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Agriculture Committee
January 22, 2008

[LB729 LB788 LB790 LB791 LB925]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, January 22, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB729, LB925, LB788, LB790 and LB791. Senators present: Philip Erdman, Chairperson; Annette Dubas, Vice Chairperson; Merton "Cap" Dierks; Russ Karpisek; Vickie McDonald; Don Preister; and Norman Wallman. Senators absent: Ernie Chambers. []

SENATOR ERDMAN: Good afternoon. We're going to get started this afternoon with the hearing in the Agriculture Committee. I'll do some housekeeping and then as some of you may be aware, there will be other senators coming and going as it is bill introduction. And so as we have bills before our committee, there may be chances or opportunities for us to go before other committees, and that will be the case for me this afternoon. But you'll be in able, if not better, hands with our Vice Chair and presiding over the bills that I will be absent for. I will start by introducing the members of the committee whether they're here or not, get that out of the way, lay down some ground rules, and then I will turn it over to Senator Dubas to preside over the first bill. To my far right is our committee clerk, Melissa Lunsford. She will be the person responsible for making sure you have your name spelled correctly and you say that before you begin your testimony. There are sign-in sheets in the back of the room that we'd like you to have filled out before you testify and you can place them in the box at the testifiers table. Again, before you begin your testimony make sure you state and spell your name and Melissa will be responsible for keeping track of that. Next to her will be Senator Chambers from Omaha. Next to him will be Senator Preister. Senator Preister is also from Omaha. To Senator Preister's left will be Senator "Cap" Dierks from Ewing. To my immediate right is Rick Leonard, the research analyst for the Ag Committee. I'm Phil Erdman, I'm the Chair of the committee and from Bayard. To my immediate left is Annette Dubas. Annette is the Vice Chair. She's from Fullerton. To her left is Senator Russ Karpisek from Wilber. Next to Russ is Senator Vickie McDonald from St. Paul. And next to Senator McDonald is Senator Norm Wallman from Cortland, Nebraska. And we are the eight members of the Ag Committee. We're grateful that you're here. We have five bills this afternoon to hear. The order has somewhat been changed but we will start with LB729, which is the Speaker's bill, Senator Flood, followed by Senator Fischer's bill, LB925. And then we will proceed numerically from LB788 to LB791 and those are three bills that have been brought to the committee at the request of the Department of Ag, and we will hear those as well. If you have a cell phone, make sure you turn that off or turn the ringer off at least, so that way it doesn't get picked up in the transcriber's ear when they're trying to make a record of your historic day in front of the Agriculture Committee. Mr. Speaker, welcome. Before I ask you to begin, I'm going to turn it over to Senator Dubas. And before I do that, Kristen Erthum is one of our pages and I don't have the other one. What's your name, young man? Tim Freburg. Either one of these two fine young individuals would be happy to distribute any testimony you may

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have or try to provide for whatever assistance you may need in your transcript or testimony, however you'd like to distribute that. Senator Dubas, you have the chair. []

SENATOR DUBAS: Thank you very much. Okay, we will begin. Go ahead, Senator Flood. []

SENATOR FLOOD: Thank you, Madam Chair. Good afternoon, members of the Agriculture Committee. For the record, my name is Mike Flood, F-l-o-o-d, and I represent District 19, which includes all of Madison County. I'm here today to introduce LB729. This bill would broaden the definition of exotic animals with respect to goats under the current statutes that regulate exotic animal auctions and swap meets. The term "exotic animal" does not include goats sold for dairy, food, or fiber. LB729 would replace this phrase with the following, and I quote, exotic animal does not include breeds of goats utilized for dairy, food, or fiber that the department determines have readily available venues of trade at licensed auction markets. LB729 would further direct the department to identify the breeds of goats that are not exotic animals. LB729 also amends Section 54-7,108 so that it is in harmony with the change in definition of exotic animal by now stating that only exotic animals shall be purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or swap meet. In other words, regarding the exotic animal definition, the test of whether a breed of goat is exotic or not becomes whether, in the discretion of the department, venues of trade at licensed auction markets are readily available. If the department determines that a breed of goat utilized for dairy, food, or fiber has a readily available livestock auction market in Nebraska, then that breed is not exotic. If, however, there is a breed of goat that is utilized for dairy, food, or fiber and there is no readily available livestock auction market, in the eyes of the department, then that breed is exotic and can be sold at exotic animal auctions and swap meets. Let me provide a little bit of background on this current bill. The goal of this bill regarding exotic animals...the goal of prior legislation regarding this topic, LB856 in 2006, was improvement of disease tracing, which it accomplished primarily by channeling commercial animals through licensed auction markets. It redefined exotic animals and imposed new duties for organizers of exotic animal auctions and swap meets, to notify the department of exotic animal sales events, and to maintain records of transactions. It is my understanding that the enactment of LB856 was not meant to disrupt the established practice of sales of goats in exotic venues. As LB856 was being developed, the department intended the qualifier that only, quote, goats sold for dairy, food, or fiber were prohibited from being offered, would exempt the breeds of goats typically being sold through exotic venues. This redefinition, however, has worked an unintended change in the law and disrupted the sale of goats in exotic venues. Essentially, in my district I have a couple of constituents that are very active in these swap meets. And their livestock, and they sell these goats and veterinarians check these goats out and they're used and sold by consumers that travel to Madison, Nebraska, from across the state. When we passed LB856 a couple years ago, we disrupted their ability to do this and I'd like them to have the opportunity to

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continue to have their swap meets. So I could read a couple more pages of my testimony, but I think I've pretty much summed it up. Thank you. [LB729]

SENATOR DUBAS: Thank you, Senator Flood. Were there any questions? Seeing none, you're off the hook. [LB729]

SENATOR FLOOD: Thank you very much. [LB729]

SENATOR DUBAS: Thank you. Do we have testifiers in support? [LB729]

