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Agriculture Committee November 6, 2020
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HALLORAN: Good afternoon, everybody. If I could have your attention, we should start the hearing. If we could all find seats, socially distanced?

HILKEMANN: I'm just doing fine, thank you, just doing great.

HALLORAN: If we could find our seats, please.

BRANDT: Hi, Mike.

MOSER: I'm the last one to sit down.

BRANDT: How are you doing?

MOSER: Good, how are you?

BRANDT: Good.

HILKEMANN: How are you doing?

_____ : Great.

BRANDT: Hopefully not as bad as you had it.

HALLORAN: OK. Good afternoon, everyone. Welcome to the Agriculture Committee. I'm Senator Steve Halloran. I am from Hastings, Nebraska, and I represent the 33rd Legislative District. I serve as Chair of this committee. The committee will take up LR380 as proposed by Senator Tom Brewer, Legislative District 43. LR380 proposes to examine the feasibility of creating a state meat inspection program. More broadly, this study will explore the feasibility and options for any state role in enabling and encouraging a more robust, small community meat processing sector, increasing capacity and provide options for producers to serve a larger customer base. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on this proposed legislative resolution before us today. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your phones. Please move to the reserved chairs when you are ready to testify. Those are the two chairs on either side of the senator in the front here. The introducing senator will make an initial statement, followed by potential questions from committee members. This will be followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on

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the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print it and it is important to complete the form in its entirety. When your-- when it is your turn to testify, give the sign-in sheet 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's a separate white sheet in the table at the back [INAUDIBLE]. If you have handouts, please give them to the committee clerk when you come up to testify and he will distribute those to the committee. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We will be using a light system for all testifiers. You will have five minutes to make 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 of support or opposition to the bill or resolution, vocal or otherwise, are allowed at public meetings. There are several committee members with us here today. I'm going to start to my left. Senator Moser, if you would introduce yourself?

MOSER: I am Mike Moser. I represent District 22, that's Platte County, a little bit of Colfax County, and some of Stanton County.

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

HALLORAN: I might add Senator Brandt is Vice Chair for the committee. To my far right, we have an ad hoc guest committee member. He's not actually on the Ag Committee, but he's a senator for the Legislature. Senator Rob Hilkemann, please introduce yourself.

HILKEMANN: Hi there. I'm Senator Robert Hilkemann. I represent District 4, which is Omaha, and I grew up on a farm and my dad was a beef producer, so this is an area of very-- of high interest to me.

HALLORAN: To my right is the committee research analyst, Rick Leonard, and to-- behind me back here, fixing hamburgers, is the committee clerk, Rod Krogh. Medium rare, please. I did make a mistake. We will not be any-- resolution-- we will not have proponents and opponents and neutral so let us proceed. This was a legis-- legislative resolution submitted by, sponsored by Senator Tom Brewer. Senator Brewer called me this morning and unfortunately, he's been exposed to the COVID and chose to err on the side of protecting everyone's, everyone's health and so he is not here today, but in his place is his

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legislative aide, Tony Baker, who knows this subject very well. And so I would like to have Tony Baker come forward and give his presentation.

TONY BAKER: Thanks, Senator. If you're here to testify for this, you've got to fill one of these out and turn them into that fellow, just telling you.

HALLORAN: Good afternoon.

TONY BAKER: Good afternoon, Senator. Hello-- oh, my. Well, Senator Brewer had a nice speech prepared, so I think I'll just read it for you gentlemen. Thank you, Chairman Halloran, and good afternoon to the senators of the Ag Committee and Senator Hilkemann. I'm Tony Baker, that's spelled T-o-n-y B-a-k-e-r, and I am Senator Brewer's legislative aide. He represents 13 counties of the 43rd District in western Nebraska where he just won reelection. I'm here to introduce LR380. First, I'd like to thank Senator Halloran for agreeing to do this interim study. I also want to thank everyone who came today, starting with my fellow senators on the Ag Committee. Remember, I wrote this for Senator Brewer. Thank you all for taking the time to be here. Last but not least, I'd like to thank all the folks in attendance and especially those that are going to testify today. Thank you all for coming. My remarks will be brief because I want to listen to the testimony and learn more about this proposal. This interim study is about Nebraska becoming the 28th state with state meat inspection. You can say this is about turning our state meat inspection program back on because we used to have state meat inspection in Nebraska and 1971 is when it was ended. The Federal Meat Inspection Act in 1967 and '68 required all meat sold to the public to be inspected. Up until that point in time, meat sold to the public was inspected by state governments. After this federal law passed, many states decided to let the federal government handle this task and save the trouble and expense of running their own state meat inspection programs. Like a lot of things, this made a lot of sense at the time. Since then, it's become increasingly difficult for the small-town meat locker to navigate the federal bureaucracy and get a federal meat inspector. The USDA Food Safety Inspection Service has its hands full with the large industrial packing facilities that slaughter 4,000 or 5,000 animals a day and find it difficult to staff positions in remote, little towns that may only slaughter a few animals a day. This is where I think having a state meat inspection program in Nebraska should be focused. Large facilities should continue to be inspected by the USDA, but small plants should have the option of being a state meat inspected facility. It should be easy to sell the most valuable

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product we produce in the beef state. Helping a small-town meat locker in rural Nebraska sell meat retail to the public provides a new market for our struggling ranchers. It provides a chance to create a few new jobs in our small towns, slowing their decline in population, and it gives the business owner a chance to expand and grow. At the end of the day, the bill Senator Brewer will introduce next session is really about rural economic development. Like a lot of bills, this idea became law-- this idea almost became law in 2001. Senator Jennie Robak of Columbus, Nebraska, ran a very similar bill that was vetoed by Governor Johanns. The vote to override the veto in 2001 fell short by one vote. This concludes my prepared remarks and I look forward to listening to the testimony or taking questions from the senators on the committee. Thanks.

HALLORAN: Thank you, Mr. Baker. Any questions from the committee at this point? Yes, Senator Moser.

MOSER: So--

BRANDT: You've got to use the mike because they can't hear you up there.

MOSER: So what problem would this inspection solve and what's it going to cost us?

TONY BAKER: Great question, Senator. Jacob, did you hear that one? Good. Be prepared to answer it. As I said in the opening remarks, for a small-town meat locker to get a USDA inspector, they have to make application and they have to go through a process and it's difficult and lengthy and not always successful. If you had a state meat inspection program, they're dealing with government that is closer to them. They're dealing with the state government as opposed to the federal government. And if it's a small operation, they're able to get that inspection done quicker and get to work selling meat retail to the public and expanding their business is, is basically what we're trying to do here. The USDA is going to-- this idea that Senator Brewer has does not do away with USDA inspection, it does not. It, it augments it. So it gives a business owner a choice--

MOSER: When you say--

TONY BAKER: --you can be state or USDA.

MOSER: --when you say a small meat locker might have a problem finding an inspector, when they need one or ever? I mean to begin to slaughter or are you talking just to get inspections?

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TONY BAKER: Fortunately, Senator, there's a number of people that can give you a real detailed answer to that question. My understanding is if you're slaughtering animals, an inspector must be present. The rest of the time when you're just packaging, the inspectors can come by once a week and that's largely more of a paperwork inspection than a meat inspection. But if you're actually slaughtering animals, there has to be an inspector present and it has to be done to the USDA standard. Even if you're doing a state meat inspection program, the USDA's Food Safety Inspection Service has standards that must be complied with and states with state meat inspection are still audited by FSIS and they still have to do it to the same standard of the federal government or higher.

MOSER: So you feel that this is going to make it easier for people to get into the meat processing business?

TONY BAKER: Yes, absolutely.

MOSER: Because currently, they can process meat for someone who brings it into them or somebody else who owns it-- I mean, the, the exempt.

TONY BAKER: Referred to, I believe, as custom-exempt slaughtering.

MOSER: Yeah, yeah.

TONY BAKER: You have USDA-inspected facilities, you have state-inspected facilities up to the USDA standard, and then thirdly, you have-- and these are still subject to federal inspection, by the way, what are called custom-exempt facilities. Like you're the butcher, I'm the rancher. I bring you a cow and say I want my steaks an inch thick, I want this, I want that. You slaughter and package the animal to my specifications. I pay you a fee for service and I get my meat back, you get the money. And the ownership of the animal never changes hands. In order for the small-town meat locker to sell meat, they have to own it first. They-- I can't sell meat out the front door of my business as a, as a meat locker owner that doesn't belong to me. I can't, like, sell your cow in a meat case. It has to belong to me. And so there are limitations on what a business can do that's just a custom-exempt operator.

MOSER: OK.

TONY BAKER: Other states have passed laws. Wyoming has, has passed a law that I've seen, has ruffled a few feathers at the federal level because it sells shares in animals and it's trying to get around the custom-exempt slaughtering rule and kind of trying to act like an

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inspected facility when it's, when it's really not and that's caused a little controversy. But I'll give you an example: in Iowa, Iowa just started their state meat inspection program a few years ago and they have a thing called the Cooperative Interstate Shipping Agreement. So a small-town meat locker in Boone, Iowa, we can get on the Internet here in Grand Island, order some steaks from them, like, Omaha Steaks. And this locker in Boone, Iowa, will ship me the steaks I ordered off the Internet from them. They can sell beef in Nebraska to Nebraska residents, but the reverse isn't true. A Nebraska meat locker couldn't do that unless they were USDA inspected and had a Cooperative Interstate Shipping Agreement. This is going to be a big bill. I believe Chicago phone book is what Rick referred to it as. It's going to, it's going to be a heavy lift and I don't know if it's possible to do it in one legislative session. It might have to be broken up into two parts.

MOSER: OK, thank you.

TONY BAKER: You bet.

HALLORAN: Thank you, Senator Moser. Any, any further questions from committee members? Senator Hilkemann.

HILKEMANN: A couple of questions that I would have for you and you may not know the answer, but I hope that other people who testify-- is this on? Is this-- OK-- the-- why did Johanns veto this? Do we know?

TONY BAKER: The newspaper article I read a couple of days ago hinted that it had something to do with the, the big packinghouses, but don't quote me on that.

HILKEMANN: OK.

TONY BAKER: I, I can't say why the Governor vetoed it factually.

HILKEMANN: OK.

TONY BAKER: I'd just be speculating.

HILKEMANN: From what I understand, a problem that, that these smaller meat 2packers have is there's not enough federal inspectors available for them to carry out their operations. Is that the case-- is that your understanding as well?

TONY BAKER: Is-- the director of FSIS come today?

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_____ : Yes.

TONY BAKER: Sir, I think that would be a great question for him, Senator.

HILKEMANN: OK, OK, and then, and then at the beginning of your testimony, you said how many states at the present time have their own state meat inspectors?

TONY BAKER: 27.

HILKEMANN: OK, thank you.

HALLORAN: Thank you, Senator Hilkemann. Any further questions from the committee? If not, you'll stay around for your close, Mr. Baker?

TONY BAKER: I live but to serve you, Senator Halloran.

HALLORAN: That's nice to know. Before we have any other testifiers come up, we do have a guest testifier, if you will, someone who is infinitely knowledgeable about this subject, Paul Kiecker. Paul is-- if you would join us, Paul? Paul is the administrator for the U.S. Department of Agriculture's Food Safety Inspection Service. Welcome to-- welcome back to Nebraska, I should say. I understand you've had a previous history being here in our state. On behalf of the Nebraska Legislature's Agriculture Committee and all who are attending today, I wish to express our gratitude to you for making time in your busy schedule to join us today and contribute to the discussion on interim study LR380. A little, little background, if you'll all indulge me a little bit, Paul Kiecker was named administrator for the U.S. Department of Agriculture's Food Safety Inspection Service, otherwise known as FSIS, in March 2020. In this role, Mr. Kiecker executes a budget over \$1 billion, advancing the agency's visions and goals and meeting innovative solutions to challenges in FSIS. He has spearheaded strategic planning and implementation of FSIS's strategic goals, which are prevent foodborne illness and protect public health; number two, modernize inspection systems, policies, and use, use of scientific approaches, and to achieve operational excellence. I could go further, but I, I think your, your being here is a great honor for us to have someone with the knowledge that you have on this subject. So we'll open it up to you, sir, and you can be sure-- I'm sure that there will be some questions that we might ask.

