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Agriculture Committee  
February 24, 2009

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[LB585 LB602 LB646]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 24, 2009, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB585, LB602, and LB646. Senators present: Tom Carlson, Chairperson; Annette Dubas, Vice Chairperson; Brenda Council; Merton "Cap" Dierks; Russ Karpisek; Scott Price; Ken Schilz; and Norman Wallman. Senators absent: None. [LB585]

SENATOR CARLSON: Welcome to the February 24 legislative Agriculture Committee hearing. I'm Senator Tom Carlson of District 38, Chairman of the Ag Committee. To my right is our research analyst, Rick Leonard; our page for the Ag Committee is Kim Weber from Lincoln; and we'll have senators joining us pretty quickly here. To my right, Senator Cap Dierks from Ewing; Senator Brenda Council from Omaha; Senator Ken Schilz, to my left over here, from Ogallala; and we'll have others joining us as we proceed. Our committee clerk is Barb DeRiese. Before we begin, please turn off your cell phones or pagers if you need a reminder for that. Now those wishing to testify on a bill should come to the chair to be heard. As someone finishes testifying, the next testifier should be ready. If you do not choose to testify but would like your name entered into the official record as being present at the hearing, there's a form by the door that you can sign. And that's good to hear those cell phones going off. (Laughter) This will be made a part of the official record of the hearing. If you do not choose to testify, you may submit comments in writing and have them read into the official record. However, you will not be listed on the committee statement unless you come to the mike and actually testify, even if you just state your name and your position. We're using a computerized transcription program and it's very important to complete the sign-in sheets, the green sign-in sheets. Please have those completed before you testify. If you need one of those, they're on the table there. Please come up and get one. And they should be given to Kim, our page, before you testify. If you have material to hand out, Kim will hand out that material. If you're testifying on more than one bill, you need to submit a form for each of the bills. When you testify, please state your name and spell it for the record even if it's an easy name, because that's picked up on the transcription. Keep your testimony concise and try not to repeat what someone else has covered. I don't know that we've got enough people here that we're worried about time on testimony today. If it goes that way we'll change in midstream. They'll be no displays of support or opposition to a bill and we keep good order that way. Senator Wallman from Cortland just joined us to my right here. And with that we'll begin our hearing on Legislative Bill 585. Senator Dierks will introduce the bill. Okay, you may proceed. [LB585]

SENATOR DIERKS: Thank you, Chairman Carlson and members of the Ag Committee. My name is Cap Dierks; that's spelled C-a-p D-i-e-r-k-s, and I represent District 40. I'm here today to introduce LB585. This bill creates the Bovine Trichomoniasis Act.

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Trichomoniasis is caused by *Tritrichomonas foetus*, or nicknamed "trich," is a venereal disease of cattle that is very contagious and is passed from the vulva of the cows bred by the bull. It is a disease caused by a spirochete that is present in cattle only. The spirochete is a mobile organism that is able to move by way of attached appendages called flagella. The disease causes abortion during the early stages of pregnancy. The cow, after aborting, sheds the organism and then after a short time is able to conceive and perform fairly normally in the cow herd, but the bull remains the carrier. Diagnosis of trich is quite difficult. You may hear today of the actual diagnostic modems. Treatment of the bull is, for the most part, ineffective. This legislation today is brought for the benefit of cattlemen, veterinarians, regulators, and auction market operators. These folks all have the same concern: that of the availability of information on herds diagnosed with trich. They feel that open and shared information on the presence of the disease is absolutely essential for control of the infection on the local level, as well as the state level. LB585 was introduced as a carrier for this purpose only. The language to replace the bill will be worked out as an amendment that the committee feels necessary to fulfill the needs that I have just mentioned. I'd like to thank these ag groups that have worked so closely with my office over the past months on this issue. There was a meeting in my office yesterday that was one of the most productive meetings ever with the groups that differ somewhat in philosophy. With that, Mr. Chairman, I would end my testimony. Before taking questions I would ask that the committee allow neutral testimony, first from Greg Ibach from the Department of Ag and Dr. Hardin from the University of Nebraska diagnostic lab to testify neutral. I would like to ask them some questions and feel that their input is critical at the beginning of this hearing. I'd be glad to take any questions you might have. [LB585]

SENATOR CARLSON: Thank you, Senator Dierks. Are there any questions for him? Okay, thank you for your introduction. And so we will go to some neutral testimony and I'll call on director of Ag, Director Greg Ibach. [LB585]

GREG IBACH: (Exhibits 1, 2, and 3) Good afternoon, Senator Carlson and members of the Ag Committee. If I could I'd like to maybe give a little bit of brief background on the department's experience with trichomoniasis and animal disease control, in general, and then would open up to questions from the group as well. My name is Greg Ibach, G-r-e-g I-b-a-ch. I'm the director of the Nebraska Department of Agriculture. I'll go back a little bit in history because I think it's important for everybody to understand. In 2001, Senator Dierks introduced LB438, which the department called, at that time, the new direction bill. And what that did was, it amended a 1927 statute that kind of set out the guidelines for how the department and the Bureau of Animal Industry and the State Veterinarian approached animal disease control and management. As part of that bill, it directed the department to develop regulations which categorized different diseases with the input of some industry groups, livestock industry groups. And as a result of LB438, trichomoniasis was listed at that time as a category II disease, which meant it was an emerging disease or a disease that was threatening the livestock industry, but

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still needed monitored and controlled to see that it did not advance and spread. Over the course of the last several years, the incidences and concerns of trichomoniasis have continued to escalate, and at different times there's been spots within the state that have been identified as hot spots or spots that seem to have a little bit more of an incidence rate than other spots in the state. As a result of some of these concerns, discussion with the industry, we convened a meeting of industry groups last May, near the conclusion of the legislative session, to discuss trichomoniasis and what the right approach for addressing the industry concerns. We invited a number of groups to that meeting, and at that first meeting we discussed the two different avenues that might be appropriate in working with the groups to address trichomoniasis in Nebraska. And that was whether or not we wanted to pursue a regulatory program, and we discussed what the options involving a regulatory program and how the department might work with the Legislature to develop--and the industry--to develop that, and then we also discussed the option of working together on a voluntary program. And at that time the industry groups indicated to the department that they would like to pursue the voluntary route. And so over the next several months and until recently, or continuing even now, we have worked with industry groups to pursue guidelines for a voluntary program that include steps being taken by cattlemen's organizations, general agricultural organizations, our livestock marketing partners, and others, and then the Nebraska Veterinary Medical Association, most importantly, to be able to educate, provide some standards and guidelines as to how we would handle open cows and bulls that had been in people's herds that were offered for sale at livestock auction markets. And so we feel that we have worked well with this group and hopefully you will hear from them a little bit later in the testimony, their perception. The department has some general powers which has been referred to in some of the questions and some of the discussions as we've gone through the voluntary process. And the general powers of the department with regard to animal disease leaves some room for interpretation as to how broad in scope we actually could or should invoke those general powers. And it's been the department's practice in the past, and up until this point, that as long as we have groups working together and cooperating together, that that probably wasn't the right time for us to get heavyhanded with our general powers, and reserve that more heavyhanded approach for a time when, maybe, we had a foreign animal disease, a serious zoonotic disease: foot and mouth, bird flu, anthrax that we talked about earlier; that we may not have the general industry consensus but yet knew what the right thing to do to control and contain a disease to protect the general public and protect different regions of Nebraska might be the more appropriate time to be more liberal with our interpretation of our general powers. And so that is part of our philosophy as to maybe why we haven't gone further there as far the voluntary program. At the end of the day, the department is here for the purpose...the Bureau of Animal Industry is here for the purpose of protecting Nebraska's livestock industry, and that is a service to the livestock industry and also a service to fulfill the expectations and directions that the Legislature puts forward. And so while we've worked hard on the voluntary program, if the industry and the Legislature decide that they prefer a regulatory program, we would honor those

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wishes as well. [LB585]

SENATOR CARLSON: Okay, thank you. And since the hearing has started, Senator Dubas has joined us. Senator Dubas is from Fullerton and she is the Vice Chair of the Ag Committee. Are there questions for Director Ibach? Senator Wallman. [LB585]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, Greg, thanks for being here. Now I realize that if you have, I have a bull that has trich, is it curable or not? [LB585]

GREG IBACH: I don't think that the treatment for trichomoniasis is effective enough to consider it curable. No. [LB585]

SENATOR WALLMAN: Then what would the test cost me if...if that was greater? [LB585]

GREG IBACH: That, I don't know the specific costs. It's a fairly involved test. Some producers do it. Very frequently, even as much as each year on their bull battery. I know some producers that do it on a revolving basis and maybe do a third of their bulls each year so that they're doing it, and I know some producers that as long as their fall preg check is showing that they have done an effective job of settling their cows each year, they use that as an indicator that they don't need to be concerned about trichomoniasis. [LB585]

SENATOR WALLMAN: And they run that through our state lab? [LB585]

GREG IBACH: Yes. The university's diagnostic lab can perform the tests to diagnose. Yes. [LB585]

SENATOR WALLMAN: Okay. Thank you. [LB585]

SENATOR CARLSON: Okay. To my left, Senator Price is joining us; Senator Price from Bellevue. Senator Dubas. [LB585]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Director Ibach. You referenced that there were some hot spots around the state. What's the procedure or process when those areas get identified? [LB585]

GREG IBACH: A lot of time, under the voluntary program, the areas that are considered hot spots are focus areas for educational programs; for the localized veterinarians to do some producer contact with their clientele to encourage...to make producers aware of what types of low-pregnancy rates; if you have a neighbor with a known problem, what types of steps you might want to take to prevent the spread of the disease into your

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herd. And so those are the types of steps taken under the voluntary program. There will be some other testifiers later, specifically the NVMA and the cattlemen's organizations that might go farther with some of the activities they're doing to help make producers aware of the risks and the opportunities to protect their herd. [LB585]

SENATOR DUBAS: So once a herd is diagnosed, is the veterinarian required to report it to the department or how...? [LB585]

GREG IBACH: The agreement that has been reached as part of the voluntary program is that the samples are sent to the university diagnostic laboratory. The university will inform the department that a certain veterinarian practice has had a sample sent in and diagnosed as being positive for trichomoniasis. And then the department would contact that local veterinarian and ask them if they wanted assistance in visiting with their client that's affected about what they need to do to take steps to protect their herd and protect the herds around them. And if that veterinarian refused to cooperate or then that would be a stopping point for the department. If the veterinarian said, yes, please come visit with my client, then we would go out and visit with the client and ask him to notify his neighbors and some other steps. And if he chose at that time to take those steps, then the neighbors would be notified. If he declined to notify his neighbors, that would be another stopping point for the department. And the reason why the vet--and the university may speak to this a little bit more later--but the reason why we've reached that agreement with the university is, you know, once they would submit information to the department, it becomes subject to the sunshine laws and public disclosure. And there is concern that if producers become wary of doing testing on their herds because big brother is going to find out about it, that that will compromise the use and utilization of the University of Nebraska's diagnostic lab, and will either incent producers not to test or to test in other states, which isn't a benefit to the overall prevention of disease and management of disease in our state. [LB585]

SENATOR DUBAS: Thank you. [LB585]

SENATOR CARLSON: Okay. And Senator Karpisek from Wilber has joined us and we're a full complement now. Senator Dierks. [LB585]

SENATOR DIERKS: Thank you, Senator Carlson. Greg, you received a letter from me yesterday with some specific questions that I wanted to ask you today, and so I'm going to go through some of those. And if you think that there's someone else should answer them, well that's fine. We'll have someone else come up, but. [LB585]

GREG IBACH: I'll try and if we get too technical, I don't have my DVM, that's for sure. (Laughter) [LB585]

SENATOR DIERKS: I guess one of the reasons that we got this bill is we are looking for

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a method of notification so that when there's been a diagnosis made of trichomoniasis in a cow herd, it seems like we're having difficulty getting the neighbors notified. Like there may be some legal reason that they can't be told, and I would like to know, does that come under general powers that's caused that to happen, or how do we get around that so we can get information to the owners of the herds around these people that have the positive diagnosis made? [LB585]

GREG IBACH: Well, I think that's one of the issues that has been a challenge to the voluntary discussions and part of the procedure that we've gone through to work with the university to maintain that confidentiality when we're outside of a regulatory program. Now if we had a regulatory program, you know we come under a different set of rules and a different set of expectations and standards for the department that would, you know, make notification more easier or would force notification. Right now, under the voluntary program we're counting on cooperation of the industry and affected parties. [LB585]

SENATOR DIERKS: So there is some legal protection for the department as far as letting the people know who have the infection around their place. Is that the right way to put that or...? [LB585]

GREG IBACH: With a regulatory program there would be a requirement or an expectation placed on the department. With a voluntary program we're trying to balance the concerns about keeping producers actively testing for diseases, utilizing our diagnostic lab with the concerns of making sure that people that would have neighbors that are infected are informed. [LB585]

SENATOR DIERKS: Well, I've had a little trouble getting around the voluntary thing because I think the important thing most of us feel is that whenever there's a diagnosis of trich it ought to be known to everybody in the neighborhood. It's such a traumatic experience for the neighbor to find out that maybe his neighbor had the disease and his bull is in his pasture. You know, I mean this is something that we run into, and I've heard it so many times and you're going to hear some testimony today by a producer, a cattle producer who had the infection and didn't know he had it. And it's just...it's decimating to them. And so this is why I'm trying to find out some way for the department to be able to inform the neighbors of the outbreak of trichomoniasis so that they can be prepared and take...and now if this means we have to go to regulatory instead of voluntary, why, then so be it. But it looks to me like it should be some way for us to get that information out there without having to go the regulatory route. Now you tell me if I'm wrong. [LB585]

GREG IBACH: Well, I think that that's subject to...I think that as we've worked through the voluntary program. And under the new direction bill, diseases that were in category II that became of increasing concern, the department was asked or instructed as part of

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that legislation to appoint an industry task force to discuss what appropriate next steps would be taken with those category II diseases. And so that's what we did last summer. The set of names that was distributed, I think I saw somebody handling one of those handouts, is the trichomoniasis task force that has representatives of industry groups, as well as an individual that I appointed as a department...under my authority as Director of Agriculture, and then also members of the department staff. And so the task force, in discussions over the summer and through the fall, have developed the voluntary program, and that's what the program has been working with the task force to develop that voluntary program. And it was the task force, at that time, that also chose to work with the department on the voluntary program rather than have us work to develop and propose a regulatory or a statutory program. [LB585]

SENATOR DIERKS: So then, in essence, what we're saying is that in order for my neighbor to find out that I have trich, we've got to have a regulatory program in place. [LB585]

GREG IBACH: I think that for a mandatory, I think it would be fair to say that from the department's perspective, right now, that if you want mandatory notification, that we can't do that under a voluntary program. [LB585]

SENATOR DIERKS: What information can be shared...? Well, I guess we've asked that problem, that question about how we can share this with practicing veterinarians who have to be on the ground doing the alert, and how can they get the information? Just have to go back to the fact you need a mandatory program, is that right? [LB585]

GREG IBACH: No. A practicing veterinarian that works with the producer to submit a sample to the vet diagnostic lab will be notified of the results of that test, so the consulting... [LB585]

SENATOR DIERKS: But then can he go to the neighbor and tell the neighbors about it? Is that...? [LB585]

GREG IBACH: I think that would be a conflict with the patient/client--or whatever you would call that in animal terms--relationship. [LB585]

SENATOR DIERKS: Yeah. Well, see, I'm having difficulty with that whole process. I know that if Wayne Frost was my neighbor and he was a little bit far away but from my neighbor and he had trich, I would expect him to come and tell me. And if I had it, I'd sure go tell him. Now, that keeps veterinarians out of it and that keeps the state out of it, but it just seems to me like we're missing a step there when we can't tell these owners that surround the guy that got the infection, that we have to fall back on...we don't have...the general power doesn't allow us to do that or I'm not sure how to put that. [LB585]

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GREG IBACH: I think that a voluntary program definitely places the expectation on producers to do the right thing if they have a diagnosis in their herd, which is to notify their neighbors. [LB585]

SENATOR DIERKS: Okay. Well, I've got another question here. I wanted to ask about how you gather information from other states and out-of-state labs. Is that something that your state is able to do? Do you have an agreement with South Dakota and Kansas, for instance, on reporting trich to you? [LB585]

GREG IBACH: When we were analyzing the data to determine the prevalence of trich in Nebraska, we obtained information from out-of-state labs as to producers in Nebraska that had tests conducted there and how many positives they had diagnosed as part of that. I would need to ask...I don't think they report to us directly. I think we would have to request that periodically if we wanted to continue with updates. [LB585]

