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Agriculture Committee
January 20, 2015

[LB91 LB92 LB93]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, January 20, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB91, LB92, and LB93. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Burke Harr; Tyson Larson; Merv Riepe; and Ken Schilz. Senators absent: None.

SENATOR JOHNSON: Okay. We will begin our hearing process. Welcome to the Ag Committee, One Hundred Fourth Session, Nebraska Legislature. We do have some new members on the committee. I thought about going through and introducing them, but I think probably most of you have met them, but I will go around and introduce all our committee members. I'm Jerry Johnson, Chairman of the committee, and I represent District 23 and I live in Wahoo. To my far left, has not arrived yet but I assume he will be here, Senator Chambers from Omaha. On his right is Senator Dave Bloomfield from Hoskins. To his right is a new member to the Legislature and to this committee, Senator Merv Riepe from Ralston; and Senator Burke Harr from Omaha was on the committee previously. To my far right is Senator Tyson Larson from O'Neill; Senator Ken Schilz from Ogallala, former Chair of the Ag Committee, now Chair of Natural Resources. And Mark Kolterman from Seward is a new senator and is the Vice Chair of the Ag Committee. At my right or seated to prepare for the first introduction is our research analyst, Rick Leonard, with the Ag Committee. To my left is committee clerk, Travis Moore, from my office. And monitoring today is Barb Koehlmoos, who is a veteran of this process and making sure we handle everything right. Our page today is Jay Linton from Dalton, Nebraska, and he is a student at the University of Nebraska at Lincoln. One of the important things I think is use of cell phones. I don't have a problem if cell phones are on but, of course, put them on vibrate. I have heard of but I've not witnessed where lobby will text a committee member or vice versa and that's forbidden. We don't have any lobbying within the hearing. If you did get a text, you need to leave the room. This is the same for the senators: If you do get a text and you need to leave the room, that would be the purpose for a senator getting up. It might be that he has to go or she has to go to another committee to present something. We want to refrain from any standing ovations or noise making or anything like that during hearings to make sure we're neutral in all of that. I'm assuming you're aware of the sheets as you moved in or came in. There's a different door to the Ag room this year. I think it's more convenient from the standpoint of less interruption during the committee meeting or during the hearing. And if you do need to leave, it's not an issue then. So in the other room are the green sheets for testifiers. As asked earlier, if you're introducing more than one bill, we do need multiple green sheets, one for each bill. And if you're not testifying but you want to be recorded as attending and having a position, there are sheets out there. When you come to testify, I know this is old hat for most of us and you, but put it in the box there. We will follow the agenda today as posted. We have three bills in our hearing today: LB91, LB92, and LB93. All three of these bills were brought to me by the

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department. And I will introduce...Senator Chambers has just arrived. Welcome, Senator, back to the Ag Committee after many years.

SENATOR CHAMBERS: And I'm glad you can keep your seats. (Laughter)

SENATOR JOHNSON: Okay. I'll introduce Rick Leonard who will be making the introduction on the bills today, so, on behalf of the Department of Agriculture.

RICK LEONARD: Thank you, Chairman Johnson and members of the committee. As Senator Johnson mentioned, I'm Rick Leonard, that's R-i-c-k L-e-o-n-a-r-d. I am the research analyst for the Agriculture Committee and I'm here...the senators asked me to introduce LB91. This is a bill...as the senator mentioned, is brought to us at the request of the Department of Agriculture. As you can see, it's a very short bill, one section, that consists of outright repeal of a series of statutes. I've handed out...in your books there will be a briefing material where I've given a little more information about the particular sections that are being...that are affected, that would be outright repealed. But just let me briefly go over those, Section 54-724.01 to 54-724.02. Those are provisions that are relating to domestic animals affected with scabies. There's a little bit more description of what those provisions entail. Sections 54-1401 to 54-1411, and this is a series of statutes that was specific to dealing with sheep scabies; Sections 54-1513 to 54-1521, which was a named act in Nebraska...is a named act, the Hog Cholera Control and Eradication Act. It is one of a number of program disease eradication programs we've had on the books. There's also a series of other statutes identified there, 54-1501 to 54-1512, and 54-1522 to 54-1523, which are related statutes dealing with hog cholera, and then finally, an additional statute, 54-726.04 was a statute regarding the...for knowingly having or harboring animals, swine with transmissible disease. That is pretty much the sum of it. Again, I...we have with us today Director Ibach as well as our state veterinarian, Dr. Hughes, and I think if you have any questions about the particular diseases and the department's authorities and duties under these particular sections, we have that expertise available for you. That would be my opening. Are there any questions? [LB91]