DIX SCRANTON: (Exhibit 1) Hello, my name is Dix Scranton, S-c-r-a-n-t-o-n. I'm from Norfolk. My wife and I have operated the Madison bird and animal auction in Madison, Nebraska, for about 16 years now. We feel that what Senator Flood has introduced here will help us and allow us to continue our business. We have lots of people that travel to Madison to do...to sell their goats or whatever, poultry, among other things. We guess that we didn't realize we were stepping on any toes by the livestock marketing act and we did try a couple years ago to become a licensed livestock marketing facility. I was told we cannot do that because we rent the fairgrounds at Madison, Nebraska, to do this and you cannot do it in a rented facility. So that avenue was closed for us there. We...it isn't a major thing but it's something that a lot of 4-H people, they like to come and buy things for their projects for the year in the spring and in the fall they like to have a place where they can sell their offspring or whatever they might have to get rid of. We do keep accurate records. We've had accurate records from the day of our first sale. We're governed by the, and licensed by the USDA. We've got to follow the regulations of the U.S. Fish and Wildlife Service, Nebraska Game and Parks, and work with the state veterinarian's office as well. We have testers come out to take sample testings for avian influenza. We do use the scrapies tags supplied by the federal veterinarian. Each goat, the owner's name and address and phone number is recorded, the buyer's name and address is recorded. Each goat, if they do not have a tag we put a tag, scrapies tag in their ear, and each one is recorded. I think we can keep as accurate record as anyone for this purpose of disease control. We...like I said, we have our records back to when we first started business. We just think that with...it's kind of a niche market for a lot of people, whether they live on acreages, have, you know, just a small flock of whatever and most of the people they work are...sales are ran on the weekend. They go do their thing and go back to work on Monday morning. Most of the other auctions that there are--I know of only two myself, I'm sure there's more--but that do handle these, the licensed livestock markets, their sales are during the week and don't provide people an opportunity other than taking off from work to get there to do their thing. I guess I do have a letter from another operator I'd like to share with you. There's copies here. I don't know if you want to do that or how you want to handle those. Would you like to have me read those? [LB729]

SENATOR DUBAS: Do you have copies to hand out? [LB729]

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DIX SCRANTON: Yes, there's copies here. [LB729]

SENATOR DUBAS: The page can hand those out. [LB729]

DIX SCRANTON: I guess I don't have a lot of anything else to say. Does anyone have any questions I can try to answer? [LB729]

SENATOR DUBAS: Any questions from the committee? Senator Preister. [LB729]

SENATOR PREISTER: Were you holding your auctions prior to the changes that we made a little over a year ago? [LB729]

DIX SCRANTON: Yes, since 1991. [LB729]

SENATOR PREISTER: Okay. So you had been doing okay and then you tried to rent the Madison County fairgrounds... [LB729]

DIX SCRANTON: We have always rented the Madison County fairgrounds. [LB729]

SENATOR PREISTER: Up until last year? [LB729]

DIX SCRANTON: We still do. But we cannot be a licensed auction, become a licensed auction if we have a rented facility. That's what I was told by the... [LB729]

SENATOR PREISTER: Okay, that's the distinction there. Okay, thank you. [LB729]

DIX SCRANTON: Yes. [LB729]

SENATOR DUBAS: Other questions? Senator Wallman. [LB729]

SENATOR WALLMAN: Thank you, Madam President. Is alpacas and llamas exotic animals under this same thing, or just goats? [LB729]

DIX SCRANTON: The main issue is the goats and sheep thing. And we don't sell a lot of the...we never have had a big market for the Boer or the meat type of goats, the production type of things. We don't have a big market for that. It's more the rarities, the oddities that we have a market for. We have one lady that...she can't stand the thought of her offspring going to, you know, a sale barn or whatever they end up, so she likes to sell them at our sale. But under the current laws, we wouldn't be able to take her. [LB729]

SENATOR WALLMAN: Thank you. [LB729]

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SENATOR DUBAS: Other questions? Thank you, Mr. Scranton. I'd like to take a moment to introduce Senator "Cap" Dierks who has joined us. Next testifier? Is there anyone who would like to testify in opposition to this bill? Neutral? [LB729]

LARRY WILLIAMS: I was asleep at the wheel and I'd like to testify in support, if that's okay. [LB729]

SENATOR DUBAS: Sure. [LB729]

LARRY WILLIAMS: (Exhibit 2) Good afternoon, Senators, Senator Dubas and committee members. My name is Larry Williams. I'm a veterinarian and I'm retired and I reside here in Lincoln. I'm currently chair of the Nebraska Veterinary Medical Association's legislative committee. And it's on their behalf that I'm offering the following testimony today in support of LB729. We appreciate Senator Flood introducing this bill. We believe it is to be consistent with the introducer's statement of intent and that it clarifies what animals can be marketed as exotic at exotic animal auctions. And although the NVMA offers its testimony in support of LB729, there are disease control issues we would like to raise regarding the oversight of exotic animal auctions. Regardless of how an animal is defined, whether or not it's exotic or not, if it has a domestic counterpart there's a risk of spreading disease if precautions are not carried out. Each exotic auction organizer, exotic animal auction organizers are not licensed by the department and we believe there should be a provision to license such organizers much the same as the livestock dealers or livestock auction markets. We realize it can't be licensed under those statutes but we think that there should be a provision to do that. Records, they're required through the exotic animal auction statutes, should be audited on a regular basis to determine if animals moving through the auction are actually traceable to the new owner. Consignors of animals at exotic animal auctions should be required to provide a statement that the animal that they are offering for sale has been legally obtained and has been in their possession for at least 30 days. Because livestock diseases with long incubation periods, such as scrapie in sheep and goats and tuberculosis in many mammalian species, it should be required that animals moving through an exotic animal auction never be commingled, kept or housed or in any other manner be located near livestock or other animals susceptible to livestock diseases. Avian species could possibly be exposed to avian influenza and other avian diseases, some of which are pathogenic to humans when moving through exotic markets or any other markets for that matter. And purchasers should be made aware of precautions that they should take to minimize exposure. The NVMA is not opposed to the concept of exotic animal auctions. However, we believe there needs to be better accountability to safeguard the livestock industry in the state. Thank you for your time and if you have questions, I'd be happy to address those. [LB729]

SENATOR DUBAS: Thank you, Dr. Williams. Any questions from the committee?

