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Agriculture Committee  
February 02, 2010

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[LB865 LB882]

The Committee on Agriculture met at 1:30 on Tuesday, February 2, 2010, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB865 and LB882. 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. []

SENATOR CARLSON: Welcome to the February 2, 2010, hearing of the Agriculture Committee. I'm Tom Carlson, Chair of the committee. To my left is Barb DeRiese, committee clerk, and to my right is Rick Leonard, research analyst. And our page today is J. T. Trauernicht. And if you have material to hand out, he will take care of that. To my far right is Senator Brenda Council from Omaha, and then Senator Norm Wallman from Cortland. Senator...I had to find you here, Annette. Senator Annette Dubas from Fullerton who is the Vice Chair of the committee. Senator Russ Karpisek from Wilber and Senator Scott Price from Bellevue. I would ask you to turn off or silence your cell phones, if you need to do that. Those of you wishing to testify, please come to the front, take the chair. I think we won't need the lights today but I would ask you to keep your testimony to five minutes or less and if it's not working, we'll put the lights on. So would ask you to cooperate with that. If you don't wish to testify but would like your name entered into the official record as being present, there's a form by the door that you can sign and this will be made a part of the official record of the hearing. With our transcription, computerized transcription program, it's important for testifiers to fill out the green sheet and hand that in please before you testify. And if you're testifying on both bills today, you need to fill out the green sheet twice. If you have material to pass out, please give it to our page and he will distribute it to the committee. As you begin your testimony, please state your name and spell at least your last name for the record, and that's for the benefit of the transcription program. If you choose not 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 position. I think that's fairly important. As I look at bills that come to the floor from other committees, I go to the committee statement and see how many testifiers there were because it makes a difference to me. So if you have feelings about a bill, it would be good that you come and at least give your name and indicate how you are testifying or how you would testify. Are there any questions before we begin? Senator Schilz is on the committee and is in another meeting. He will be here shortly. And then Senator Dierks is presenting a bill to another committee and he will be in here later on. With that, we'll open our hearing on LB865. Senator Fischer, you are recognized to open. [LB865]

SENATOR FISCHER: Thank you, Chairman Carlson and members of the Ag Committee. For the record, my name is Deb Fischer, F-i-s-c-h-e-r, and I'm the Senator representing the 43rd District here in the Nebraska Unicameral. I appear before you

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today to present LB865. The purpose of LB865 is to refine Nebraska's existing animal cruelty statutes by separating livestock animals and placing them in Section 54 pertaining to livestock. The goal of the bill is to bring clarity and reduce the complexity of these statutes. The current animal cruelty statutes mix the differing animal species from bovines to service dogs causing some confusion. The Nebraska Legislature has a history of providing significant protection to animals. Major legislation was passed in 1988 to place prohibitions on dog fighting, cockfighting, and other practices of pitting animals against one another for entertainment. In 1990 the Legislature further enhanced protection for animals with LB50 which defined broader parameters of mistreatment of animals and penalties for animal abuse, which continues to serve as the foundation of animal protection today. Since 1990 Nebraska's animal cruelty statutes have been amended seven additional times touching on a wide range of issues as it relates to animal mistreatment. The result of these modifications has created a series of statutes that as a whole are complex and intermingle protections for pets and that of other animals such as food animals. This has raised questions about interpretation of these statutes and the potential for interpretation of these statutes in a manner that could negatively impact normal care practices for livestock animals. LB865 seeks to continue the protection for both companion and food animals but bring further clarity to Nebraska's animal cruelty statutes by continuing to recognize the inherent differences in the standards of common care and husbandry for food and fiber animals from the standards of common care for pet and companion animals. LB865 does this by separating and creating a new section of law outlining protections from abuse for livestock animals while maintaining the longstanding protections from mistreatment for pets and other companion animals. The language maintains the penalties currently found in statute. LB865 presents a cleaner, more concise, and effective series of statutes that maintains animal protection but acknowledges the differences in common care for animals. I had the pleasure of working with a number of organizations on this proposed bill. I worked with Farm Bureau, Nebraska Cattlemen, Pork Producers, and also the Omaha Humane Society, and all of those organizations are here today to testify in support of this bill before the committee. With that, I would be happy to answer any questions. [LB865]

SENATOR CARLSON: Okay. Thank you, Senator Fischer for your introduction. Are there questions? Seeing none. [LB865]

SENATOR FISCHER: Thank you. [LB865]

SENATOR CARLSON: Will you be here to close? [LB865]

SENATOR FISCHER: Yes. [LB865]

SENATOR CARLSON: Okay. Thank you. And first we'll ask those that testify in favor of the bill to come forward and don't be bashful and let's get started. [LB865]