PAUL KIECKER: All right, Mr. Chairman, members of the committee, my name is Paul Kiecker. I'll spell that for the record, P-a-u-l K-i-e-c-k-e-r, and I'm the administrator of the U.S. Department of

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Agriculture's Food Safety Inspection Service. I want to thank you for inviting me here today to discuss the agency's state meat and poultry inspection program and also the Cooperative Interstate Shipment Program. FSIS is a public health regulatory agency within USDA responsible for ensuring that domestic and imported meat, poultry, and processed egg products are safe, secure, wholesome, and accurately labeled. The agency is made up of approximately 9,000 dedicated employees who work collectively to conduct a broad range of food safety activities to achieve FSIS's overall vision, which is that everyone's food is safe. In fiscal year 2020, FSIS inspection program personnel ensured public health requirements were met in establishments that slaughtered or processed 166 million head of livestock and nearly 10 billion poultry carcasses. Additionally, FSIS inspected 2.5 billion pounds of liquid, frozen, and dried egg products. FSIS enforces the Federal Meat Inspection Act, the Poultry Products Inspection Act, Egg Products Inspection Act, and FSIS also enforces the Humane Methods of Slaughter Act, which requires that all livestock at federally inspected establishments are handled and slaughtered humanely. We also provide in-plant inspection of all domestic processing and slaughter establishments that are preparing meat, poultry, and processed egg products for sale or distribution into commerce, as well as surveillance and investigation of all meat, poultry, and egg product facilities. FSIS inspection program personnel are present for all domestic slaughter operations, inspect each livestock and poultry carcass, and inspect each processing establishment at least once per shift. So you invited me here today to talk about the inspection programs that are available at the state level. FSIS has cooperative agreements with 27 states that operate intrastate meat and poultry inspection programs and Nebraska is not in the state MPI program. FSIS conducts reviews of all state programs to ensure that they are at least equal to the federal program. Additionally, FSIS has a second program with eight states that have inspection programs and this program is referred to as the Cooperative Interstate Shipment Program and it's a-- is a-- different from the MPI program in that they have to be the same as the federal program as opposed to at least equal to under the MPI program. Under the, under the CIS program, because the state is same as the federal program, state-inspected establishments can then ship products in interstate commerce. So I'll provide more details on those programs in just a minute, but this year has brought a lot of attention on the ability of states or regions to expand slaughter capacity through small and very small establishments. And I want to point out that more than 90 percent, 90 percent of all the slaughter and processing establishments that are regulated by FSIS are considered small or very small and

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that's in terms of product volume and the number of employees. Our relationship with these businesses is very important and we prioritize outreach to each establishment to communicate policies and regulations, provide necessary tools and resources, and to improve compliance. Outreach takes several forms, including roundtable discussions, personalized outreach from FSIS staff, technical support through agency tools such as the Small Plant Help Desk, askFSIS, and compliance guidelines. We also hold monthly all establishment town hall calls where an establishment can participate and ask questions of me or of any other FSIS leaders. Though before I move on, I want to assure you that FSIS does not make any determinations regarding approving grants of inspection based on where a plant is located or if another inspector needs to be hired. We have adequate staffing and will do, and will-- will and do provide the necessary staffing to any facility and location that meets the requirements for a federal grant of inspection. So in accordance with the Federal Meat Inspection Act and the Poultry Products Inspection Act federal statutes, FSIS sets national standards for a meat and poultry inspection. Under an "at least equal to" cooperative agreement, FSIS coordinates with state agencies in developing and administering that state MPI program. Each state MPI program is expected to operate under the antemortem and postmortem inspection, reinspection, sanitation, recordkeeping, and enforcement provisions of the FMIA and PPIA. And state MPI programs are also expected to ensure that livestock are treated humanely by imposing humane handling requirements that are at least equal to those that FSIS has established under the Humane Methods of Slaughter Act. If FSIS determines that a state MPI program is unable or unwilling to maintain an inspection program that is at least equal to the federal inspection program, the secretary of the U.S. Department of Agriculture will promptly notify the state governor. If a state MPI program becomes subject to the designation process, FSIS will rescind the agreement between FSIS and the state and all meat and poultry establishments within the state will become subject to federal inspection. The FMIA and the PPIA provide for FSIS to conduct at least annual reviews of state MPI programs and their requirements, including enforcement of those requirements with respect to slaughter, preparation, processing, storage, handling and distribution of livestock carcasses and parts, meat and meat food products of such animals and poultry products. Cooperative agreements and annual certifications of state MPI programs are contingent on FSIS determining that the state MPI program is enforcing requirements at least equal to those imposed under the federal acts. FSIS performs annual reviews to determine whether each state MPI program meets and can maintain the mandated "at least equal to" standard. The

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Cooperative Interstate Shipment Program promotes the expansion of business opportunities for state-inspected meat and poultry establishments. Under CIS, state-inspected plants can operate as federally inspected facilities under specific conditions and ship their product in interstate commerce and internationally. Without CIS, a state-inspected plant is limited to sales within its own bound-- within its own borders, even if an adjoining state is just across the highway or just across the river. To be clear, these programs have distinct differences and distinct requirements. The CIS program is limited to plants located in the 27 states that have established an MPI program and maintain "at least equal to" FSIS regulatory standards. To participate, an establishment needs to apply through the agency administering the state MPI program. Once an establishment completes their application, the state will evaluate an establishment's submission and based on their findings, will determine whether to recommend them for the CIS program. For an establishment to be considered for CIS by a state, it will need to meet the following requirements. They must employ fewer than 25 employees, they must have an adequate food safety system, and they must meet appropriate facility standards. Once the state determines an establishment qualifies, it will submit a recommendation on an establishment's behalf through the FSIS district office that oversees that state. After the district office reviews the state's recommendation and verifies that the state's inspection is the same as, FSIS accepts the establishment's application. However, the establishment will need to comply with all the requirements under the federal acts. The establishment will need to meet the federal regulatory sanitation performance standards, submit labels to FSIS for review, except for those that are eligible for generic approval, obtain the same water source and sewage system approval that FSIS requires for federally regulated establishments, develop sampling protocols for both chemical and microbiological that are at the same frequency as federal establishments, develop written sanitation standard operating procedures, and develop a hazard analysis critical control point plan. A major benefit of the CIS program is that an establishment's day-to-day operations do not drastically or materially change. The assigned state inspectors, under the "at least equal to" program, will remain as the plant's on-site inspectors, provided that they have the same training and inspect the plant under the same regulatory standards as their federal counterparts in FSIS-inspected plants. So at FSIS, we are one team with one purpose and that is working towards a common and extremely important goal, and I'm proud to lead such a committed workforce in its noble public health mission. Thank you for the opportunity to testify here today and to talk about the important

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work that our employees do every day to protect public health. Thank you.

HALLORAN: Thank you, Mr. Kiecker. Are there some questions from the committee? Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Thank you, Mr. Kiecker, for testifying today. First of all, could you clarify something that Mr. Baker said? In doing my research on the interstate agreements on state meat packing, an agreement has to be signed-- so for example, Kansas and Wisconsin both have state programs. They can sign an agreement between the states and he stated, and I don't know if this is true or not, that Iowa-- if Iowa has state inspection and we do not in Nebraska, that Nebraska can sign an agreement to allow Iowa to bring meat into the state of Nebraska or sell it here, is that correct?

PAUL KIECKER: OK, so, so I'm going, I'm going to back up on this a little bit. So in order for a state to have a state inspection program, they have to have an agreement with FSIS and then FSIS oversees that program. That's the, that's the first step that has to be in place. Then if that state program then decides that they also want to have a Cooperative Interstate Shipment program, at that point, those establishments that are meeting the "same-as" requirement of federal inspection are put forward by that state as them verifying that they are meeting the "same-as" standards. They're meeting all of the federal standards and the state is making sure that they are meeting all of those standards. And once that is the case, then they can put those establishments forward and FSIS would then verify that they are meeting all those requirements. And at that point, that plant or those plants that the state puts forward as meeting the "same-as" requirement are eligible, at that point, to ship products outside of that state.

BRANDT: So--

PAUL KIECKER: There's no, there's no agreement that one state program can have with another state program to ship product back and forth.

BRANDT: OK, thank you for answering that. And I'm a livestock producer, cattle and hogs. And we have a personal individual-use exemption in this brochure, I think it's your department has. So according to this, I could slaughter a steer, hang him on my loader, and use it for my own consumption. And this is a gray area in Nebraska because we do not have state meat inspection. Is it legal for that producer, in a state without a state meat inspection program, to do

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the same thing, except before I kill it, he gives me a check and it's his steer?

PAUL KIECKER: So I think, I think there might be a couple of things that are not real clear here, so I'm going to-- I just want to make sure that I'm, that I'm being clear on this. So if you-- so for personal slaughter, there is an exemption for that. So if you have your own steer, you have your own hog, whatever the case is, you want to slaughter that for your own consumption, you can do that and there's no inspection at all that's required for that. Now when you get into the situation where you're having someone else slaughter, I think at that point, we're into what we would refer to as custom exempt and that custom-exempt processor can only process animals for a fee. They don't buy any meat. They don't buy animals normally. What they, what they do sometimes is facilitate a sale and that animal could be sold to two or three, four people, whatever the case might be. We've got to-- we got to keep in mind what the exemption for custom exemption is actually intended for and that's intended for a person to bring their own animal in, have it processed by someone else, pay them a fee, and take that meat back home. That's what the custom exempt is intended for. It's not intended to be a workaround for either state inspection or federal inspection.

BRANDT: So on custom exempt, I've got a steer and I sell four quarters out of that steer to four different people, that's legal, right?

PAUL KIECKER: No, you would be in violation because you're actually-- you said you were selling quarters. If you're selling meat, that's a violation. Now it's--

BRANDT: If I'm selling a live animal, am I in violation?

PAUL KIECKER: No.

BRANDT: So if, if I sell one-fourth of the weight to four different people, I'm legal--

PAUL KIECKER: Yes--

BRANDT: --under custom exempt?

PAUL KIECKER: --I think, I think that's a stretch on what the original intention was, but we allow that.

BRANDT: Mr. Baker touched on Wyoming. Can you explain what they're doing in Wyoming?

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PAUL KIECKER: So we've had a lot of discussions with Wyoming and I don't, I don't necessarily want to get into a lot of specifics on what other states necessarily are, are doing, but the legislation that they passed, from my understanding-- and we made it clear to them that we did have some concerns with it, the way it was written, and they assured us that all they were doing was making sure that custom exemption was allowed within that state. And we don't have any issues with that, but we do plan to follow up very shortly to see how they are actually implementing that within the state.

BRANDT: But didn't Wyoming-- the legislation basically said that an individual could come buy a percentage of my herd. Isn't that how this works? And because of the devastation that COVID has wrecked on our, on our shackle spaces nationally, and it's slowed down our chain speeds and it's backed up this livestock, it was an effort by their legislature to try and recover, financially, some of the losses that their producers were experiencing. What would be wrong with, with a model like that?