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Senator Dierks. [LB729]

SENATOR DIERKS: Dr. Williams, did you...I was having a little trouble following some of your discussion. Did you ask for an amendment you thought would make this more effective or... [LB729]

LARRY WILLIAMS: These are just issues that we think should be addressed. We haven't offered any amendments. If it would be the desire of the committee, we could work on that. [LB729]

SENATOR DIERKS: Okay. [LB729]

LARRY WILLIAMS: The issues we raise are probably a little bit out of the...well, they are out of the scope of the current bill. But it directly affects the exotic markets. [LB729]

SENATOR DUBAS: Other questions? Thank you, Dr. Williams. [LB729]

LARRY WILLIAMS: Thank you. [LB729]

SENATOR DUBAS: Anyone else in support? Opposition? Neutral? [LB729]

DENNIS HUGHES: Good afternoon. My name is Dr. Dennis Hughes, D-e-n-n-i-s H-u-g-h-e-s. I am the state veterinarian for Nebraska Department of Agriculture, basically taking a neutral position but, more than anything, wanted to be able to answer any questions you might have and possibly also some clarification to the bill as it is written, for which breeds we might be able to explain what are exotic from what we think are not exotic. As state veterinarian, I am charged with responsibility of making sure that we don't allow transmission of disease across our state. If you've never been to an exotic sale or exotic auction, it's quite an event. I've witnessed at least three different facilities here in our state that have exotic auctions. Typically you have consignors of animals from multiple states. You have multiple species. They are commingled in very close proximity. It is a concern of mine, it is a concern of the department, that there's a distinct possibility we could have a disease that was brought into a proximity could leave and cause great harm to our livestock industry in the state. Dr. Williams mentioned avian influenza. We've got other disease that we worry about such as scrapie, which was mentioned earlier. We have diseases that are not mentioned very often but they're called zoonotic diseases. Those are disease that could be contagious to humans also that exist...that could possibly come into our exotic sales. When LB856 was put in place, it was done with the idea of trying to at least keep track of where these sales occurred and trying to keep records of where animals originated from and where they went to. It has given us a little handle on control of disease that could endanger our state. We still have concerns, I have to be truthful with you, that there's still diseases that could go on that, unchecked, could cause great harm. Examples: a few years ago there was a

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situation where a disease called...it was a monkeypox virus, was brought into the state of Illinois through a Gambian rat. It was transmitted to prairie dogs and then went to several other states from that exotic sale. Monkeypox is a disease that's dangerous to animals and humans. Diseases that I have seen personally when I was still out in the field, a real common disease is called contagious ecthyma, a disease that are carried by sheep and goats, contagious to humans and can be dangerous. In that regard, we want to do the best we can to contain these diseases. And I know Mr. Scranton personally and I know that he does keep records and he does a good job. There's still some issues that we deal with as regulatory livestock officials to make sure that we don't have any disease problems that escape into our overall livestock across the state. Any questions in that regard so far? [LB729]

SENATOR DUBAS: Any questions from the committee? Senator Dierks. [LB729]

SENATOR DIERKS: Doctor, maybe I should ask you the same question I asked Dr. Williams. Is there some amendment that you would propose to make this... [LB729]

DENNIS HUGHES: We did...yes. [LB729]

SENATOR DIERKS: ...something you'd be able to accept? [LB729]

DENNIS HUGHES: (Exhibits 3 and 4) We put together a list of breeds through amendment, and I'll distribute that. And maybe I could have you distribute this, too. This is maybe a little better, easier read version of it with the actual language of the original legislation, LB856. [LB729]

SENATOR DIERKS: So here you're mostly just designating different breeds of animals? [LB729]

DENNIS HUGHES: Exactly, right. What it does is under 54-701.03(8), page 3, line 10, we actually list under...as this amendment, the breeds of sheep that we consider to be exotics. So the Barbary, Dall's sheep, Barbados, as you see listed there, we would consider those to be exotics. Not actually involved per se in food, fiber, milk production. The other amendment there under 54-701.03(8), page 3, lines 13 and 14, there we actually do list breeds of sheep and goats that we would consider to be production-type breeds that would be involved in food, fiber, dairy production. [LB729]

SENATOR DIERKS: Are the requirements for moving these animals into the state and back out of the state, are they being addressed with this legislation? [LB729]

DENNIS HUGHES: As part of our normal import process, you know, this does not change anything. We still require health certificates of inspection before they come in. So yeah, anything would be (inaudible) on a health certificate regardless if that was a

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pet or animal for food, fiber, or milk. So that doesn't...it's not changed by this. We just specifically outline breeds that we consider exotic versus those for food, fiber, and milk. [LB729]

SENATOR DIERKS: Okay. Thank you. [LB729]

SENATOR DUBAS: Other questions? I have a few for your, Dr. Hughes. This listing of sheep and goats in this amendment, are those pretty much the animals that you're seeing in the state of Nebraska? [LB729]

DENNIS HUGHES: You know, these are...we had research done, I guess, through one of our attorneys and basically these are the breeds that are listed as possibly being used for those purposes. [LB729]

SENATOR DUBAS: Okay. So have you...what have you observed personally in the state? [LB729]

DENNIS HUGHES: Well, personally, we see a lot of...as far as sheep, or especially, you know, we see the Suffolks and the cross-breeds, Hampshires. Those typically are not sold at an exotic sale. The breed of goat that we see the most of or hear the most of are the meat-type goats or the Boer or the Boer-cross goats, Mexican-type breeds. They're very popular among the Hispanics. [LB729]