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LARRY SITZMAN: (Exhibit 1) Chairman Carlson and members of the Agriculture Committee, my name is Larry E. Sitzman, S-i-t-z-m-a-n, executive director of the Nebraska Pork Producers Association. To avoid duplication and time, I'm here to testify in favor of LB865 for both the Nebraska Pork Producers and Nebraska Poultry Industries. We wish to thank Senator Fischer for introducing and sponsoring the bill and express our appreciation to other members of the Legislature that cosponsored the legislation. LB865 is necessary to simply clarify and avoid legal concerns as to acceptable practices of caring and raising food animals and companion animals. As the Senator said, in 1988, Nebraska's animal cruelty law consisted of one page prohibiting dogfighting, cockfighting, and even bearbaiting. In 1990 the law was expanded to two pages with the passages of Senator Wehrbein and Dierks's bill, LB50, that specifically prohibited cruelty to animals regardless of whether the animal was for food and fiber or for companionship. The bill also required law enforcement officers the authority to impound an animal they believed to have been abandoned or cruelly neglected or mistreated. However, this same bill provided an exemption that recognized "commonly accepted practices of animal husbandry with respect to farm animals and their transport." In the past 20 years the animal cruelty statutes was amended seven times to provide additional protection to police animals, service animals, companion animals and cats, cattle and horses that were used in what is referred to as "Mexican Rodeos." All of these modifications to the cruelty statutes were legitimate in their attempt to prevent animal mistreatment. But as a result, the statute grew to twelve pages of complex protections that became difficult to interpret as to what provisions applied to what species of animals, and what exceptions applied to the different practices of animal care and treatment. There are different standards of care and legitimate differences in the care we provide food and fiber animals and companion animals that are recognized by veterinarians. These differences in care and standards of care are recognized in current Nebraska law but became cloudy over the past 20 years with the additions, exceptions and exclusions made to the animal cruelty statutes. An identified difference and problem became very evident this summer when we, the pork industry, contacted the state veterinarian and Department of Agriculture to determine what practices were legal for euthanizing pigs. After they read the statutes, neither the state veterinarian nor the department could provide us with any legal certainty that we would be legally protected in euthanizing our pigs. As a result, the organizations representing livestock-poultry producers met during the fall and came to the conclusion that it was not only in the best interest of the livestock-poultry industry but also in the best interest of those supporting protections for companion animals to separate in statute those provisions applying to pet animals and those applying to food and fiber animals to provide for a more clear and concise law. Let me assure you, that under the proposal, livestock-poultry producers who abandon or mistreat their animals can still be charged with the same provisions existing today. Under this proposal, livestock-poultry producers are subject to the same fines and penalties that exist today. Under the proposal, law enforcement officials and others retain the same duties to enforce and report animal neglect and cruelty that are

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currently allowed by the law. This bill is simply to provide clarity and uniformity as to what standards of care apply to what species while maintaining all existing protections for animal cruelty. Separating food and fiber animals from companion animals provides greater assurance to livestock-poultry producers that they are providing acceptable and legal standards of care for their animals when they follow veterinarian practices or animal husbandry practices common to the livestock-poultry industry. Thank you. [LB865]

SENATOR CARLSON: Thank you for your testimony. Any questions of Mr. Sitzman? Seeing none, thank you for your testimony. Welcome. [LB865]

MICHAEL KELSEY: Thank you. Good afternoon, Chairman Carlson and members of the Agriculture Committee. My name is Michael Kelsey, that's M-i-c-h-a-e-l K-e-l-s-e-y. I'm executive vice president of the Nebraska Cattlemen and am here today representing both the Nebraska cattle and beef producers as well as have the fortune of representing the Nebraska State Dairy Association in support of LB865. And I would request that you consider my comments on behalf of both organizations. We'd like to begin by thanking Senator Fischer for bringing this bill, introducing the bill as well as Senators Carlson, Cornett, Dubas, and Schilz for cosponsoring. The concept of one size fits all is hard to apply in many situations, animal health management being one of those. Just as the statement of intent for LB865 indicates, as well as you have been told, the bill simply separates livestock animals from existing animal welfare statutes in order to reduce statutory confusion. Currently, state statute recognizes differences in management from domestic to wild animals. LB865 continues that wisdom by recognizing differences in state statute between livestock such as cattle, swine, and equine, and companion animals, which might include pets and law enforcement animals. An appropriate and valid question is that of necessity of this proposed action. Many animal management protocols are uniform in their application. However, there are many proper practices that being both scientific and humane differ between different types of animals. For instance, an approved drug for treatment of a specific disease may be used in both nonfood and food animals. However, relative to food animals, proper withdrawal times must be observed. This important practice has no relevance in nonfood animals. Important then indeed are the trails that must be taken for proper animal care. LB865 allows for a fork in the path to be navigated appropriately, efficiently, and effectively in judicious consideration between livestock and companion animals. As I conclude, please allow me to thank the committee for your careful consideration of this important proposal and on behalf of the Nebraska Cattlemen and the Nebraska State Dairy Association, we respectfully request your approval in forwarding the bill to the floor for full consideration. Be happy to answer any questions. [LB865]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Kelsey? Seeing none, thank you. Welcome. [LB865]

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KEVIN PETERSON: Thank you. Senator Carlson and members of the Agriculture Committee, I am Kevin Peterson, K-e-v-i-n P-e-t-e-r-s-o-n. My family and I are crop and livestock producers near Osceola and Polk County. I currently serve on the Nebraska Farm Bureau Federation board of directors and I'm here today on behalf of the Nebraska Farm Bureau, the Nebraska Corn Growers Association, the Nebraska Soybean Association, the Nebraska Wheat Growers Association as well as the Nebraska State Chamber of Commerce to offer our collective support for LB865. As Senator Fischer has outlined in her opening comments, the intent of LB865 is to clarify provisions of Nebraska's animal cruelty statutes as it relates to livestock animals. We also hope that the bill will ensure that commonly accepted husbandry practices for livestock animals are not construed as animal cruelty. LB865 continues the protections already in statute for livestock animals from abuse and neglect. At the same time the bill more clearly recognizes that the common and accepted standards of animal care for food and fiber animals are different from pet and other companion animals. As a livestock producer myself, I know that Nebraska farmers are committed to providing food, water, and any other care that is necessary to protect the health and welfare of that animal. That is why for more than 20 years, pork, poultry, and beef producers have participated in veterinarian approved species specific programs such as the Beef and Pork Quality Assurance. To address these animal management care issues we will not tolerate nor support persons who wilfully mistreat animals in our industry. LB865 is critical to ensuring that we are able to continue to operate in a fashion that allows us to provide the best care for our livestock animals, but also ensures that any mistreatment can be addressed appropriately. In closing, I want to thank Senator Fischer for bringing this legislation and thank the committee for providing the opportunity for me to share our collective support for the bill. We encourage the committee to advance LB865 to General File. And I would be happy to address any questions that you might have. [LB865]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Peterson? Okay. Thank you. Welcome. [LB865]