SENATOR JOHNSON: No. Okay, thank you, Rick. Mr. Ibach, from the Department of Agriculture, come forward. You know the rules, spell your name, cite your name for the purpose of the record. [LB91]

GREG IBACH: Okay. [LB91]

SENATOR JOHNSON: We want to make sure everybody speaks into the mikes. They are sensitive, but we ought to make sure when I recognize a senator or recognize someone that you are able to speak loud enough so we can get it to the transcribers properly, so, Mr. Ibach. [LB91]

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GREG IBACH: (Exhibit 1) Okay. Thank you, Senator Johnson, members of the Agriculture Committee. My name is Greg Ibach, G-r-e-g I-b-a-c-h, and I am here to testify in favor of LB91. I would like to thank Senator Johnson for introducing the bill on behalf of the Department of Agriculture. I have written testimony that I've circulated around here that is longer than what I plan to deliver this afternoon. As Rick had mentioned, Dr....or Chris Shubert is here with the department, Tammy Zimmerman, and Dr. Dennis Hughes, the state veterinarian, with me if there should be additional questions that we...I'm unable to answer for you. LB91 repeals outdated livestock disease provisions, specifically the statutes that...I won't go into all of those since Rick went into those. The Hog Cholera Control and Eradication Act along with related statutory provisions relating to hog cholera disease, swine, and double inoculation against hog cholera. The Hog Cholera Control and Eradication Act was enacted in 1969 and the two other series of sections on hog cholera were enacted in '65 and 1929, respectively, when hog cholera was prevalent in the United States. Hog cholera, now known as classical swine fever, has been reclassified as a foreign animal disease in the United States, and Nebraska has been free of hog cholera since 1971. And in...the United States as a whole has been free of hog cholera since 1978. Due to its reclassification as a foreign animal disease by the United States Department of Agriculture, the protocol for dealing with a hog cholera outbreak would be directed by and under the supervision of the United States Department of Agriculture, Animal and Plant Health Inspection Service and Veterinary Services, whereby making current Nebraska statutes moot. LB91 also repeals outdated provisions governing domestic animal scabies and sheep scabies. Provisions governing domestic animal scabies were enacted in 1927 and those governing sheep scabies were enacted in 1965 at a time when the disease was prevalent and difficult to treat. With the introduction of veterinary medical treatments such as the avermectins, the current provisions governing domestic animal scabies and sheep scabies are outdated. The United States has been free of sheep scabies since 1973, and LB91 would also repeal a provision governing diseased swine. The section was used in the past by the Nebraska Department of Agriculture to control vesicular exanthema in swine. The disease is considered by USDA to be a foreign animal disease in the United States. And because, again, the statutory sections I've described are outdated and would not currently be carried out and enforced in accordance with these current Nebraska statutes, we believe it is appropriate to repeal those laws. The department has sought input from the livestock industry representatives, specifically Farm Bureau, the Nebraska Veterinary Medical Association, the Nebraska Pork Producers, the Nebraska Sheep and Goat Producers Association, the Nebraska Cattlemen, the Nebraska Farmers Union, and the Livestock Market Association (sic). The responses received by the department have been in support of this legislative proposal, and with that, I would be happy to answer any questions you might have. [LB91]

SENATOR JOHNSON: Questions? Senator Harr. [LB91]

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SENATOR HARR: I guess you say that now under the control of the U. S. Department of Agriculture and then in their summary it says, specifically regarding the vesicular exanthema of swine, it is now generally governed by other department statutes. Is this a complete overlap or is this...were these complementary of each other or, I mean, how do these two relate to each other because as a general rule, I like to deal with issues on a state level as opposed to a federal level? [LB91]

GREG IBACH: So any disease that is designated by the federal government as a foreign animal disease, we would follow their protocol at USDA with the control and eradication of that disease, and that disease as well, which is really hard to pronounce, (laugh) is designated as a foreign animal disease. And so, we would work with them closely, follow their guidelines. And, you know, we do exercises to be ready for those. [LB91]