SENATOR DIERKS: Well, I was concerned about how it happens as far as going across state lines with the people that have cow herds next to Kansas operators that have the problem, and are our Nebraska herds notified? And the same way with South Dakota. We know that there... [LB585]

GREG IBACH: South Dakota, I believe--correct me if I'm wrong--has mandatory reporting, and so...but I do not believe that it requires a bordering South Dakota ranch to report to their Nebraska neighbors. It requires them to report to their South Dakota neighbors but their requirements stop at the state line. [LB585]

SENATOR DIERKS: So then if we had a mandatory program we would be able to make that reciprocal? [LB585]

GREG IBACH: We have...Dennis just reminded me that we have import orders though, in place, that prevent the movement of cattle, untested cattle, back and forth across the state lines into Nebraska, and we've developed policies for how and when it is appropriate for cattle, cattle, to move across state lines. [LB585]

SENATOR DIERKS: Okay. What about requiring proof of slaughter of infected animals? Do you require anything for bulls that have been diagnosed with trich? [LB585]

GREG IBACH: We have at least one herd that we work with that has...that is leasing a bull, a bull leasing operation, that tests their bulls at the end of each season, and we have in place an agreement with them at the department that any bulls that would test positive and how they would prove to us that they did dispose of those, slaughter those bulls. And we...and so, you know, in that case, yes, we have proof. As far as a bull that tests positive, you know, that's reported to the local veterinarian or the practicing



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veterinarian, you know that again is a producer to veterinarian to department, depending on what the level of cooperation that is elected at the producer level. We do have, in the voluntary program, the livestock auction markets have agreed that open cows, open nonvirgin females, and bulls that are nonvirgin bulls that are cull bulls from somebody's operation, they will not resell back to a producer. They have to go...they will only accept bids from slaughter buyers. And I think we'll have representatives of LMA here that can more directly answer this question, but it's our understanding that we have nearly 100 percent compliance with that part of the voluntary program. [LB585]

SENATOR DIERKS: Are infected bulls, are they identified in some way or do they have a hot-iron brand like we do for brucellosis and tuberculosis? [LB585]

GREG IBACH: No. [LB585]

SENATOR DIERKS: Well, thank you. I've got a few more but I'll wait for a little bit. Thanks so much, Greg. [LB585]

GREG IBACH: Okay. [LB585]

SENATOR CARLSON: Senator Council. [LB585]

SENATOR COUNCIL: Yes. Thank you, Chairman Carlson. Director Ibach, I'm trying to understand how the voluntary program works. I mean, it is the producer that consents to participating or is it the veterinarian that consents to participating? Because getting to one of Senator Dierks's concerns as expressed through his question, I would think that if the voluntary program was set up on the basis of a producer consenting to participate in the program, that one of the terms and conditions of that consenting to participate is that his or her results would be shared with producers around them. Isn't that possible as opposed to going to a mandatory regulatory program? [LB585]

GREG IBACH: And probably it's how we're defining voluntary program. Actually we have voluntary program across the industry. We have voluntary participants at the livestock auction market level. We have voluntary participants at the industry organization level. We have voluntary participants at the veterinarian, local veterinarian level, as well as the state organization level. We have participants in the voluntary program at the Department of Agriculture. And so the voluntary program is more of a method of operation and some standards that have been put in place to try to prevent the spread of the disease and educate producers about the disease and its existence and prevalence in Nebraska. You know, a certification program that you're talking about if a producer was...and, you know, there are voluntary certification programs out there, as well. If a producer is wanting to market bulls or females and have some type of a certification that they could refer to as oversight from the department, then there would be requirements. And, you know, what you're asking about, about if you have a positive,

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that it would be made public, would be more a part of that type of a certification program. [LB585]

SENATOR COUNCIL: As a certification as opposed to...because I was just thinking as a participant there are a lot of programs... [LB585]

GREG IBACH: Right. That you agree to do things. [LB585]

SENATOR COUNCIL: ...that are voluntary...if I...you know, in order to receive the benefits of the access to the testing facilities, that in exchange for that I agree that if I could receive positive results, I'll share them. And that's what I was wondering if there was some way we could address it that way as opposed to the mandatory regulatory system. [LB585]

GREG IBACH: And I think the voluntary program that the industry has asked the department to work with them on, I think continues to evolve and continues to try to meet challenges that are identified and continue to become more effective. And so it's by no means a completed process. [LB585]

SENATOR COUNCIL: And I don't know...Senator Dierks would have to answer the point you were making about what the veterinarian could share. I don't know that there is a vet/patient... [LB585]

SENATOR DIERKS: A client relation "patientship"? (Laughter) [LB585]

SENATOR COUNCIL: ...a client/doctor privilege (laughter) that relates to the owner. And I suspect that that could be stressed because it's actually doctor/patient privilege, so the patient is technically the cattle. [LB585]

GREG IBACH: I know that as a producer myself, there is...and working with our local vet. I know that he is cautious to disclose neighbors' information and there is some expectation on my part... [LB585]

SENATOR COUNCIL: Of privacy. [LB585]

GREG IBACH: ...that some of the things that I do or participate in are private. Whether that's because I think it gives me a competitive advantage or... [LB585]

SENATOR COUNCIL: I understand. It's kind of the culture of the area. [LB585]

GREG IBACH: Right. [LB585]

SENATOR CARLSON: Okay. Any other questions? Senator Dierks. [LB585]

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SENATOR DIERKS: One more try, Greg. Could the departments, for instance, send out notices to all the ranchers within, say, 25 miles of an outbreak, and just tell them there has been an outbreak without divulging the name of the rancher? Is that...would that be...could that be part of the voluntary program? [LB585]

GREG IBACH: Well, that, I think, would be something that we would discuss with the industry task force. But I think that a notice that there has been a diagnosis in this county, that could be part of a voluntary program without violating confidentiality. [LB585]

SENATOR DIERKS: I'm trying to figure out some way to get information to people who need to have information. [LB585]

GREG IBACH: Yeah, I understand what you're doing and I appreciate that. [LB585]

SENATOR DIERKS: Okay. Thank you. [LB585]

SENATOR CARLSON: Senator Price. [LB585]

SENATOR PRICE: Senator Carlson, thank you. Director Ibach, again out of ignorance I ask this question. I heard you talk about a class II disease? I take it then there's another class of disease that does have mandatory reporting? [LB585]

GREG IBACH: There's foreign animal diseases that obviously would have... [LB585]

SENATOR PRICE: So if we elevated this to one of those levels, then we would take care of most of this... [LB585]

GREG IBACH: Well, then you basically turn it into a regulatory disease then. [LB585]

SENATOR PRICE: Okay. Thank you. [LB585]

SENATOR CARLSON: Any other questions? I do have one, because I couldn't recognize. How easy is it for a producer to be able to recognize the disease? [LB585]

GREG IBACH: The obvious signs to a producer would be in the fall when he would do his...preg check his herd. If he had a low pregnancy rate that would be an obvious sign that you should be concerned about the disease, and that's how most producers in the past have realized that they have an infected herd. As far as a visual inspection, that's...no, not possible. [LB585]

SENATOR CARLSON: So in a voluntary program there's no penalty for not knowing

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that you have the disease. There is no penalty, period, because it's a voluntary program. [LB585]

GREG IBACH: The penalty for not knowing that you have the disease would be your productivity would plummet. [LB585]

SENATOR CARLSON: If you went to a regulatory program, then is ignorance bliss? [LB585]

GREG IBACH: Up until the time that you knew that you had the disease, yes. I don't think there would be a penalty as long as you aren't...don't knowingly hide or...yeah, ignorance, I think, would be bliss then. Yes, to use your words. [LB585]

SENATOR CARLSON: Would that make it difficult then to apply the misdemeanor charge? Because I didn't know I had it and I didn't go looking for it either. So is there a problem there? [LB585]

GREG IBACH: I would like some time to think about that one before I would reply. [LB585]

SENATOR CARLSON: Senator Dierks. [LB585]

SENATOR DIERKS: Well, just for the information of the committee, there's a fiscal note here of \$90,000, and I think that's for establishing a regulatory program, that they would require an FTE to run the program. So just for your information, that's probably the costs if we went to a regulatory program. Is that right? [LB585]

GREG IBACH: I think that what that includes, under this bill and the way we looked at the way the bill was written to construct the fiscal note, the department's responsibilities are largely to certify that the programs that the vets roll out to their producer clients are appropriate and then there's also some shuffling of paperwork and maintaining some records. And so our FTEs are basically clerical FTEs to maintain the paperwork and the records portion that are required by this bill, as well as the... [LB585]

SENATOR DIERKS: Okay, then what would be the rest of the story if we went to a mandatory program? Would you have to hire more veterinarians or do you have veterinarians enough on staff to handle that? [LB585]

GREG IBACH: The...you're asking a question that's going to, I'm going to give you a little bit longer answer to, there. The Bureau of Animal Industry is the only department within the Department of Agriculture that survives over 99 percent on general funds. And so as a result of the lack of cash funds or any client participation or industry participation in the bureau's work, any time that we have budgetary constraints the

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bureau is one of the first impacted. And under the recommendation...or under the discussions that the Appropriations Committee is working with right as they're going through their budget process, I think the impact to the Bureau of Animal Industry would be at least one position and possibly two positions. So to answer your question, no, we would not have adequate staff to roll out a regulatory program for trichomoniasis. We would have to have...if we had a full-blown regulatory program it would require a fiscal note that would include professional as well as clerical staff. [LB585]

SENATOR DIERKS: Thank you. [LB585]

SENATOR CARLSON: Any other questions? Thank you for your testimony, Director Ibach. And Dr. Hardin. [LB585]

DAVID HARDIN: (Exhibit 4) Thank you, Chairman Carlson. And my name is David Hardin, D-a-v-i-d H-a-r-d-i-n. I serve as the associate dean for the professional program in veterinary medicine and head of the Department of Veterinary and Biomedical Sciences at the University of Nebraska. And my responsibilities include the oversight of the veterinary diagnostic lab. I'm here in a neutral position just to explain some of the...answer your questions. But before I do that let me just make some brief comments here related particularly to testing and the position that the lab has had, working with the Department of Agriculture on the voluntary trich program. The veterinary diagnostic lab is the only accredited lab, veterinary diagnostic lab in the state of Nebraska. As it relates to trich, we provide two primarily testing modalities. The first being the traditional culture where we actually culture the organism. So samples are taken, it would principally be by practicing veterinarians in the field. That entails a pipette being inserted up the preputial area of the bull and some what we call smegma is aspirated into the pipette. It's placed in a culture media and shipped to the lab. One might tell you that practicing veterinarians can obtain the culture media through order houses and very well can do these cultures in their offices, although we don't see a lot of that, to our knowledge, going on. Most of them are sent to a laboratory. The other method we use is PCR, polymerase chain reaction, so it's actually identifying DNA portion of that organism. Both of these modalities are identifying the organism or organism-based diagnostic procedures. In addition we also offer what we call pool PCR where you would put several samples in one test mode; run a PCR on it. If you find a positive then you go back and test each individual sample, and that's simply to provide a more economical way to test large batteries of bulls. We handed out a table and this table represents...the stars represents where we've had a positive diagnosis, at least one in the state of Nebraska in 2008. I think the take-home message is that you can see that it's widespread across the state of Nebraska. It only represents samples that come to the UNL veterinary diagnostic lab, so it does not represent samples that went to other states. And please recognize that to our knowledge large numbers of samples go to Colorado, South Dakota, Wyoming, and probably some to Kansas, but for sure those western labs do a considerable number of tests. When the reports come to us, because

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of the veterinary/client/patient relationship, we tend to operate underneath that kind of code from a diagnostic perspective, and basically that says that a veterinarian has a relationship with a client. The client owns the patient, in this the cow, and that the information that's obtained is kind of between the client and the veterinarian. It is not to be shared with neighbors all over the neighborhood, what goes on between the doctor and the client, just like the human situation. And so in the veterinary lab, since the veterinarian that sends us the sample is the client, we honor that relationship and we don't share information about the findings that we find other than with that veterinarian that is our client. Saying that, we do report monthly to the Department of Agriculture Office of the State Veterinarian those reportable category II diseases, and since November we've been reporting those diseases by county. Prior to that the state was divided up into zones and we reported them by zones, but part of the task force findings indicated that county information would be useful. It's my understanding the department now has that up on their Web site, so the producers and veterinarians can go to the department's Web site and see if your county has had a diagnosis in it, in the last month, and that that would be a cumulative-type data that will be made available to both veterinarians and producers and the general public going to that site. We do not provide the department with the owner's name. We will...we have agreed, as Director Ibach said, to provide the department with the name of the veterinarian, and the reason is primarily that confidentiality thing. In many cases, we don't know the name of the client. Some veterinarians choose not to, on their submission forms, choose not to put the name of the client on the form for this obvious reason: they don't want even risk that information getting out. So we run the samples and the report back to our client, which is the veterinarian. It's their responsibility, in turn, to inform their client of the findings. So we don't, in all cases, have the name of the veterinarian, which even leads to a hole in a data set that you're looking at there on that map. Those stars are on submission forms from where the veterinarian was located. If he crossed the county line and took the samples, so we just know that there was positive sent from a veterinarian and the veterinarian resided in the particular county. So that's how we kind of operate. As it relates to the voluntary program, we have begun a certification process working through the Nebraska Veterinary Medical Association, through our extension efforts, to certify veterinarians in proper techniques for obtaining samples and submitting the samples, and also with how they interpret and make recommendations to their clients. So the first one of those sessions was conducted in Alliance approximately two weeks ago. We also have brochures that we've developed. Those brochures are included in the test results when we send the positive test results back to the veterinarians. They can use these brochures to hand to their clients. Obviously, there's contact information on there; they can contact us to get additional brochures. And then we've also been actively involved in working with the Cattlemen's Association and participated in a series of meetings across the state this winter on where trich was the topic of discussion at a number of cattlemen's meetings, and there are additional continuing education-type events planned for the upcoming months. So one of our major concerns is simply that this disease does require a diagnosis, and therefore requirements that would impact the

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willingness of producers to test their animals obviously could jeopardize the state's ability to control this disease. In other words, if you do things that would cause the people to be unwilling because of their fear of confidentiality and not test, then we don't see that that would serve the state or the cattlemen well. Please recognize again that the number of the samples do go outside of the state of Nebraska to various labs, and I think it would be important that we secure that data as well as the data that comes through this lab here if we're going to control the disease. So I would take any questions you might have. [LB585]

SENATOR CARLSON: Okay, thank you. Questions? Senator Price [LB585]

SENATOR PRICE: Senator Carlson, thank you. Mr. Hardin, to make sure I understood this correctly, are you saying that a lot of these counties we could have trich and we don't know it because it is sent out-of-state and there's no reporting mechanism back to the trich reporting group? [LB585]

DAVID HARDIN: The department--I would refer to Director Ibach--the department gets some information from some of the diagnostic labs, so I think in general terms they do know where samples that go to out-of-state labs. I don't know if... [LB585]

SENATOR PRICE: Because you just... [LB585]

DAVID HARDIN: ...I don't know if those labs are required to report. Is every lab required to report on the various...? [LB585]

SENATOR PRICE: Okay, because you just made the statement that if we made it mandatory, people would just send it out-of-state and we'd never know. It would drive the report now. So I... [LB585]

DAVID HARDIN: Well, if you make it mandatory, though, you'd probably require those states to report. [LB585]

SENATOR PRICE: I mean, (inaudible), I mean if we started naming...if people started getting named, then they would all just evade and we would never know. I mean, is that pretty close? [LB585]

DAVID HARDIN: Yeah, if you don't...yeah, I think so. It might... [LB585]

SENATOR PRICE: But yet it's real important that we know about this because it decimates herds. [LB585]

DAVID HARDIN: Yeah, if you... [LB585]

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SENATOR PRICE: It sounds like a self-defeating thing here, that...I mean, it just doesn't make sense to me that by reporting it, we go out-of-state, and then allow that to happen. [LB585]

DAVID HARDIN: If you don't require the states that...you know...and many of our regulatory diseases, those states that...you know, if they run samples, they are required to report those results to Nebraska. This is not... [LB585]

SENATOR PRICE: But this is not a regulatory one. [LB585]

DAVID HARDIN: Yeah, that's correct. [LB585]

SENATOR PRICE: Thank you. [LB585]

SENATOR CARLSON: Okay. Other questions? Senator Dierks. [LB585]