JUDY VARNER: My name is Judy Varner, J-u-d-y V-a-r-n-e-r. I'm president and CEO of the Nebraska Humane Society. I would like to thank Senator Fischer for introducing this bill and for the Agriculture Committee for allowing me to testify. We support LB865. By separating livestock from companion animals, a clear line is drawn for future legislative action. In recent years, expanded animal cruelty legislation proposed by the Nebraska Humane Society and mainly intended to benefit companion animals, has been construed by some to potentially impact livestock care in a negative way. Only after many meetings with senators, mainly representing rural areas, were we successful in our efforts. Many times the issues confronting domestic pets and livestock are vastly different. LB865 will help clarify these important issues. When issues do arise that will have an impact on both livestock and companion animals, we will simply work to have those changes apply to both. I thank Senator Fischer for allowing the Nebraska

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Humane Society to provide input on LB865 and encourage your passing it on. [LB865]

SENATOR CARLSON: Okay. Thank you. Any questions of Ms. Varner? Thank you. Welcome. [LB865]

HANK CERNY: Good afternoon, Chairman Carlson and members of the Agriculture Committee. My name is Hank Cerny, H-a-n-k C-e-r-n-y. I am a practicing veterinarian in Lincoln, Nebraska, and I'm testifying today on behalf of the Nebraska Veterinary Medical Association. The NVMA supports LB865 and the underlying intent of the legislation. We agree with what has already been said by earlier testifiers that laws relating to livestock animals should be kept separately in the sections of statute relating to livestock. As such, we believe some differences in the statutes are appropriate and are here to specifically voice our concern as to Section 10 of the bill. We will be coming back next year to separately address this issue. We're not asking for any changes to LB865, but would simply like to state that treatment and care of large animals is far more discretionary than the treatment of companion animals, and as such, exact statutory definitions are difficult to create. As a testifier last year in front of this committee and as a veterinarian, I would report suspected abuse or cruelty of any animal in my practice. I believe it is my ethical duty. With that, I will end my testimony and would be happy to answer any questions. Thank you. [LB865]

SENATOR CARLSON: Okay. Thank you. Any questions of Dr. Cerny? Thank you. Welcome. [LB865]

ED WOEPPEL: Senator Carlson and members of the committee, I'm Ed Woepfel, that's W-o-e-p-p-e-l, here today representing the Nebraska Cooperative Council, which is the trade association for the farmer owned cooperatives across the state. I believe the issue has been laid out pretty well for you with previous testifiers so I won't spend time reiterating those things, but I just want to extend our support for this bill and would respond to any questions that you may have. [LB865]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Woepfel? Hearing none, thank you. Any other testifiers as proponents of LB865? All right, are there any opponents to LB865? Anyone testifying in a neutral position to LB865? Seeing none, Senator Fischer, you're recognized to close. [LB865]

SENATOR FISCHER: Thank you, Senator Carlson and members of the committee. Well, this is an easy one, isn't it? (Laughter) So I guess that shows what can be accomplished when we bring all parties together to try and reach a reasonable solution to a problem that we're facing. I thank you for your kind attention to this matter and I hope that you will give it thoughtful consideration and advance it to the floor. Thank you. [LB865]

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SENATOR CARLSON: Okay. Thank you. Any questions of Senator Fischer? Okay, thank you for testifying. [LB865]

SENATOR FISCHER: Thank you, Chairman. [LB865]

SENATOR CARLSON: With that, we close our hearing on LB865. We'll open the hearing on LB882 and Senator Rogert, you're recognized to open. [LB865]

SENATOR ROBERT: (Exhibit 1) Senator Carlson, members of the Agriculture Committee, my name is Senator Kent Rogert. I represent the 16th Legislative District. I'm here this afternoon to introduce LB882. In April of 2009, the U.S. Food and Drug Administration, the FDA, revised a portion of their rules that dealt with the rendering of dead cattle, which has resulted in a serious dilemma for beef producers here in Nebraska. Specifically, the FDA's new rules require the brain and spinal cord, technically referred to as specific risk material, or SRMs, in a cattle 30 months of age or older to be removed prior to rendering. I've introduced LB882 with the intention of addressing the trickle-down consequences of revised federal regulations triggered by a rule that mainly affects cattle. However, my bill purposefully and intentionally deals with dead animals with no regard to species. In Nebraska, some rendering companies possess both the technology and the desire to remove SRMs prior to rendering, but some plants do not possess the equipment necessary. And in other cases, the business model for a specific plant does not support such endeavors. The short of it is, those plants who do pick up cattle 30 months of age and older do not service the entire geography of Nebraska. There are thousands of cattle producers, primarily cow/calf operations who do not have access to rendering and, therefore, according to state statute often have no lawful way of properly disposing of these mortalities. Proposed legislation today is the accumulative work of the Nebraska Cattlemen, Nebraska Farm Bureau, the Livestock Marketing Association, Pork Producers, the NVMA, the veterinarians, the Department of Agriculture, the DEQ, and University of Nebraska Institute of Agriculture and Natural Resources. There will be some testifiers here behind me today that will be able to provide you with firsthand knowledge to the issue as well as address any technical questions. I will have the page pass out...I have a suggested amendment. We spent several months meeting, coming up with the language we needed, and we've come up with a couple of changes that we would like you to consider. One of them has an operative date, and the other one due to another bill that I have introduced dealing with the disposal of human cadavers at the Med Center, has brought up a possibility of doing the same with this type of operation. And there will be some folks behind me that will talk about that, and we are in full support. And I'll answer any questions that I can. [LB882]