SENATOR HARR: And maybe I wasn't clear. So, the feds set the floor. So let's say previously the cure was, you have to do A, B...is the federal. And on a state level we say, yeah, we don't want this disease. We're going to be even stricter. We want you to do A, B, and C. Is that what we had here and now we're going back to just A, B? Or how did...I mean, I don't understand...I get the overlap, I get the federal versus state. What I don't understand is what was the difference in protocol? So what is the federal protocol and what is the state protocol? How do they differ? Is one greater than the other? [LB91]

GREG IBACH: So in some of these diseases, the actual treatment of them has evolved to where the protocols that are in place in our statute wouldn't be what we would use now anyway. There are veterinary medical treatments that are available that weren't available then. You know, I don't think in any...in any of these examples we would have...be more vulnerable because we're going to the baseline that the USDA sets. And, in fact, you know, in nonforeign animal diseases, you know, the department, we sometimes set standards for in our import and export of animals that are higher than states around us to, you know, be able to protect ourselves from those diseases. In general, I would say foreign animal disease statutes by the USDA are very strict and set at a very high standard, so. [LB91]

SENATOR HARR: And up to date? [LB91]

GREG IBACH: And up to date, yes, very much so. [LB91]

SENATOR HARR: Okay, thank you. [LB91]

SENATOR JOHNSON: Senator Riepe. [LB91]

SENATOR RIEPE: You talked about new treatment protocols. Is that the reason why

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we're talking about it at this time and not last year, or...? [LB91]

GREG IBACH: So there's probably...this is a bill that we probably could have introduced, you know, maybe even ten years ago. And there's probably a series of bills that...or statutes that we're going to take a look at over the next few years to determine, you know, whether or not they're necessary, whether they need updated, or whether or not they need repealed. And so this is just...we happened to identify this one at this time and decided to bring this forth at this time. [LB91]

SENATOR JOHNSON: Senator Bloomfield. [LB91]

SENATOR BLOOMFIELD: Thank you, Senator Johnson. Director Ibach, we're dealing with the sheep scabies in here. Has that been totally eradicated from the state or from the... [LB91]

GREG IBACH: I think in my testimony it says in the early '70s it has been eradicated. I think we still deal with cattle scabies every now and then. [LB91]

SENATOR BLOOMFIELD: Just a few years ago, I tried to have a lamb slaughtered and the facility said they couldn't do it because of the fear of scabies and we get the same thing out of rendering plants. They won't take a dead sheep for fear of scabies. Do we have some communicating we need to be doing? [LB91]

GREG IBACH: I'm wondering if that's scabies or if it's a different disease. One of the spongiform encephalopathies is the reason why they don't take those sheep instead of scabies. [LB91]

SENATOR BLOOMFIELD: They say it's scabies, is what they're telling us, but. [LB91]

GREG IBACH: After we're done, maybe I would call Dr. Hughes to come up and he can maybe specifically answer that question better than I obviously am. [LB91]

SENATOR BLOOMFIELD: Okay. Thank you. [LB91]

SENATOR JOHNSON: Are there other questions of Mr. Ibach? If not, thank you for your testimony. [LB91]

GREG IBACH: Okay. Well, then if the committee would wish, we can have Dr. Hughes come up to answer that specific question. [LB91]

SENATOR JOHNSON: That would be fine. Dr. Hughes. Please state your name and spell your name. Thank you. [LB91]

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DENNIS HUGHES: My name is Dr. Dennis Hughes, D-e-n-n-i-s H-u-g-h-e-s. I'll take any questions you have, hopefully do my best. [LB91]

SENATOR JOHNSON: Do you have any comment on Senator Bloomfield's... [LB91]

DENNIS HUGHES: Yes, I think you were probably thinking of scrapie. Scrapie is a disease that is classified as a transmissible spongiform encephalopathy. It's a close cousin to BSE, "mad cow disease," a close cousin to chronic wasting disease in deer and elk. And sheep manifest a very similar disease called scrapie. It is confusing, scrapie and scabies, but they are two different disease. One is a parasitic type infection, scabies; scrapie is a TSE, as we call it. [LB91]

SENATOR BLOOMFIELD: Okay, thank you. [LB91]

SENATOR JOHNSON: Senator Schilz. [LB91]

SENATOR SCHILZ: Thank you, Senator Johnson. Dr. Hughes, thanks for coming in today. We heard a little bit about, earlier in questions, on the foreign animal disease protocol. Are you familiar with that and how it works and if you could just explain it to the committee. [LB91]

