



June 30, 2021

VIA EMAIL

Taylor Gage
Director of Strategic Communications
Governor's Office
P.O. Box 94848
Lincoln, NE 68509-4848
taylor.gage@nebraska.gov

Re: Public Records Statute Request

Dear Record Custodian:

Pursuant to the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 et seq., American Oversight makes the following request for records.

Public records obtained by American Oversight from the United States Department of Agriculture (USDA) include correspondence between news media, meatpacking companies, and the USDA regarding management of COVID-19 cases in Nebraska meatpacking facilities.¹ In these emails, USDA officials suggest that Governor Pete Ricketts worked with news organizations to produce favorable stories about the safety of meatpacking facilities in Grand Island in order to manage community concerns about workers' safety.² In an April 20, 2020 email, Joby Young, USDA Chief of Staff, wrote, "Governor Ricketts worked with JBS and Nebraska Cattlemen to get a local TV station and newspaper to the plant in Grand Island . . . It seems [the hyperlinked] stories were effective is [sic] managing the community concerns about the plant."³

American Oversight seeks records with the potential to shed light on the extent of the Nebraska administration's communications with protein industry entities.

Requested Records

American Oversight requests that your office produce the following records within four business days:

All email communications (including complete email chains, email attachments, calendar invitations, and attachments thereto) sent by (a) the Nebraska officials listed below to (B) anyone representing the listed external entities or communicating from the email domains listed below.

¹ *USDA Communications with Protein Industry Groups Part 1*, American Oversight, 276 (2021), <https://www.documentcloud.org/documents/7204640-USDA-20-0964-A>.

² *Id.*

³ *Id.*



Nebraska Officials

- i. Governor Ricketts, or anyone communicating on his behalf, such as a scheduler or assistant
- ii. Chief of Staff Matt Miltenberger
- iii. Scheduler Jean Salisbury
- iv. Director of Strategic Communications Taylor Gage
- v. Communications Officer Justin Pinkerman

External Entities

- a. Andre Nogueira, or any representative of JBS (including anyone communicating from an email address ending in @jbssa.com).
- b. Any representative of Nebraska Cattlemen (including anyone communicating from an email address ending in necattlemen.org).
- c. Ken Sullivan, or any representative of Smithfield Foods (including anyone communicating from an email address ending in @smithfield.com or @smithfieldfoods.com).
- d. Betsy Booren, or any representative of National Consumer Brands Association (including anyone communicating from an email address ending in @consumerbrandsassociation.org).
- e. Dean Banks, or any representative of Tyson Foods (including anyone communicating from an email address ending in @tyson.com).
- f. David MacLennan, or any representative of Cargill (including anyone communicating from an email address ending in @cargill.com).
- g. Any representative of Pilgrim's Pride (including anyone communicating from an email address ending in @pilgrims.com).
- h. Any representative of the National Pork Producers Council (including anyone communicating from an email address ending in @nppc.org).
- i. Any representative of the American Association of Meat Processors (including anyone communicating from an email address ending in @aamp.com).
- j. Any representative of the National Chicken Council (including anyone communicating from an email address ending in @chickenusa.org).
- k. Any representative of the North American Meat Institute (including anyone communicating from an email address ending in @meatinstitute.org).
- l. Colin Woodall, or any representative of the National Cattlemen's Beef Association (including anyone communicating from an email address ending in @ncba.org).
- m. Kevin Hourican, or any representative of the Sysco Corporation (including anyone communicating from an email address ending in @sysco.com).
- n. Randy Day, or any representative of Perdue Farms, Inc. (including anyone communicating from an email address ending @perdue.com)
- o. Any representative of Seaboard Foods (including anyone communicating from an email address ending in @seaboardfoods.com).

Please provide all responsive records from March 1, 2020, to the date the search is conducted.

In an effort to accommodate the Governor's Office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by Governor Ricketts or those communicating on his behalf. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both Governor Rickett's response to an email from Andre Nogueira and the initial received message are responsive to this request and should be produced.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee. Pursuant to Neb. Rev. Stat. § 84-712(3)(b), we further request that any fees are limited to the actual costs and exclude fees for search time in excess of four hours.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records.⁴ If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

If you have any questions regarding how to construe this request communications records or believe that further discussions regarding search and processing would

⁴ Neb. Rev. Stat. § 84-712.06.

facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Emma Lewis at records@americanoversight.org or 202.539.6507.

Sincerely,

/s/ Emma Lewis

Emma Lewis on behalf of American Oversight.

⁵ American Oversight currently has approximately 15,600 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 17, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited June 17, 2021).