SENATOR DUBAS: Okay. It's my understanding that if there's these types of sales to be held, the department is notified of the sales. Do you regularly send inspectors out? What's the procedures when you're notified? [LB729]

DENNIS HUGHES: Previously to LB856, we did send inspectors out because we did kind of want to have a handle on what was going on, particularly in the area of poultry diseases. But since this LB856, we do not send people out there routinely. [LB729]

SENATOR DUBAS: How regularly do you send? [LB729]

DENNIS HUGHES: If we have a, possibly a complaint or maybe some reason for concern. But otherwise, there are numerous sales across the state and it would keep us pretty busy attending them all. [LB729]

SENATOR DUBAS: When you did attend these sales, were there things that you saw that gave you reason for concern as far as biosecurity issues? [LB729]

DENNIS HUGHES: Yes, yes. One of the things that is a great concern yet, particularly in the poultry and the avian species, is that typically they come in cages stacked one on top another in close proximity. And well, for instance, you could have fecal matter that

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drips from the top cage down to the bottom cage. If they're carrying a disease, then those cages that it fell through are all possibly exposed to a disease. We don't have the separation in exotic sales like we do in livestock markets. But livestock markets don't handle poultry, either. [LB729]

SENATOR DUBAS: Okay. What types of regulations would apply to exchanges of sheep and goats if this is at a licensed market or if it's at an exotic venue or a private sale? Are there similar regulations between those three venues? [LB729]

DENNIS HUGHES: In the livestock market we have an inspecting veterinarian on site. He inspects the animals before sale. We have, you know, regulations in place for scrapie in which those animals have to be properly identified according to both federal and state requirements. You know, as far as disease of the animals themselves, we rely a lot on that inspecting veterinarian to make the call, to notice if animals are ill or, you know, something is wrong. As far as private sales, that's basically between farmer to farmer or whatever. There's no inspection of those animals and basically those individuals are on their own, the buyer and seller. Did I answer your question? [LB729]

SENATOR DUBAS: Could you help me understand what the Animal Import Act is? [LB729]

DENNIS HUGHES: We have import requirements under statute and regulations to regulate animals that come into our state to make sure that we don't import something in our state that would cause disease in our domestic herd. Depends on the species, depends on the disease. We have import requirements in place for cattle from states that have problems with tuberculosis, brucellosis, those kinds of diseases. We have import regulations in place for various diseases that are federally regulated. You may or may not know, we just put an import order in place just recently for a disease called trichomoniasis, which is a venereal disease transmitted among cattle. So those import laws or regulations are put in place to try to prevent introduction of disease into our state herd. [LB729]

SENATOR DUBAS: So if we're at either a licensed market or at an exotic sale, what is it that they have to do to make sure they're complying with the Animal Import Act? [LB729]

DENNIS HUGHES: We require those exotic sales to make sure they come on a health certificate and those animals would have to be inspected by a veterinarian from origin to make sure that they complied with our requirements. [LB729]

SENATOR DUBAS: Okay, thank you. To your knowledge, have there been any examples of a disease, livestock or human, in Nebraska that could be traced back to an exotic sale? [LB729]

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DENNIS HUGHES: The only situation I can think of was, I personally testified earlier about the contagious ecthyma. That disease, it's seen quite commonly when you commingle sheep and goats together. It could occur in a private sale, too, but we have not had any--knock on wood--major disease issues in the state as a result of exotics. But there's always that potential. [LB729]

SENATOR DUBAS: Okay. When LB855 was drafted, were you aware that goats were exchanged as exotic animals? [LB729]

DENNIS HUGHES: Yes, we knew that that was going on. [LB729]

SENATOR DUBAS: So was it the intention of the bill to curtail some of those sales of goats that might have been occurring? [LB729]

DENNIS HUGHES: The intention was to make sure that we keep records and to make sure that we can trace disease movements, or animals that are diseased. [LB729]

SENATOR DUBAS: Thank you. Thank you for the information. Other questions? Thank you very much, Dr. Hughes. Anyone else in the neutral capacity? If not, we will close the hearing on LB729. And let's see, I believe our next bill is LB925. LB925, Senator Fischer, welcome. [LB729 LB925]

SENATOR FISCHER: Thank you. Good afternoon, Senator Dubas and members of the 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 in the Nebraska Unicameral. It's a pleasure to be here today. I served two years on this committee with Senator Preister and Senator Erdman and enjoyed it tremendously. Today your first two bills have to deal with goats and I happen to have the second one. I'm before you today introducing LB925. LB925 addresses an issue that is becoming increasingly common as more people raise goats for a variety of reasons. The number of goat herds is increasing with sometimes as many as 2,000 goats in a herd. Goats are being used more and more for weed control purposes. There's also a growing demand for goat meat. With the greater number of goats, problems with estray goats are increasing as well. Constituents in my district brought this to my attention because on multiple occasions, difficulties regarding estray goats have arisen. In recognition of this growing problem, the Nebraska Farm Bureau has also passed a resolution addressing this concern. This bill's focus is on providing neighboring landowners with a means of restitution when their property is damaged by estray goats. Current statutes do not allow compensation for damages because goats are not a part of the livestock listed under the estray laws. By adding goats to this list, as is accomplished by LB925, a process is created in which owners of the estray goats will be held responsible for their animal's damages to other person's property and provide adequate financial compensation. As you have seen in reviewing this bill, there

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is currently a system in place to notify either the Nebraska Brand Committee or the county sheriff of the estray goat and then to properly sell the animal. Additional provisions within the estray laws direct the distribution of proceeds and establish procedures concerning determination of ownership. With this addition of goats to the list of livestock, it will function in accordance with the existing estray statute. Thank you for your time today and if you have any questions on estray goats, I will try to answer. [LB925]

SENATOR DUBAS: Thank you, Senator Fischer. Questions? Senator Wallman. [LB925]