PAUL KIECKER: So I think we, I think we really need to keep in, in mind why we have either a state inspection program or a federal inspection program. The idea is that you have product that is inspected by someone and it ensures the safety of the food. If you have a program in place or, or statutes in place that allow you-- for anyone just to process meat product and, and sell it, I think we can all understand the concerns with having that when the product isn't inspected. And to follow up on an earlier comment that was made about custom-exemption facilities being inspected, we don't view custom-exempt facilities as being inspected. We do have oversight on them, but it's much different than what we would consider to be inspected. It's usually something along the lines of a quarterly review per year, semiannual review, or once per year, so much different than having someone that is there every day.

BRANDT: Last question, I promise. So if you could have foreseen the devastation that the COVID had upon packing plants and, in March, April, May, we lose 25, 30 percent of our chain speed. On the hog side, that's particularly devastating because we had to euthanize hogs in the state of Minnesota and Iowa. And in addition to that, and I can speak to this personally, you know, you're selling finished hogs, 300-pound hogs for \$75. The packers are making record profits, same thing on the beef side. What is your response or what could we have done differently to increase shackle spaces in the country? You know, what emergency measures could we have done? Do you have any ideas at this time?

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PAUL KIECKER: Well, I can, I can tell you that any small establishment that had the ability-- so a lot of these small plants will slaughter one, two, three days a week. A lot of them do not slaughter every, every day. So they'll slaughter one or two days, process on other days. If any-- if they had the capacity to expand that to where they could slaughter one more day that week, two more days that week, whatever the case was, we provided that service to them. There was never any plant in the country that was not able to operate because FSIS did not provide them the service that they asked for. Now there were facilities that were slowed down, but the reason they were slowed down was because of their ability to have personnel there in order to process the animals, not because FSIS didn't have enough inspectors at those locations.

BRANDT: Thank you.

HALLORAN: Senator Moser.

MOSER: So I take it that you're not here to tell us whether you think this is a good idea or a bad idea?

PAUL KIECKER: I think you're 100 percent correct on that.

MOSER: Yes. OK, so what would be the advantage of state inspection for your department? Would it help you?

PAUL KIECKER: I don't know that it-- that that really has a whole lot of impact on FSIS. I mean, the, the number of personnel that we, that we currently have, the way they're dispersed now, it, it probably would be somewhat limiting. I don't know how many establishments would actually be interested in going to a state program that currently have federal inspection. There may be some here today that could, that could answer that much better than what I would. But I think the thing to remember is that anyone that has a federal grant of inspection can sell just within the state if that's what their business is set up to do. They can also sell a product anywhere in the U.S. and they can sell a product and export it anywhere around the world as well, so--

MOSER: That's one question I was going to get around to is you're talking about people who are state inspected and what they have to do to sell outside of the state, but a federally inspected processor can sell anywhere.

PAUL KIECKER: That's correct.

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MOSER: And you don't have massive complaints from people who can't get set up on the federal inspection program?

PAUL KIECKER: No. And I can, I can tell you that over the last several years, we have really expanded on the outreach that we do to help small and very small plant. I can tell-- there are a lot of small-- very small plants that are out there that have grant of inspection today and are doing very well that would not have that grant of inspection if it wouldn't have been for the assistance that we provided them from-- right from the start with filling out the grant, helping them with support for their HACCP plan, SSOPs, providing label, label advice to them. And the bottom line is it's up to the plant to decide if they want to take the advice or not, hire someone else to help them through the process. There's businesses that are out there that will assist plants, develop a HACCP plan, SSOP, help them with their labels, all of those kind of things. How they go about doing that is up to them, but we are there and able and willing to make sure that they have the, the assistance to help them if that's what they want to pursue.

MOSER: You're trying to help them succeed and not necessarily just regulate them into oblivion?

PAUL KIECKER: That's correct. There's, there's no advantage to FSIS to have plants that are not successful.

MOSER: Thank you very much.

HALLORAN: Senator Hilkemann.

HILKEMANN: Yes. Thank you, Senator Halloran. In discussions with the people that I've, that I've talked with on this issue, you alluded to the fact that if these small packing plants and small communities wanted to expand their operations, you have, you have the personnel that provide those inspectors. In other words, I think it was-- there's a processor in, like, I think West Point, Nebraska, who only does one or two days a week because I was told from my family, that I'm aware of, that they would love to be able to, to do more, but they are limited because of the number of federal inspectors that they have. You're saying that that's not the case?

PAUL KIECKER: That is not the case. And if there is anything and you identify the location to me, I'd be happy to look into that, but it-- but I can tell you that, that I could give you a list of establishments that asked for additional days of slaughter and we

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provided them to them during COVID-19 and any other time too. This isn't anything that's, that's brand new. A lot of times, there would be facilities that slaughter larger numbers of animals during a fair season that they purchased from, you know, youth groups or whatever the, the case might be. And those are processed and they ask for an additional slaughter day. We, we always accommodate those. I was the district manager in Madison, Wisconsin, and oversaw Wisconsin and Michigan from that office. I was also a district manager in Springdale, Arkansas, and from that office, we oversaw Kansas, Missouri, and Arkansas. And I, and I was in those posit-- in the district manager position in those two locations for 13 years. And I can tell you that we never told the plant that they could not process on a certain day because we didn't have an inspector for, for them. Now sometimes they were flexible. So instead of having the additional day on Thursday, they said they could do it on Friday. And if that was the case, you know, we tried to work those out.

HILKEMANN: So the limitation that a lot of these places have, they simply may not have the personnel or the facilities to expand their own operations to begin with, more so than not having the inspectors available?

PAUL KIECKER: And I agree with that.

HILKEMANN: OK. And then so I think the term you've used is that in, in some ways, setting up the state-- a state inspection is a redundant program.

PAUL KIECKER: Well, I guess, I guess I'll let you all figure that out.

HILKEMANN: OK.

PAUL KIECKER: I mean, it's-- I'm not here today to tell you if you should have the state, state program or not.

HALLORAN: He tried to trick you into that.

PAUL KIECKER: Yeah and I-- you know, I'll leave that up to you and you guys got a lot more people on the committee than what I am, so I, I trust your better judgment on that.

HILKEMANN: Thank you.

HALLORAN: Thanks, Senator Hilkemann. One question and then I think we'll, we'll turn it over to testifiers. And I'll remind everyone, we have reserved for testifier seats on either side of the senator up

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here. So if you're inclined to testify, it would help if you kind of staged those, so we can kind of keep it orderly. I have one closing question. Well, first, you'll be able to stick around for the remaining of the hearing and so possibly other questions may arise?

PAUL KIECKER: I have a flight out of Omaha at six o'clock tomorrow morning. As long as I make that, I'll-- I can answer all the questions you have.

HALLORAN: Well, if everybody's game to stay that late, I think we can be entertained for quite awhile, here. OK, one quick question: is it possible for states to tailor a cooperative state meat inspection program with FF-- FSIS? In other words, for example, could we limit our responsibility to only inspecting plants with ten or fewer employees or perhaps that only slaughter up to, for example, 5,000 head per year? Can we enter into an agreement under which FSIS retains inspection responsibilities for custom-exempt facilities?

PAUL KIECKER: So the requirements for the CIS program are that they have fewer than 25 employees and that they have an adequate food safety system and that they meet the appropriate facility standards. There-- I don't think there's anything in that that would have anything to do with the amount of animals that they processed. Now one thing about the state programs, sometimes they don't, they don't have both beef and pork. Normally they do, they wouldn't necessarily have to. Some of the state programs also have buffalo that fall under state inspection and under the federal statutes, that a-- that's not a meatable species. So if we provide inspection for buffalo, it's voluntary and that's a-- there's a fee for that. So some of the states actually have that in their statute so that there is not a fee. So yes, the answer is you can tailor it somewhat, but you still-- whatever it is that you're going to consider under inspection within your state, you're going to have to meet the "at least equal to" requirements for the-- for FSIS to agree to enter into a cooperative agreement with you on that.

HALLORAN: Sure. OK, thanks. I, I lied to you. I have one quick question and I think it might, might fuel other questions down the road. Can you discuss any financial, technical, or other assistance FSIS is able to provide to help facilities qualify for federal inspections?

PAUL KIECKER: So, so let me look into that and I'll get, I'll get back to you on that. But yes, there are other offices, other agencies within FSIS that provide grants to facilities that are looking to

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either upgrade their equipment, expand, start a new business, whatever the, the case might be. And I don't know all the specifics on that because I don't deal with it, but I know that we did have a call that we had with anyone that was interested in discussing that with us. And we had the FSIS personnel on there as well as-- and I'm just blanking on the other agency right now, but they were on the call as well. And anyone could ask questions as far as FSIS and grants of inspection and they could also ask questions about receiving of financial grants or loans or anything else. And we plan to have another one of those calls down the road as well.

HALLORAN: OK. Much appreciated, sir. I appreciate your time again. And, and maybe at the end of the session, there might be a question or two after the other testifiers.

PAUL KIECKER: OK, Thank you.

HALLORAN: Thank you very much.

PAUL KIECKER: Yep, I plan on staying.

HALLORAN: OK, it looks like we have no testifiers, so this is the end of the hearing.

[LAUGHTER]

HALLORAN: Who's not sitting in the reserve for testifier? We, we may-- no, come on up here. This is fine if you want to testify. Do you have a testifier-- please fill out a testifier sheet. They're on the back table if you haven't done that. We need that.

ROBERT BERNT: It's hard to hear back there, sorry.

HALLORAN: That's OK. This microphone has a little digital display on it that I think is probably reading my heart condition. It says low battery.

[LAUGHTER]

HALLORAN: Good afternoon.

ROBERT BERNT: Hello.

HALLORAN: You have to say your name and spell it for us, please.

ROBERT BERNT: Hi, my name is Robert Bernt, that's R-o-b-e-r-t B-e-r-n-t, and I'm from Spalding, Nebraska. Can you hear me?

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_____ : Turn the microphone on--

HALLORAN: There's a button right--

ROBERT BERNT: I probably don't need it, but--

HALLORAN: There you go.

ROBERT BERNT: All right, my name is Robert Bernt, that's R-o-b-e-r-t B-e-r-n-t, and I'm from Spalding, Nebraska. And I own and operate, my family do, a custom-exempt processing facility that we built three or four years ago, mainly because we wanted to process our own livestock after we had sold it to our customers. With COVID, we've been led down a road we didn't expect to go. But I guess I really do appreciate you coming to our part of the state to listen to this. I-- and I truly do mean that. I think that your-- what you're attempting to do could change the outlook of Nebraska. It's going to affect it in a lot more ways than what we're just looking at as far as just meat plant. But with me, I've done everything I could to build our facility to meet the standards that they need to be met. It was very hard to determine what those were. I talked to a numerous amount of inspectors to derive what I need to do, so we followed through and did it. Once we were done, I contacted a USDA inspector and asked for them to come and inspect my facility so we could hang a shingle and get started. He said, we don't do that. I said, I would like to get started, what do I need to do? He said, you need to contact your state Department of Ag and see what they say. So I contacted the Department of Agriculture, explained our situation, said we'd like to hang a shingle and get started. We don't do that. I said, who do I need to contact so I can open my plant and get started? Well, I have a phone number for another USDA individual that you might contact. So I contacted this lady, explained the situation, and she said, I'm sorry, but we don't do that. So there I sit with \$250,000 invested and not able to start processing. And she said, no, go ahead and start. I said wait a minute, that makes me nervous. She says, well, we'll be there sooner or later. It can be up to two to three years. And you want to know something? It was three years. This made me real nervous. I also own and operate a cheese plant where we make cheese from our dairy cows, inspected by the state of Nebraska. He's there monthly. I have a food inspector to cert-- inspect the certified kitchen. He's there every six months on clockwork. The inspection that they do is very adequate. They're very capable and they walk through everything from the labeling issues, ingredient issues to the facility and they do an excellent job. And in fact, I brought some of those products with me just because I would like to-- this is our cheese product that we

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make, inspected by the state of Nebraska, sold in some 50 stores, OK, and across state lines. It meets all requirements. They sample our product for any infections periodically. They go into the stores, remove it from the shore [SIC], purchase it, and sample it. Plus, they sample our product on the farm that produces this product monthly to assure safety. There's no issue with this. Another gentleman just not too far from me, actually north of Grand Island 40 miles, manufactures that product. He does it in a state-inspected facility, unbelievable, the appearance, the quality is phenomenal. We ought to be proud of our state, proud of our products, and proud of these state inspectors that help us do this because they do a good job. And I am, I am very encouraging of these people coming to my property. I welcome them with open arms because they have a ability to find issues that I'm, I'm unaware of. These inspectors travel up and down the highways in Nebraska weekly. From kitchens to dairy facilities to processing facilities, there's no reason they can't meet the requirements out there to inspect our facilities that we need. When I started the conversation with you, I was reiterating how important and valuable it is and what this is going to do. This is probably going to answer a lot of issues at the State Legislature level. One of the biggest ones right now is tax relief, all right? Everybody says what are you going to do about my property tax relief? The best property tax relief program possible is to add value to that product out there on the farm. We need that.