DENNIS HUGHES: Yes. As one of 50 state veterinarians, we are constantly on the alert and lookout for foreign animal disease that might invade our own turf, so to speak. And so, we have continuing education; we have protocol in place to fall in line or be cooperative with USDA on addressing or responding to a foreign animal disease situation. One of the big parts of my job is to make sure that Nebraska is ready for disease that I hope never occurs, at least in my career, in my lifetime. It's a big part of what we do, is the specific protocols for as how we would be part of USDA's response along with the states. We address things like control movement of livestock across borders, many mirroring different cogs on a wheel that are involved in response to foreign animal disease. [LB91]

SENATOR SCHILZ: And along with that, as you look at the sections that are being repealed, folks talked about...Director Ibach talked about how technology and things have moved beyond where those...can you explain today how the industry deals with these diseases compared to when these were put into place? [LB91]

DENNIS HUGHES: We have advanced diagnostic skills that we didn't have even ten years ago. DNA type testing, or we call polymerase chain reaction--PCR is the term that we throw out real loose in the veterinary profession that most people don't understand--but it's technology that we have now that we can make a quick and accurate diagnosis, typically within hours. That capability is infinitely greater than what it was even ten years ago and will continue to improve. As far as addressing the diseases

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itself, you know, when we talk about scabies, we have a new classification of drugs that came in the 1980s, the avermectins or drugs like IVOMEC. You've probably heard of that. Those drugs give us the ability to, with an injectable parasiticide, eliminate the disease for the most part. We've had very little problem with it. We continue to have a better vaccine technology out there to address an outbreak of disease such as vesicular exanthema, you know, classical swine fever. [LB91]

SENATOR SCHILZ: Thank you. [LB91]

DENNIS HUGHES: Classical swine fever used to be known as hog cholera. [LB91]

SENATOR SCHILZ: Yeah. [LB91]

DENNIS HUGHES: But that's the new 20th century, 21st century technology. We went from hog cholera to classical swine fever. [LB91]

SENATOR SCHILZ: Thank you. [LB91]

SENATOR JOHNSON: Any other...Senator Bloomfield. [LB91]

SENATOR BLOOMFIELD: Thank you. Has IVOMEC ever been approved for sheep? [LB91]

DENNIS HUGHES: Yes. Well, (laugh) under a veterinarian client-patient relationship. (Laughter) It's not...there are... [LB91]

SENATOR BLOOMFIELD: If I want to vaccinate my sheep, I still got to buy the cow. [LB91]

DENNIS HUGHES: Well, yeah, there are approved products for sheep; but I think I know what you're talking about. We used to take...when I was still in practice, you could take the cattle drug and use it on sheep under a veterinarian-client patient relationship. [LB91]

SENATOR JOHNSON: Senator Harr. [LB91]

SENATOR HARR: Thank you. And, you know, I'm a city boy, so I don't know a lot and today is the first time I ever heard of the foreign...what was it, foreign animal. [LB91]

SENATOR JOHNSON: Foreign animal. [LB91]

SENATOR HARR: I can't find even the act. So you'll have to excuse my ignorance. How often is that act, is it...is the protocol changed through regulation or is it changed

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through laws when there are updates in procedure or knowledge? [LB91]

DENNIS HUGHES: How often are foreign animal disease acts or responses changed, is that what you're asking? [LB91]

SENATOR HARR: Yeah. Well, I guess my first question is, you know, we have a statute here that's become outdated, right? And I'm trying to wrap my head around why we aren't updating our statute to the newest technology or protocols and instead we're abdicating to the federal government. And I was just wondering, do they do it through regulations? Do they do it through statute, or how do they update it when there are new protocols? [LB91]

DENNIS HUGHES: Well, there's...a Federal Register basically is kind of through the CFR. [LB91]

SENATOR HARR: So it's through regs. Okay. [LB91]

DENNIS HUGHES: Right. Right. And as far the foreign animal disease classification, that's based, basically, on diseases that are not seen in the United States and we're trying to keep them out. You know...like going too far deep in the weeds that we just had a situation of vesicular stomatitis, which is what's classified as foreign animal disease. Now it has become so common that it's going to be delisted and considered probably an endemic disease in the United States. So it's considered foreign as long as we can keep it out and continue to keep it out; but after while when it becomes commonplace, they have to reclassify it as no longer a foreign animal disease. It's become a disease that's native here in the United States. [LB91]