SENATOR CARLSON: Okay. Thank you, Senator Rogert. Any questions for him? Okay, hearing none, will you be here to close? [LB882]

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SENATOR ROBERT: Yeah, I'll stay around awhile. [LB882]

SENATOR CARLSON: Okay, thank you. Those wishing to testify as proponents of LB882. Okay. [LB882]

DOUG PARDE: Chairman Carlson, members of the Agriculture Committee, my name is Doug Parde, spelled D-o-u-g P-a-r-d-e. I am testifying today on behalf of the Nebraska Cattlemen in support of LB882. My family has a diversified cow/calf and farming operation near Sterling in southeast Nebraska, and I also serve as vice chairman of the farmers stockmen council on Nebraska Cattlemen's Board of Directors. LB882 has a profound effect on our family operation because it is increasingly difficult to receive dead stock removal services in our area as well as other parts of the state. Since our part of the state is more densely populated, animal agriculture comes in more frequent contact with our urban neighbors, and timely dead stock removal becomes critical in maintaining harmony in the neighborhood. The cattle business is like everything else--filled with life and death. Cattle are lost due to lightning strikes, disease, dystocia, and other natural causes. Dealing with mortalities is a part of our business. With FDA's new ruling requiring the brain and spinal cord to be removed from cattle 30 months of age and older, a new challenge has been created in appropriately disposing of primarily our mature cattle and other stock as well. Provisions under current law does not allow for producers to move dead stock to a location for appropriate disposal. Unfortunately, summer heat and other conditions like frozen ground make time of the essence in completing this task. I understand that rendering companies simply cannot provide service to every farm and ranch in the state because of very tight margins in their industry, which makes traveling great distances economically infeasible as well as limitations on their technical capabilities. This bill allows producers to move dead stock to locations where they can bury, incinerate, or compost them using sound science principles. Removing the 600-pound limit on composting is also vitally important to producers who may choose to employ this practice. Cattle will only be under 600 pounds for the first six to seven months of their lives. Therefore, a large percentage of the state's cattle herd would simply be too large to compost in an untimely death situation. Unfortunately, when producers are faced with dead stock removal, they've already faced an economic loss due to the destruction of the animal. This bill allows producers to deal with mortalities in a more proactive and timely manner. I will be glad to answer any questions the committee members have. [LB882]

SENATOR CARLSON: Thank you for your testimony. Any questions of Mr. Parde? Senator Wallman. [LB882]

SENATOR WALLMAN: Thank you, Doug, for being here. You just live straight east of me about, don't you? [LB882]

DOUG PARDE: Yes. [LB882]



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SENATOR WALLMAN: And you used to have a rendering plant in Tecumseh, didn't you? [LB882]

DOUG PARDE: A long time ago is my understanding (inaudible). [LB882]

SENATOR WALLMAN: So it is a problem for you for dead animals? [LB882]

DOUG PARDE: Um-hum. [LB882]

SENATOR WALLMAN: Thank you. [LB882]

SENATOR CARLSON: Okay. Senator Price. [LB882]

SENATOR PRICE: Yes, Mr. Parde, the question I have, sorry, I'm an urban guy so I may ask a question that may seem kind of redundant or mundane to you or just plain ordinary stupid, but right now without changing the law, you have stock loss. [LB882]

DOUG PARDE: Um-hum. [LB882]

SENATOR PRICE: All right. But let's say you're grazing, you have your animals out on cornstalks. Someone else has leased their land to you. As it is right now, you'd have to do something with that carcass maybe right there on that very piece of property. [LB882]

DOUG PARDE: Correct. [LB882]

SENATOR PRICE: Okay. Does statute allow you to drive whatever vehicle it is--obviously you're not going to be driving a Prius out there--you will be driving a truck or a tractor, to go out on someone else's property to extract the animal? I mean you contracted to put them on cornstalk. Now you're going to move them off there maybe. I don't know how you're going to move them off or whatever, but will this create a problem maybe if you haven't allowed for entry into the property? We have fencing laws earlier we were talking about and we had a right of way how much you let someone on someone's property. So my question is, do you see that we're setting ourselves up for some complications if I bring my backhoe, whatever you use to pick up a large animal, on its own property to take it somewhere else? [LB882]

DOUG PARDE: Typically it would just be something simple like a smaller tractor with a loader to simply just load it in an enclosed structure. The other...the problem with it currently is, like you were talking about, if you were renting someone else's ground, we rent all of our own pasture, is if a landlord would not allow you to bury the animal on the property and they don't want it to be alongside the property edge till it was being

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available for rendered, you didn't enter an agreement for what to do with that animal while it's there. We might have landlords that would not want that animal buried on their premises, that they would want you to remove it. And currently we can't take it on the road someplace else to have it removed. [LB882]

SENATOR PRICE: So this helps facilitate in that event. [LB882]

DOUG PARDE: Yes. [LB882]

SENATOR PRICE: Okay, great. Thank you. [LB882]

SENATOR CARLSON: Okay. Any other questions? Senator Dubas. [LB882]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Doug, for being here. Would you...you know, in days gone by we had access to rendering trucks on a more regular basis. Would you agree with that? [LB882]

DOUG PARDE: Yes. [LB882]

SENATOR DUBAS: You'd call the rendering truck up, they'd come and get the animal. [LB882]

DOUG PARDE: Yes. [LB882]