SENATOR DIERKS: Well, I just wanted to thank Dr. Hardin for coming over because he provides us with excellent professional advice, and I'm just pleased he was here to talk about it. [LB585]

SENATOR CARLSON: Any other questions? Okay, thank you for your testimony today. We'll proceed now with proponents of LB585. How many proponents do we have to testify? Okay. Come right... [LB585]

WAYNE FROST: I'll probably testify as neutral. [LB585]

SENATOR CARLSON: Okay. So any positive proponent testifiers. All right. Do we have any in opposition? Okay, we've got a number. One of you come up and testify and the others be ready to go, and let's try and keep our testimony to five minutes or less. [LB585]

ROY BARTA: (Exhibit 5) Chairman Carlson and members of the Ag Committee, my name is Roy Barta, R-o-y B-a-r-t-a. I serve as the executive director of the Nebraska Livestock Markets Association. On behalf of the Nebraska Livestock Markets Association, we are testifying as opponents of LB585. We believe that the direction to be taken to deal with trichomoniasis should be established by regulations to be put forth by the Nebraska Department of Ag so there is more flexibility or a more flexible program as changes become necessary. By establishing such a program by statute, leaves the only means in which to bring about change is to pursue, once again, legislation. Effective January 1, 2008, an import order was enacted by the Nebraska Department of Ag State Veterinarian's Office that put restrictions on cattle coming in from outside the borders of Nebraska with regards to trichomoniasis under the authority of the general power statute. It would seem that the same statute would provide the necessary



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authority for the Nebraska Department of Ag to put forth rules and regs to deal with the trichomoniasis within the borders of Nebraska. The Nebraska Livestock Markets Association would ask that the Nebraska Attorney General's Office be asked to provide an official opinion on what their interpretation is of the authority that the general power statute provides to the Nebraska Department of Ag to deal with an emerging disease such as trichomoniasis. The Nebraska Livestock Markets Association would like to go on record as acknowledging the need to work with the Nebraska Department of Ag and other industry partners to work towards finding and implementing rules and regulations to control trichomoniasis. I would take any questions if anybody had any. [LB585]

SENATOR CARLSON: Thank you for your testimony. Questions? I would ask one then just so that...you startled me a little bit. So your testimony is you want regulation? [LB585]

ROY BARTA: We want departmental... [LB585]

SENATOR CARLSON: Departmental regulation. [LB585]

ROY BARTA: Yes. [LB585]

SENATOR CARLSON: Departmental responsibility. [LB585]

ROY BARTA: From within the Department of Ag. [LB585]

SENATOR CARLSON: Departmental freedom. [LB585]

ROY BARTA: Um-hum. [LB585]

SENATOR CARLSON: Okay. [LB585]

ROY BARTA: And for the purpose of the flexibility that I stated, and in that if they needed be gotten back to, it would be within the department to amend them as needed. [LB585]

SENATOR CARLSON: Okay. Thank you. Any other questions? Okay, thank you for your testimony. [LB585]

RYAN LOSEKE: Good afternoon, Chairman Carlson and members of the Ag Committee. My name is Ryan Loseke, R-y-a-n L-o-s-e-k-e. I appear before you today representing membership of the Nebraska Cattlemen. I currently serve as chairman of Animal Health and Nutrition Committee for Nebraska Cattlemen. I'm a graduate of the University of Nebraska in veterinary science and received my doctor of veterinary medicine degree from Kansas State University. Nebraska Cattlemen wants to thank

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Senator Dierks for his introduction of LB585 to draw attention to this important issue, as we as an industry and as a state work to control this disease with all the needed groups that are involved. The Nebraska Department of Agriculture Director Greg Ibach, and the State Veterinarian, Dr. Dennis Hughes, have and will continue to be involved and instrumental in coordinating efforts in controlling this deadly disease. The Nebraska Cattlemen board of directors voted to oppose LB585 as written but it has been in constant contact and is working with all entities here today to address the demands of this bovine reproductive disease. The economic consequences of this disease can have a devastating impact on not just Nebraska's beef industry but the state's economy as well. Nebraska Cattlemen has very strong specific policy to address the control of this disease. This issue came to light from our membership over two years ago, and has been an emphasis in our association since that time. As this issue has developed, it became clear that it was not just a Nebraska Cattlemen issue but a Nebraska beef issue. Nebraska Cattlemen cow-calf chairman Paul Davis from Lakeside is heading up Nebraska Cattlemen's efforts regarding trichomoniasis. In the last two years, Nebraska Cattlemen has hosted 17 trichomoniasis information meetings across the state. Nebraska Cattlemen has worked with the Nebraska Livestock Markets Association, its members, and their executive vice president who just spoke: Roy Barta. Also Paul Davis is working with Mr. Chris Abbott of the Independent Cattlemen of Nebraska who hosted four meetings with Independent Cattlemen of Nebraska members. Nebraska Cattlemen has worked with the Farmers Union, Nebraska Farm Bureau, and others. It is our belief that Nebraska Cattlemen wishes to have a voluntary control effort to minimize the spread of trichomoniasis. Nebraska Cattlemen pledges to work with all concerned groups, including this committee, the Nebraska Department of Ag, and the State Veterinarian, the University of Nebraska-Lincoln, Nebraska Veterinary Medical Association, Livestock Marketing Association, Independent Cattlemen of Nebraska, Farmers Union, Nebraska Farm Bureau, and any other groups that might be involved. With that I would conclude my testimony and I'd be happy to answer any questions. [LB585]

SENATOR CARLSON: Okay. Thank you. Questions? Seeing none, thank you for your testimony. [LB585]

RYAN LOSEKE: You're welcome. [LB585]

CHRIS ABBOTT: Chairman Carlson and all the Ag Committee, I want to thank you for the opportunity to be here today. My name is Chris Abbott, C-h-r-i-s A-b-b-o-t-t, and I'm here to represent...in representation of the Independent Cattlemen of Nebraska. And the fact that we are in opposition to this bill, it's...I want everyone to know it's friendly opposition, and I think with the language that was put in LB585 it was apparently very effective in getting several groups to Lincoln to sit down and discuss the matter at hand. I've kind of got a personal story from my perspective. Our family operation, I'm fifth generation. You know, on your maps there, we are located in west-central Cherry

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County, which is probably one of the hot spots here in the last year or so within the state. That our family was unfortunate in the fact that we contacted the disease in June of last year, and as naive as we were at the time--we semen test every year or most years--but at that time our local vet from Hyannis, who probably covers more of an area than most vet clinics in the state, located in Grant County just below Cherry, just brought up the fact that there have been some known cases in the area, so it would be a good idea. And I agreed, so we did. But it was right before we turned out the first of July, and as we were testing the bulls, he said, you do know that it's going to take four or five days to get the results back from these labs, especially with the Fourth of July just around the corner. So we were really in a pickle as far as keeping the bulls locked up or going ahead and turning out. Well, unfortunately we went ahead and turned out, and when the test came back on July 5, we had nearly 10 percent of the bulls positive. So we immediately stopped our hang operation and that day we got the bulls out we did a really good job of scattering the positive bulls. We had a couple of bulls in the four to five different groups, so we went through the summer and we were really...you know, worked hard at getting the bulls out the first of September. But we were real fortunate in a phone call from the University of Nebraska research to come out and do ongoing research on our bull battery, which started the first of October. And from that first test we ended up with 20 percent of the bulls positive. And when you've had a positive herd, you've got to go through the three tests recommendation, and so we finished up the third test the first of December. And we pretty much stayed constant at the 20 percent. But I have learned a lot. We have all learned a lot. And there's a lot of ongoing research, and the research that they were doing was testing the tests that had been coming out. And the reason for the three tests in a positive herd: one test, if you're negative, most of my neighbors did that. In fact, all of them that I know of, they all came back negative. But in my case where I was positive, you have to come back with a second and third because it's only at the time is 80 percent, where through the third test we were pretty much 99.9 percent sure we had all the positive bulls out. So with that, you know, we've become really informed and I think the communication lines really need to be open, which is happening. And with the volunteer program I think that we follow for a year or so, but I think it's important that we have a measure after a year or so of if we have really gotten ahold of this problem. So I do know South Dakota, when they were at the peak of their problem here a few years ago, they had 55 cases. And with the regulations that they put forth up there, they went from 55 to 5 herds in one year, so with that I'll close. Any questions? [LB585]

SENATOR CARLSON: Okay. Thank you, Mr. Abbott. Senator Dierks. [LB585]

SENATOR DIERKS: Chris, you had no idea that you had trich in your bulls, is that right? [LB585]

CHRIS ABBOTT: No. [LB585]

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SENATOR DIERKS: So how did it get there? [LB585]

CHRIS ABBOTT: How what? [LB585]

SENATOR DIERKS: How did you get it? [LB585]

CHRIS ABBOTT: You know, I've been asked that question yesterday, and several different folks, I'm pretty much positive or 100 percent sure it came in through a neighbor. And we did have one neighbor come up positive and, you know, when we had finished with our preg check I was thinking, you know, horror stories of 40 and 50 percent open, but we were very fortunate. We were only 20 percent open. They had one neighbor that had one group of cows, they were 50 percent open, which, you know, is pretty devastating. [LB585]

SENATOR DIERKS: I was going to ask of you what your percentage open was. [LB585]

CHRIS ABBOTT: It was 20 percent. [LB585]

SENATOR DIERKS: Twenty percent. So do all your neighbors know that you have trich? [LB585]

CHRIS ABBOTT: I immediately...the day I knew it and fortunately I didn't have to leave any messages. I got ahold of all the neighbors that evening. And it just...you know why you would not let your neighbors know, out where I live where it's...you know, it's...you know, our livelihood is cow-calf operation. You know, Cherry County is 100 percent cow-calf. And I think, you know, where it will really...we can really get a handle on it in our, I think District 7, out...you know, it's probably one of the larger districts, but I've heard stories where there's... [LB585]

SENATOR COUNCIL: Are you two? [LB585]

CHRIS ABBOTT: Or District 2. But the meetings, the joint meetings we've held with Nebraska Cattlemen. Dr. Ondrak is the veterinarian from the university, and he has spoke at these meetings. And I think there's some grey area on the number of cases that are reported. For instance, they came to our ranch three different times because of the positive analysis from our herd. All three of those cases got reported. So if there were, say, 15 reported cases in Cherry, in District 2. Last spring it went to 20. Well, three of those cases could have possibly come from our ranch because of the multiple times they came. So I think that grey area needs to be defined a little bit more, so that we have a measuring tool as far as getting ahold of the problem. [LB585]

SENATOR DIERKS: So you went from having no knowledge of trichomoniasis to how many bulls infected when you first found out about it? [LB585]

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CHRIS ABBOTT: The number of bulls? [LB585]

SENATOR DIERKS: Yes. [LB585]

CHRIS ABBOTT: We had 13. It was about 10 percent of the bull battery. [LB585]

SENATOR DIERKS: See, this is a venereal disease. Okay. Thanks, Chris. [LB585]

SENATOR CARLSON: Any other questions? Senator Schilz. [LB585]

SENATOR SCHILZ: Thank you, Senator Carlson. Mr. Abbott, you had mentioned before and I think it was South Dakota that you said placed a certain process that they're going through. Do you know what that process is? Could you give us a little bit of history of that, or do you not know? [LB585]

CHRIS ABBOTT: Well, just...you know, at one of the meetings in Valentine, one of the South Dakota veterinarians came down and I think the state veterinarian did...he had the power, rather than go through legislation...and put another law in process to mandate these things, he mandated through his authority to really cut the problem down in South Dakota. [LB585]

SENATOR SCHILZ: It sounds like it worked. [LB585]

CHRIS ABBOTT: Yes. [LB585]

SENATOR SCHILZ: Twenty percent, that's still a huge number if you're trying to make a living raising calves, isn't it? Twenty percent open? [LB585]

CHRIS ABBOTT: Oh, but we've been established long enough we can...we'll survive. The great thing about this disease, you can clean it up in a year. [LB585]

SENATOR SCHILZ: Yes. If you know... [LB585]

CHRIS ABBOTT: Right. [LB585]

SENATOR SCHILZ: Thank you. [LB585]

SENATOR CARLSON: Okay. Any other questions? Okay, thank you for your testimony. [LB585]

CHRIS ABBOTT: Thank you. [LB585]

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SENATOR CARLSON: Next testifier. Anymore in opposition? And neutral, okay?  
[LB585]

WAYNE FROST: I changed my mind on how I was going to testify. My name is Wayne Frost, W-a-y-n-e F-r-o-s-t. I'm presently living in this fair city of Lincoln. I lived on a ranch for 25 years out in Howard County north of Grand Island. And most of the experience I've had has been in Howard County because down here they don't have many cows that have problems. But I have had some experience with some of the problems that go on with this, but knowing exactly what was the problem to cause the cows not to be bred is something that an awful lot of cattlemen don't know. They don't get them tested. All at once they have a disaster in their cow herd, and until trich became known as much as it is now nobody every checked them. They thought the bull was bad or didn't have enough semen or whatever. The neighbor's bull got in, whatever. I had a neighbor that every cow he had--he had Charolais cattle--every calf he had was out of my bull that got into his pasture over the summer. He had 35 cows in there and he bred every one of them as well as my own. But every time we'd go over there he would be out. He was always over at the neighbors. Well, those kind of things were some of the ones...the reason I went to testify in a neutral was because thinking of this regulation, some way we've got to be able to do it on a voluntary basis. And as we talked to Greg and his family, I'm familiar with Greg's operation. Back when he was a 4-H'er I sold club calf feed to him way back then when I was in the feed business. He don't maybe remember that but I do. But the fact is--and his dad is a very good friend of mine anyway--but I know what a devastating thing it would be to Greg's operation and his dad and his brothers' operation out there if they got trich in it. And without being notified or having some way to notify your neighbors, it can happen. Now I don't think I got it even though that neighbor's bull didn't breed a cow. It was a Charolais bull and he never got one calf from him on black cows. And so he got them all from my bull, which was a black bull. And so then I had another neighbor that died just in this last, oh, six months' time, and he's a very good friend of mine also. And so then the relatives, his sons and so on, sold the herd. And when we went to sell the herd, they had a terrible pregnancy rate. It was just terrible. The bulls went to slaughter because they were not good enough to go back to the country. But the cows all went back to the country that were bred. Now them things are all over down in that general area around Loup City. And so I don't know whether they carried trich back to all the other herds in that area or not, but we have to have some way of notifying people. And I personally think that Greg can do it just by his general authority. On this voluntary basis, he can do that I think. But I'm not a lawyer so I can't speak to that, but I think we need to do that. If we can go to the voluntary way and make it work, that's the best way. But if they can't, this thing is going to require that we do go to some kind of regulation, and regulation always, like he mentioned, even on the voluntary way he's talking about, it's going to cost some money. Well, if you go to a regulation, it'll cost a lot more money, you know, because of all the other things that go with that. So Cap is a good friend of mine and I'm supposed to be probably...I'm going to be neutral on this thing because he's the one introducing it. But

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the fact is, I think that we've got to be very careful. And I think there is no reason why that if you asked these veterinarians here in Nebraska and you ask the Department of Agriculture here in Nebraska, they don't know every case that is reported any place in or around the state or out of our own state. They should be able to tell you they've got X number of cases, period. And the economic effect of that, we should be able to figure it out then. Right now, we can't figure it out. As Chris said, he had 20 percent open. That's a big loss. I don't know if any of you people figure that out a little bit on that size of operation. He says, well, he can survive it. Sure. But that don't mean it didn't cost a lot of money. And I think that Greg and the veterinarian department here should be able to tell us how much the economic damage is to this disease, and then we'll get it taken care of quicker. Right now, I don't think they can do that. [LB585]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Mr. Frost? Senator Dierks. [LB585]

SENATOR DIERKS: Well, he started it, Senator Carlson,... [LB585]

SENATOR CARLSON: I heard him. I heard him. [LB585]

SENATOR DIERKS: ...so I'm going to finish it. [LB585]

SENATOR CARLSON: Okay. [LB585]

SENATOR DIERKS: We played basketball against each other in college and I never had so many elbows planted in my head in my life as that guy did. (Laughter) He was wicked. [LB585]

WAYNE FROST: Well, I'll probably take credit for that. (Laughter) [LB585]

SENATOR CARLSON: It might have been an elbow. I bet you didn't move him very far. [LB585]

WAYNE FROST: I moved him a little. [LB585]

SENATOR CARLSON: Did you? Okay. All right, thank you for your testimony. [LB585]

WAYNE FROST: You bet. [LB585]