SENATOR HARR: And you are confident or you have confidence in the regs that as they're written now where if any one of these three diseases came back, what's written as protocol is accurate or appropriate? [LB91]

DENNIS HUGHES: Exactly. This would be a...this would fall under all the protocol of a USDA foreign animal disease. It would be treated as such. Classical swine fever would be...hog cholera would be responded to like a very dangerous foreign animal disease. We would do everything we can to turn it back, to eradicate it, to take the steps necessary to prevent it from continuing to repeat or occur in the United States. Did I answer your question? [LB91]

SENATOR HARR: I think so. I think so. So if I can, what this does is it doesn't say, here's the protocol for hog cholera. It says, if we get hog cholera, we will do whatever is necessary. [LB91]

DENNIS HUGHES: There is specific protocol... [LB91]

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SENATOR HARR: Okay. [LB91]

DENNIS HUGHES: ...pages and pages (laugh)... [LB91]

SENATOR HARR: Okay. [LB91]

DENNIS HUGHES: ...very voluminous volumes of what we would do. There are specifically plans in place, specifically how you would diagnose, how you would vaccinate, how you would mitigate any response to this specific foreign animal disease, or whatever it would be. [LB91]

SENATOR HARR: Okay. Thank you. I appreciate your time and your knowledge. Thank you for coming in. [LB91]

SENATOR JOHNSON: Any other questions of Dr. Hughes? If not, thank you for your testimony. Is there anyone else from the department to address? No? Okay, others...any other proponents in favor of this bill that would like to testify? Okay. Is there opponents, those opposed to LB91? Anyone in neutral position? If not, do we have any letters on this one? [LB91]

RICK LEONARD: Not this one. [LB91]

SENATOR JOHNSON: No letters on this one. That being the case, we will close the hearing on LB191 (sic). We'll move directly to our next bill, LB92. I said LB191. LB91. And, again, Rick Leonard will make an introduction for us. [LB91]

RICK LEONARD: Thank you, again. Again, I'm Rick Leonard, R-i-c-k L-e-o-n-a-r-d, research analyst for the Agriculture Committee and senators, Chairman has asked if I could introduce this bill. Again, LB92 is a second bill brought to us at the request of the Department of Agriculture. The bill would change...make various...a series of changes in the Agricultural Liming Materials Act. The Ag Liming Materials Act governs the sale, packaging, and labeling information provided on or with commercial agricultural liming materials. Under the law, the department licenses manufacturers, distributors, or retailers of these products. The department also performs certain testing, either the inspecting functions primarily for the purpose of assuring that ag liming products are labeled accurately with certain required statements that products conform to recognized product standards and that package labels do not represent the contents. Essentially the law is a consumer protection law that what it says on the label is what you get. LB92 inserts a series of revisions within the Agricultural Liming Act. First of all, the bill amends 2-4323 which currently imposes an annual inspection fee paid by retailers under the act and that fee is based on a fee per ton. I believe the statutory maximum currently is 10 cents per ton. Currently, retailers submit an annual statement of tons of product sold for

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use in Nebraska and that statement currently in statute specifies for sale by county within 30 days at the end of the license period. The bill would be changed to institute a biannual, twice yearly, semiannual reporting and fee payment and this would bring the bill in line with the Fertilizer and Ag Chemical Act (sic) as well as some of the retailers may have a similar situation under the Commercial Feed Act (sic). Most of the retailers who are governed by this act are also governed by the Fertilizer and Ag Chemical Act and the fee provisions bring this in line so we have uniformity between the programs. The bill also would insert kind of standard language we've been using and inserting in our inspection programs for delinquent fees. A delinquent charge...the bill would insert an administrative fee for late payment of the inspection fee that would be 25 percent of the delinquent fee for each month the fee remains unpaid but that fee not to exceed 100 percent of the delinquent amount. We've defined...the bill defines this fee as an additional administrative sense to recover the additional administrative cost of pursuing that fee. There's some revisions into the reporting, annual reporting that the director makes from data gathered from the inspection program regarding sales of ag liming products in Nebraska. The bill...the law currently provides what's common authority for the director...or to impose what we refer to as stop-movement order. The bill would make some changes in that act for clarity. Specifically, the bill rewrites existing provisions for style and clarity and provides that the director may exercise stop-movement authority when having reasonable cause to believe products are being sold in violation of the act or regulation. The bill would insert a new (2) into the stop-movement section adding new specific authority for the director to seek, pursue...seek by complaint to a court of competent jurisdiction authority to seize and dispose of noncompliant product. The bill changes...amends Section 2-4327 of the act to provide for penalties that are consistent with the Fertilizer and Ag Chemical Dealer Act (sic) for violations of the act. The bill would also insert some additional enforcement authorities again, enforcement authorities common to most of the acts to seek enjoinder of violations of the act. Those are the major highlights of the bill. There are a few other more minor details that are...that I've gone through in more detail in the briefing materials. If you have any questions, I'll be happy to answer them. [LB92]