HALLORAN: We'll probably have questions, but your, your time is up for your-- sorry, five minutes goes fast.

ROBERT BERNT: That's all right. Thank you.

HALLORAN: All right, so are there questions for Mr. Bernt? Senator Moser.

MOSER: OK, from your testimony, I assume you think the state getting into meat inspection is a good idea?

ROBERT BERNT: Absolutely.

MOSER: I think when you come up, it's-- the first thing I do is I say I'm for this, I'm against that, just helps. And you seem like the type of guy that's either for something or against something, so--

ROBERT BERNT: Well, I'm definitely in favor of meat inspection being done by the state of Nebraska. I am also in favor of stepping one step further than just having it inspected by the, by the state. I truly

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believe that we can assure a proper product and a healthy product. So, for instance, if you would have an animal that you would like to have processed at a custom-exempt or now a state-inspected facility and you would like to take that animal home and sell it by the piece, that you should have that animal inspected by a veterinarian and that animal should carry health papers to my facility, where at that time, if there's no issues with that animal, according to that vet, he qualifies as a healthy animal. If there's any issues that need to be detected later, since we open the animal up, the organs or the thyroid glands or whatever glands there are that need to be looked at later should then be sent in if there's an issue. But I firmly believe with the acting inspection by the state plus a qualified vet that can determine the health factor of an animal, that that animal should be able to go home, not across state lines, but across--- transport piece to piece. Now I know it's going to subject you to have your refrigerator and freezer inspected to make sure it's got proper temperature, which is fine and you'll have to identify that. But this is going to allow you-- a real big issue that we had when COVID hit, of course, is we were getting cattle that the packers did not purchase. So we were processing animals way overweight, way excessively overweight. Now that has "delinquished." We've run into issues, and I think it's a good issue, with now that, that feeder has said, well, I can have this processed here and I can market it direct over here prior to having it processed. So we're processing animals that have problems and issues. They were founder excellent-quality meat. They have a bad eye, those sort of things. I had three of them come on my property this week that were being processed because the packer offered the farmer 65 cents a pound when the market was \$1.05, I believe. So he took these animals to me, had sold them in advance. We processed them or will and they'll end up in somebody's freezer, done properly and right, and that's going to give him the highest-dollar animal out of that load of critters that he sold. That's going to be--

MOSER: That-- those animals were sold to a third party. The third party paid you to process them there.

ROBERT BERNT: Correct.

MOSER: Yeah, to be legal.

ROBERT BERNT: That is exactly right and I-- and it added value to that man's product. Just without a doubt, it added, added money. Now if he could step that one step further and have it inspected by a veterinarian and actually market it out of his freezer and have that

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animal properly inspected, it would add value one step further. And I'll remind you, you know, I was asked two years ago or four years ago if I would do a talk at the state FFA convention, how to add value to products and what it would do. And what I-- and then what I've done is, is we did a cropping issue with, with growing vegetables. And with one acre of carrots, you can do \$30,000 off of one acre, all right, added value to that acre of ground. So when you're in an issue with property tax relief, communities devouring and dissolving and disposing of themselves because they no longer have any of this function right in their community, we need to solve this issue. And this is an issue that will help solve that.

MOSER: But you were able to operate, but you were concerned that when they do show up later, that they will find problems and then cause you problems in arrears.

ROBERT BERNT: Absolutely, because I had no-- when I built the cheese manufacturing plant, we had criteria to follow. It was in--

MOSER: But we don't often find citizens coming to us and telling us they want us to regulate them.

ROBERT BERNT: Well--

MOSER: So I just wanted to ask you to make sure I understand--

ROBERT BERNT: I-- you can--

MOSER: --what you're asking for.

ROBERT BERNT: --you can ask any one of the inspectors that I've ever dealt with and I've always said that I welcome you with open arms because you've got the knowledge and the education to look at my facility and tell me that's something I'm missing. And the last thing that we want to do as food producers is to cause a problem or an issue.

MOSER: Make people sick.

ROBERT BERNT: That is absolutely right, that was one thing that just doesn't want to even go there. So we welcome them there so that they will do their job with diligence and let us move forward and them move forward.

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MOSER: Yeah, we've got a lot of testifiers, so I don't want to drag it out too far, but I appreciate you coming to talk to us. I like your attitude.

ROBERT BERNT: Thank you.

BRANDT: I do too. So right now, you are a custom-exempt slaughter plant, is that correct?

ROBERT BERNT: Correct.

BRANDT: And you want to become-- if-- let's say you want to become a state custom-exempt plant or you want to have state inspections so that you can sell meat intrastate. Do you understand what I'm asking?

ROBERT BERNT: I do understand what you're saying and what you're asking me is what I desire. And after this last six months, I desire to go on a fishing trip. It's been really, really hectic and really stressful and we've gotten clear away from what we were intending to do, which was sell our customers an animal and process it in our facility. But what I am truly concerned about are the communities in Nebraska, truly. And this would be of benefit for other small packers and other small custom-exempt facilities and it would open the door for producers and feeders to have another outlet and it would really support the community. You know, when I-- when my dad started-- and I started, I guess, in 1970, I had 700 acres that I operated. You know what I operate today? Seven-hundred acres, all right? And I have, I have 12 children, 5 of which are running full-time operations on those seven [SIC] acres and three part-time help with this. That's unheard of in today's ag industry, but we've added value to our dairy operation because we make cheese. We have added value to the beef and the pork operation because we do the custom processing there. We've added value to land because we do about five acres of vegetables. So we've brought home these people, or our children, to "manufacturally" do this, you know, and we've done it without interfering with our neighbors or land from them. We've done it on our own.

BRANDT: And, and that's the kind of business model we want to see for the entire state of Nebraska. I applaud you for that. The COVID, how much-- how many more animals or what percent more are you processing because of the backup on the big slaughter plants? And I know and I can tell you personally in my area, for me get an appointment to kill a beef or a hog is a year and a half out at my local lockers. What are you like?

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ROBERT BERNT: Well, when you start talking about a family operation with family work ethics, the five o'clock bell rings and guess what happens? You're back in the locker. And I had boys, and one of them is here today, working until two o'clock in the morning, processing hogs for people that couldn't get them marketed. So if we was to work an eight to five, we probably wouldn't have expanded a whole lot. But we, we-- our, our numbers went clear through the roof. We've had to purchase two more freezers, three more-- two more coolers, bigger equipment. And this isn't really something that I wanted to do, but what broke the camel's back, when I'm saying, no, we really like to sell you my beef and process it for you, was when a gentleman from York called me and his wife had just went up to grocery store. I don't know if this was in May or in that neck, neck of the woods. And she had purchased enough hamburger for their family of five children that week and came home and it was enough for one meal. And he was crying on the phone, an adult, and he said, I don't know what to do. But he said, I heard that you do processing. I said I, I don't like to-- I said I, I just-- well, he said, here's the deal: my father-in-law has 40 head of fat cattle and he wants to give his grandchildren one to eat and we can't find a processor. We processed it and all U did was open the door and a flood of them come in and we were, like I say, butchering-- we've hardly stopped before 9:00 to 10:00 at night since it started, very few Sundays off.

BRANDT: Let me ask you one final question. What this comes down to is money. Right now the state of Nebraska does not have a state inspection program because it doesn't cost us anything, the Feds pick it up. If we go to state inspection, somebody is going to pay for it. Are you willing to step up as a processor and pay for that inspection?

ROBERT BERNT: I, I offered the state dairy inspector money to keep him coming to my facility to inspect it because I want him there. Now when I started in 1970, we had 3,000-- I'm on the Nebraska Dairy Policy Council Board, so these facts and figures haven't changed-- 3,800 dairy in the state of Nebraska when I started, with six dairy inspectors, all right? Today, there's 187 with two full-time inspectors, all right? So there's no reason that those two full-time inspectors-- and, and especially in my situation where he walks in that door and inspects my dairy processing facility and we do this and then he can also inspect that meat, meat processing facility. I understand what you're saying. There is going to be an additional cost, even though they're out there traveling up and down the road and can manifest that. I just don't think it's going to be as big if we do-- if it's done properly, as what we think it is. And I know the one step further that I would like to see go with a vet, you're going to

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support local veterinarian clinics. You're going to, you're going to trailer that animal to me and you're going to stop at a vet clinic and you're going to pay them \$20 or \$30 to inspect that animal and maybe there will be an additional cost later if there's issues that he sees or she sees, really not a--

BRANDT: And just on that point, I did ask my local veterinarian that does all my vet work and he felt that he would have to take some classes yet or continuing education to do that. He thought that was a little bit out of the realm just because he's that far removed from vet school, so that's-- but, but it's, it's not an insurmountable problem. Thank you for testifying today--

ROBERT BERNT: Thank you.

BRANDT: --I really enjoyed it.

HALLORAN: Thank you, Senator Brandt. Any-- Senator Hilkemann.

HILKEMANN: One, one quick question about you want to step up to have this veterinarian. Are there enough large animal vets out there to handle the--

ROBERT BERNT: Yes, there are. I spoke with the State Vet just this week about this issue and she was rather encouraging, you know, because there's a problem right now is we're seeing these vets have a slow-down period due to the COVID and they're not active. But most of the, of the towns in rural Nebraska have veterinary clinics in them with two or three vets available. Now I know I had a son that worked at a USDA locker before he became-- home to run ours and he said when there was an issue with an animal, they actually called in a vet to verify, all right? So it's, it's interesting to me that if that's the step over we have to make, there's no reason we can't do that. You know the-- we've got customers that, that, that are really concerned about multi-cow processing. They love the idea of a single or two-cow processing because of E. coli issues. These recalls that you see come from large packing facilities that commingle hundreds, if not thousands of animals, all right? So there's a lot less health factor involved with a small processing facility processing one and two cows at a time when it comes to health issues. We can do the same sampling as anybody can. We can let them do the testing. We are under the strain guidelines right now as a USDA plant, actually, now that I'm inspected. And one thing I do want to say is that Nebraska has a "Hungry to Hunters" program, which is really a good program, and they source out livestock-- or they source out custom-processing plants

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that are willing to do this during deer season because that meat then goes to people that are in need. We were unable to participate in that program for those three years because we had no way of having the facility inspected, which they required.

HALLORAN: Well, thank you, Mr. Bernt. I think I speak for the committee that we admire your work ethic, your family's work ethic, and your desire to keep local communities thriving. With that, we look forward to the next testifier. Thank you, sir. Leave the cheese.