TED EVANS: Good afternoon. Chairman Carlson and members of the Agriculture Committee, my name is Dr. Ted Evans, T-e-d E-v-a-n-s, representing the Nebraska Veterinary Medical Association. And we would first like to thank Senator Dierks for bringing this issue up so that we can comment on it and we get some attention to it, because it is a serious problem spreading through the state, and obviously it's spread

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from South Dakota, Wyoming, Colorado, Montana, and that's...it's getting here very rapidly. I'm appearing today to inform you of the current efforts supported by the Nebraska Veterinary Medical Association, and that is to educate the producers in our state about the harmless disease and in order to encourage voluntary testing and control. At this time, the NVMA trichomoniasis committee, chaired by Dr. Brent VanPatten of Bridgeport and consisting of several bovine veterinarians across the state is working on a producer educational program, and then with UNL working on a sample collecting certification program that Dr. Hardin already mentioned. We are confident that this educational effort will work because in the past we've used it for bovine virus diarrhea, which is BVD I'll refer to. Several years ago BVD was spreading in our cow herds, and due to an educational effort by local veterinarians, UNL, the State Veterinarian's Office, and Great Plains Teaching Center, we feel that this disease has been controlled pretty well. We still have it but it is, we think, controlled because now most of the purebred bulls that are sold are already tested for persistent BVD before they're sold, and this is one of the big ways that the disease is spread. However, even with the educational efforts surrounding trich, no progress can be made unless communication between all the parties is increased. And you've heard this, I guess, enough times today. Without communication and notification, this disease cannot and will not be controlled. Information must be shared voluntarily between the diagnostic labs from the states and State Veterinarian, local veterinarians working with the infected herd owners, and their neighbors. And we believe the disease can and should be handled on a voluntary control, but this will not happen without the authority to notify everybody involved. And I guess I'm probably about the sixth person that's said that, so we've got that across. Thank you very much. Any questions? [LB585]

SENATOR CARLSON: Any questions of Dr. Evans? Okay, thank you for your testimony. [LB585]

TED EVANS: Thank you. [LB585]

JESSICA KOLTERMAN: Thank you, Senator Carlson, members of the Agriculture Committee. For the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm a lobbyist for Nebraska Farm Bureau Federation. I come before you today to testify on LB585 in a neutral capacity. We'd like to begin by thanking Senator Dierks for bringing this bill. We understand it was to bring attention to this issue and we appreciate him bringing this up. Essentially we believe that bovine trichomoniasis is a growing problem and needs to be addressed. Our policy statement supports the enactment and enforcement of laws that will assure the protection of the livestock industry against importation of disease from any source. However, we do have some concerns with the specific legislation and that it appears to be a bit onerous and excessive. It is our hope that the control of this disease could be addressed through the existing program at the Department of Agriculture on a voluntary and private basis or through education. In summary, we just wanted to state that we're willing to work with



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the committee or other interested parties in finding the best possible solution to the problem at hand. And if you have any questions I'd be happy to answer them. [LB585]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Ms. Kolterman? Hearing none, thank you. Any other testifiers? Seeing none, Senator Dierks, do you want to close? [LB585]

SENATOR DIERKS: I do. Thank you, Senator Carlson. I just want to make a couple of comments. The green copy of the bill, I intend to do nothing with that. That was just part of the shell I put in, and maybe that's the reason you had so many people testify in opposition and in neutral. We intend for the committee, if there's a necessity, if you think there's a necessity, we intend for the committee to provide the amendment that makes the bill workable. And you've heard the possibilities and I'm going to work with you and we don't...my idea is that we should have something that we can all be supportive of, all of the people that have talked with here today plus this committee. And I'm...so I'm saying just right to begin with that we're not interested in the green copy of the bill at all. It was just used as a method to get people to the table and to have the hearing. And with that I want to thank again everybody that came. They spent a lot of time. Many of them have been here since yesterday from outstate, and spent a lot of time on the issue. It's important. Extremely important issue. And I think you've heard that from all the people that testified. If you have any questions I'd be glad to try to answer them. [LB585]

SENATOR CARLSON: Any questions of Senator Dierks? Seeing none, thank you. [LB585]

SENATOR DIERKS: Thank you. [LB585]

SENATOR CARLSON: And with that we'll close the hearing on LB585. Senator Christensen is not here and we're going to switch the order and move to the hearing on LB602. So I'll ask Senator Dierks to introduce that bill. And those of you that want to stay, you're welcome to stay, but we're going to continue with our hearing. Okay, I think we can proceed. Senator Dierks. [LB602]

SENATOR DIERKS: Thank you, Chairman Carlson and members of the Ag Committee. My name is Cap Dierks, that's spelled C-a-p D-i-e-r-k-s, and I represent District 40. I'm here today to introduce LB602. I introduce this bill at the suggestion of the Nebraska Grain and Feed Association. Some of that group will testify later in a neutral capacity. This bill will allow for a 5 percent administrative fee for first purchasers may retain to compensate themselves for the collection or remittance of the commodity checkoff on corn, sorghum, and wheat. I do think it's important for the Ag Committee to have discussion on commodity organizations, checkoff boards, and first purchasers. This bill will hopefully allow that discussion. And with that I will end my introduction and try to

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answer any questions. [LB602]

SENATOR CARLSON: Okay. Any questions of Senator Dierks? Seeing none, thank you. All right. We're on LB602. Do we have...how many proponents of LB602? All right. How many opponents? All right. Please come forward and testify. [LB602]

STEVE EBKE: (Exhibits 1, 2 and 3) Good afternoon, Mr. Chairman and members of the committee. My name is Steve Ebke and that's spelled S-t-e-v-e E-b-k-e, and I'm from Daykin, Nebraska. I'm here today representing the Nebraska Corn Growers Association. Nebraska Corn Growers Association is opposed to LB602. Nebraska's corn, wheat, and grain sorghum checkoff programs were established at the request of commodity producers to create and develop new uses and markets for the respective commodities. Under producer leadership these programs have a long history of successful market development. These successes have benefited commodity producers as well as commodity handlers, processors, transportation providers, and the state of Nebraska. The historical relationship between first purchasers of commodities and Nebraska's commodity checkoff boards has been a beneficial partnership. First purchasers contribute to the partnership by collecting and remitting the commodity checkoff dollars. The producer directed checkoff boards use the checkoff dollars to develop domestic and foreign markets. This partnership benefits the first purchasers of commodities, as much as the commodity producers, inasmuch as they are able to market commodities to markets developed and expanded by checkoff investments. LB602 seeks to impose a 5 percent collection fee for collection of commodity checkoff dollars. A checkoff fee was not deemed necessary by first purchasers, commodity producers, or the Legislature when the commodity checkoff laws were introduced, passed, and implemented. Over the decades that the checkoff programs have been in effect, first purchasers have built collection and remittance costs into their operating costs and accounting systems. Commodity producers accept the fact that first purchasers' commodity price bids reflect their cost of doing business, which may include overhead for collecting checkoff dollars. First purchasers collect the commodity checkoff dollars from each commodity purchase. Quarterly remittance of the withheld commodity checkoff dollars allow the first purchasers interest free use of the collected checkoff dollars for all or a portion of the three month period. The 5 percent collection fee will not necessarily be material to a first purchaser's revenue or profitability. However, the impact on the checkoff boards funding will be significant, forcing the boards to reduce investments in market development projects. The Nebraska Corn Growers Association does not support LB602's extraction of producer dollars from programs developing the very markets that are important to all in Nebraska agriculture. We believe the cooperative history and team effort we have had over the years is the best way to assure a profitable future for Nebraska's commodity industry. Nebraska Corn Growers request that the committee not advance LB602. In addition to Corn Growers, I'm also representing the Nebraska Grain Sorghum Producers Association, and they would like to have it known that they are also opposed to LB602. And I have submitted written testimony on behalf of the Nebraska Soybean

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Association and the Nebraska Farm Bureau, and those written testimonies will also reflect an opposition to LB602. So thank you, Mr. Chairman. [LB602]

SENATOR CARLSON: Any questions of Mr. Ebke? Thank you for your testimony. [LB602]

STEVE EBKE: Thank you. [LB602]

SENATOR CARLSON: Next testifier. [LB602]

BRENT SCHLAKE: (Exhibit 4) Chairman and committee members, my name is Brent Schlake, B-r-e-n-t S-c-h-l-a-k-e. I'm from Blue Springs, Nebraska, representing the Nebraska Wheat Growers Association. We would like to express our opposition to LB602. It is our belief that Nebraska's agricultural industry must combine efforts in order to create a positive and strong future. LB602 would be a detriment to the cooperative spirit that has historically been Nebraska agriculture. Nebraska's producer created checkoff programs have a long history of success in creating and building markets for their commodities. These programs have remained consistent under producer leadership and have worked to benefit producers, transportation, handlers, processors, and the state of Nebraska. Of concern to the Nebraska Wheat Growers Association is the impact LB602 would have on commodities that are placed under loan with the Farm Service Agency, or the FSA. As enacted, Section 1616 of the 2008 farm bill prohibits the charging of fees for the collection of the commodity assessments. Public law 108-470 prohibits the charging of these certain fees. The secretary may not charge any fees or related costs for the collection of commodity assessments pursuant to this act. The Nebraska Wheat Growers Association believes purchasers have already built into their bids this excise tax and accounting costs. Producers realize this and accept it as a cost of having a market development program. Producers provide the hard dollars for the marketing development while the first purchasers provide the soft dollars. It is inconceivable that the first purchasers are absorbing the total cost of collection. Further, it would be made clear that purchasers currently collect the checkoff at the time of sale and remit it to the state on a quarterly basis. For this reason, they have the use of the collected funds for the duration of that quarter. It is also noted that the commodity boards are 100 percent cash funded agency. For the Nebraska Wheat Board, the passage of LB602 would be so detrimental that it would have to require their cutting of services or an increase in the checkoff rate in order to make up for their shortfall. The Nebraska Wheat Growers Association believes that first purchasers realize the benefits they receive from producer checkoff programs and regard their contributions as an investment to the future of Nebraska agriculture. The agriculture industry must work together through paid checkoff or in-kind contributions to build a strong, healthy future for Nebraska. The Nebraska Wheat Growers Association requests that LB602 not be advanced. Are there any questions? [LB602]

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SENATOR CARLSON: Thank you for your testimony. Any questions of Mr. Schlake? Seeing none, thank you. [LB602]

BRENT SCHLAKE: Thank you. [LB602]

SENATOR CARLSON: Next testifier, opposition. Any others? [LB602]

ED WOEPPEL: (Exhibit 5) Chairman Carlson and members of the Agricultural Committee, I'm Ed Woepfel, and that's W-o-e-p-p-e-l, and I'm here today sitting in for Robert Andersen and representing the Nebraska Cooperative Council. Bob's out of town on business travel today, so I have the opportunity to address you. The Nebraska Cooperative Council is a trade association representing the farmer owned cooperatives across the state and approximately 92 percent of the cooperatives in the state are members of our organization. Our members have spent a great deal of time deliberating LB602, and as with any these measures such as this, there's pros and cons to be considered. We fully understand that there's a cost for our members associated with collecting and forwarding these checkoff fees and the multitude of other fees that our members are required to collect and submit either to state or federal government. In fact, I was visiting with one of our members last week and he indicated that their cooperative collects and remits 45 different fees and taxes to state and federal government entities. This list would include the commodity checkoff fees, the EPIC fund fees, sales tax, withholding tax, and it goes on and on. So the point being is, there's a lot of fees that we are collecting. As our members discussed this though, they came to the conclusion that while there is a cost, there are also long-term benefits to working with the commodity boards. If the agricultural producers are willing to impose a tax upon themselves to create self-help programs to enhance the various commodities that we produce in Nebraska, then it makes sense for organizations like cooperatives to be a partner in those commodity programs. Our members believe that to be a partner in these checkoff programs is worthwhile, and that the costs associated with collecting and remitting these fees is our contribution to the success of the commodity boards as they seek to increase the market value of the products that we in the state of Nebraska are so good at producing. Because of this philosophy, our membership's desire is to be a partner in the promotion of Nebraska commodities and we are here today to oppose LB602. Our opposition to LB602 is based on the fact that any reimbursement cooperatives would receive subtracts dollars from those commodity boards. I must say though, that if we were to poll our members about the other 42 fees or taxes that some of them are required to collect and remit, we may get a different response in terms of the need for reimbursement for providing those service to state and federal governments. At this point in time I'd be glad to respond to any questions that the committee may have. [LB602]

SENATOR CARLSON: Okay. Thank you for your testimony. Senator Wallman. [LB602]

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SENATOR WALLMAN: Thank you, Senator Carlson. Yes, Ed, I don't think everybody is for checkoffs, but that besides, but do you think the elevators and that should get reimbursed for this? It's an extra fee for them. I mean, they...you don't think so, huh? [LB602]

ED WOEPPEL: Our membership is on record of indicating that that's part of the partnership in terms of helping to promote the products and the kinds of things that the commodity boards do. So they believe that's part of what they do to be a part of that process. [LB602]

SENATOR WALLMAN: Thank you, Ed. [LB602]

SENATOR CARLSON: Okay. Any other questions? Hearing none, thank you for your testimony. [LB602]

ED WOEPPEL: Very good. Thank you. [LB602]

SENATOR CARLSON: Any other testifiers in opposition? Anyone testifying in a neutral capacity? [LB602]

PAT PTACEK: (Exhibit 6) Chairman Carlson, members of the Ag Committee, my name is Pat Ptacek. That's P-a-t P-t-a-c-e-k. I am executive director of the Nebraska Grain and Feed Association, 113-year-old trade association representing private, cooperatively owned grain elevators, feed mills, grain dealers, biofuel processors, and members across Nebraska and the Great Plains. First of all, I'd like to thank Senator Cap Dierks for introducing the bill regarding the administrative reimbursement of first purchasers. I've been at the Grain and Feed Association for 11 years and if one of the things that I've heard time and time again from some first purchasers, especially in the last 18 months or so, is a griping about the checkoff. So Senator, I want to thank you for introducing the bill which was supposed to beat the bushes out for those rabbits that had a problem with that and as we can see, we don't have a lot of rabbits here today. The association is officially neutral on the bill. Our legislative committee did ask that it be introduced, but the board of directors wanted to maintain neutrality on the bill because there was a shift and a split of difference between our membership. Some members have also commented negatively on recent initiatives to redirect certain checkoff dollars to programs unrelated to the original intent of the legislation that created the commodity boards. As you know, LB602 would provide a 5 percent administrative fee for first purchasers may retain to compensate themselves for the collection and remittance of the commodity checkoff on corn, sorghum, and wheat. The administrative reimbursement is similar to the fee retailers receive for collecting and remitting the sales tax to local and state governments. Even if LB602 fails to advance, NGF believes the testimony presented today is important and provides an opportunity for the commodity organizations, checkoff boards and first purchasers to explain to this

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committee the history behind the checkoff programs and the many areas of research, market development and producer education the checkoff dollars are utilized for. With term limits ushering in over 30 new state senators over the past two years, hearings such as these are an excellent occasion to tout the checkoff programs successes, outline future challenges, and identify new initiatives producer funded programs might be spent on in the future. I'd like to now go over some of the specialized record keeping that grain elevators face in properly accomplishing the accurate transmittal of funds collected at the first point of sale the commodity board members, and to a lesser extent, commodity board staff members may not be fully aware of, as well as some of the additional paperwork requirements first purchasers are required to perform for other state and federal agencies. And I do want to thank Ed for making those examples known and I won't go into a lot of those as well. Typically upon the purchase of grain, an elevator first purchaser will enter the bushel amounts of each commodity from each branch location into a ledger or computer program and calculate the applicable checkoff amounts for each commodity subject to the checkoff. First purchasers of sorghum currently are required to collect and maintain separate rates and accounts for the state and national checkoff programs. Usually, first purchaser will develop a separate account where the various commodity excise taxes are held in a payable, until disbursement to the state. Each quarter, the elevator first purchaser will receive from the state a fee collection report. The report requires the first purchaser to detail the amount of bushels purchased for each commodity during the past quarter. This includes reporting the excise taxes collected on those commodities and destined for the Nebraska Corn, Wheat and Sorghum Boards. There are also reporting requirements on the notification form for the excise taxes collected on corn and sorghum for the ethanol development fund. Upon completion of the fee collection report, elevator first purchasers will calculate the various excise taxes and remit the payment to the state. While on the surface this process does not sound overly laborious, there are locations across the states that do not have automated processes to separate and calculate the various commodity program excise taxes. Additionally, there are locations with branch operations in adjoining states which also are charged with calculating and remitting the various excise taxes applicable to those states. It's important to also note that first purchasers are subject to random audits by the Nebraska Department of Agriculture to make sure full compliance in the collection and remittance of the various programs are being accomplished. The commodity boards contract with the NDA to do their accounting, including for the state to conduct random audits for first purchasers, \$4,300 for corn, \$946 for wheat and \$649 for sorghum. The fee collection charge by NDA to the commodity boards include \$10,582 for corn, \$2,658 for wheat and \$1,881 for sorghum and the budget and accounting fee charged by NDA to the commodity boards is \$12,205 for corn, \$4,487 for wheat and \$4,051 for sorghum. I have given you another example of some recent laborious paperwork requirements the grain dealers and elevators are required to file in the transaction of direct delivery grain contracts. Again, there are various federal, FSA programs and beneficial reporting, beneficial interests, maintaining that producers beneficial interest and tracking certain FSA paperwork that is

