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**Testimony of  
Mark Watne, President  
North Dakota Farmers Union  
Before the  
House Agriculture Committee on HB 1388  
February 15, 2019**

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My name is Mark Watne and I serve the members of North Dakota Farmers Union (NDFU) as president. Our members are opposed to HB 1388.

Two years ago, 75% of North Dakotans voted in favor of family farms. Yet here we are again, taking up a bill to weaken the Corporate Farming Law.

HB 1388 seems pro-family at first glance. It adds just two words – “second cousin” – to the list of kin that can legally form a corporation or a limited liability corporation in the state for farming and ranching. Some have even said this change will bring more new people back to the farm.

But the devil is in the details.

First, there is a pervasive misconception that you must incorporate in order to farm as a family, but this is not true. There are multiple business entities available to farmers and ranchers who want to farm together; like formal and informal partnerships, for example.

And the current law does not appear to be a barrier to individuals farming or ranching together which is evidenced by the business filings with the North Dakota Secretary of State. The data is striking: there are roughly 1,207 family farm corporations or LLC’s out of an approximate 30,000 farming operations.

Second, HB 1388 seeks to expand who can participate in a corporate or LLC family farm by adding “second cousin.” But who is your second cousin? If you ask a group of people, you will probably get different responses, but ultimately, you and your second cousin have the same great-grandparents.

Although adding “second cousin” to the law may appear to expand the definition of family, we believe it does not do what is intended. For example, two first cousins are farming together. Cousin A’s child wants to join the corporation and Cousin B’s niece/nephew wants to join the corporation. Cousin A’s child is a “first cousin once removed” with Cousin B. Cousin B’s niece/nephew is a first cousin once removed with Cousin A.

Given the wording of the current CFL statute and the amendment proposed in HB 1388, we have so far been unable to envision a combination of currently-allowed family farm corporation members that a

second cousin could join. Because each shareholder must be within a certain degree of kinship with all other members, second cousins are too far out on the family tree to meet the requirements. And any “simple fix” will only serve to dilute current statute. The line has to be drawn somewhere.



If the bill sponsors' objective is to help a new producer succeed, a corporate business structure is no guarantee. Profitability, tied to good market prices, determines success. Working with property owners that are willing to contract directly with a beginning farmer for the sale of assets and loans with agreeable terms through the Bank of North Dakota and local banks are some of the ways to ensure both new and established farmers succeed.

NDFU continues to put high priority on working with beginning farmers, farmers dealing with depressed markets, and on farm succession with our members who are planning for the future. We prioritize value-added projects (like our restaurants and specialty cooperatives), being on the front end of precision agriculture, drones, and other new technologies by hosting a conference for farmers and agriculture suppliers and advocating for increasing agricultural research funding while our organization continues to invest in research at NDSU because we believe these endeavors are a step in the right direction for beginning farmers.

So, in closing, North Dakota Farmers Union believes that expanding the family requirement would only weaken the law, something our members vastly oppose. I can't say it enough: the further we stretch our corporate farming law, the weaker it becomes; and that may very well be the objective of the bill sponsors'. It's easy to make a two-word change on paper; but the reality on the ground, neighbor to neighbor, is much different. And opening up our law to further erosion for the sake of a second cousin is not good public policy. It puts all family farmers at risk for the sake of just one.

The voters of North Dakota have spoken, and being the judicious people they are, they voted for the long-held belief that farmland should stay in the hands of family farms, because family farms have always been the backbone of North Dakota. It's now the Legislature's job to work with the Corporate Farming Law, not against it. We urge a "no" vote on HB 1388.