[LAUGHTER]

HALLORAN: Good afternoon.

KARINA JONES: Good afternoon. OK, my name is Karina Jones and I am a fifth-generation Custer County, Nebraska, cattle rancher.

HALLORAN: Ms. Jones, can you spell your name?

KARINA JONES: Karina, K-a-r-i-n-a, Jones, J-o-n-e-s, and it's on the top of my handout too.

HALLORAN: Thank you.

KARINA JONES: I am a fifth-generation Nebraska cattle rancher from Custer County, Nebraska, originally from western Nebraska. I am also a member of R-CALF USA and Independent Cattlemen of Nebraska. Maybe I should of gave you guys this handout right off the bat because I talk about the three different types of processing that is found in the United States, the first being the USDA inspected. Meat that's processed under the USDA inspection can move across state borders and internationally and-- but we seem to have difficulty in rural areas securing inspectors. So there's a little bit of a disconnect between what I see and what, what the USDA says is happening. Then we have state meat inspection. There's 27 states with state meat inspection and I've provided you a map on page 2. Those states in blue are those 27 states. So you can kind of see how Nebraska is an island in the middle of a large volume of states with state meat inspection. I went and further highlighted the states that have an agreement with the US-- the, the CIS agreement with the USDA. I had seven states down from the USDA website: North Dakota, Wisconsin, Missouri, Indiana, Ohio, and Maine. And most recently, Iowa got their CIS inspection agreement in May. So that allows those seven states to be able to move their meat across state borders. And we can see that Nebraska borders two of those states, which, as a cattle producer, kind of concerns me. Then there's the custom-exempt processors, which obviously in

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Nebraska, with a lack of our USDA-inspected small plants, the custom-exempt processors is what I have the most experience with as a cattle producer and I honestly have never purchased beef in a grocery store. And I was just thinking on my way to Grand Island, I've probably had beef processed and eaten out of 12 processors, custom-exempt processors through western Nebraska and central Nebraska. And the interesting thing about that is Nebraska, Nebraska families have been eating out of these custom processors for generations, without even a tummy ache that I'm hearing of, and myself included. And that's how, you know, we're just kind of raised out there. And so I know that the argument comes up about food safety being an issue. When I, when I researched that, I could not find online any expanded experience where there was a food safety issue that was traced back to a state-inspected plant. As the gentleman before me said, it seemed that all of foodborne illnesses that were traced to beef and, and processed had a USDA stamp on them. And that's nothing against the USDA, but there's a control factor that's happening in these small plants, like he said, that, you know, when they're processing smaller amounts of animals, some attention to those details can be, can be placed. And so I actually find more comfort having-- being able to serve beef on my family's table that came out of custom-exempt plants that I have relationships with. Some things that I wanted to, to highlight to our, our state senators is some proposed federal legislation that is hanging out there that could greatly impact producers and-- in Nebraska. The first bill being the New Markets for State-Inspected Meat and Poultry Act, introduced by South Dakota Senator Mike Rounds, who is really trying hard to get that as part of the CARES Act. It has 12 cosponsors, bipartisan support, and Liz Cheney from Wyoming has introduced it in-- as a House companion bill. That bill would allow state-inspected meat to be sold across state lines. It would be separate from a CIS agreement, but South Dakota has a really budding local food industry and state meat inspection program up there. And Jon Tester is also on that bill. Montana takes, takes very much pride in the beef that they produce and so they went to the federal level to try and get state-inspected meat outside of their borders. Another bill was just introduced last month by Nebraska Congressman Jeff Fortenberry, alongside Chellie Pingree from Minne-- Maine. And this, the Strengthening Local Processing Act, is a proposal that would increase federal share of costs for state meat inspection from 50 percent to 65 percent. And it would encourage more states to operate state inspection programs and the proposal is also designed to authorize grants for small facilities and other activities related to coronavirus recovery. And so I find it

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interesting that our own Nebraska congressman would, would introduce that bill. Are there any questions?

HALLORAN: OK and I'm sure there will be. Any questions from the senators? Maybe, maybe not. No questions?

KARINA JONES: OK.

HALLORAN: All right, Ms. Jones, thank you so much.

KARINA JONES: Thank you.

HALLORAN: OK, next testifier, please. Flip a coin. Good afternoon.

JACOB WINGEBACH: Good afternoon. Good afternoon, sir. Good afternoon, gentlemen. My name is Jacob Wingebach, J-a-c-o-b W-i-n-g-e-b-a-c-h. I own and operate Sandhills Beef Company. Just briefly, I'm a degreed engineer. I have a systems engineering degree from Annapolis. Prior to owning a meat packing plant, I was a resident inspector for Fort Calhoun station. I worked for the the NUCA Regulatory Commission. I was up at Fort Calhoun when they had all their flooding in 2012, 2011. I was the on-site-- one of the two on-site, day-to-day inspectors who ensured the correct operation outside of the facility, obviously doing that, but for the taxpayers and for the federal government. I am for safe meat inspection. But really, this conversation to me is about opportunity. Can I ask how many of you are business owners? Four of you. Would you have opened your businesses before it was allowed?

HALLORAN: Well, if I knew what I knew about COVID, I would not have opened a restaurant.

JACOB WINGEBACH: So I just-- I kind of want to dispel some of the, the talk about, well, do we really need this? Is this different than the federal? Do we really want to have this problem? Well, if, if you don't have the opportunity, you're not going to open a business. I can tell you that in February of this year, at our very small packing plant, we were slaughtering five to eight beef a week. I believe last week, we slaughtered 32 animals and we processed about 22,000 pounds. In the last six months, I've spent over \$80,000 on new equipment. Keep in mind, a lot of our neighboring states took some of that CARES money and made it available to their local processors. We did not do that in Nebraska, unfortunately. But I see the avenue of state meat inspection as an ultimate opportunity to solve a lot of the problems of rural Nebraska. My plant can hold 200 head of beef. I have an old cow-kill plant out in Mullen, Nebraska. They kill cows, huge coolers, but right now, I have a housing issue. Even if I wanted to bring in people who

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knew how to do this, I don't have anywhere to put them. Now there's money in the farm bill for that. These are all great things that go into a business plan that I can't take advantage of because I can't get the meat inspected. Does that make sense? I mean, if we had state meat inspection, people say, oh, well, you can't take it across state lines. Well, that's not entirely true. Words matter when you look at the Code of Federal Regulations. What the code says is you can't take that product across state lines and resell it, i.e., enter it in commerce. If I wanted to wholesale product from Mullen, Nebraska, to grocery stores in other states, I couldn't do that from state meat inspection. You know what I could do, though? I could sell it online on my grocery store. Whole Foods does that. Whole Foods isn't inspected. You can order from Whole Foods if you're in Maryland and get it delivered from Virginia. You can do that. They're not inspected. They just have boxed beef that's been inspected. They cut it up as a grocery store. So there's a lot of opportunity that's involved here that has little to do with the regulations, has to do with all of that stuff. It really-- in my mind, when you look at this opportunity, it's, it's jobs. I have-- I think I have-- I think I've hired 16 to 18 people in the last 8 months, about 4 or 5 of them went away. The people who wanted to stay liked the kind of work. It's hard work. I start everybody at \$16 an hour [INAUDIBLE]. My top people are making over \$50,000 a year cutting meat, some of them 22 years old. They're going to be able to buy homes, if we had anybody building them, building them in Mullen. So economic development, I think, is something that you all find very-- or I would assume you're interested in and this is an avenue, in my mind. I kind of liken it to craft brewing. Nebraska has had a lot of craft breweries, right? Broken Bow has Kinkaidier. You have craft breweries. You can do the same thing with meat, I think, here in Nebraska, because everybody knows here in Nebraska, we have the highest-quality corn-fed beef. And the neat thing is about our small lockers is we get to dry age it. That adds value, that makes our businesses applicable and have-- offers opportunity to other ranchers to get USDA rural development grants. But if you don't have the access, you don't have a business plan. I think my time is up.

HALLORAN: That sounds so final when you say it. But thank you for recognizing that. I'm sure we have some questions, hopefully, maybe. Senator Moser.

MOSER: So I was just listening to your conversation there and I kind of got myself into a trance.

JACOB WINGEBACH: I'm sorry I bored you.

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MOSEK: No, no, you were very passionate. And it was infecting my brain here. I wasn't following you real well. So you are USDA inspected?

JACOB WINGEBACH: No.

MOSEK: So you're custom-exempt?

JACOB WINGEBACH: I applied in September of 2019 for USDA inspection.

MOSEK: You applied?

JACOB WINGEBACH: I applied.

MOSEK: And you haven't heard back from them or you--

JACOB WINGEBACH: Oh, no, I, I, I went to court with them.

MOSEK: So you're processing without federal inspection?

JACOB WINGEBACH: No, I'm a custom-exempt, I'm a custom-exempt plant. I operate under 9 CFR 303 exemptions.

MOSEK: OK. All right, well I was just trying to get in my head, you know, where you're coming from or what-- and, and what would Nebraska meat inspection do for you? Do you think the Nebraska inspectors would be more available than the federal inspectors?

JACOB WINGEBACH: That would be my hope. Yes, sir.

MOSEK: OK. All right, thank you.

HALLORAN: Thank you, Senator Moser. Senator Brandt.

BRANDT: Workforce housing: your Legislature passed LB-- it's either LB1008 or LB1009 and we put \$10 million into workforce housing, so whoever your banker is needs to look into that and that was just for rural. So I would think that Mullen probably hasn't had a shot at this and that easily, easily helps on that. So that would be a suggestion there. We recognize, particularly in our rural communities, because my whole district is like that-- you've got two types of houses. You've got the, the stuff on the bottom end and then you got the stuff on the top end. And those people making that wage that you're talking about need that mid-range housing and the, the builders won't build that because they can make so much more profit building expensive homes. I would encourage you to go ahead and take a look at that.

JACOB WINGEBACH: Thank you.

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BRANDT: And thank you for your testimony.

JACOB WINGEBACH: Thank you.

HALLORAN: Thank you, Senator Brandt. Any-- no further questions? I appreciate your testimony.

JACOB WINGEBACH: Thank you very much.

HALLORAN: Very good. Next testifier, please.

JOSEPH BRUGGER: My twin brother-- can he, can he testify with me and-- he's part of my business-- my twin brother?

HALLORAN: Sure, five minutes between the two of you.

JOSEPH BRUGGER: Oh, yeah, oh, yeah, no.

HALLORAN: OK.

JOSEPH BRUGGER: We won't get too windy.

HALLORAN: You're going to have to spell both names.

_____ : Yep, at the end?

HALLORAN: Good afternoon.

MATTHEW BRUGGER: Hi, gentlemen. Thank you for having us today. My name is Matthew Brugger, M-a-t-t-h-e-w and B-r-u-g-g-e-r.