SENATOR DUBAS: Where's the closest rendering truck for you if you have to call them? [LB882]

DOUG PARDE: The closest rendering plant would be probably in Omaha, would be coming out of there. We're finding more, not to be critical of the companies, it's just less frequently they come down into our part of the state. We have larger producers that have more access from ones that are out in the central part of the state that come in, but there's a certain amount that they would prefer to have. [LB882]

SENATOR DUBAS: So again in days gone by you could call a rendering truck. [LB882]

DOUG PARDE: Right. [LB882]

SENATOR DUBAS: They'd be there in very short order. Now you're looking at... [LB882]

DOUG PARDE: Right. No, it...you could be...we, unfortunately, had a situation where we lost two animals and it was six days between when they came to get them. [LB882]

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SENATOR DUBAS: That's not a good thing. [LB882]

DOUG PARDE: No. [LB882]

SENATOR DUBAS: That's not a good thing. Okay, so just based on the changes that have been made on the requirements, the removal of these spinal cords, etcetera, how much more has that exacerbated the problem in getting rid of animals? [LB882]

DOUG PARDE: It's allowed...it's created a situation where animals that are over a certain age or weight can't be removed. And when you're dealing with in a cow/calf operation over 50 percent of your animals will not qualify at any one time to be eligible to be rendered under current FDA...unless you have that technology capabilities. [LB882]

SENATOR DUBAS: So if we don't find a way to address this problem, I mean we really are talking a public health and safety issue. [LB882]

DOUG PARDE: Yes, as well as environmental impact and those types of things, yes. [LB882]

SENATOR DUBAS: All right. Thank you very much. [LB882]

SENATOR CARLSON: Okay. Senator Price. [LB882]

SENATOR PRICE: Senator Carlson, thank you. Just one more question. You might not have the answer. Someone behind you will so that will be great. How many rendering plants do we have in Nebraska, available in Nebraska...I suspect you go over state lines maybe to other states if you...I don't know if you even can do that if you're down by the Kansas border, can you use a Kansas rendering plant to come do this? I don't know. But how many do we have and how many have the capacity and capability to do the brain/spinal cord extraction? [LB882]

DOUG PARDE: I don't know the exact numbers. I'll defer that question till later because I know they'll have the answer for that then. [LB882]

SENATOR PRICE: Okay. Thank you. [LB882]

SENATOR CARLSON: Okay. Senator Council. [LB882]

SENATOR COUNCIL: Yes, thank you, Mr. Chairman. Mr. Parde, I'm sitting here listening to the questions and I'm more of a city kid than Senator Price. But the example that you provided Senator Dubas in response to the question about the nearest rendering operation, you said in that instance that it was six days before a rendering

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truck could get there. What would your disposal options have been if you decided that six days was too long to have this cattle? [LB882]

DOUG PARDE: We would have buried them. But they were on rented property, not next to our own place, but we couldn't haul them to bury. [LB882]

SENATOR COUNCIL: So you couldn't haul them to your own place... [LB882]

DOUG PARDE: Yes, to bury them, yeah. [LB882]

SENATOR COUNCIL: And technically you would have had to get the owner of the rented property's permission or approval to bury it there? [LB882]

DOUG PARDE: Right. And in that situation where it was, we had to have the rendering company come pick them up because we had to have receipt for insurance purposes. And sometimes you have to have...we use the rendering company as a third party verification of the events. [LB882]

SENATOR COUNCIL: Okay. And with regard to the brain and spinal extraction, did any of the cattle involved in this particular situation require that? [LB882]

DOUG PARDE: Yes. They would have been...well, one would have been under 30 months of age and the other one would have been over 30 months of age. [LB882]

SENATOR COUNCIL: Okay. So you...in that circumstance you would have had to do rendering at least on one of those... [LB882]

DOUG PARDE: Right, right. [LB882]

SENATOR COUNCIL: ...animals. And you could have buried... [LB882]

DOUG PARDE: Correct, yeah. [LB882]

SENATOR COUNCIL: ...the other one. [LB882]

DOUG PARDE: Correct, yeah. [LB882]

SENATOR COUNCIL: And simply, you know, I'm used to...I'm a city kid. Composting means leaving your leaves out in the yard. [LB882]

DOUG PARDE: Um-hum. [LB882]

SENATOR COUNCIL: So there's a big difference between composting when we're

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talking about livestock. [LB882]

DOUG PARDE: Right, right. [LB882]

SENATOR COUNCIL: Okay. Thank you. (Laughter) [LB882]

SENATOR CARLSON: Okay, thank you. Any further questions? Mr. Parde, thank you for your testimony. [LB882]

DOUG PARDE: Thank you. [LB882]

SENATOR CARLSON: Next proponent. [LB882]

DAVID HARDIN: Senator Carlson and committee, thank you for the opportunity to testify. My name is David Hardin, H-a-r-d-i-n. I'm the director of the school of veterinary medicine and biomedical sciences of the University of Nebraska-Lincoln, and I'm here to testify in support of LB882. Two particular provisions that are of interest to us: One is we want to thank Senator Rogert for amending the bill to include the wording "as an alkaline tissue digester as a method of disposing of carcasses." This is very important to us. At the veterinary diagnostic lab, we also receive carcasses of a variety of species of animals and thus are charged with disposing of those. Currently we have two incinerators on campus, both of them are located on east campus. One is in our research facility, and one is in our diagnostic lab, both of which are about 35 years old. And so as we begin to look to the future planning what we would do to replace those facilities, it was brought to our attention that the EPA regulations regarding incinerators, there is provisions relates to where they're located in relationship to neighborhoods. And so that is a potential problem for us on east campus. And so another approved method for disposing of waste is to use an alkaline tissue digester, so we're very supportive of that inclusion in LB882. The other is to say that we're very supportive of the Department of Ag and would provide any consultation or expertise that we have as it relates to technology on composting of large animals. And I thank the committee for the opportunity to testify. [LB882]