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required to be filled out by those first purchasers and filed with the FSA. Now, I'd like to shift my remarks to areas where first purchasers and the commodity boards have worked constructively in the past in areas that both parties can improve upon in the future. Producers and grain elevators have cooperated and have equally benefited from many worthy programs conducted by the various commodity boards. For instance, many grain elevators and dealers working with the Nebraska Corn Board, NGF and other associations annually collect corn quality samples from across the state and submit them to local grain inspection agencies. In turn, this information validates the quality and characteristics of Nebraska produced corn many foreign customers are seeking and we hope originate from a Nebraska location. NGF has also participated with and received grants from several commodity organizations for special projects. One example is a recently completed study on the feasibility of originating more commodity container shipping at various Nebraska locations. While NGF administered the study, the Nebraska Wheat and Soybean Boards were primary sponsors and financially contributed checkoff funds for the completion of the project. The feasibility study is now available to producers, grain elevators, and state Senators alike. The Nebraska Corn Board participated with the association several years ago educating shippers and foreign buyers over the transportation and inspection procedures intended to streamline the efficient movement of the commodity while maintaining quality standards. And on two occasions, the Nebraska Wheat Board worked closely with NGF on promoting new hard white wheat initiatives intended to encourage more hard white wheat production in the state. When representatives of foreign customers visit Nebraska they have primarily two interests in the phase of the grain handling system. They want to see firsthand how producers raise the commodity involved. Equally important, the teams are concerned about how the elevator industry handles farm deliveries and subsequent shipments to export points. In this regard, producers and elevator first purchasers involved within the state have a comparable risks at stake and cooperate when foreign teams visit. However, this cooperation could be expanded to better serve all parties involved. One of the commodity boards' most effective uses of checkoff dollars is contracting with other national and international cooperators on domestic and foreign market development. When potential new markets are identified by these cooperators, any applicable market information is generally distributed back to the sponsoring organizations such as a commodity board for further disbursement to producers and grain handlers. However, we have received comments from members over the past years that this valuable information is often not widely distributed to local originators. The U.S. Grain Council, USGC, is one of these national cooperatives which some of the commodity boards are members of. And while NGF and other trade organizations are eligible for membership in the USGC, many simply do not have the funds within their budget to join and more fully participate in the dissemination of market intelligence. Nebraska grain elevators would appreciate and benefit from a system where more detailed analysis and distribution of current market intelligence could be made available by the commodity boards, especially the smaller, local, country grain elevators. Additionally, there are many other worthy projects the commodity boards are

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working on to educate or survey producer and consumers on production practices and trends affecting the industry. Whenever elevator representatives are involved to participate in activities, it usually results in a much better awareness of the purpose for the commodity board's activity. This is most especially true in the case of export marketing of grain, and there has long been some considerable misinformation circulated regarding how export elevators function. Grain elevators have the most exposure to producers across the state, and by cooperating more fully and closely to add to their awareness and understanding of board projects, they can be an effective partner to disseminate accurate information to producers. While first purchasers are invited to participate at any commodity board meeting, perhaps an official ex officio membership should be considered at some time, not for a representative of a first person purchaser association, but an actual first purchaser who would contribute to the board agenda and procedures as well as convey board activity back to their respective trade associations. Mr. Chairman and members, I want to thank you for allowing us this testimony on LB602. I know you've got another hearing which might take some time. So with that, I will finish my remarks and hopefully answer any questions this committee may have. [LB602]

SENATOR CARLSON: Okay. Any questions of Mr. Ptacek? Senator Price. [LB602]

SENATOR PRICE: Chairman Carlson. Mr. Ptacek, could you repeat that? (Laughter) [LB602]

PAT PTACEK: Three times? (Laughter) You did a good job on it, Senator. (Laughter) [LB602]

SENATOR CARLSON: Senator Dierks. [LB602]

SENATOR DIERKS: Well, I just wanted to make a couple of points and then ask Pat a question. One point is that the committee ought to know that Pat was research analyst for this committee back in the days when Carson Rogers was the chairman and that's a few years ago, Pat. The other thing, well, I wanted to ask you, do you remember the Interstate Grain Compact? [LB602]

PAT PTACEK: Very well. [LB602]

SENATOR DIERKS: Nebraska was on that compact. [LB602]

PAT PTACEK: I was...I worked for Loren during that time when that bill was passed. [LB602]

SENATOR DIERKS: Well, I was on that grain compact as well. And you know the purpose and what it did and how it preserved identity for crops. Could you explain that



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just a little bit to the committee? [LB602]

PAT PTACEK: Uh-huh. Well, the IGC was a compact formed, oh, I would say, back in 1983, or in 1984. It was Loren Schmidt's priority bill at the time and what it did is it formed a multistate compact of grain producing states that was a sole purpose basically, and I will tell you the biggest opponent of that bill at the time was the Nebraska Grain and Feed Association. And it's kind of ironic that I'm working for them now, but the IGC is no longer in effect as you know, but it was a compact of about four or five different states that originated locally source grain with intrinsic characteristics that foreign buyers were really looking for. And at that time, many producers felt that before the grain standards were tightened for export market, a lot more foreign matter and material were being put in those shipments, and a lot of export elevators maxed out on what they could put into those shipments and we were getting a black eye for it. So this was a local initiative to try to get things turned around. And the good thing is, they did tighten the grain standards as partly as a result of that bill. Congress did tighten some grain standards and what was allowable in export markets. So that was the kind of the genesis of that. It has not been in existence, as far as I know, for at least ten years or eight years. [LB602]

SENATOR DIERKS: Uh, yeah, probably eight years. I should tell you that along with that they had a buyer that came to this country from, I believe, the Netherlands. And he would take the...he was the negotiator. He would bring the buyer for wheat from a bakery in London. I remember he'd come over here and they would go out and look at the wheat in the fields of Nebraska and then they would follow that harvest of that wheat all the way to the barges and the Great Lakes to the ocean liners to where they were supposed to end up to make sure it remained the same wheat that he saw out here and to make sure nobody put anything in it to mess it up, like sand. I remember when they were telling one time about a barge they had in the Great Lakes. It was tied up away from the shore because they had discovered there was sand put in there to add to the weight, and they had to wait until they got that thing unloaded. And this was just one of the things that was accomplished with that. I thought it served a great purpose. I served on that commission until it ended. [LB602]

PAT PTACEK: It raised a great deal of awareness, it did. [LB602]

SENATOR DIERKS: Yeah. Thank you, Pat. [LB602]

PAT PTACEK: Thank you, Senator. [LB602]

SENATOR CARLSON: Any other questions? Okay. Thank you for your testimony. [LB602]

PAT PTACEK: Thank you, Senator. Appreciate it. [LB602]

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SENATOR CARLSON: Anybody else testifying in a neutral position? For the record we have statements here in opposition to LB602 from the Nebraska Soybean Association, Nebraska Farm Bureau Federation, and Nebraska Corn Growers Association. With that, we'll conclude...do you want to close Senator Dierks? We'll conclude the hearing on LB602. And we will proceed with the hearing on LB606, LB646, excuse me. Senator Christensen, you're... [LB602]

SENATOR CHRISTENSEN: (Exhibits 1, 2 and 3) Thank you, Mr. Chairman, and members. Appreciate your waiting on me. I've been hopping between different committees, introduce bills here. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n and I represent the 44th Legislative District. I'm here to introduce LB646. LB646 would adopt the Livestock Growth Act to encourage rural economic growth by assisting livestock friendly counties who desire livestock development. It would also create a revolving loan fund to provide counties with loans to assist with increased infrastructure costs arising from any improvements needed to the new livestock development. The bill recognizes the vital role of livestock production and the economic prosperity of Nebraska, and the purpose to use the strength to help rural economic development in counties that desire to develop more livestock opportunities. LB646 instructs the Department of Agriculture and the Department of Economic Development to work together to provide information, assistance, and expertise to livestock friendly counties as these counties move through the evaluation process of identifying potential locations for livestock development. This allows livestock friendly counties to go through an evaluation process, identify preferred sites up-front on their terms. The intent is that these counties decide what type and size of livestock development they want. Location, locate a site, or sites for development, then use it to draw the development they desire. Livestock Growth Act tries to address the problem of funding infrastructure improvements needed to serve any new livestock development. Many times infrastructure improvement costs become a potential obstacle for successful development in the county. LB646 creates the Livestock Growth Act Revolving Loan Fund administered by DED to address these concerns. These loans would assist counties with the construction, modification, and maintenance of roads and bridges to facilitate the growth of livestock production. This gives the counties additional funds up-front with the ability to recover the costs, to pay it back to the fund over five years. In addition, the Department of Environmental Quality shall also assist by providing preliminary on-site environmental appraisal of potential livestock production locations as identified by a county to evaluate the viable, viability of the site. If you go to some of the handouts, because there's extras, I handed mine, didn't keep one, I guess. What this...I have several amendments I'm proposing to this bill like page 2, line 15, insert "assisting counties seeking" and that's just to help clarify the counties taking the lead in initiating the local livestock project, but is actively seeking state assistance. And I bring that up because of the fiscal bill. There was miscommunication on my part as we originally talked of maybe needing a person that was in DED that was livestock designated, but realized with the counties initiating this, there's only 12 counties

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currently can do this, that we probably are not going to increase the workload very much and probably wouldn't need that person. And that's why when you...there will be people following me that testify that you can ask that this fiscal note can be dropped substantially. And that's one of the reasons why, to clarify that language, I wanted to add that in there that it is the counties seeking assistance. So they go find their spot to have their local meetings. They decide what animals they want. I gave them the example, Frontier, or sorry, Farnam, in Frontier County in my district, they had a meeting, locals decide they would take up to a 1,500 head dairy. So if we could get that type of stuff precertified an area, which makes them qualified for loan assistance, that helps the state DED, the Department of Economic Development, be able to sell the state when opportunities arise. So it would be much more advantage for Nebraska to be able to say, hey, we have these areas that are precertified. You might say, prezoned, but precertified, that allows people to say, hey, if I get this spot, I can build here, and we're ready to go, and that qualifies the county to get some assistance out of this fund. Also on page 3, in line 21, after 54-2802 I strike "and have the complete process identified in Section 3 of this act." In other words, strike the requirement that a county must have worked through the Nebraska Development Act and DED process outlined in Section 3 to qualify for zero interest loans. Page 4, lines 5 and 7, just clarifies that loans shall not exceed half of the balance of the revolving loan balance at any one time and that no loans shall exceed \$200,000 for the individual project. That way as we're building money up into this project, we can get started with some smaller projects right away. It wouldn't take the whole fund and knock it out for five years as we continue to try to build on the amount of money we would have in this fund. On page 4, also on line 15, strike "No funds shall be received or accepted for the Livestock Growth Revolving Loan Fund that are designated for the purpose or benefit of a single business, enterprise, or individual." Just to clarify it, the loan dollars are for the county. And as the counties pay it back, it goes back into the funds for anyone to use so it's never a single designation. So that was language that I shouldn't have put in there. And then on page 4, line 23, strike "The departments through the regulations" in line 25, and then I'm striking all of Section 8, 9 and 10. Insert the new language clarifying intent to transfer uncommitted funds, which is about \$150,000, \$140,000 or \$150,000 out of the Agriculture Opportunities and Value-Added Partnerships Act into the Livestock Growth Act Revolving Loan Fund. That will address concern that people had on the BECA fund, that remove the objections people are using to Value-Added fund right now. We're just going to take what was left over from this year and be able to get this fund started. And then we're continuing to encourage commodity groups to donate to this also, because they're almost a first beneficiary of getting their products used if additional livestock development comes in. And with that, I would ask that you move this to General File, and take questions. [LB646]

SENATOR CARLSON: Okay. Thank you, Senator Christensen. Senator Price, you have a question. [LB646]

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SENATOR PRICE: Senator Carlson, thank you very much. Senator Christensen, help me out a little bit. Why do we only have 12 livestock friendly, why do we only have this number of livestock friendly counties? [LB646]

SENATOR CHRISTENSEN: Okay. There's a process set up a number of years ago to go through and the state would basically put signs on the entrances of your county saying, you're livestock friendly. And there was no gift to it. If you went through the paperwork, filled out the process, done it, you could be livestock friendly. There's other counties that are self-declared livestock friendly, but they didn't go through...they don't have the nice little sign saying, you're entering a livestock friendly county. And so there's a lot more that have a lot of livestock and there could be potentially more would desire to move into this. My objective was, I looked at livestock friendly, and I didn't feel like it was as successful as they intended it to be. And that is, we could get a livestock friendly county, we could have somebody want to come into the county and build a facility, but we couldn't get through zoning process. So they would end up going elsewhere. Frontier County lost a dairy a year ago because nobody...they couldn't get it through the zoning process of the county. So what I come back, let's give the county a little incentive because if you look at the county's problem is, they have to do the infrastructure up-front. And then it takes a year to get it built, and then property taxes collected in arrears another year, so you're at least two years behind doing the work before you have any increase in the valuation to help pay off the additional roadwork you've done. So my intent here was, let's make livestock friendly better by adding another process that the county can be rewarded for being assertive and saying, hey, we would find locations in our county, go through the certifying process, and that would also help the state sell for economic development for animal husbandry. It could be for chickens, it could be for turkeys, pork, beef, there's a lot of different directions it could go. [LB646]

SENATOR PRICE: Okay. So that means that not currently livestock friendly, you wouldn't be eligible for this, but you could move into livestock friendly and then be eligible. [LB646]

SENATOR CHRISTENSEN: Correct. [LB646]

SENATOR PRICE: Thank you. [LB646]

SENATOR CARLSON: Okay. Senator Schilz. [LB646]

SENATOR SCHILZ: Thank you, Senator Carlson. Senator Christensen, this bill that you've got, would it require any changes on the counties part for zoning or anything like that? [LB646]

SENATOR MARK CHRISTENSEN: It requires no change on the zoning. It just means

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they have to precertify it or prezone it that you can build a livestock facility there. The advantage to that is, it's still locally controlled, locally decided. And as I used the example, they discussed it in Frontier County, do you want to have a feedlot out here? Do you want to have turkeys growing here? Do you want pork out here? No, they wanted a dairy. And then they decided how large, up to 1,500 head. So that gives the full process started on the county level. If you never start the process, you'll never, by this bill, cause anymore cattle or any animals to come into your county. So it's a locally decided, but yes, the only thing they have to do is precertify or prezone that area. So that means, they probably have to have their public hearings, get it done, and prepare it. [LB646]

SENATOR SCHILZ: Right. And I take it that that would be, I take it that that would be that you would have an interested landowner that would come to the county and say, hey, I think I've got a spot. And then maybe that's how the process starts or maybe somebody comes in and says, hey, we want to find an area of the county, but it's all volunteer. I mean, there's nothing that the county does or anybody else from the state or anything that comes in and says, you must do this. [LB646]

SENATOR CHRISTENSEN: No, 100 percent voluntary in the county level. And hopefully, people will step up as you said, Senator, or the county will say, you know, we'd like to find some areas. Let's have a public hearing and ask if people are interested. And they have the rights to ask DEQ to come out and look at the site and see if it's feasible. They'll just say, yes, you can build here or this might be an expensive area. I don't know that there's an area that maybe you couldn't hit the regulations. It would just take more in some areas and they could help you in that process. [LB646]

SENATOR CARLSON: Okay. Any other questions? Senator Dubas. [LB646]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Senator Christensen. So the way it's set up now, counties could already do this if they want to, correct? [LB646]

SENATOR CHRISTENSEN: Correct. [LB646]

SENATOR DUBAS: We wouldn't need this bill, we wouldn't need anything. If they want to zone something particular for agriculture they have that right and prerogative now to do that, correct? [LB646]

SENATOR CHRISTENSEN: Correct. [LB646]