SENATOR WALLMAN: Thank you. Senator Fischer, is there a lot of ranchers have trouble with goats or farm property that you know of? [LB925]

SENATOR FISCHER: Yes. In fact, two of my constituents are here today from Custer County to address that. Since the goats aren't listed as livestock, there's really no recourse under current statute in allowing neighbors to address the problem. [LB925]

SENATOR WALLMAN: Thank you. [LB925]

SENATOR DUBAS: Other questions? Thank you, Senator Fischer. [LB925]

SENATOR FISCHER: Thank you, Madam Vice Chair. I will waive closing. I need to get back to Transportation. Thank you. [LB925]

SENATOR DUBAS: All right. Testifiers in support of LB925? Good afternoon. [LB925]

KENT MYERS: (Inaudible) and members of the Agriculture Committee, for the record my name is Kent Myers, K-e-n-t M-y-e-r-s. I farm near Eddyville in Custer County. I'm a member of the Custer County Farm Bureau and I come before you on behalf of the Nebraska Farm Bureau Federation in support of LB925. This issue has become a problem in our area in recent years due to the drought. Previously goats were few and far between, mainly used as pets or occasionally raised by a few farmers for the niche markets. In recent years, however, the goat population in our state has grown quite extensively for two reasons. One, farmers have started to raise the goats for a supply of the goat meat, which is becoming more popular. And second, due to the drought, and it's of course the lack of rain, you've got another problem, a weed called leafy spurge. Of course, leafy spurge is a perennial and it's spread by birds and then of course it spreads very fast and it's hard to control. And so that's one reason why a lot of people have started trying to use goats from control of this weed. Goats eat it rather effectively and they, of course, I'm sure some of you know that some of the people that have goats, they rent them out to try to control leafy spurge. Some of these herds can run anywhere from 1,200 to 1,500 goats plus. And while the goats do help control this leafy spurge problem, occasionally they do get out and harm other fields. This change in the

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statute would provide that if that were to happen, the goats would be treated like other estrays in Nebraska subject to the same laws. Currently I understand that when goats are found in fields where they are not supposed to be, no one is quit sure what to do with them or who is responsible for the damage there. And of course, with more goats, more and more goats being raised in this state for the control of noxious weeds as well as the niche market for the goat meat, I think it is important to provide for consistent laws to govern this livestock. And as was mentioned in the previous testimony, I happen to know of two instances where goats got onto another person's land and they went to the sheriff and asked, well, can I get any damages. The sheriff kind of looked at him and kind of raised his hands, I don't know. So I guess I thank you and I'd like to, if there's any questions, I'll attempt to answer them. [LB925]

SENATOR DUBAS: Thank you very much, Mr. Myers. Are there any questions?
Senator McDonald. [LB925]

SENATOR McDONALD: Are goats hard to keep in a fence? Do they...I mean, how high can they jump? I've seen goats on top of buildings and all kinds of things. Is it hard to keep a goat in a pen or a pasture? [LB925]

KENT MYERS: It would depend on the breed of goat. I have seen a goat jump over a fence about this tall. But they don't seem to know what a four-wire fence is. They either crawl under or go through. So you kind of need either, you know, like wire panels or, back in my area, what we call hog wire. And that will reasonably do a reasonably good job of keeping them in. But...nowadays you've got the cost. [LB925]

SENATOR McDONALD: So you can keep them in a reasonable fence? They don't always jump out. [LB925]

KENT MYERS: Yeah. As long as it's...yeah. I think you can put a lot of...if you want to put six or seven, eight strands of barbed wire and put them pretty close together, I think you can do a reasonably good job of controlling...keeping them in. But it's still... [LB925]

SENATOR McDONALD: A goat is a goat. (Laughter) [LB925]

KENT MYERS: A goat is a goat, they all crawl out. [LB925]

SENATOR DUBAS: Other questions? Seeing none, thank you again, Mr. Myers, for your time. [LB925]

KENT MYERS: Thank you for your time. [LB925]

JOHN McFADDEN: I'm John McFadden, J-o-h-n M-c-F-a-d-d-e-n. And Senator Dubas and members of the committee here, I live near Taylor and am a member of Loup

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County Farm Bureau and a former board member of Nebraska Farm Bureau. And thank you for the opportunity to listen to us here. And thank you, Senator Fischer, for introducing LB925. And also in my area we have a problem with estray goats. Mostly a goat was kept as a pet to keep down a few weeds just to cut my thing down, from Kent has already said, that was what it's been into. But since the markets have come along for goat meat and the advent of keeping noxious weeds down, why, the herds have definitely increased from just a few head to the hundreds or the thousands. So when they get loose on someone else's property, they'll do what they're supposed to. They'll clean up a pasture or cedar trees or corn or anything that's out there. So they will do significant damage. And I know of an instance, and it was a neighbor next to me in Rock County. He had 2,000 goats get out on his meadow then. And fortunately, he caught them before they did much damage. But I mean, this is not something that can be just washed off, because they could have been taken hundreds or thousands of dollars' worth of feed off there. And of course, again, he had no recourse. But they had crawled through a very good four-wire fence and they can go anyplace. And I guess maybe answering part of the question that Senator McDonald had, a goat is a mountain goat. I guess if a goat can climb a mountain, it's pretty hard to make a fence to keep a goat in. So by adding those to the estray laws, I think this here will make the owner responsible and they will be more judicious, I would guess, watching where their goats are and taking care of them and so on. And thank you very much for giving me some time. And if you got any questions, I'll try and lie my way through it, I guess. [LB925]

SENATOR DUBAS: Thank you, Mr. McFadden. Any questions? Senator Dierks. [LB925]

SENATOR DIERKS: Hi, John. Welcome to Lincoln. [LB925]

JOHN McFADDEN: Hi, Cap. [LB925]

SENATOR DIERKS: Visited with another Burwell resident this morning I hadn't seen for a long time. Chuck Cone. Do you have problems with spurge on your ranch? [LB925]

