does it address certain... [LB110]

GREG IBACH: It's a log of the products that they send in a registration on, yes. [LB110]

SENATOR BRASCH: And perhaps what that would do is put more responsibility in the hands of the producers and the co-ops on what the yield is, what the results are, what, you know... [LB110]

GREG IBACH: I don't know that it changes the responsibility or shifts it from the department to the consumer any more than it does now. [LB110]

SENATOR CARLSON: Okay. Any other questions? I have one, because it came up a little bit. It was either stated or insinuation was there that if with registration you required a sample, now you made the statement they could send in a different sample than what they sell, but that could be true whatever the law is. But assume that a sample was a sample of what they sell and you tested that, we're talking about a big expansion, is that fair? [LB110]

GREG IBACH: That's correct, yes. [LB110]

SENATOR CARLSON: And we're just not in that climate right now unless there was an awfully good reason for an expansion of testing and services, would that be true? [LB110]

GREG IBACH: Assuming that...okay, we'll make some assumptions. Assuming that we're in, you know, a no-growth state budget or, you know, department budget for this program. If we receive samples with the registration, had to test those, that would require us to reduce the number of field testing we did because we have X dollars for X number of samples. [LB110]

SENATOR CARLSON: Okay. And the other question would be, you made a statement, I don't think you did on LB110, but on LB109 you'd prefer that that be held in committee. Is that your thinking on LB110? [LB110]

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

Agriculture Committee
January 18, 2011

GREG IBACH: It's my desire that we don't have conflict with the industry. We need to work together and make sure that they're comfortable with this process. We...you know, I think the exchange that we've had today through your questions and through the information that's been able to be shared, you know, I'd be interested to talk with the industry afterwards to see if we've made any progress. But I, you know, ultimately, you know, the committee, you have the power to do what you think is right as well. And so it was probably inappropriate for me to, you know, necessarily ask you to hold it in committee, but I would like to, from a department standpoint, I would like to try to gain the industry's consensus. [LB110]

SENATOR CARLSON: Okay. Thank you. Any further questions? Okay, thank you for your testimony. Any other proponents? Now, opponents? [LB110]

JEFF PRIBNOW: Thank you, Chairman Carlson and members. I've already stated my claim. [LB110]

SENATOR CARLSON: State and spell... [LB110]

JEFF PRIBNOW: Jeff Pribnow, P-r-i-b-n-o-w. [LB110]

SENATOR CARLSON: And I'd ask you not to repeat what you did before even though I said stay on LB109, but you really testified for both. So if you've got something different to... [LB110]

JEFF PRIBNOW: I don't have anything different. Thanks. [LB110]

SENATOR CARLSON: Okay. Thank you. Well, are there any questions? Okay. Thank you. Any other opponents? Anyone testifying in a neutral position? If not, we appreciate the testimony today and I think that I've...we've sensed a willingness for the groups to get together and discuss these things and we encourage you to do that. That will then close our hearing on LB110. Thank you for coming. Committee, I would ask for an Executive Session for a little bit, if we can have that. [LB110]