SENATOR DUBAS: So the advantage to your bill is the incentive fund, is that correct? [LB646]

SENATOR CHRISTENSEN: The incentive fund that the counties can get some money

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to help do the projects, and yes, they got to pay it back but it is...allows them to get through that evaluation increase phase that I mentioned. [LB646]

SENATOR DUBAS: Well, the amount of...to do any amount of work, roadwork, bridge work, whatever, is to my understanding some pretty substantial dollars. And the dollars that it looks like you're going to have available really wouldn't go very far. So how do you perceive this? [LB646]

SENATOR CHRISTENSEN: Okay. I have visited with some of the commodity boards, commodity groups, and asked if they'd contribute and they said they would. You notice that I struck some language out of here dealing with commodity groups, and in discussions they're willing and so they said they would rather do it from their group having the meeting saying we will contribute and we would like to push this fund along because it's an incentive that helps us and they ask that it not be in statute. [LB646]

SENATOR DUBAS: I know there's been concerns in the past about exactly what we can and can't use checkoff dollars for. I mean, checkoff dollars were pretty much established for the promotion of the specific groups. Would there be any question here as to the legal ability of the groups to use the money for projects such as this? [LB646]

SENATOR CHRISTENSEN: Well, I'm sure there can always be questions. It is an incentive to bring in economic development. It depends how you evaluate it. I evaluate one of the hang-ups we have right now is getting areas found so that the state can sell us. So when they're out, when there's economic development to be done, and people want to come, we have to go through the process. They have to look across the state, but I think we could have one leg up on other states by having areas that's precertified for whichever type of livestock that counties want. So that is a definite advantage to the Corn Board because that...or any of the commodity groups, because that allows them new economic development. Any time a feedlot comes in, or dairy or whatever, they're eating corn, they're eating alfalfa. It helps a number of groups. I don't think it's a conflict, but understand your concern and if we need something to clarify that, I'd sure work with the committee to do that. [LB646]

SENATOR DUBAS: And in your amendment you talk about uncommitted funds from the Value-Added, and... [LB646]

SENATOR CHRISTENSEN: Correct. [LB646]

SENATOR DIERKS: ...is BECA in there too? [LB646]

SENATOR CHRISTENSEN: No. [LB646]

SENATOR DUBAS: No, that's just the Value-Added. [LB646]

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SENATOR CHRISTENSEN: We pulled that. [LB646]

SENATOR DUBAS: Okay. So you're anticipating that there's uncommitted funds in that program? [LB646]

SENATOR CHRISTENSEN: There is right now. And they have that much left over, there's always lots of applications but sometimes they don't qualify. And that's what's happened this last year and so that, I thought, would be an easier way to approach this. [LB646]

SENATOR DUBAS: So you wouldn't be, you wouldn't be using any BECA funds it would just be the Value-Added. [LB646]

SENATOR CHRISTENSEN: No. Correct. [LB646]

SENATOR DUBAS: All right. Thank you. [LB646]

SENATOR CHRISTENSEN: And then any off the commodity groups that I could get. [LB646]

SENATOR CARLSON: Okay. Any other questions? Senator Schilz. [LB646]

SENATOR SCHILZ: Thank you, Senator Carlson. Senator Christensen, back on the, back on the Value-Added partnership money. Is that going to impact that grant funding going forward? [LB646]

SENATOR CHRISTENSEN: No, because they'll get their new funding come July 1 and anybody can apply for grants like they did in the past and... [LB646]

SENATOR SCHILZ: So that grant level, the amount of available money stays the same. [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR SCHILZ: Thank you. [LB646]

SENATOR CHRISTENSEN: So were not affecting it. [LB646]

SENATOR CARLSON: Okay. Any other questions? Senator Christenson, one here. I think, I don't think you got it down on this amendment sheet but you were going to strike Section 7, correct? [LB646]

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SENATOR CHRISTENSEN: No, that's the money I'm grabbing, or sounds bad, don't it? (Laughter) That was a bad term. That's the language I'm trying to get on or before June 30, the Department shall determine unobligated fund. Balance as allocated to the Value-Added fund would be moved to the Livestock Development Fund. So that's the new language. It is different than in the green copy. [LB646]

SENATOR CARLSON: Okay. Thank you. Any other questions? Senator Wallman. [LB646]

SENATOR WALLMAN: Thank you, Senator Carlson. Welcome, Senator Christensen. (Laughter) So is this also, say Senator Schilz wants to put in a packing plant on his ranch or feedlot, he could also use these funds? A friend of mine in Iowa did. He feeds his... [LB646]

SENATOR CHRISTENSEN: Well, I guess, I don't know. I'd have to look at this again, because it's growth of livestock production for economic development in Nebraska. I guess, I don't think so, but I can try to find that out for you. [LB646]

SENATOR WALLMAN: Okay. Thanks. [LB646]

SENATOR CARLSON: Any other questions? Okay, thank you for your testimony. Are you going to be here to close? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR CARLSON: Okay. All right. We'll ask for proponents. How many proponents do we have to testify? Okay, we have several. And try to keep your comments to, testimony to 5 minutes or less, please. Keith, you can proceed. [LB646]

KEITH OLSEN: (Exhibits 4, 5 and 6) Good afternoon, Senator Carlson, and members of the Agriculture Committee. I am Keith Olsen, K-e-i-t-h O-l-s-e-n. I'm a farmer from Grant and also serve as President of Nebraska Farm Bureau Federation and I'm here today on behalf of that organization. We want to thank Senator Christensen for introducing LB646. We were very much in support of the original legislation to establish the livestock friendly county program. We feel that LB646 is a good pilot program to see if there is a way to increase incentives to increase livestock production in the state of Nebraska. Several years ago the livestock production in Nebraska amounted to about 60 percent of the total agricultural receipts in the State of Nebraska. It is extremely important that we of an ag state, support livestock production. As has been said by Senator Christensen, this money is, will be put into a revolving fund, is to be used by counties to improve the infrastructure in order to increase the opportunity for livestock production within our state. The money would be paid back and would become available for other counties to use as the need arise. I've handed out several pieces of literature.



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Two of them are...I studied one on dairy and one on feed production in the state of Nebraska. One is about a 15,000 head feedlot and the affect it would have on a county of Custer County and is prepared by the Nebraska Public Power District. The other with a cow dairy herd of 6,000 head. Now let's don't get hung up on a 15,000 head feedlot or a 6,000 head dairy, because I have no idea and not many other people do, what are the proper size of a feedlot or what are the proper size of a dairy. But the important fact is, they figure that if they had 15,000 head feedlot it would create 93 jobs in the area. We could divide that 15,000 feedlot maybe by 15 and have 15, 1,000 feedlots, you'd have the same effect in your area. So the important thing is, we can create more economic activity, more opportunities to our farmers and our ranchers if we have the incentives to increase the livestock production in the state of Nebraska. The other chart I handed out with a population change since 2007. And you can see most counties in the state of Nebraska have had a loss of population since 2007. Ten of the twelve livestock friendly counties today are counties that have lost population, the exception is Lincoln County and Adams County. We are losing our rural based population. We need in our state all the tools in our tool box we can get to encourage people to remain in our rural counties or young people to return. And there are many tools to address this. One of the...the last one I'd like to mention real quickly is what Wellman and Sleight are doing at the College of Technical Agriculture in Nebraska and Curtis. It's setting up a program, what they call the 100-cow program where a young student can go through the program at the school and can qualify for a loan to buy up to 100 cows. And Dr. Sleight is trying to expand this to include dairy cows. And eventually is to expand it further to include the ability for young people to buy out an existing small town business where a guy wants to retire or want to get out of the business. This LB646 is just another tool to help encourage young people to return to the farms and ranches where they grew up, to return to the county they grew up in, to return to the community they grew up in. And we ask for your support. I'd be glad to take any questions. [LB646]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions for Mr. Olson? Okay. Thank you. [LB646]

STEVE EBKE: (Exhibit 7) Yes, Mr. Chairman, and members of the committee, my name is Steve Ebke. That's spelled S-t-e-v-e E-b-k-e, and I'm from Daykin, Nebraska. Today I'm here representing the Nebraska Corn Growers Association and the Nebraska Corn Growers Association supports LB646 as amended and presented here today. We thank the Senators who worked with the stakeholders to design a bill to support expansion of Nebraska's livestock industry. The Nebraska Corn Growers Association members know the Nebraska livestock industry is the largest consumer of Nebraska corn. Nebraska's corn producers have expanded significant corn checkoff dollars for feed research and animal product promotion, domestically and internationally. Additionally, corn producers have helped establish and support the Alliance for the Future of Agriculture in Nebraska, known as, by the acronym AFAN. AFAN's goal is to assist with the development of responsible livestock production in Nebraska. Development and

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expansion of livestock production in Nebraska is often impeded by lack of identified development locations and infrastructure. LB646 provides Nebraska's livestock friendly counties information, assistance, and expertise to attract and assist the type of livestock development the counties determine is best suited for their objectives. The Livestock Growth Act Revolving Loan Fund provides eligible counties with the ability to provide infrastructure to support livestock development without budget breaking consequences. Nebraska's economic prosperity is largely dependent on agriculture. Livestock production is the largest component of Nebraska's agricultural economy. Our state needs a healthy, expanding livestock industry. LB646 provides resources to accomplish this objective. The Nebraska Corn Growers Association recommends that the committee advance LB646 as amended and presented here today. Thank you. [LB646]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? [LB646]

STEVE EBKE: Thank you. [LB646]

SENATOR CARLSON: Thank you. [LB646]

PETE McClymont: Chairman Carlson, members of the committee, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. We are here as Nebraska Cattlemen in support of LB646 and specifically the amendment 444. We want to applaud Senator Christensen to spotlight the importance of the growth of livestock production in our state. The beef industry alone in Nebraska represents a \$8 billion economic engine before you consider the multiplier affect of related goods and services. We want to thank Senators Christensen, Schilz, Carlson, and Hansen, as well as representatives of DED, DEQ, DOA and NACO to bring forward looking at language to the committee today. The biggest thing I'd like to highlight is, it's a voluntary program to the counties who have received livestock friendly designation from the Department of Ag pursuant to Nebraska Revised Statute, Section 54-2802, to tap into a revolving loan fund to provide infrastructure and improvements necessary for development of livestock facilities. This program is not restrictive to any type of livestock facility. I can speak from personal experience from our association. We have some members that built a feedlot in Holt County by Stuart here in the last couple of years from scratch. And one of the biggest concerns they had was that a lot of these rural counties have obviously a very tight budget and so with that, there was a lot of lag time. In order for them to address the needs that this bill would help on, they had an arrangement with Holt County to build certain part of the roads and update those roads to get out to the feedlot from the existing county roads. And so the county was slow, only for the simple fact they just were strapped for funds to address their part of the agreement they had struck with these individuals, so. This Holt County is not a livestock friendly county, but obviously it's been a very good thing as people in that county and other members have told us of the benefit that's brought to the county. So we would be supportive of AM444 to LB646 and I would be happy to try to answer any questions. [LB646]

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SENATOR CARLSON: Okay. Thank you. Any questions of Mr. McClymont? I have one. If a county is not livestock friendly and all of a sudden has got a prospect and needs this help, what's the reasonable time period to become livestock friendly? [LB646]

PETE McCLYMONT: I don't know if I could answer that question from a Department of Ag's standpoint of how long its taken other counties to gain that designation. [LB646]

SENATOR CARLSON: Okay. All right. Any other questions? Thank you. [LB646]

PETE McCLYMONT: Thank you. [LB646]

GEOFF RUTH: (Exhibit 8) Good afternoon. Thank you, Chairman Carlson, and members of the committee. I'm Geoff Ruth, G-e-o-f-f, Ruth, R-u-t-h. I'm a 7th generation corn and soybean farmer from Rising City. As well as being a young farmer, I also serve as a director on the Nebraska Soybean Association and I am here to testify in support of LB646. I would like to thank Senator Christensen for introducing the Livestock Growth Act. The Nebraska Soybean Association, along with many of the other commodity groups, is appearing before you today because we have come to support our number one customer. Nebraska has a long and storied history when it comes to animal agriculture and its venerable status in our state. Our association with beef is known throughout the world, and pork, poultry and the dairy industry have always made us even more competitive on a national scale when it comes to livestock production. Nebraska is well suited for animal agriculture with the vast amount of feedstock we produce as well as ample amounts of water, slaughter facilities, and a centralized location for distribution to either coast. It is for these reasons that I come before you today to urge the committee to move this bill into general session and pass into law. We need to encourage and provide incentives for building and operating livestock facilities in our state. While I am appearing before you today as a representative of the Nebraska Soybean Association, I am also a young farmer who feels very passionately about the livestock industry. While I personally raise no livestock, I live two miles from the largest dairy farm in the state of Nebraska, Butler County Dairy. This operation has been an economic driver for our county and my home community since its ground breaking nearly two years ago. It employs roughly 50 people, pays a good deal of property taxes, which as you know provide a bulk of the financing for our schools, and most importantly to me, it reduces input costs on my farm. Butler County Dairy has worked with me and many of my neighbors to provide a pipeline that is directly connected to our center pivot irrigation systems that will in turn pump liquid plant nutrients through it. Through this mutually beneficial relationship, we receive top quality fertilizer and some water that we in turn don't have to withdraw from the aquifer, and the dairy in turn eliminates their by-products in a truly sustainable and efficient manner. Some of you sitting here today in this committee have visited the farm that I have referenced and I hope you were as impressed as I am. We are discovering that even state of the art operations like this

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have vocal opposition, a good deal of it organized and orchestrated by entities based far beyond Nebraska. Because of ordinances set in place by township governments, Butler County Dairy has been unable to run its manure pipeline under the road directly to the north of it. It has been denied the permit to cross the 33 feet from one section to the other because of township boundaries and has been forced to utilize a one-mile alternative route to reach the opposite side of the roadway, costing the operation tens of thousands of dollars. This vindictive and onerous restriction not only deters other farmers and entrepreneurs from expanding and developing new facilities, but forces additional financial expenditures that could have been used in far more productive ways. It amazes me that at a moment in history when local, state, and federal governments are attempting to reinvigorate the economy with new jobs, new industries, and new thinking, we are failing to nurture and promote the growth of animal agriculture in Nebraska. LB646 gives incentive to counties to become livestock friendly and to make a concerted effort to support the value added business of animal agriculture. LB646 is a good stepping stone on the road to strengthening animal agriculture in Nebraska and I strongly encourage you to support LB646 and other efforts to support this dynamic industry that has provided benefits to Nebraskans in all walks of life for generations and has the potential to do so for many generations to come. Thank you. Happy to take any questions. [LB646]

SENATOR CARLSON: Thank you for your testimony. Questions? Senator Wallman. [LB646]

SENATOR WALLMAN: Thank you, Senator Carlson. Thank you for coming. And I agree with you, you know, my area too, it's tough to be in animal agriculture because one person might complain. And is that our state's fault, do you think? [LB646]

GEOFF RUTH: I'm not sure whose fault it is. I think its become a mind-set and I think the majority of people who have agreed have become silent all of a sudden. So I don't know whose fault it is. I just know that we need to find ways to move us forward. [LB646]

SENATOR WALLMAN: I agree. You know my area the livestock producers are scared to death of the DEQ and everybody, you know, because of a little run off or here and there. They spend a lot of money. [LB646]

GEOFF RUTH: The DEQ process is extensive and especially for large operations. It's even tougher for them. [LB646]

SENATOR WALLMAN: Yeah, thanks. [LB646]

GEOFF RUTH: Thank you. [LB646]

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SENATOR CARLSON: Okay. Any other questions? Geoff, I appreciate your testimony and certainly make a point about some of the opposition is organized and orchestrated from outside the state of Nebraska. Now LB646 does not really address the problem of Butler County Dairy and going under the road, but that probably takes further education and effort. It is a problem that shouldn't be there but this bill is not going to answer that question. [LB646]

GEOFF RUTH: No, and I only bring that up to bring awareness to it. But this bill would help incentivize many properties and it may avoid these circumstances, so. [LB646]

SENATOR CARLSON: Okay. Thank you for your testimony. [LB646]

GEOFF RUTH: Thank you. [LB646]

SENATOR CARLSON: Any other proponents? [LB646]