SENATOR JOHNSON: Any questions of Mr. Leonard? If not, thank you for your opening. All right. First testifier, Mr. Ibach. [LB92]

GREG IBACH: (Exhibit 1) Again, Senator Johnson and members of the Agriculture Committee, my name is Greg Ibach, G-r-e-g I-b-a-c-h. I am the director of the Nebraska Department of Agriculture. I am here today to testify in favor of LB92. I would like to thank Senator Johnson for introducing this bill on behalf of the Nebraska Department of Agriculture. I have additional written testimony that is being placed...or handed out and I ask that it be placed in the record for this bill. Again, I have the other members of the Department of Agriculture staff here today to answer questions should the committee...should I need their assistance in answering the committee's questions. LB92 amends the Agricultural Liming Materials Act by changing the payment date for

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the annual inspection fees. Under the bill, fees would be paid on a six-month interval to coincide with the payment of fertilizer and soil conditioner inspection fees. The uniform collection process will aid the industry in paying the fees and the department in collecting them. It provides the department authority to assess an administrative fee for delinquent payment of an inspection fee; clarifying the department's responsibility to make information available regarding the sale of agricultural liming materials; adding enforcement provisions more consistent with other department statutes. And with that, I would be happy to answer your questions. [LB92]

SENATOR JOHNSON: Any questions of Mr. Ibach? Seeing none, thank you for your testimony. [LB92]

GREG IBACH: Thank you. [LB92]

SENATOR JOHNSON: (Exhibits 2 and 3) Next testifier. Is there...from the department? No? Okay. Anybody wishing to testify as a proponent, in favor? Anyone opposed, an opponent? Anyone neutral? Okay. We do have two letters of support for the legislation, one from the Nebraska Cooperative Council and one from Nebraska Agri-Business Association, both in support. If there's no other testimony, we will close the hearing on LB92. Mr. Leonard will make an introduction for LB93. [LB92]

RICK LEONARD: Well, thank you again, Senator Johnson and members of the committee. Again, Rick Leonard, research analyst for the Agriculture Committee. LB93, again, is the third bill brought to us at the request of the Department of Agriculture. The bill proposes a series of revisions to the Nebraska Commercial Fertilizer and Soil Conditioner Act. The Nebraska Fertilizer and Soil Conditioner Act, similar to the Ag Liming Materials Act, governs the sale, packaging, and labeling information provided on or with commercial fertilizer and soil conditioners. Again, under the law, the department licenses manufacturers, distributors, and retailers of this product...of these products and the department also performs certain functions to verify the inspection and testing and auditing functions to verify the label disclosures are true and accurate. Again, this...the act is somewhat of a consumer protection law that, again, that the product representations to...the product does indeed meet its representations. Again, LB93 makes a series of revisions to Nebraska Fertilizer and Soil Conditioner Act and I'd just...if I could highlight some of the more prominent ones: Section 3 of the bill revises labeling disclosures required or allowed on commercial fertilizer product packaging pursuant to Section 81-2,162.05 to require the grade of product, and the defined term for grade corresponding to the use of this term is inserted into the definition section for the act by Section 1 of the bill. The bill strikes an obsolete reference to pH and clarifies that labeling requirements under the act do not apply to commercial fertilizers that are also a pesticide, provided the product is labeled in conformity with the Nebraska Pesticide Act. The more accurate term available, phosphate, to refer to phosphorus nutrient content of a product, is substituted for existing terminology as appropriate