JOHN McFADDEN: We have the spurge. We are very vigilant anyway of spraying it. We are on top of it. If we know what it is and when we see it, that's top priority to take care of it. But it's creeping in. Yes, it's around. [LB925]

SENATOR DIERKS: You can control it with spraying? [LB925]

JOHN McFADDEN: Yes, yes. It takes...we are not to the place where everything is lost yet. We are just scattered plants. [LB925]

SENATOR DIERKS: I was wondering if you had any experience with goats trying to get rid of the spurge problem. [LB925]

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JOHN McFADDEN: I have not. The goats in question here were taking care of Canada thistle here on this property. [LB925]

SENATOR DIERKS: Okay. Thanks, John. [LB925]

SENATOR DUBAS: Other questions for Mr. McFadden? Seeing none, thank you for your time. [LB925]

JOHN McFADDEN: Okay, you let me off the hook. [LB925]

SENATOR DUBAS: Others in support of LB925? Anyone in opposition? Neutral? [LB925]

PETE McClymont: Madam Chair, members of the Ag Committee, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I appear before you today as a registered lobbyist for Nebraska Cattlemen in the neutral capacity. It's a small concern but one nonetheless that we'd like to address is that if an stray case happened in the brand area and the Brand Committee was called and an inspector was called, they have to go out and there is no inspection fee for this. So based on the fact that the Brand Committee generates the funds by inspection, this would be revenue negative to the Brand Committee. So maybe a potential solution is if there are estrays that are sold, we could have possibly some of the funds from those proceeds go to the Brand Committee for that inspection. So just a small point but nonetheless wanted to bring it to the committee's attention. With that, if there's any questions, Madam Chair, I'd be happy to answer them. [LB925]

SENATOR DUBAS: Okay. Any questions for Mr. McClymont? I don't see any. [LB925]

PETE McClymont: Thanks. [LB925]

SENATOR DUBAS: (Exhibit 5) Thank you. Other neutral testimony? I would like to enter into the record an e-mail from the Nebraska Brand Committee. Does everybody have a copy of this? Have that entered into the permanent record, please. Anyone else on LB925? Seeing none, we will close this hearing. And then are we back in order here? Okay. We will move on to LB788. [LB925 LB788]

RICK LEONARD: (Exhibits 6 and 7) Thank you, Vice Chairman Dubas and members of the committee. My name is Rick Leonard. I'm the research analyst for the Agriculture Committee and I apologize, I hadn't filled out a testifier sheet and I'll grab one and fill it out when I'm finished and hand that to our clerk. LB788 is brought at the request of the Department of Agriculture to update authorities of the department relating to anthrax. Current provisions pertaining to anthrax are contained in Sections 54-754 through

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54-763, which are outright repealed by the bill and replaced by Sections 1 to 18 of LB788 which are cited as the Anthrax Control Act. The department is asking...is requesting this update of authorities to bring the department's authorities in line with modern veterinary and epidemiological practice. Current provisions were first placed in the statute in the 1930s and have remained largely unrevised since that time. LB788 would apply authorities to the control of anthrax that are common to other eradication programs. I want to quickly walk through the bill and its organization. Sections 1 to 3 cite the provisions, express the purposes of the bill, and sets out definitions of terms utilized in the act. Section 4 sets forth general authorities and duties of the department, including to cooperate with state and local and national public entities, public or private; employ quarantine and other general powers available to the department; clarifies that owners of affected animals are responsible for response costs; right of entry to premises where diseased animals are known or suspected; authority to delegate certain responsibilities and to promulgate rules and regulations. The department is further authorized by this bill to direct disposition of any infected animal, including supervision of carcass, disposal of carcasses, and direct treatment of exposed herds. That's in Section 13 of the bill. To assess and collect payment for services or costs incurred by the department and to carry out responsibility of herd owners if the owner fails to carry out and collect reimbursement. That is in Section 15. A cash fund is created by this bill...created by Section 15 for receipts and expenditures that may occur. Enforcement provisions in Section 16 essentially authorize the department to seek injunction, temporary restraining orders to prevent known or imminent violations of the act. There is a section-by-section summary included in the briefing items that I prepared for the committee prior to the hearing. That is in your book. There are two additional...I'm sorry, the bill further sets forth duties, responsibilities, or prohibited acts of livestock owners or custodians--the duty to report known or suspected animals, Section 5. Prohibition against harboring or selling diseased or exposed animals, Section 6. Prohibition against removing animals contrary to quarantine, Section 7. Duty to develop a herd plan and the elements of that herd plan are specified in Section 8. Prohibition against interfering with testing and treatment and duty of...testing and treatment and a stated duty of the livestock owner to facilitate and assist with testing and treatment, Section 9. Responsibility of the owner to provide samples for laboratory analysis, Section 11. And prohibitions against transportation and utilization of carcasses and animals that have died of anthrax, that's in Section 11 (sic). Again, I've provided a section-by-section summary. There are two additional items. When the department first brought this bill, we asked them to provide the comparison of the existing law with the provisions in LB788. The department did provide that comparison and it's included in your bill books behind the tab for LB788. And then I also provided for you in your bill books an anthrax background by the American Veterinary Medical Association. I felt it provided a fairly good, quick review of anthrax, information about the disease, how it's spread, how...and treatment options and that sort of thing. I would...those are in your books and I would like to ask the committee clerk to enter those into the record at this time, assign an exhibit number to those two items. And that would conclude my statement. [LB788]

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SENATOR DUBAS: Thank you, Rick. I thank you also for all of the information. It really helps me understand the issue a lot better and you do a good job. Thank you very much. Are there any questions for Rick at the moment? Senator Wallman. [LB788]

SENATOR WALLMAN: Thank you. Rick, do you know of any anthrax outbreaks in the United States in the last ten years or so? [LB788]