JOSEPH BRUGGER: My name is Joseph Brugger, J-o-s-e-p-h and then B-r-u-g-g-e-r. We are twin brothers from Albion, Nebraska, actually just down the road from Mr. Bernt, so there must be something in the water over there. But we have a-- we're cofounders of Upstream Farms. It's a family business. We are a family farm, but we run in tandem with that farm. We started that when we were sophomores in college at the University of Nebraska through the Engler Entrepreneurship Program and we started as a wholesale meat business selling our own natural Black Angus beef direct to the University of Nebraska Athletic Department and then any additional cuts to wholesales, other restaurants in the Lincoln, Omaha, and greater metro area. As we moved back home, we started selling direct to consumers in an online platform, retail, just because of the opportunity, as far as delivery cost goes. Two hours to drive to Lincoln, Omaha, it made more sense to sell online and ship that beef. We ship our beef to all 48 states and we get processed through a USDA-inspected facility. And then on top of

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that, my brother also is a distiller and as long-- as well as a farmer. We raise all of the, the grains that our animals consume and anything that's left over, our goal is to-- we just started an on-farm distillery and we make spirits, high-quality spirits out of everything that we-- out of the grains that we don't feed our cattle. I just-- I guess we're here today to provide context, I guess. We're 24 years old and we are learning a lot. And so we just wanted to share our story with you, answer any questions, and provide context to what we do and answer any questions about our process and then you guys can make your decision. Even through this, I've learned a lot listening to everybody's testimonies today, so I even have questions myself. Our standpoint is we cannot sell across state lines without being USDA inspected. That was from my understanding and so regardless if there is a state inspection, it doesn't affect us much because our primary form of selling is online retail and we ship primarily to the coasts. So we will continue to be-- have our beef inspected in a USDA-inspected facility. In the future, in the next five years, our goal is to process our own beef. We want to be 100 percent vertically integrated as a prop-- as a farm and everything that we sell as a farm goes directly to consumers. So that's our plan and where we want to go and I think that we wanted to be here today because it's extremely influential in the future of our operation. Regardless of what happens here, it affects us and so we wanted to be a part of the conversation. Do you have anything you want to add?

MATTHEW BRUGGER: Nope.

JOSEPH BRUGGER: That's all, guys. Do you guys have questions?

HALLORAN: Moonshine and beef, I like that combination. Do we have any questions? Senator Hilkemann.

HILKEMANN: One quickly on this and so if we were to establish a-- state processing requirements, you're already FDA and you would-- so whether we develop state standards is not critical for your business.

JOSEPH BRUGGER: We're not currently processing beef, so we have to go through a state inspection every year just to make sure that we have the USDA stamp on our product and our freezers are up to standards and making sure that our product is being shipped safely. But we are not processing our own beef at this time.

HILKEMANN: OK, I missed that. OK--

JOSEPH BRUGGER: Yep.

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HILKEMANN: --thank you.

HALLORAN: OK, thank you, Senator Hilkemann. Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Our previous testifier said if Nebraska had state beef inspection-- and it sounds like you guys are, are putting the dry ice in the, in the Styrofoam and, and if we had state meat inspection, it would be legal for you guys to have a state-inspected plant and ship that product anywhere in the United States. That's my understanding.

JOSEPH BRUGGER: Yeah and that's what I got from the last testimony as well. I was not aware of that until today.

BRANDT: OK. All right, thank you.

JOSEPH BRUGGER: I don't know if there's anyone here who can verify that.

MOSEER: I don't think that's true.

HALLORAN: Any further questions from the committee? Yes, Senator Moser.

MOSEER: Well, I'm not sure that's right. I think if you're state inspected, you still have to have a, a different designation to be able to ship outside of the state, is that correct?

_____ : If you have, if you have state inspection, in order to ship outside of the state, your state-inspected product, it has to be-- you have to be operating under a CIS program.

MOSEER: Yeah, that's what-- that was my understanding too, so there's a--

_____ : So that's not, that's not accurate. It's not accurate.

JOSEPH BRUGGER: Just to clarify, I'm just learning as we're going.

JACOB WINGEBACH: They're, they're-- words matter, right? So at the end of the day, I have the grocery store license from, from the Department of Nebraska Agriculture-- Department of Agriculture in Nebraska.

HALLORAN: Would you repeat your name because we're going to ask--

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JACOB WINGEBACH: Yeah, Jacob Wingebach. So if I am state inspected on my kill floor and if I'm wrong, I would please-- I hope the FSIS would let me know if I'm wrong. If I slaughter an animal under inspections, state meat inspection, that animal gets a, a mark on it that says it's an edible product. Our grocery store up the street, Macke's Grocery Store, they get boxed beef in from Sysco. They take it out of that box, it's got that mark on it. They cut it up. Somebody could call Macke's from Denver and ask him to ship him that meat. Now that is USDA inspected, I, I get you that-- I grant you that, because we don't have state meat inspection. So I could provide Macke's with my state-inspected meat, but somebody can make a retail sale, not a wholesale, not move thousands of pounds of beef. But what you gentlemen are doing, selling individual steaks on gross, on whatever, you can sell that if you had a grocery store license. And that's-- those are reasonably easy to get. It's a unique business model, you know? And keep in mind that the Meat Inspection Act hasn't been changed since, like, 1968.

HALLORAN: OK. We're going to have to ask you to maybe submit another green testifier sheet.

JOSEPH BRUGGER: All right, one, one thing I did want to clarify too or I just wanted to make an emphasis on is I think everybody here today can agree that there needs to be more opportunity for processing in our state. And I'm glad that there is an initiative behind that, regardless of, of where that's coming from. If that means the USDA, it's more accessible and there's more information for processing to be allowed in our state or to, to people that have taken steps to necessarily process their meat, I think that that's important. And I think that everybody here agrees that needs to happen on some level and whether that's USDA or state. But if there's initiative to make that more accessible to people, I think it's extremely important.

HALLORAN: OK, thank you, gentlemen. I appreciate it-- your testimony. Next testifier, please. Good afternoon.

BRENDA MASEK: Good afternoon and congratulations on your hard-won win at the polls.

HALLORAN: Thank you. It was a squeaker. [LAUGHTER]

BRENDA MASEK: I was looking forward to congratulating our-- Senator Brewer, but he's not here. I hope that he gets recuperated or it-- doesn't get it, whatever. Good afternoon to the Ag Committee. My name is Brenda Masek, that's B-r-n-- B-r-e-n-d-a M-a-s-e-k, and I am vice

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president of the Nebraska Cattlemen. I am here today on behalf of the Nebraska Cattlemen to testify on LR380. I'm a resident of District 43, so greatly appreciate Senator Brewer bringing this issue forward for discussion. I would like, first, to give a little background on the Nebraska cattle industry, their experiences over the last 18 months. COVID-19 and other black swan events have rocked our market, leading to extreme price volatility for all cattle producers. Specific to COVID, the national total impact of the beef industry is an estimated \$13.9 billion in total economic damages. While retail demand for beef was up significantly with Americans when they were at home, the idling and shutdown of the major packing plants caused a significant bottleneck in the processing chain. Our supply chain is very fragile and empty shelves and on-- empty shelves and meat shortages at the grocery store in the beginning of this pandemic was a prime example of how difficult it is to modify or shift the processes to accommodate the processing or supply chain disruptions. An additional challenge we faced is that 80 percent of all of our cattle slaughtered in the United States are controlled and processed by four major packers. Whenever any of that 80 percent capacity is shut down, our live cattle demand decreases and the live cattle prices plummet. In the wake of this and other black swan events, Nebraska's cattle producers were-- are presumed-- excuse me-- are pursuing numerous policy changes to provide more continuity and security in the beef chain. Reinstating meats-- state meat inspection to incentivize small producers and processor expansion is one of the policy changes that Nebraska Cattlemen support, provided that the program health and safety regulations are at least equivalent, if not greater, than federal inspection. This being said, our organization does not anticipate that the meat inspection will fix our greater economic woes. However, it is a tool to put in our toolbox that could help some sectors of the industry find a different processing option while supporting businesses in our community. For example, many of the members are very interested in pursuing farm-to-table business models. We have some incredible innovative forms from, from many producers, particularly in terms of direct retail sales from farm to ranch or from ranches and farms to consumers. State meat inspection would help provide more processing options for those beef entrepreneurs. I would also-- it would also allow producers to utilize pending federal legislation like the DIRECT Act, which would allow state inspection meat to be sold across state lines through e-commerce. Although this is currently allowed in Nebraska under the system of the federal inspection, there are limited numbers of USDA-inspected facilities to process smaller amounts of product to accommodate the farm-to-table business model. This is compounded by the inability of the small-town meat packers to

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access USDA meat inspectors. Cutting out the federal red tape and empowering Nebraskans is a worthy goal for our members to support. We do recognize that the main drawback to state meat inspection is the cost. Federal legislation introduced by Congressman Jeff Fortenberry would increase the federal cost share for both state inspection and cooperative interstate shipment facilities. Additionally, we are interested in further discussions surrounding a fee-based system that would not require the state's appropriations. The bottom line is we believe that there are options here and that it merits discussion and we thank Senator Brewer for starting this conversation and thank you for having me today and I would take any questions.

HALLORAN: Thank you, Miss Masek. Are there any questions from the committee?

BRENDA MASEK: Thank you.

HALLORAN: You must have been very thorough. Thank you. OK, next testifier, please. Good afternoon.

JESSE SMITH: Good afternoon. I'm Jesse Smith, J-e-s-s-e S-m-i-t-h. I'm the-- I'm an owner-operator of the Diller Locker Company in Diller, Nebraska, and I'm also the current president of the Nebraska Association of Meat Processors, which is comprised of nearly 60 meat processors across the state, ranging from custom exempt to USDA plants. I, I own and operate two USDA slaughter facilities that has two USDA inspectors, full-time inspectors, in a town of 250 people. In the past five years that I've been in business, I've grown my business from 4 employees to 50, back to 12 at the beginning of the pandemic and we're currently fighting back at 45. From a processor's standpoint, one that's been through this process, obtaining a USDA grant of inspection is not a difficult task at all. At least in my opinion, it wasn't for me. There's criteria that has to be met, inspections that need to be passed, at which point you're given a conditional grant and you can begin validating the process that you presented to the USDA. In, in my experience, it was that simple. If a processor wants to resell, I think there's an opportunity to do that and that opportunity is through federal inspection. Prior to COVID, I processed 15 beef a week and 20 hogs per month. We slaughtered one day a week. Currently, we slaughter 40 head of beef a week and 70 to 100 hogs every week. We're currently scaling that number to 200 head of hogs. We slaughter five days a week at both plants. In order to do this, we had to request an additional inspector. And we, we had kind of a little bit of foresight of what was happening, so we were able to warn our frontline inspector there's a potential that we'll need

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another inspector in the coming months. Whether they, they used that heads up or not, I don't know, but I did know that I, I requested an additional inspector and they said, OK. They submitted a job. The job was posted. It was, it was-- they hired someone and I'll have a second inspector. When I switched from one day a week to five days a week, that was just another simple phone call. I asked the USDA if I could slaughter five days a week and they said, knock yourself out. That's not what we do. I think if the intended goal is to help producers and processors, state inspection isn't, isn't what's going to do that. State inspection, it doesn't put rails in coolers. It doesn't make freezers larger. It doesn't add additional equipment. If their-- if custom plants are already full, letting them sell to whoever they want isn't going to let them take any more animals. So I'm very thankful that our industry is in the spotlight and everyone's trying to help. In my opinion, I don't think state inspection is the way to accomplish that.

HALLORAN: OK, thank you, Mr. Smith. Any questions? Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Thank you, Jesse. You process stuff for me all the time. It's great what's happening in Diller. You've created, what, 30 more jobs in that community?

JESSE SMITH: Right now, we're at 45. At our, at our peak, we were at 50, but--

BRANDT: Yeah, yeah. So is, is-- I guess for clarification, is your testimony as president of NA-- Nebraska Association of Meat Processors, that the association is against state meat inspection or you're against state meat inspection?

JESSE SMITH: For the most part, both. One question that I have, you know, is this, is this-- does this replace-- is this the intent to replace custom-exempt inspection?

BRANDT: I think it's, it's just an option, is my understanding, is that if you still want to be federally inspected, you can be federally inspected. If some of the testifiers today wanted to do state inspection because that fits their business model, they could do state inspection. It's just another tool in the tool chest.