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throughout the act. Section 4 of the bill modifies provisions for delinquent fee, again to make the delinquent fee provisions with those that were previously described in the...that were made in the Agriculture Liming Act by LB92. The bill, again, amends publishing requirements regarding...of annual information published by the Department of Agriculture as provided in Section 81-2,162.11. The bill eliminates a requirement that a licensed applicant provide a Social Security number, and the act does make a number of harmonizing and conforming changes to the major substantive changes throughout the act. I would mention that our act...some of these changes, my understanding, that are being brought to be consistent with the "Model Fertilizer Regulation in North America" (sic) which is a publication of the American Plant Food Control Officials. And I...again, we have department witnesses who may be able to provide more detail and specifics about these particular changes and why the department is asking for these changes. If there are any questions, I'll conclude there. [LB93]

SENATOR JOHNSON: Any questions of Mr. Leonard? Seeing none, thank you, Mr. Leonard. Mr. Ibach. [LB93]

GREG IBACH: (Exhibit 1) Senator Johnson and members of the Agriculture Committee, my name is Greg Ibach, G-r-e-g I-b-a-c-h. I'm the director for the Nebraska Department of Agriculture. I am here today to testify in favor of LB93 and would like to thank Senator Johnson for introducing this bill on behalf of the department. I have additional written testimony that I ask be placed in the record for this bill. Again, I still have staff here that can answer additional questions should they be needed. LB93 amends the Nebraska Fertilizer...or Commercial Fertilizer and Soil Conditioner Act by clarifying label requirements regarding grade and guarantees for certain types of fertilizers and soil conditioners in order to be more in line with the Association of American Plant Food Control Officials national standards; modifying the way the department assesses an administrative fee for delinquent payment of inspection fees; clarifying the department's responsibility to make information available regarding the sales of commercial fertilizers and soil conditioners each year; clarifying the definition of soil conditioner; and attempting to clarify that if a product is both a pesticide and a commercial fertilizer, for example, weed and feed lawn fertilizer, the product is to be labeled in conformance with both this law and the Pesticide Act. After discussions internally and with Rick Leonard, the language in LB93 on page 6, lines 18 through 22, does not clearly accomplish that. Thus, it would be better to strike that language as both laws would still control the labeling separately...and then, finally, removing the requirement of listing Social Security numbers on applications. I would be happy to answer any questions you might have. [LB93]

SENATOR JOHNSON: Any questions? None. Thank you, Mr. Ibach. [LB93]

GREG IBACH: Thank you. [LB93]

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SENATOR JOHNSON: Any other questions of the department or comments from them? Anyone testifying as a proponent, in favor of the bill? Those opposed, opponents? Neutral? I might...I just have a question that came up. Are there a lot of products that have both...that's used in lawn and garden that are affected by this? I mean, if we strike that one paragraph, it kind of takes care of it, but. [LB93]

GREG IBACH: I think I will let Tammy answer that yet. [LB93]

SENATOR JOHNSON: Okay. Then would you... [LB93]

GREG IBACH: I think the short answer is yes, there's quite a few products... [LB93]

RICK LEONARD: Can we have her come to the mike to... [LB93]

SENATOR JOHNSON: Yeah. Would you come to the mike and...hate to put you on the spot. I know we do have interest from the lawn and garden people, and... [LB93]

TAMMY ZIMMERMAN: Good afternoon. My name is Tammy Zimmerman, T-a-m-m-y Z-i-m-m-e-r-m-a-n. I'm the administrator for the Animal and Plant Health Protection for the department. With regards to your question, I did check on that prior to coming with our program manager and he indicated about...at a guess, about 500 products would fall into the category of both, so. But they both have to meet the standards of the Pesticide Act and the FIFRA, and then also the Fertilizer Act so the standards are met on both sides. [LB93]

SENATOR JOHNSON: Okay. Sometimes we have questions on labeling so I just was curious on that. [LB93]

TAMMY ZIMMERMAN: Sure. Sure. [LB93]

SENATOR JOHNSON: I brought her back up here. Any questions now from anybody? Okay, thank you for coming forward. [LB93]

TAMMY ZIMMERMAN: You bet. [LB93]

SENATOR JOHNSON: (Exhibits 2 and 3) Again, is there anybody else testifying in neutral? If not, again, we do have a letter of support on LB93 from the Nebraska Co-op Council that will be brought into the record. With that, we will end our hearing on LB93, which is the extent of our agenda today. [LB93]