RICK LEONARD: We have the Department of Ag and we've asked them specifically to be prepared to discuss instances we've had. I know we've had a couple. Nebraska has had some cases. I can't tell when...cite when and where. But I think we'll have people here that are prepared to...specifically prepared to answer that question. [LB788]

SENATOR WALLMAN: Thank you. [LB788]

SENATOR DUBAS: Senator Dierks. [LB788]

SENATOR DIERKS: Rick, are there...could you describe any real major changes with this legislation over what's been in place? I mean, what are the major issues that you're making changes to? [LB788]

RICK LEONARD: Well, I think if you follow along with that comparison cite by cite, they've actually taken actual provisions of existing law and compared that with the corresponding provision. Major things, I think, more...in more specifically in using modern language and that we've been using in the eradication programs as we upgrade them from time to time. I would say nothing, in terms of major changes. But in terms of maybe more updating specific language, in terms of defining responsibilities, who's responsible for what costs, the right of entry authority. It utilizes language that's common, very common to the language that we see in the Pseudorabies Act. And as we update the laws, we're... [LB788]

SENATOR DIERKS: But that's different than the current anthrax... [LB788]

RICK LEONARD: No, there's right of entry there as well. I think this language is more specific and explicit. [LB788]

SENATOR DIERKS: Okay, thank you. [LB788]

SENATOR DUBAS: Thank you, Rick. [LB788]

NEIL MOSEMAN: (Exhibit 8) Senator Dubas and members of the Agriculture Committee, my name is Neil Moseman, N-e-i-l M-o-s-e-m-a-n. I am the assistant director of the Nebraska Department of Agriculture. I'm here today to testify in favor of

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LB788. I'd like to thank Senator Erdman for introducing this bill on behalf of the Nebraska Department of Agriculture. I have additional written testimony with a section-by-section attachment that I ask to be placed in the record. Thank you. And also with me today is Dr. Dennis Hughes, Nebraska state veterinarian for the Bureau of Animal Industry. He'll be available to answer some of the questions you may have and some of the questions that's already been posed. As Mr. Leonard stated, LB788 adopts the Anthrax Control Act in order to replace outdated statutes that no longer appropriately address this disease. To give you some background, I'll briefly describe anthrax and how it is disseminated. Anthrax is a naturally occurring zoonotic disease created by the spore-forming bacteria *Bacillus anthracis*. A zoonotic disease is one which can be transmitted by and between livestock and wildlife to humans. Anthrax occurs primarily in cattle, sheep, and other plant-eating animals and is typically contracted by grazing on pastures where spores are present. Most anthrax cases occur on premises where the animals have previously died of anthrax, as the *Bacillus* spores can survive for years--as a matter of fact, decades--and are highly resistant to heat, cold, and chemical disinfectants. Humans may contract anthrax from livestock by: one, breathing in the *Bacillus* spores from infected animals; or, two, handling infected animals, carcasses, or animal products such as unprocessed hides, fur, wool, and bones. Therefore, LB788 includes restrictions on the handling of carcasses. There are several reasons to enact the Anthrax Control Act contained in LB788. Among them are to reflect current veterinary and epidemiological practices; to provide appropriate regulatory authorities to the Department of Agriculture to carry out anthrax control activities consistent with current veterinary and epidemiological practices; also, to establish responsibility for cost of testing, quarantine, vaccination, and cleanup. Such responsibility will be borne by livestock owners or custodians, which is consistent with other livestock disease control statutes. Also, because anthrax is a zoonotic disease which poses a threat to the health of livestock and humans in Nebraska, the department needs the necessary authorities to control the disease in and among livestock herds should an anthrax outbreak occur. That concludes my testimony and Dr. Hughes and I would be happy to answer any questions you may have. [LB788]

SENATOR DUBAS: Thank you, Mr. Moseman. Questions? I have a couple for you. This bill does not mention anything about indemnity and if it...is it not an issue because this is a disease that's responsive to treatment and so we don't have to destroy the animal or the herd, per se, or...I guess if you could go into some detail on that issue, I'd appreciate it. [LB788]

DENNIS HUGHES: Thank you. My name is Dr. Dennis Hughes, D-e-n-n-i-s H-u-g-h-e-s. Anthrax is a disease that occurs luckily very rarely and sporadically. It does respond well to prevaccination as a preventive. And if you catch them early, you can actually treat them and save the animals also. Does that answer your question? [LB788]

SENATOR DUBAS: Yeah. So it is treatable so there's not the concern about having to

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destroy a whole herd? [LB788]

DENNIS HUGHES: Yes, exactly. Because the disease...well, because it occurs so sporadically, you have to have the right weather conditions. And the last major outbreak or last situation we had was in 1999 in Boyd County where we had a situation with two different herds that broke with anthrax. And at that time, we implemented the practices as we had in the current statute of vaccinating animals, herds around that were possibly exposed or contacted with those pastures. And then we treated the animals that we thought were incubating symptoms and the animals that died were buried on site. And that was how we handled it. [LB788]

SENATOR DUBAS: Okay, thank you. Let's see, this bill also talks about the prohibiting of the use of flesh or organs in an animal that has died for food consumption. Again, I guess going back to the vaccination or the treatment, does that completely cure the animal from that disease? Does it make that animal not able to be used for consumption? [LB788]

DENNIS HUGHES: If the animals are treated and cured then after proper withdrawal of the antibiotics, they could be used. [LB788]

SENATOR DUBAS: Okay, thank you. Let's see, one more question probably. This bill does give authority to quarantine or to go on to property. Has it ever been your experience where you've had a landowner not want to cooperate with your efforts? [LB788]

DENNIS HUGHES: Yes, during pseudorabies eradication program we had some...at that time we referred to them as recalcitrant, not real cooperative. And we had to rely on the authority we had in pseudorabies statute and regulations to have access and to do what we need to do to eradicate the disease. [LB788]

SENATOR DUBAS: So does this bill give you that same type of authority? [LB788]