WILLOW HOLOUBEK: Good afternoon, Senator Carlson, and Ag Committee members. My name is Willow Holoubek, and that is spelled W-i-l-l-o-w, and Holoubek is H-o-l-o-u-b-e-k. I'm here today as a concerned citizen. I grew up in the Panhandle on a cow-calf operation and also a feedlot operation, so livestock production has been a part of who I've been for all of my life. And in the last couple of years I've found myself with a wonderful job working with economic development on a county level. I am here today to urge you to give a lot of thought to this piece of legislation, and to go ahead and support it and move it into general committee, because I'm excited that we are coming together on a collaborative effort to work for a very specific goal in this state. As you know, and all of the other people who have testified today, livestock production is extremely important to Nebraska. As we look at the entire equation of economic vitality in Nebraska, if we go back to the very beginning, we find the livestock producer. That producer affects almost every job, skilled, nonskilled, and professional in this state. We are a state that has been very proud of its heritage. We've been very, very successful in the past, and I feel it is now time to put agricultural, and specifically livestock production with the respect that it is due, because it does support so much of our economy today. In my certain county, livestock production is the number one employer. My job as an economic developer is to retain and to expand current businesses. It's 80 percent easier to keep a current business going in your community than it is to go out and try to entice another one to your community. Livestock producers on general are very stable businesses. They're usually, as you heard earlier, fifth, sixth, seventh generations. There are a lot of young, very, very bright young people who want to get into the livestock industry today, but we're finding that it's extremely difficult. And counties are finding it difficult too because, as you know, all of their budgets are very close. And it is sometimes hard to be able to manage the cost of infrastructure when you know that you won't be having any tax revenue for a couple of years. I want to tell you that if you support this piece of legislation and you invest with these loan funds, that you will be

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leveraging your funds in these counties to not only stimulate the livestock industry, but the livestock industry in turn will then stimulate the retail businesses and our downtowns. It will stimulate our service industries such as our accountants, our attorneys. It will help our public power districts because most of them require power. It will bring people who will be attending our schools. My county lost 4.4 percent in population. We have to be able to find a way to attract people to our counties and our rural Nebraska to keep our schools and our hospitals viable. It will also be creating diverse jobs, from professional jobs to skilled labors jobs. So you're going to be leveraging. You're going to be starting at the beginning of that equation and actually supporting the entire equation of economic development in rural Nebraska by supporting your livestock producers. So by supporting this growth initiative, you are helping counties to help entrepreneurship. You are helping small businesses to be created and supported. You are creating jobs. You are creating tax revenues. As Mr. Ruth said earlier, the operation that he's talking about is bringing in hundreds of thousands of dollars. We're not talking tens of thousands, we're talking, you know, half a million dollars in tax revenues to smaller counties that have smaller populations. You are simulating industry on all levels in helping to sustain not only rural Nebraska but the state as we now know it. The livestock industry is the most important building block of our entire economic system in Nebraska. Please support this bill, leverage the funds that you have, put them to good use, and move this bill into general committee. Thank you for your time. Do you have any questions for me? [LB646]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Senator Schilz. [LB646]

SENATOR SCHILZ: Thank you, Senator Carlson. Ms. Holoubek, first of all, what county are you from? [LB646]

WILLOW HOLOUBEK: I currently live in Butler County and I also work for Butler County Development. [LB646]

SENATOR SCHILZ: Okay. Great. Thank you. And then as an economic development person, it's very nice to see the excitement for agriculture and livestock and I appreciate that. Could you tell me as we've talked before we're...to start out here we're not talking about a huge sum of money, but are there things out there that you could do with \$10,000, \$20,000 to help advance projects that maybe wouldn't build a road? [LB646]

WILLOW HOLOUBEK: Oh, definitely, definitely. Every small step is the beginning to a change which will make a big difference in the end. And there are small things that can be done. If you're working in a county that is somewhat strapped as we are in our road department, every little small amount can be used to make a change in the future. With zero percent interest and then the tax revenue that will be built, with the building of any type of livestock. I'm not talking just large. I'm talking small operations. Even being able

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to put a culvert in a certain spot so then a semi or they can transport that livestock can be a huge difference whether that small project would go or not, see that every bit counts. [LB646]

SENATOR SCHILZ: Thank you. [LB646]

SENATOR CARLSON: Any other questions? Well, thank you for your testimony, and are you aware of LB609? You're the kind that ought to apply for some funds and talk to me about it later. [LB646]

WILLOW HOLOUBEK: I will do that. Thank you, Senator. [LB646]

SENATOR CARLSON: Thank you. [LB646]

WILLOW HOLOUBEK: Thank you for your time. (Laughter) [LB646]

JON EDWARDS: Good afternoon, Chairman Carlson, and members of the committee. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s, and I'm the assistant legal counsel with Nebraska Association of County Officials. We are here today in support of LB646 and the amended version of LB646. I think pretty much the process itself and the details of the bill have pretty well, fairly well covered. You just had a great testimonial about what this means in terms of economic development, so I won't belabor the point other than to put us on record in support. I want to thank Senator Christensen for bringing us and all the groups into the conversation along with all the other Senators that have been involved. It seems like a logical, great logical next step to livestock friendly that's currently on the books. And I would just say that, obviously, the financial piece to this will be the key to it, and that's going to be important that we all remember that. And with that, I'll end my testimony there, but we are in support of LB646. [LB646]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Edwards? Thank you for your testimony. Any other proponents? Anyone testifying in opposition? Okay. [LB646]

WAYNE FROST: It looks like, maybe, I'm a little Lone Ranger, Senator Carlson. I've been involved... [LB646]

SENATOR CARLSON: Your name and spell... [LB646]

WAYNE FROST: Oh, excuse me. Wayne Frost, W-a-y-n-e F-r-o-s-t, and I'm testifying on behalf of Farmers Union as well as myself. John is out of the town today and so he asked me to testify for him. I don't know how many years we've had livestock friendly. I know that I was back at the ranch and was involved with the county commissioners at the time that livestock friendly came out and we've been bombarded on many occasions to try to change the county to livestock friendly and we also have passed a resolution in

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that county that we are livestock friendly. And I think if you go to any large livestock county, you will find they are livestock friendly and not necessarily have a designation so you have a sign on each entrance into the county that tells that you're livestock friendly. Because the way they've set up their zoning regulations are such that they can get livestock people to come there and be successful. And what I've found over the years, the large, the real large operations that have come into the counties around had sufficient amount of trouble that they're not there anymore. They don't stay. As an example, some of them do stay but they changed hands. We've got a large dairy operation out in that country that has had four different owners in the last ten years just because of the way they manage the thing. And that is not necessarily against livestock friendly, but it went there without a livestock friendly designation in that county. They didn't have that designation. The economic development part of this, they talk about a little bit of money helping, and I'm sure that it does. But any operation that is getting into the livestock business that's very sizable is going to have to have sufficient amount of money to take care a lot of the infrastructure that they need themselves. And that don't mean building a road two miles or whatever because they set it back in the middle of nowhere. There are places in practically every county that you could put livestock if you wanted them. I was in livestock business all my life and I had a lot of livestock when I sold out a year ago. That's how I got down here instead of being out there at the ranch. We sold it out. But as we see livestock expand or contract, it has not been whether the zoning regulations did that or not. It has been the economic situation that took people out. And if you got a large hog operation to make a living at hogs, I don't care if you're really the biggest one in the state, right now you're not making any money. And so over a period of time you just can't survive. I have a relative that had put in 300 sows about five years ago and he's out of the business because the hog business did not work. And a 300 sow one, we'd like to keep. The other thing is, we had guys put in smaller cattle feeding operations. The ethanol business in our country got in trouble and it took a lot of the farmers money right out of the community. That's not because of livestock friendly but those people were able to build them plants in regular zoning regulation counties. They did not need the designation of livestock friendly. It does not necessarily provide any amount of incentive to really do it that amounts to anything. If you're going to build one nowadays, you'd better have a little bit of money to be able to do what you intend to do and not expect \$10,000 to build to help you do it. We've had numbers of big operations go under. Sand Livestock, you're all familiar with them. They went under and then one of the big outfits out there bought them out because they owed them \$30 million and they took it over because that way they could, maybe, some day get it out. Well, it hasn't been good, the hog business hasn't, so they ain't got their money back, but they took it over when Sand went broke. I think that local county people if they talk about well, they'll precertify it. Well, you precertify your territory, your county, most of us know where you can put livestock and the zoning regulations will allow you to do that. And going in and doing the, so that the state can take and advertise for you, I don't think that's going to get the job done. Maybe once in a while, but not very often will that help get...because the state put it down that they wanted a dairy operation, herd cattle



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operation, and I don't think that's necessarily true that we need this extra...I know Mr. Lindner. He and I worked on DEQ regulations way back when they were started by Randy Wood, his boss at that time. And I was on that same committee and I know that he's not looking forward to having extra people that he has to take and certify with. I know that their budget is not that good. It wasn't that good when we started and it still isn't that good. So why should the people in Lincoln, Nebraska, decide the regulations that go with this operation? Even though the county is the one that says, I'll let you do this, they're the ones that are supervising it, and I don't think that's the right way to go. I think local people know more about what needs to be done than anybody down here in Lincoln. [LB646]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? Senator Schilz. [LB646]

SENATOR SCHILZ: Thank you, Senator Carlson. Mr. Frost, thank you for coming in today. Is there a problem with the livestock friendly designation if a county wants to do it? [LB646]

WAYNE FROST: I see no problem if they think they want to do it, but it does no advantage to doing it. That's the thing I see. [LB646]

SENATOR SCHILZ: Okay. And then you talked about ethanol facilities having trouble there. Would you like to have customers for that corn that maybe is not going to the ethanol plant anymore? I think that would be a good thing, wouldn't it? [LB646]

WAYNE FROST: Well, of course, I agree that the use of the corn is fine and I used an awful lot of corn, but my elevator just went broke in town and I was the biggest customer they had. (laugh) So I know, I know about it. [LB646]

SENATOR SCHILZ: Okay. And then do you know that the way that this, the way that some are envisioning this program to be somewhat the same as when we precertified for ethanol facilities that came in that the state used their resources to market to ethanol manufacturers to get those plants here. And I think if you check with anyone, wouldn't you say that that was very successful in enticing those folks to come in? [LB646]

WAYNE FROST: I would agree with that. However, I don't think that in this case...in our community, it has been a terrible disaster because they... [LB646]

SENATOR SCHILZ: Okay. Is that a reason...so then, sir, is that a reason to stop trying to be progressive, moving forward? [LB646]

WAYNE FROST: No. I think we can move forward just as fast without having this designation. [LB646]

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SENATOR SCHILZ: Do you know how much it cost to do a plan, an economic...or excuse me, a Department of Economical, or Environmental Quality plan for facility? [LB646]

WAYNE FROST: For how big a facility? How large facility? [LB646]

SENATOR SCHILZ: Let's say, let's say 5,000 to 10,000 head feed yard. [LB646]

WAYNE FROST: Yes, I do. [LB646]

SENATOR SCHILZ: And how much would that be? [LB646]

WAYNE FROST: Well, it could run into the \$10,000, \$15,000, \$20,000 very easily. [LB646]

SENATOR SCHILZ: So \$10,000 to \$15,000 to \$20,000 would probably help in a situation like that. [LB646]

WAYNE FROST: Yeah, it'd maybe help, but if they don't have enough capital to take and...then it they aren't going to be able to do it if...\$10,000 is never going to stop that operation, not at \$10,000... [LB646]

SENATOR SCHILZ: Stop the operation? [LB646]

WAYNE FROST: For them being able to do it without getting the livestock friendly money. If they can't afford up to enough money to take and do that, when they're...I know how much money it takes to buy a cattle operation or whatever. [LB646]

SENATOR SCHILZ: Sure, sure. [LB646]

WAYNE FROST: I was in the cattle business and I was also in the hog business and I know what it's done to you. (Laughter) Both of them. I've been in both of them. [LB646]

SENATOR SCHILZ: Thank you, sir, very much. [LB646]

SENATOR CARLSON: Any other questions? Okay. Thank you for your testimony. [LB646]

WAYNE FROST: Thank you, sir. [LB646]

SENATOR CARLSON: Any one else in opposition? [LB646]

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CLINT HOHNDORF: Senator Carlson, and members of the Ag Committee, my name is Clint Hohndorf, C-l-i-n-t H-o-h-n-d-o-r-f. I am a lifetime farmer from Butler County and for many years I was involved in a family cow-calf operation. I'm here today in opposition to LB646. My particular county, Butler County, does not have a zoning. And by implementing this bill, I feel that you're strong arming the local people who choose not to have these large mega operations locate next to them. It's not a coincidence, in my opinion, that there are proponents here from Butler County. They're here to promote the big dairy. I have attended many meetings regarding livestock issues. So far to date every economic study that I have seen presented to support large factory farming has without exception come from someone associated with the Nebraska Public Power District. So I'd like to see an economic study from someone else besides NPPD telling you the values of these large livestock operations. And I didn't come here today to single out one particular opposition, but beings the previous presenters have mentioned this particular operation, I want to tell you one of my first, what I want to say...associations with this operation. I've been a member of the local Summit Township Board for probably 25 years, something like that. And one of the very first contacts I had with this outfit was we had passed one of the regulations in question. They are not located in our township but we had passed one of these pipeline regulations, as you call them. And one of the very first contacts I got with this outfit was from his attorney wanting my records. I'm clerk of the township, and warning me to do my job as township clerk. Now what kind of a neighbor do you think these people are going to be if one of the very first contacts they have with you is from their attorney warning you to do your job. I was made known of this hearing just about 10 a.m. this morning when I opened my e-mail, so I apologize for not being as smooth, as prepared as the rest of the presenters. But I felt it important enough so that I drove down here last minute and testified, and I urge you to not support this bill because it's for the mega operation in my opinion. It is not for the small producer. Thank you. [LB646]

SENATOR CARLSON: Thank you for your testimony. There may be some questions, and fill out the green sheet if you would before you leave. Do we have questions for Mr. Hohndorf. Senator Wallman. [LB646]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, thanks for coming down here. And this is your house too, you know, testifying in here. This pipeline thing is probably liability issue, you think, you being on the township board. I used to be on the township board. When we put pipes underneath roads, we made the farmer get liability in case it busted or something, you know, and wash out in that regard. But I agree, we have a real large dairy in my district, and it first it started out with local people and now it's mostly immigrants. And so I think the dairy is doing okay, you know, but I appreciate your testimony. [LB646]

CLINT HOHNDORF: If I could add one more thing, I'd like you to go talk to the people that are affected by this that are not being paid by these large operations. The ones that

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are living in their basement because the stink is so bad they can't even live upstairs anymore. That's what I'd like to see some more testimony on. [LB646]

SENATOR CARLSON: Senator Schilz. [LB646]

SENATOR SCHILZ: Thank you, Senator Carlson. Mr., I'm sorry, I forgot your name, Mr. Holdorf? [LB646]

CLINT HOHNDORF: Hohndorf. [LB646]

SENATOR SCHILZ: Hohndorf. Thank you. Thanks for coming in today and coming all this way to...and as I said before, I think that what this bill envisioned as you move forward is the opportunity for people and counties to step up before there is a problem like this and identify where they would like to have a facility. If they want to have a facility, would that be a problem or would that get us where we want to be so that you have the local input and you can voice your opinions before an operation comes in and wants to put it in a place of their choosing? [LB646]

CLINT HOHNDORF: If your asking my personal opinion... [LB646]

SENATOR SCHILZ: Yes. [LB646]

CLINT HOHNDORF: There is no place for these...this large of an operation. [LB646]

SENATOR SCHILZ: Okay. Thank you very much. [LB646]

CLINT HOHNDORT: The number that was mentioned before, 1,500 head, I could live with something like. This isn't just stink for quarter or a half mile, this is five or six or seven or eight miles. [LB646]

SENATOR SCHILZ: Do you also understand that this could be used to build a scale facility, a gathering facility for say, folks in Arthur County, used to put a culvert in or anything...and it may, it may...so that individuals, smaller producers can come together to increase their marketing ability. Would that be something that you'd be interested in? [LB646]

CLINT HOHNDORF: I would respectfully disagree that this bill has that much good affect on a small producer. [LB646]

SENATOR SCHILZ: Well, it would have an affect on the county doing the work. [LB646]

CLINT HOHNDORF: I haven't had time to study. I'm not professing to be an expert on every economic issue. I'm just telling you as I see it. That's the way I see this bill.