SENATOR CARLSON: Thank you, Dr. Hardin. Any questions? Senator Wallman. [LB882]

SENATOR WALLMAN: Yeah, thank you, Chairman Carlson. Good to be here, Doctor, and thank you for coming. Is this...does Iowa State use something like we got, you know, their diagnostic labs and stuff? Is this something like they do? [LB882]

DAVID HARDIN: They currently have an incinerator in their lab. I came here from Mississippi State. We put one in, in our lab; Wisconsin has one; Colorado has one. There's a number of them around the country in veterinary diagnostic labs. I'm not

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familiar with those in human facilities, but it looks...if you look at them, they look like a large pressure cooker. They're a big stainless steel vat. You put alkaline material in them. You heat the...it's a heating process and then pressure and then that helps dissolve so about all you have left is a little bit of bony material that you can grind up and dispose of. There's two methods. You can neutralize the liquid and then you can work out and they can go down the sanitary sewer system or you can dry out and evaporate the liquid and you end up with a dry cake that you would dispose of. So there's two kind of technologies out there that...as it relates to digesters. [LB882]

SENATOR CARLSON: Okay. Thank you. Any further questions? Senator Karpisek. [LB882]

SENATOR KARPISEK: Thank you, Senator Carlson. Doctor, I think that's a great idea, but I mean are we going to have some out in the field? You know, how would...have to haul them up to the university and have them disposed of? [LB882]

DAVID HARDIN: No. This is simply meant to deal with our issues on, you know, at veterinary diagnostic laboratory. [LB882]

SENATOR KARPISEK: Okay. [LB882]

DAVID HARDIN: Yes. No, it's not a...way too expensive technologies. (Laugh) But in urban settings it's a solution to some of our EPA regs. []

SENATOR KARPISEK: Thank you. [LB882]

SENATOR CARLSON: Any further questions? I would like to ask one on the digester. What kind of a, maybe you said, what kind of a time frame from the start to finish are we talking about? [LB882]

DAVID HARDIN: I want to say less than 24 hours. It's quick, pretty rapid. [LB882]

SENATOR CARLSON: In that short a period of time. And you said what do you end up with after 24 hours? [LB882]

DAVID HARDIN: Liquid and just a few like teeth remnants. Most of the bones dissolve, too, but some of the teeth sometimes you'll have a little. [LB882]

SENATOR CARLSON: And where does the liquid go? [LB882]

DAVID HARDIN: The liquid can go, you can either evaporate it all and then you end up with, you know, some residue, or you can work it out with, you know, municipalities and things. They neutralize the pH back and then it goes into the sanitary sewer system is

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accepted method so. [LB882]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony. Next testifier. [LB882]

CRAIG HEAD: Good afternoon, Senator Carlson, members of the committee. My name is Craig Head, it's C-r-a-i-g H-e-a-d, and I am the state director of governmental relations for the Nebraska Farm Bureau Federation, here today on behalf of the organization to offer our support for LB882. I just start off by saying this is a very common-sense-type piece of legislation that addresses a problem we see in the countryside. And we appreciate being able to be a part of the conversations with DEQ and the Department of Ag on finding some reasonable solutions to how we dispose of animals. I think they've done a good job, previous testifiers, explaining what the bill does. But it just simply gives us more flexibility and our members more ability to address the on-site issue that they're dealing with today. So with that, I'd be glad to answer any questions you have. [LB882]

SENATOR CARLSON: Okay. Thank you. Senator Price. [LB882]

SENATOR PRICE: Senator Carlson, thank you very much. A quick question and again I'm not positive that you're the one to know this. Would this legislation have any impact on any protocol we may have in place when dealing with a potentially diseased carcass? In other words, I want to make sure that, let's say we have a loss and you're moving it around and maybe shouldn't be moving it. I want to make sure...I don't want it that we end up impacting what might be a protocol in statute already to deal with that. [LB882]

CRAIG HEAD: I don't...I'm going to leave that to somebody behind me at the Department of Ag to talk about that. I believe it's...I don't believe it addresses this situation where we...this is for animals that die of natural causes is my understanding of how this bill works, yeah. [LB882]

SENATOR PRICE: Okay, okay. Thank you. That's a good answer. Thank you. [LB882]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. Next testifier as a proponent. [LB882]

HANK CERNY: Hello again, Senator Carlson and committee members. My name is Hank Cerny, H-a-n-k C-e-r-n-y. I am testifying today on behalf of the Nebraska Veterinary Medical Association in support of LB882. We support the changes proposed in LB882 and appreciate the opportunity to be part of the group working to create this legislation. In addition, we are in strong support of the amendment Senator Rogert brought forward in his introduction. I would be happy to answer any questions. [LB882]

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SENATOR CARLSON: Okay. Any questions of Dr. Cerny? I have a question. You got any idea how many incinerators there are in the state? [LB882]

HANK CERNY: Not...previously they were basically located at the diagnostic labs in three locations--Scottsbluff, North Platte, and then the one they have at the University of Nebraska. Several veterinarians that do small animal work have incinerators for private and group cremation. As far as something big for livestock, you would be pretty much limited to the diagnostic labs or rendering facility. [LB882]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony. Any other proponents? Are there... [LB882]

ED WOEPPEL: Senator Carlson and members of the committee, I'm Ed Woepfel and that's W-o-e-p-p-e-l, representing the Nebraska Cooperative Council, which is a trade organization for the farmer-owned cooperatives in the state. Again, I think the issue has been pretty well laid out for you, and we just want to offer our support for this bill. So if you do have any questions, I'd be glad to respond, but... [LB882]