JESSE SMITH: I understand that. My-- the reason I asked, most states that I, I know of, you know, it's state or, or USDA, but yeah that, yeah that makes sense.

BRANDT: OK, thank you.

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HALLORAN: Thank you, Senator Brandt. We're good. Thank you, Mr. Smith. Next testifier. Good afternoon, Director Wellman.

STEVE WELLMAN: Good afternoon.

HALLORAN: How is your day so far?

STEVE WELLMAN: It's been good. It's been good, Senator. Well, good afternoon, everybody, Chairman Halloran and members of the Ag Committee and Senator Hilkemann. I appreciate the opportunity to be here today. My name is Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n, and I'm the director of the Nebraska Department of Agriculture. Before I get into the testimony, I've heard the, the comments about inspectors from the Department of Ag and they-- I think they've been complimentary and that makes me feel good that the-- our work is being done and I appreciate those supportive compliments. So Nebraska is the number two state in red meat production with 8.2 billion pounds processed in 2019. Based on July 2020 data, total red meat production was up 5 percent in, in Nebraska and up 1 percent in the U.S. over production numbers for 2019. And I say that because obviously with COVID, we, we did have a drop in production and processing. But by July of 2020, our processing exceeded the previous July numbers. Nebraska is also a leader in red meat exports with \$1.35 billion of beef and \$472.5 million of pork exported each year. Meat harvest and processing is a highly regulated industry to ensure the safety of meat and poultry products being produced and that livestock are handled in a humane manner. The Federal Meat Inspection that-- Inspection Act was passed in 1907. By 1967, 85 percent of the meat sold in the U.S. was inspected under the federal program and the remaining 15 percent was meat processed that was not sold across state lines. Today, over 98 percent of cut-- of commercial slaughter takes place in federally inspected facilities, over 98 percent. In 1967 and '68, amendments deemed the Whole-- Wholesome Meat Act passed requiring states choose a state inspection program to meet standards that are at least equal to the federal standards. At this point, many states opted to forgo the option of state inspection and became designated under USDA. Nebraska opted for that choice in 1971. Since then, there have been efforts to implement state meat inspection in Nebraska. In the year 2000, LB1092 was created and a state meat inspection pilot program was passed. That was vetoed by Governor Johanns, as was mentioned earlier, and our information is that a part of that reasoning was because of budget concerns. In 2011, LB305 was adopted, directing a review of the process to implement the state meat inspection program. The report-- a report was prepared in cooperation with the University of Nebraska-Lincoln Department of Animal Science. A survey was conducted

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of federally inspected facilities, custom-exempt facilities, and facilities that also processed-- that only processed meat products and do not harvest animals. Per the results of that survey, 68 percent of the processors indicated they would be unlikely or very unlikely to seek state inspection. Only 4 processors expressed they would be likely or very likely to, to actually seek, seek state inspection. Implementing a state meat inspection takes time and resources. Because the state inspection is developed in cooperation with the federal meat and poultry inspection program, there are nine component areas of compliance Nebraska would have to meet, including adopting new statutory authority, hiring of inspectors, food safety protocol development, and financial accountability are just a few of those nine. Starting a program would add a complex regulatory structure and have financial impact to the Department of Agriculture and to consumers. The department is concerned that implementing a state meat inspection program would have minimal positive impact on increasing options for consumers. There are currently 109 operations in Nebraska that are USDA inspected and you have a map of those-- of that-- those 109 facilities across the state. There is also a robust, custom-exempt network in Nebraska and individuals can work with their operations to have meat products processed for in-home use. We have a website and a link on our website, as does the Beef Council, that shows a lot of these-- in-- a lot of these custom-exempt operations. If a facility cannot meet USDA inspect-- if a facility cannot meet USDA standards, the facility will not meet state standards since they are required to be at least equal to federal standards. And as a reminder, custom-exempt facilities can continue to, to operate, as they have in the past, without requiring USDA or any state inspections. A state meat inspection program would have to meet the same or higher standards of federal meat inspection. If approved, these operations would only be allowed to sell product produced in a state facility within the state borders. Now we do have the option, once the state would have a, a inspection program, the facilities could, could apply to Department of Agriculture or whoever the agency is that watches over this. They could apply and-- to become part of the-- missing the term here-- to be part of the pack to sell interstate. So those cooperative state-- so there's two steps to that. Obviously I'm, I'm out of time, but we're, we're definitely in support of, of our meat processing in Nebraska here. We want to be a part of growing our state. That's been very clear since the administration started and since I've been in office and I'm not sure that state inspection takes us down the road of actually growing the state and adding value to the products that we already have. Thank you.

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HALLORAN: OK. Thank you, Director Wellman. Any questions from the committee? Yes--

BRANDT: Absolutely.

HALLORAN: Absolutely, Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Thank you, Director Wellman, for coming out here and testifying today. I think everybody appreciates that. Do you see value in state inspection? I mean, you testified that the state is basically against it, but for these small producers, there's sort of an area in the state where, like the brothers that came up here and testified and the gentleman back here at Mullen and such, the-- there's sort of an area there. Is there something the state could do to help those individuals outside of the USDA?

STEVE WELLMAN: One of the examples that he talked about was the, the brothers that are selling their product already within 48 states of the continent [SIC] and they're already using a USDA-inspected facility. So I'm not sure I follow you on that, but one-- what we've talked about, within the Department of Agriculture, is to help these-- if they're interested in expanding their operations-- if any facility is interested in operating-- in expanding their operation, let's help them with a business plan. Let's make sure this makes economic sense because we agree, it brings jobs, it brings housing. We do-- you know, workforce is, is probably an issue in certain areas of the state, but we're willing to-- to help with that, as I'm sure the Unicameral is. And you probably all have a bigger say in that than, than me as the Director of Agriculture, but we see that as, as expansion of a-- of processing in the state. Yeah, that's an economic driver. We just don't necessarily agree that a state inspection program is going to take us down that road.

BRANDT: One thing that the state of Montana did with some of their COVID money is they set aside \$1 million for six, I believe, \$150,000 grants for new processing plants. Would that be a possibility in Nebraska?

STEVE WELLMAN: If there's COVID money in the future. I mean, those funds have to be expended right now by December 30 of this year. I mean, that's something that we do-- we did, we did have that conversation also. We decided that the, the stabilization grants, the \$100 million that we dedicated to livestock was to the heart of the issue. That's where the lot-- that's-- the beginning of any processing

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needs begins with the livestock producers and that's the focus on where we used the, the COVID funding.

BRANDT: All right, thank you.

HALLORAN: Thank you, Senator Brandt. Any further questions? We good? Thank you, Director Wellman.

STEVE WELLMAN: Yep. Thank you.

HALLORAN: I appreciate you being here. Any further testifiers? Oh, there's one. Good afternoon.

ANSLEY FELLERS: Good afternoon, Chairman Halloran and members of the Agriculture Committee. My name is Ansley Fellers and I'm here on behalf of the Nebraska Grocery Industry Association, as well as the Nebraska Association of Meat Processors. Jesse was up here a moment ago and as the president, he obviously speaks to the meat processors as well. Our industry, our industry associations have worked together on this issue previously. Both the Grocery Industry Association and the meat processors are concerned about the proposition of creating a state-level meat inspection program. While both the associations appreciate Senator Brewer bringing the issue before the committee and hearing today, as you have heard, many Nebraska producers and processors are already engaged in niche marketing and retail in small to medium-sized, federally inspected facilities. This federal inspection allows these retailers to sell their products across state lines, something state-level inspection would not do. Everyone in the industry welcomes ideas to allow folks to expand businesses, reach more customers, and retail more Nebraska products, but state-level meat inspection program could cost hundreds of thousands, if not millions of dollars per year, even with a federal reimbursement. Why should we spend more tax dollars on a duplicative program that actually offers access to fewer markets? Additionally, the issues facing meat processors, like many small businesses, will not be addressed with state meat inspection. Finding and keeping employees and the expense of updating equipment and expanding cooler space are some of the chief obstacles. Instead of creating more government, we would encourage you to use available dollars to provide grants to small lockers for upgrades, employee bonuses or benefits, or even federal inspection. Many states, as was just discussed, are using federal CARES Act dollars to help companies expand or hire more employees. The bottom line is what the state would spend on a state inspection would be better spent doing some of these things. Thank you for your time and I'm happy to answer any questions.

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HALLORAN: Any questions for Ms., Ms. Fellers? No, seeing none, thank you so much. OK, next testifier, please. Good afternoon.

ACE VANDEWALLE: Good afternoon. Good afternoon. Ace VanDeWalle, A-c-e V-a-n-D-e-W-a-l-l-e. I'm the owner-operator of Ord Locker up in Ord, Nebraska, an hour north of here. I didn't come today to talk. I really didn't. I'm an introvert. I don't like talking in front of people, but I figured maybe I should just chat a bit, a little insight of what I do up there. I just got into a brand new facility here in August and I'm going to talk about-- I don't know if the state inspection is the complete answer for the problems we have in the state right now. If it's there, you answered Jesse's question earlier on, I talked to a bunch of guys that are custom exempt that were worried if this gets pushed through, that they're going to lose their ability to stay custom exempt because a lot of guys stay custom exempt for the reason that they don't want to deal with all the extra paperwork. They're busy enough. They don't want the extra paperwork it takes to do the inspection. Now I built a brand new facility here because I was in an old, rundown thing that either (a) we had to leave it or I had to go find something else to do. I got in the meat business a little different. I got a bachelor's and a master's degree from UNL in meat science. I was going to go chase my six-figure salaries from big companies and life stuff happened, realized I didn't want to leave the state, also raised some cattle, moved to Ord and bought a locker five years ago. And the five-year plan was to get a new facility. If there was grant money out there to help build this, boy, would that have been nice. They are not cheap to do. They're \$200 to \$450 a square foot to put up if you're not handy enough to build it all by yourself, I guess, so grants to help producers. I get a lot of phone calls all the time from guys like these good Upstream guys. If you haven't followed their Facebook page, follow them. They do an excellent job of promoting what they do, promoting ag, promoting value-added products. There's not enough federally inspected places in the state right now. The phone calls come all the time, guys needed to get into a federal place and so they can sell their product because there's more and more customers out there that need federal inspection because they want to add value to their product because they're raising cattle. We need to add some value, I raise them. We take a beating going to the sale barn. How can we add some more value? So just passing a deal and making state inspection-- that if only a certain percentage are going to bring it up, doesn't completely solve the problem, in my opinion. Grant money, help that producer add more cooler space, rail space, with employees, training, etcetera. I'm going to talk about Dennis Schardt down in Table Rock quick. He owns a USDA federal plant down

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there and he has a good idea. It's hard to find help, these small communities, it really is. And if you've got a young kid that's say, a 16-year-old, want a summer job, we can't let him run a knife until they're 18. How do we get that kid interested in just a trade? We're trade, is all we are. We don't need a college degree to do what we're doing. Get these young kids interested in a trade that they can make a good living in these small communities, but my hands are tied until they're 18. They're off in college. I've lost my opportunity to maybe get certain kids interested. They can't even show up and clean and tear equipment apart for me if it's too sharp, stuff like that. I had a couple other things here. I'm not good at talking in front of people. So yeah, I'm just here for-- thought I'd talk quick. If you've got any questions about what it's like to build a plant, expand, etcetera-- if you've got grant money available, there's a lot of guys that I think would maybe add on and get a bigger cooler, etcetera, something to help the bottleneck that we have, that there's just not enough room. And maybe everybody-- I was always booked three to four months solid, doing about 10, 11 beef a week. I built a facility to get to 25, 30 head a week, maybe. I built it correctly to we can completely double it someday if we need to. I plan on becoming USDA inspected. Up until now, I've really never been worried about-- that was ever going to be a problem just because of some of my training through school. But doing the paperwork and all that, I have been worried about whether I'd actually get inspection or not. If they truly have problems getting inspectors out to rural areas, I love the vet idea. I've had it myself of why can't we hire rural vets to be there to two, three or four days a week they're slaughtering and then they could have their guy come through and check all the paperwork that we're doing too, maybe different options to look at if there's truly a problem there of getting inspectors, but I'll quit talking unless you have some questions, if anybody has any.