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[LB646]

SENATOR SCHILZ: And so my question is, if that were possible would that change your...or if were the case, would that change your thinking about this? [LB646]

CLINT HOHNDORF: I don't think anyone with a sensible point of view would be adverse to some of the issues you've raised, but to come in...and I'll give you another example. The County, Butler County Board just had a meeting last week and the headlines in the local paper are "Towle (phonetic) says to Board, I'll see you in Court." He didn't get his way. Every step of the way they threaten to sue you if you don't get your way. So maybe you ought to talk to the other side if you want to...if you're portraying me as being unreasonable, maybe the other side is unreasonable. [LB646]

SENATOR SCHILZ: And I guess what I come back to and I appreciate, I appreciate what your seeing, because we've seen it on both sides. There's no doubt. But what I'm saying is that if you have a process in place where the counties can go out and precertify these locations, you should have the opportunity to come in and say, hey, this is what we want to see for our county, correct? Wouldn't that, wouldn't that be beneficial to everyone involved? [LB646]

CLINT HOHNDORF: I'm not sure what you're asking me. I'm... [LB646]

SENATOR SCHILZ: What I'm asking is, before...okay, before Butler County Dairy came in, right, did you have the ability to go around and look in your county and say, hey, we think the livestock facilities could be put here, here, and here because they have...like my county, Keith County, has certain setbacks that you have to have to put a livestock facility in. Okay. So first of all, make sure that everybody understands the rules which comes from local county zoning and then second of all, you have the opportunity to come in, state your position and say, hey, this is why I think it should be here, or this is why I think it should not be here. It...wouldn't that get us much further down the road than we are today where we bring up the example of the situation that you're talking about where there's proponents over here and people that are being affected adversely over here and get that all done up front so that it doesn't have to come to this. [LB646]

CLINT HOHNDORF: I'll agree with you in part, but in our particular situation as I stated in my testimony, we have no zoning, we have no protection. [LB646]

SENATOR SCHILZ: I think I'd be talking to your County Commissioners then. [LB646]

CLINT HOHNDORF: Well, they are in the process of developing a comprehensive plan, but it's been very contested, very tumultuous, you know. [LB646]

SENATOR SCHILZ: And I think that gets exactly to what I'm talking about, don't you?

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[LB646]

CLINT HOHNDORF: And that's why I'm asking you not to pass this. In our case...  
[LB646]

SENATOR SCHILZ: So that we can continue to have situations like yours? [LB646]

CLINT HOHNDORF: Do you think I want to be the only county in the state that's livestock friendly and no zoning? What kind of a target do you think that puts on...and plenty of water. (Laughter) [LB646]

SENATOR SCHILZ: I don't know. Thank you, sir. [LB646]

SENATOR CARLSON: Well, and before you leave, Mr. Hohndorf, you have every right to come to a committee hearing and to testify and part of this has been difficult for you. But that's okay. That's your right and you should do it and I applaud you for doing it. You don't have to agree with me and we don't want you to feel uncomfortable coming here. So thank you for coming. [LB646]

CLINT HOHNDORF: Thank you. And I read a quote the other day from, I think it was Mark Twain that said something about, he found it best not to allineate the people that he's trying to persuade and I hope I haven't done that, so. (Laughter) Thank you.  
[LB646]

SENATOR CARLSON: Thank you. Next testifier. [LB646]

KEN WINSTON: (Exhibit 9) Good afternoon, Chairman Carlson, and members of the Agriculture Committee. My name is Ken Winston and my last name is spelled W-i-n-s-t-o-n. I'm appearing on behalf of the Nebraska Sierra Club. The Nebraska Chapter of the Sierra Club opposes LB646. There are several reasons for our opposition. First, we've consistently supported the authority of local government to make decisions concerning land use. We believe that the residents of a community are best able to evaluate the possible cost and benefit to their community, in part because they are familiar with local resources and challenges. They're also the ones who have to live with the impact of their decisions. We are concerned that provisions of LB646 that insert state regulators into the process of site determination would interfere with the ability of local governments to make decisions that are in the best interests of their constituents. Second, LB646 makes several questionable policy proposals. It proposes to have the Department of Environmental Quality predetermine whether possible sites are suitable for a livestock waste facility. This is an improper role for a regulatory agency. If DEQ has already determined that a site is appropriate, how will they be able to properly evaluate whether an application for that site fulfills their criteria. In addition, we question whether DEQ has adequate personnel to undertake these additional responsibilities.

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For example, DEQ currently has a mandate to evaluate water quality in the streams of the state but are having difficulty carrying out this responsibility because of a lack of personnel. Adding new duties would only aggravate the problem and make the state more vulnerable to legal attack for failing to carry out its legally mandated duties. Third, it appears that LB646 would be vulnerable to constitutional challenge on several fronts. For one, it appears to elevate certain applicants ahead of others who would otherwise have priority for a single arbitrary reason, the county of residence. This appears to violate the equal protection clause of both the United States and Nebraska constitutions and may also violate principles of due process as well as creating issues of special legislation in violation of Article III, Section 18, of the Nebraska Constitution. New applicants also appear to be eligible for benefits for which current operators would appear to be ineligible, which again appears to be an arbitrary classification and would likely violate the legal principles cited above. Although LB646 is allegedly intended to benefit livestock operators, we believe it would be better to use the incentives to make livestock operations more friendly to the environment and the communities in which they reside. In our opinion, it would be better to provide incentives for concepts such as methane digesters which reduce problems with odor and manure distribution while providing potential sources of renewable energy. It is questionable whether LB646 would benefit rural communities, but it is likely it would benefit attorneys and law firms who would be likely to challenge its provisions in court. We respectfully request that LB646 be indefinitely postponed. And I just wanted to say, it's always difficult to come before a committee when half of the introducers are sitting there in front of me staring at me, so. (Laughter) So I would be glad to field questions, if I can answer them. [LB646]

SENATOR CARLSON: Okay. Any questions for Mr. Winston? Senator Wallman. [LB646]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, it's always interesting to hear your testimony, Mr. Winston. Do you think as a state we're giving enough incentives for environmental friendly livestock producers? [LB646]

KEN WINSTON: Well, I guess at the present time I'm not sure what we're doing in the way of supporting environmentally...if we are providing incentives for people to be environmentally friendly. I mean, right now, most of the things that encourage someone to support the environmental laws of the state are more the stick variety than the carrot variety. At least that's what I would hear from most producers. And it would strike me that maybe we ought to offer some incentives as well. [LB646]

SENATOR WALLMAN: Do you have a bill in that respect? [LB646]

KEN WINSTON: Well, I'd be glad to introduce one and actually I had...to be honest, I had a conversation with a couple of our friends from the Cattlemen's Association before the session about this subject and I imagine we'll follow up after the session is over, but

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we're open to the idea and I'd be glad to talk to you about some other legislation that would enhance...allow methane digesters, provide them with some incentives, so.  
[LB646]

SENATOR WALLMAN: Because that's going to take incentives, things like that. [LB646]

KEN WINSTON: I'm sorry? [LB646]

SENATOR WALLMAN: That's going to take incentives. [LB646]

KEN WINSTON: Yes, I believe so. I believe it will require some incentives to do that.  
[LB646]

SENATOR WALLMAN: Thank you. [LB646]

SENATOR CARLSON: Okay. Any other questions? Well, I'm going to ask you one, Ken.  
(Laughter) [LB646]

KEN WINSTON: Okay. [LB646]

SENATOR CARLSON: Let's put you in a little different role here for a minute, and you are going to implement environmentally friendly livestock production facility in Nebraska. And so the first thing you've got to do is find a place. Where would this be good and where would it be environmentally friendly? What's wrong with asking DEQ if they might agree that this might be a good spot because you're going to make a big investment here and you don't want to make a mistake. And you've said that that would be improper role for them to give you an opinion. [LB646]

KEN WINSTON: Well, here's how I was envisioning it. I mean, I guess, I'm a lawyer. You guys know I'm a lawyer so and I'm just...senators know that I'm a lawyer, but if I went to a judge and said, okay, here's some evidence I want you to look at before you rule on my case. That would be considered improper. And I guess, I mean, I understand where you're coming from Senator but I'm just wondering how do they make an objective evaluation of that application when the application comes in if they've already said this is a good site. So, okay, and what I was envisioning, I'm the applicant. I've filed the application. You know, I've gone to one of the favorite sites. I've filed the application and I think I've gone through all the hoops and now DEQ denies me. And so, I think I've got an additional reason to sue DEQ because of the fact that they denied my application or to appeal the case to district court because I've have something else that, another arrow in my quiver in that regard. So, I guess, the question of how do they relate it, how do they make a decision on an application when they've already said this is a place that will work for a livestock waste facility. And I do understand the question and I think I do like the idea of figuring out...I mean, things should not, there's certain places that things



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should not be sited. And I would agree with that both in terms of environment and also in terms of what else is around. I mean, you don't...obviously, I'm assuming that someone would not want to site it next door to a church or what have you. So, you know, those are things that would also be considered. [LB646]

SENATOR CARLSON: Well, you and I have had good dialog before. We're going to continue to have good dialog. [LB646]

KEN WINSTON: Sure. [LB646]

SENATOR CARLSON: I think it would be due diligence to find out whether a proposed site for an operation is a good site or not and DEQ, I think, would be the proper avenue. Maybe it's just good that we don't have a lot of livestock producers that are attorneys. (Laughter) [LB646]

KEN WINSTON: Well, I'm guessing they probably have access to a good legal counsel, though, so. And they probably have the phone numbers and addresses of those folks, so. And I do appreciate the opportunity for dialog and because of the fact that I know that the bill has been made a priority and there's a lot of support for this bill, I would be glad to engage in further dialog with the introducer and members of the committee and committee staff about the bill. [LB646]

SENATOR CARLSON: Good. Any other questions of Mr. Winston? Thank you for your testimony. [LB646]

KEN WINSTON: Thank you. [LB646]

SENATOR CARLSON: Any other testifiers in opposition? Any in a neutral capacity? [LB646]

RICH LOMBARDI: (Exhibit 10) Members of the committee, my name is Rich Lombardi. I'm appearing on behalf and as the registered lobbyist for the Center for Rural Affairs. I am circulating to you a list of grants that have been awarded through the Building Entrepreneurial Communities Act as well as the Value-Added Act. Originally, the Center was in opposition to this bill because of Sections 8 and 10 which sought to basically cannibalize those funds to fund this. We are very strong supporters, as I know many members of this committee have been, with regard to the BECA funding and the Value-Added funding, and with the amendment that Senator Christensen offered that would take away our opposition. But I did think that, I suspect that this issue will come before you as legislators because there is a significant cut proposed in the Governor's budget as related to the BECA funds. And I had asked him, what you have before you is an e-mail from our executive director, Chuck Hassebrook, at my request as to the listing of both the grant funds and we've taken the liberty to, I think, except for Senator Price

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and Senator Council, almost all of your other legislative districts have been recipients of these funds. I just wanted you to have an information source of compendium of those grants that have worked in your areas. That's all I have. Thank you. [LB646]

SENATOR CARLSON: Okay. Any questions of Mr. Lombardi? Thank you for your testimony. Anyone else in a neutral position? Seeing none, Senator Christensen, you can close on your bill. [LB646]

SENATOR CHRISTENSEN: Thank you. Just maybe to clarify a couple of things for some of the opposition here that, you know, this money strictly is for the counties. You know, I think, Wayne, said it's not going to help a big operation. There's no money going to the operation whether it's big or small. It's...the bill is strictly for the counties and you know, when Clint testified even that...you know, this is exactly what he should want, because this makes it so it doesn't have to apply to nobody. And it doesn't even if we don't pass this, but in the same sense if you want to have control on your counties what's going to be zoned, what's going to be done, then this is the exact process you want to go through that this bill encourages. You can go as Senator Schilz said, put your setbacks in, you can go in and zone certain areas for livestock development growth. It's actually a very proactive step that should turn into be very environmentally friendly. It should turn into be the tool that people would want to, if you don't want a humongous feedlot or dairy coming in, you regulate the size. You know, it should turn into encourage counties to do exactly what they were saying this bill does the opposite of. And so, I encourage them to look it over and visit with me if they have questions. I've already addressed Ken's questions because he missed all them sections that were struck, and so I think we've hit most of his concerns too. And I guess at that point in time, I'm going to say that if there's something the committee thinks needs to be adjusted or worked on, I would ask you to adopt the amendment and move the bill forward to the floor. And if there's other questions or concerns, would be glad to work with committee on it. [LB646]

SENATOR CARLSON: Okay. Senator Council. [LB646]

SENATOR COUNCIL: Yes. Thank you, Chairman Carlson. Senator Christensen, my only concern with the amendment is the impact on the fiscal note and what changes, if any, need to be addressed there. And I'm just concerned philosophically. I don't have any problem with trying to encourage livestock production development. But when I look at the bill, you've got a one-time allocation and then looking for funds from future appropriations may be, may not be, there's no other allocation from the Value-Added program. And I would suspect that if you come back next year with that, the concerns already expressed by Mr. Lombardi are going to reappear. So I'm just concerned about the long-term viability. I mean, if we advanced the bill, you know, do we set counties up for a false expectation. Because...unallocated funds under the Value-Added may be, I think it's estimated about \$150,000, I don't know far that goes in terms of really

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meaningful economic development incentives without any source or stream of funding after that one-time allocation. [LB646]

SENATOR CHRISTENSEN: Well, I agree with your concern there. If you step back and I...you know, I probably should have prompted somebody to ask some questions of different commodity groups or...that have the potential to add significant funds off of checkoff things that way in here. Also if we're not generating funds that way, we can come back and see if there's some leftover funds again. But I believe, Mr. Lombardi was looking at the BECA funds and this Value-Added that we are asking to get some funds off of. And there might be some left over there again that we can come look at. But at the same time, this is a great, like pilot project to see if it's going to encourage any more development. And I think we will see it does step forward. And say we get that \$150,000 in there where you can never pull more than half of it, so for them to get...let's say the fund did grow and somebody had a \$300,000 project there, you know, they don't have to give it all to them but say it was there, and they did that, that would be a big deal for them counties. And typically, I know, Sands was brought up. They done a lot of building in Furnas County where I grew up. And most of the roads, we done a little bit of ditch cleaning out, pulling the dirt up and put the gravel on. It was not high dollar deal. We were fortunate in a lot of our locations, it didn't take a lot of road rebuilding, just some more gravel and things. But it had been a big boost to that county. And I know in visiting with Furnas County, they would say, man, we still would like to see this, even though their not livestock friendly, they'll probably get there, because they said we'd like to see further expansion. It's a great opportunity. And Furnas County has been progressive. They've brought in a dairy, and I don't know how many hog facility locations, and a feed mill, and stuff that come with it. And it's been a big boost. Not only do you get the benefit from the feeding side, the value added, but just having that extra market, they claim 10 to 15 cents, that's your...not only do you get that value but you get the pork production or that changeover value added and it's just been a big boost. Because I would have to say that we've added close to 200 jobs in Furnas County off all the livestock development we've done through the dairies, and through the hog facilities, and the feed mill, and the truck drivers. And so I understand your concern, but I guess I look at this initial step of faith on pilot program, and I think you'll see commodity groups be willing to step forward and add to it. And with the checkoff funds, I think there is good potential of adding considerable amount to this and where it's revolving loan, it does come back. [LB646]

SENATOR COUNCIL: I just don't want it to be...let this believe that if that doesn't happen, if the checkoff dollars don't come in, if private donations don't come in, other sources, that, you know, there's the expectation to go back and look at that BECA, you know, without discussing that fully. And, I mean, I don't pretend to speak for the communities who receive BECA funds, but, you know, clearly it's made a difference in those communities. And to pit them against each other in terms of what economic development activity is, is more worthy than the other, if you have to get to that point in

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subsequent years of looking at transferring money from the BECA into the livestock fund. That's all I'm concerned about. [LB646]

SENATOR CHRISTENSEN: And I appreciate that a lot because, you know, like with the BECA literally the operators could apply for that, you know, and work on that direction. That would help more on them in Senator Carlson's bill they could apply for if they're moving in from the outside and that's another possible opportunity for the operators. But I guess here, I was looking at trying to help the counties out and hopefully this will be just a good start, as you said. And the commodity groups will come through and...or we'll have some plush times and maybe the state will see it's working and like to step up with the numbers. Something I might share. You know, ag...Nebraska truly is an ag based economy. And even though we got less people in rural areas, and it appears like ag may not be as important in the state, one out of three jobs in the state still is touched by agriculture. And you compare that to Iowa, it's one in twelve. You know you're not going to find probably another state that can be touched more by economic development in livestock and in the agricultural side of things than you will with Nebraska. Thank you. [LB646]

SENATOR CARLSON: Okay. Thank you. Any further questions? Hearing none, thank you for your testimony. Thank you for those of you that came to testify and we close the hearing on LB646. [LB646]

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Disposition of Bills:

LB585 - Held in committee.  
LB602 - Indefinitely postponed.  
LB646 - Held in committee.

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Chairperson

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Committee Clerk