SENATOR CARLSON: Okay. Thank you. Any questions? Thank you for your testimony. Any other positive testifiers? [LB882]

HARRY MUHLBACH: My name is Harry Muhlbach, last name spelled M-u-h-l-b-a-c-h. I'm a farmer in Lancaster County. There is a couple of things in the bill I noticed where it says bury the animal four foot deep, we help people do that with their pet horses and stuff like that that rendering plants won't take. We've run into an issue with the water table. It doesn't mention water table in this bill that I know that's the environmental people will get involved in that in a hurry if somebody finds out that you're burying that animal within so many feet of a water table. A septic system can't be buried within four feet of a water table so you're talking about if you bury the animal four foot deep and the water table is at six foot, you're in trouble with DEQ. The other thing that...I support the bill, that may need to be addressed. But the other thing I noticed about this bill is some smaller feedlots have this compost. In the bill it said we had to look up the regulations for composting. I didn't have time to look that up, but composting can become an issue with the smell in the summertime if you have an extremely high loss. We had a feedlot here north of Lincoln several years ago that lost 30 head in one day. And for what reason the rendering plant probably didn't take them because of the spinal cord issue. But when you start composting 30 at one time, if you're set up for maybe 1 or 2 at a time, that can be an issue with the air quality control. And that's two things that I noticed in there that maybe need to be addressed. And if there's any questions. [LB882]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? [LB882]



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HARRY MUHLBACH: Do I need to fill out a green sheet? [LB882]

SENATOR CARLSON: Yes. Fill out a green sheet, would you, and turn that in. Any questions? Okay. Thank you for your testimony. Any further proponents? All right. Are there any opponents testifying in opposition? Anyone testifying in a neutral position? Welcome. [LB882]

DUANE GANGWISH: (Exhibit 2) Thank you, Senator Carlson and members of the committee. My name is Duane Gangwish, D-u-a-n-e G-a-n-g-w-i-s-h. I am vice president of environmental affairs for Nebraska Cattlemen, testifying technically neutral, here to offer you some technical information and answer any questions that you might have. The page is passing around to kind of address Mr. Muhlbach's question of composting. The packet being passed around is a compilation of information that I requested from the University of Nebraska biosystems engineering department that talks about composting technology across the country. There's the most recent NebGuide from UNL. There's articles in there from New York State's Department of Transportation how they deal with road kill of deer. There's an article from Kansas State University on bovine composting. And at the very last there's an article with kind of an anecdotal story where there was a whale washed up on the upper coast of Maine and they contracted with the University of New York at Ithaca, they hauled a 40-ton whale inland and composted the entire carcass. So to the extent that we might have a large number of "deads," it's really more a matter of time and technology, not a matter of what you're working with or the size of what you're working with. It's not to take opposition to Mr. Muhlbach's concern about air quality because when done properly it is not offensive; but if done improperly, it can be. So it's really a matter of methodology. And as Dr. Hardin said, the university is really very willing and able and capable of assisting that. And that's the work that we did in preparing this bill to work with the Department of Agriculture in consultation with the university to have that information. A couple of other questions that were raised, Doctor or Mr....Doctor Price. That was a slip. I apologize. [LB882]

SENATOR PRICE: It's doctor (inaudible) (laughter). [LB882]

DUANE GANGWISH: To your question regarding disease, and I'm going to expand that into poisoning, and there have been a couple of cases where there have been accidental poisoning of animals with farm chemicals, it was purely accidental. There were a large number of deaths. Department of Environmental Quality has rules and regulations regarding landfills. And if you see a part of this bill is existing language that allows dead animals to be taken to landfills as long...but it does not require the landfill to accept them. So they have protocol in place to handle large number of "deads" and the Department of Agriculture, I believe, has discretionary authority with extraordinary circumstances of that nature. So I think that can be done. The challenge to any landfill, especially in a smaller community, is being overrun if there was a large number. So

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we've had those conversations and I think that's dealing with. In regards to the water table, it is true. Department of Environmental Quality has regulations of burial of animals. And that's another reason for consideration of this bill is being able to transport the animal from the location that it died to a more suitable location in this context specific to water table. It might have died on my property and it was my animal, but my property has a high water table and I need to move it to another location. The law currently says that transport can only be conducted by a licensed renderer. So I can't even haul my own dead animal across the road. So there was some question about feedlots. This really is not a feedlot issue because most of the cattle in a feedlot are going to be, let's say, under 14, 15 months of age. And the purpose of this bill is to deal with FDA's rule specifically in light of our recent turmoil with BSE in this country and around the world, that this materials be removed so that if any of that product would happen to end up in one type of food chain or another. Unfortunately, sometimes pet foods can be consumed by humans and so that's FDA's precaution. Senator Dubas, you had a question about rendering relative to Omaha. With the technology in the back, there are about 12 to 14 rendering plants in the state of Nebraska. I don't have a specific number on that, but there are only three that take farm "deads." One is in Lexington, one is in Grand Island, and one in Bellevue. The challenge with that is sometimes their service territory doesn't fit where the animals are. Rather anecdotal and maybe not significant, but the renderers used to pay us for our dead animals and now we have the privilege of paying them to take them away. So there's a little on top of that. I addressed the 30 months. It was purely an FDA issue. In regards to Senator Karpisek, your question about the veterinary diagnostic center, we're very supportive of that and they are an important part of our business. We feel that this is an important contribution to it. That is what I thought of as I was here, but I am available. I did help craft some of the language, and it has been very much a concerted effort of many in the room, and we thank Senator Rogert for bringing this. [LB882]