HALLORAN: Well, thank you, Mr. VanDeWalle. For a bashful, shy guy, you did a good job. Senator Brandt.

BRANDT: Thank you for investing in rural Nebraska. The issue with the labor in the 16-year-olds, that's probably an OSHA, a federal issue, isn't it? Not a NEOSHA, which would be a Nebraska OSHA.

ACE VANDEWALLE: So it's probably not fixable?

BRANDT: Well, it is if you talk to your congressman or your senators on the federal level.

ACE VANDEWALLE: OK.

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BRANDT: And, you know, I think Nebraska is very supportive of what you're trying to do. It isn't just your industry, it's a lot of industries. Fortunately, ag is exempt from that. We can still have our 14-year-olds or 16-year-olds drive tractors and stuff out there, but the day could be coming for us, too. So I would encourage you to Congress-- contact Congressman Smith or your-- Senator Sasse or Fischer and see if we can't get some exemption for, for rural communities. Thank you.

HALLORAN: OK. Thank you, Senator Brandt. Yes, Senator Hilkemann.

HILKEMANN: Thank you, Senator Halloran. Quick question: you, you said Table Rock, Nebraska.

ACE VANDEWALLE: Yes.

HILKEMANN: What was the name that you mentioned there?

ACE VANDEWALLE: Dennis Schaaridt.

HILKEMANN: OK. I used to be the football coach there for three years. I don't know if that's-- but I, I wasn't familiar with that name, so OK, thanks.

ACE VANDEWALLE: Yep.

HALLORAN: All right, thank you, sir, appreciate it. Good afternoon.

RAY BERNT: Good afternoon. My name is Raymond Bernt, R-a-y B-e-r-n-t. I apologize for rambling and being unprofessional and unprepared. I didn't actually intend on speaking this afternoon. I came down to more observe, but there was a couple of points that I seen that aren't being addressed right now. Right now, we're underneath the control of the USDA. How often do I actually get to look somebody in the eyes that makes the laws that regulate us? It's, it's very seldom. If the state regulates it, I can come, I can look you in the eye and I can voice my concerns. That's why the Constitution was written in the way it was, to give smaller governments more authority and more power because we can hold our smaller governments accountable. If USDA have-- has an out-branch control, you don't get that. Through the COVID crisis, you were seeing ribeyes bringing \$27 in the store. You know, you couldn't buy ground beef for \$6 a pound. The other day, I seen it in the store for \$1.60. There's no way that that was US beef produced and processed and put in store at that, but it has a USDA stamp. They're bringing in beef from Nicaragua, Nicaragua, Brazil, Australia and they're putting the USDA stamp on it and they're

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marketing it and people are thinking that it's U.S. beef when it's not. If you have a Nebraska stamp on that beef, people will pay a premium for it and you can market it nationwide to a retailer. And this is one thing that I don't think is getting clarified that Jacob was trying to make a point on. Yeah, you can't wholesale it. I can't send it to a grocer, but if I have somebody in San Diego that wants to buy a steak, you can send it to them as long as it is sold before it crossed the state lines and it is going to an end consumer. And if it is marked with a Nebraska stamp that it is processed, produced by a small producer-- because this is a growing trend right now. This is-- my dad that testified earlier, he is-- he has produced a market where people will drive three and a half hours out from Omaha, groups of families, once or twice a month and they will get all their groceries. They'll drive three and a half hours to get their groceries because they can see where it comes from and labeling is a huge issue with that. And if it, like I'm saying, if it has that Nebraska stamp, I-- they're going to pay more for it knowing where it comes and it might address the issue of, like [INAUDIBLE] and, and bringing in outside beef. Sorry, I didn't have much prepared. That was just two points that I, I felt needed spoke upon that wasn't covered today.

HALLORAN: OK, any questions? Well, acorn doesn't fall far from the oak tree, nice job. OK, any more testifiers? Seeing none, then, Mr. Baker, you're--

BRANDT: Well, do you want to give the USDA a chance to respond or--

HALLORAN: Yeah, we, we will, maybe we should do that first. I do have a question for Mr. Kiecker and then there may be some more. Sorry, Tony. Welcome back.

PAUL KIECKER: So can I, can I make a point?

HALLORAN: Sure.

PAUL KIECKER: So there's been some discussion about what you can do as a retailer. Can you sell that product outside of the state? The answer is yes, you can, as long as you start with a federally inspected product. You cannot take state-inspected product at the retail level and sell that outside of the, the state.

HALLORAN: OK, thank you so much. Questions have been raised about use-- not using, but taking advantage of the skills of vet-- veterinarians in this process of maybe being part of that process of

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inspecting. Can you elaborate on that some and give us some of your opinion on that?

PAUL KIECKER: I think earlier on, someone said that you have a veterinarian look at something for \$20. I'd like to see that-- where, where you find those. I can tell you that we have an extremely difficult time hiring veterinarians. Looking at the veterinarians as far as on a as-needed basis or something like that is something that we are interested in, in pursuing. There's a lot of concerns that come along with that. I think one of the example that you had was that you said that the veterinarian would need to have some additional training and I, and I agree with that. I mean, you're going to have to invest in that veterinarian that-- I don't know-- how often would they actually work for you? And maybe some of these people that are here that actually have slaughter plants can actually discuss the number of dispositions that they have that a veterinarian actually has to make. I'm guessing that the number is probably extremely low. So you would end up with a person that you've invested quite a bit of time in, to make sure that they've had all the training in order to do that for something that you wouldn't use them, use them for very often. The majority of the inspections that are done in these plants are done by CSIs, consumer safety inspectors, or food inspectors. The only time that it's a requirement to have a veterinarian there is if there's something that either the food inspector or the consumer safety inspectors see that they think would call the entire carcass into question. If it's a part and it's an isolated incident, the inspector can have that trimmed. There's no reason to have a veterinarian there for that. So I'm not sure exactly what the benefit would be to have a veterinarian certificate on every animal. I, I really don't see how that would, how that would actually work.

HALLORAN: I think some of the earlier discussion centered around veterinarians was that through their training as a veterinarian, they have, they have substantial knowledge of the animal, the animal right, and so that that would be not a huge stretch, just listening to what other people say, would not be a huge stretch for them to be trained up to be possibly meat inspectors. I don't know if that's the case or not. I think that's something that's been suggested and suggested that might be worth looking into a little bit more.

PAUL KIECKER: So if, so if we're talking about having, having the veterinarian be the inspector in that plant, it would be a lot more veterinarians that we would have to find somewhere. You got to keep in mind, we're talking-- when we're talking about inspection, we're talking about having someone there all the time that they're doing

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slaughter to inspect every single animal, antemortem and postmortem. I don't see us ever having enough veterinarians to have them to staff in those plants every day, all day long when these plants are slaughtering. And I, I can't imagine that the state would be able to find that many veterinarians that, that you're going to do that either, but I think that's--

HALLORAN: I think the suggestion was not so much for them to take place of the USDA inspectors at major plants, right, where you-- you know, they're by volume. They're very busy and they have to be there 24/7, whatever. I don't know that that was a suggestion as much as it might be a suggestion for these custom-- more custom-sized packing, processing smaller plants, where they could be on, on demand, on fee, on call for a fee to do something like that. But I think that maybe the-- that may be-- I may have confused you with the initial question, but I think that's kind of more towards what we-- the question was meant to be on a, on a custom basis, could they use-- reasonably use a trained up-- I know a lot of veterinarians that, quite honestly, would long for another source of income. But, you know, I'm not talking about the pet veterinarians, that's the only ones that are making money. Any other questions, though? Yes, Senator Hilkemann.

HILKEMANN: I've, I've got a comment, Mr. Kiecker. I-- and I want to thank Senator Halloran for inviting me to be on this panel. It's been very enlightening to me and I-- hearing all the innovation that's going on, that's great. One of our last testifiers talked about how one of the-- it's getting close to-- that he can talk to a state legislator, he can talk to-- what have you learned today being out here in, in, in this hearing?

PAUL KIECKER: Well, I can tell you that anyone that is interested in applying for a grant of federal inspection, they will absolutely be put in touch with someone that's local. So just to give you a little bit of background on how we're set up, we have ten districts across the United States and then within-- underneath those ten districts is a certain number of states, depending on, on the number of plants, the number of personnel, you know, to try to equalize the, the amount. Underneath that, we have circuits. And each one of those circuits has a-- what we refer to as a frontline supervisor. And then underneath that, we have a certain setup, depending on the types of plants, with either veterinarians, consumer safety inspectors, or food inspectors. So-- and we have things set up so that anyone is interested in contacting somebody, having a discussion with them, they're available. I'm not available to, to have a discussion with everyone all the time.

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I agree with that, but as far as a representative of FSIS, they are available.

HALLORAN: All right, sir. Yes, Senator Brandt.

BRANDT: Did you have a question?

_____ : No, go ahead.

BRANDT: Back in 2001, the University of Nebraska did a report on this very thing and if you read that report, about 95 percent of it's still germane today. And one of their recommendations for maybe forecasting to the future was because the FSIS really wants to concentrate on the, on the big plants, the small plants take an inordinate amount of time just, just travel between a plant that kills five steers one day, ten steers another day, and, and driving over. They suspected that someday, FSIS would just say every plant, let's say, with 25 employees or less, would be a state-inspected plant and here's your money, Nebraska. And all those plants would be state inspected with, with the possibility of, of getting a USDA if they so chose to. And that would free your inspectors up to concentrate on the larger plants. Do you have any comment on that?

PAUL KIECKER: I haven't had any discussions on, on that at all. And I, I can tell you that 90 percent of all the plants that we cover are classified as small and very small. And that's based on the number of employees that they have and the amount of production that they have each year. So, you know, we are, we're covering the inspection for anyone that has a, a grant of inspection, regardless of what the size is, and we plan to continue to do that. And I'm not, I'm not aware of any, any legislation or anything that mentions small and very small plants being mandated to go to state inspection.

BRANDT: Like I said, that was in a 20-year-old report and some of it applies today and some, some doesn't because, because things change, so-- but anyway, thank you very much for coming to Nebraska. I hope you enjoy your stay.

PAUL KIECKER: All right. Glad to be here.

HALLORAN: And I agree, thank you for, for being here. It was important to have the information and, and your expertise and, and knowledge about the subject, so safe travels back home and, and hopefully, you're on a plane with plenty of social distancing.

PAUL KIECKER: Thank you.

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HALLORAN: With that and as he approaches the table, Tony Baker can close on LR380. I have two letters for the record: Bill Armbrust, testifying for himself, and Edison McDonald, testifying GC Resolve. OK, Mr. Baker.

TONY BAKER: Thank you, Senator Halloran. It is customary in the Nebraska Legislature, as you know, for legislative aides testifying on behalf of their senators not to provide closing statements and I will follow that custom. I would just like to say thank you to all the people we invited and who came out today. This is a way bigger turnout than I thought we'd see. And to everyone else, Director Wellman and Mr. Kiecker, really appreciate-- I-- the last thing I thought is I'd see somebody get on a plane from D.C. and come out and visit. That was, that was great. Thank you.

PAUL KIECKER: You bet.

HALLORAN: All right. Thank you, Mr. Baker. That calls a close to the hearing for LR380. Thank you all for being here.