SENATOR CARLSON: Okay. Thank you. Any questions of Mr. Gangwish? Senator Dubas. [LB882]

SENATOR DUBAS: Thank you, Senator Carlson. Duane, if this bill makes it all the way through and gets placed into the statutes, would your organization be doing any work with your membership as far as helping them understand the composting and what's involved and just kind of an educational campaign? [LB882]

DUANE GANGWISH: Yes. It's an ongoing thing. We've been participating with the university to a small extent with the development of new composting rules. We always look for opportunities to educate. A couple of years ago we participated with a bill and went out and educated our producers on some DEQ regulations, and that's my responsibility within the organization is to be the educator to the extent that I'm capable. So, yes. [LB882]

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SENATOR DUBAS: I think people are quicker to go to their organizations that they belong to. They might not think of the university right away or some of the others so I think you would have quicker access to at least your membership who then, you know, could continue to spread the word. So I have no doubt that you would work on this, but I just wanted to have the chance to ask you the question. Thank you. [LB882]

DUANE GANGWISH: Yes, thank you. [LB882]

SENATOR CARLSON: Okay. Any other questions? Thank you. [LB882]

DUANE GANGWISH: All right. Thank you very much. [LB882]

SENATOR CARLSON: Any further testifiers in a neutral position? I'm going to take the prerogative. We have our State Veterinarian, Dr. Hughes, here. Would you come forward and state your name and spell it and we may have some questions of you. Welcome. [LB882]

DENNIS HUGHES: Thank you. Okay. My name is Dr. Dennis Hughes, H-u-g-h-e-s. I'm the State Veterinarian for the Department of Agriculture, and I will try to answer your questions. [LB882]

SENATOR CARLSON: Thank you. Do you know how many rendering plants there are in Nebraska? [LB882]

DENNIS HUGHES: Right now we've got only, as I understand, three of them that are actually handling large animal or food animal carcasses and picking them up. As we've talked about before, because of the new BSE final rule and the requirements on the 30-month-of-age cattle, a lot of those plants that were taking bovine animals before are no longer doing so. Or else they require that they be under 30 months of age. So on-farm mortalities we've only got three. We've got approximately 12 plants, but some of those are affiliated with slaughter facilities that are taking offal from slaughter plants, but only 3 right now are taking large animals. [LB882]

SENATOR CARLSON: And where are they located? [LB882]

DENNIS HUGHES: Grand Island, Lexington, and Bellevue. [LB882]

SENATOR CARLSON: Explain a little bit, I don't understand and I don't know how many of...several of the committee maybe do, but the spinal cord...brain and spinal cord removal, what kind of expertise does it take to do that and? [LB882]

DENNIS HUGHES: Well, first of all...let me back up here a little further. I think you probably understand the reason that was implemented was because it's to remove what

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we call specific risk materials from entering the food supply eventually. And the prions that cause BSE have been located in specifically the brain and the spinal cord, tonsils. So when the final rule went in place in 2009, one of the requirements is that animals over 30 months of age have to have those specific risk materials removed. To remove that involves a fairly labor-intensive process of actually cutting or into the skull itself and you can use a pretty intense equipment to cut through bone and spine itself to get at it. There's other techniques where, like for instance in deer and elk we've actually used a forced water pressure where we can remove some of that. But it's labor intensive. It takes people who are skilled in doing it and fairly large and dangerous equipment to do so. [LB882]

SENATOR CARLSON: So who in Nebraska can do that? [LB882]

DENNIS HUGHES: Well, you know, the plants that are presently doing that like Grand Island and Lexington and Bellevue currently have that in place. Some of the other plants did not want to go to the work and dangers of possibly removing those specific risk materials. That's why they're no longer involved. They've got people who are trained to use that equipment to remove it. I don't know specific names, but that's what the plants are currently doing right now in Nebraska. [LB882]

SENATOR CARLSON: So there wouldn't be any veterinarian that could do it? [LB882]

DENNIS HUGHES: No, not necessarily. [LB882]

SENATOR CARLSON: Senator Wallman. [LB882]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, thanks for being here. So what do you do with the spinal cord and the brain? So where is that taken? [LB882]

DENNIS HUGHES: Well, right now as I understand most of them are actually taking those specific risk materials and they're actually going to a landfill. [LB882]

SENATOR WALLMAN: Thank you. [LB882]

SENATOR CARLSON: Okay. Senator Dubas. [LB882]

SENATOR DUBAS: That was my question. [LB882]

SENATOR CARLSON: That was your question. Any other questions of Dr. Hughes? Okay. Thank you for being here and coming forward. [LB882]

DENNIS HUGHES: You bet. Thank you. [LB882]

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SENATOR CARLSON: Any other testifiers? Seeing none, Senator Rogert. [LB882]

SENATOR ROBERT: Is that like power of subpoena, Senator Carlson? You just wave your arm and somebody attaches themselves to this chair? Well, I'm never amazed at the things that we deal with in this body, and dead animals was one that came to me and then I had dead humans came to me later so. You know, here I am. (Laughter) So I think this is a fairly, fairly pressing matter that we need to handle the situation, mainly in terms around the urban areas where we're having statutory requirements that keep us from hauling cattle from wherever they die to where they need to go. So I would appreciate the committee's support and the attachment of the amendment that I offered. And I'll answer any questions and get out of here. [LB882]

SENATOR CARLSON: Any questions of Senator Rogert? Okay, thank you for bringing the bill and for your testimony. [LB882]

SENATOR ROBERT: Thank you. [LB882]

SENATOR CARLSON: And with that, we close the hearing on LB882. Thank you for coming. [LB882]