DENNIS HUGHES: Yes. [LB788]

SENATOR DUBAS: It gives you the adequate resources that you need? [LB788]

DENNIS HUGHES: Yeah. Yes, it does. [LB788]

SENATOR DUBAS: Any other questions? Senator Dierks. [LB788]

SENATOR DIERKS: Dr. Hughes, is there...is this legislation that you're presenting here, does this cover what other states have right now? [LB788]

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DENNIS HUGHES: Yes, it is. We've got...I've talked to the South Dakota, North Dakota state veterinarians where they've had issues with anthrax just in the last couple of years and we're very similar. [LB788]

SENATOR DIERKS: These anthrax districts, once they're established they never go away, do they? [LB788]

DENNIS HUGHES: Exactly right. You know, we know that the bacteria, the spore will live, well... [LB788]

SENATOR DIERKS: Forever. [LB788]

DENNIS HUGHES: Forever. And when I was in veterinary school, they had a time capsule that was 1876 and they opened the vial in 1976 and the spores were still viable. [LB788]

SENATOR DIERKS: Is the requirement still the veterinarian in order to use anthrax vaccine has to get permission from you to do that in Nebraska? [LB788]

DENNIS HUGHES: Only licensed accredited veterinarians are allowed to purchase and dispense anthrax vaccine here in the state, yeah. [LB788]

SENATOR DIERKS: But you still have to permit that, is that right? [LB788]

DENNIS HUGHES: Right, right. Well, it's not a permit. It's only sold through distributors through veterinarians. You cannot...say, for instance, in some other states feed stores and other outlets, producers can buy anthrax vaccine, but we do not allow that. One reason is because the vaccine is dangerous, it is a live product. And accidental injection with a vaccine can be very harmful. [LB788]

SENATOR DIERKS: Is that vaccine manufactured in Nebraska now? [LB788]

DENNIS HUGHES: No. Colorado Serum is the one that still does most of the... [LB788]

SENATOR DIERKS: So you're using a killed product? [LB788]

DENNIS HUGHES: No, it's live. [LB788]

SENATOR DIERKS: It used to have four different spores. Is that still... [LB788]

DENNIS HUGHES: I believe that's right, yeah. [LB788]

SENATOR DIERKS: Thank you. [LB788]

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SENATOR DUBAS: One other question, Dr. Hughes. Could you kind of walk me through, okay, you've got a herd that has an anthrax outbreak. What is it that you do? [LB788]

DENNIS HUGHES: Okay. I can tell you what happened back in 1999 if that will answer your question. In that situation we had a veterinarian in Boyd County who had a sudden increase of sudden death of adult animals in his pasture. At that time, there were several different differential diagnoses that you look at. When you get very many, then you can kind of rule out lightning strikes. But there are other diseases that cause sudden death, the Clostridium diseases like blackleg are very commonly seen in pasture situations. He took...he did not suspect anthrax or he had not seen it before. He submitted tissue to the South Dakota state laboratory and unknowingly, basically opened the carcass--which, you know, couldn't hardly blame the veterinarian, that's not the preferred way of doing it--but came back with a diagnosis of anthrax. I was notified. At that time, I was the field veterinarian in that area and we quarantined the herd. We immediately put a protocol in place to run the rest of the cattle through a chute and we treated them with massive doses of antibiotics. Animals that were not directly exposed to those infected or dead animals were vaccinated with the vaccine. The problem is that the vaccine is a live product. You cannot give antibiotics and vaccine at the same time because the antibiotic will kill the vaccine. So you have to make a decision at the time what you're going to vaccinate and what you're going to treat. We got fairly lucky, I think. We pretty much hit with the right animals. We had that quarantine in place for 30 days after the second of vaccine was administered. He sustained a loss...first herd sustained a loss, I'm thinking, about 19, 20 animals out of a herd of about 85 animals. So it's a significant loss. The problem was, at that time, was he was a young farmer-rancher who had not listened to his father, his grandfather warning about vaccinating for anthrax routinely. We had a new generation of farmers and ranchers who had forgotten that the disease was still out there and just quit vaccinating. The second herd was about five miles away and they lost a bull and a couple cows, and the same thing occurred where they had not vaccinated for anthrax ahead of time. At this point, I think nine years after that fact I can say that probably most of those people are still vaccinating now until it becomes something they forget or maybe another generation doesn't realize the dangers of it. [LB788]

SENATOR DUBAS: So with the veterinarian not suspecting anthrax and opening up the carcass, is that...that creates more problems, correct? [LB788]

DENNIS HUGHES: Yes, it does. [LB788]

SENATOR DUBAS: And so, you know, if a veterinarian is asked to come out and look at what's going on on the farm, is that something he or she should automatically assume could be a possibility? [LB788]

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DENNIS HUGHES: That's one of the many differential diagnoses that could be made. In that area particularly, you could probably say that anthrax should be higher on a list of differentials than other parts of the state. We know for a fact that there are certain areas in our state where we have a high level of spores that could possibly emerge when we get the right weather conditions. Typically in that year we had a wet spring followed by extremely hot, dry spell. And those spores are...I compare them to, like, dandelion seeds. When they mature, they just blow in the air. And that was a year that was just right for the conditions for that disease. [LB788]

SENATOR DUBAS: Thank you very much. Any other questions? Senator Dierks. [LB788]

SENATOR DIERKS: I was wondering about the funding. I see you set up a cash fund and it shall be...consists of gifts, grants, costs, or charges from any source. Do you have some specific area in mind or do you know if the...if someone is going to contribute a whole bunch of money to the fund or... [LB788]

DENNIS HUGHES: Yeah. You know, if there is funding there, you know, there's a distinct possibility we could possibly supplement, you know, vaccination costs. That's a possibility. [LB788]

SENATOR DIERKS: I don't see a fiscal note or any money in the fiscal note. So evidently, you're not asking for any funds for this. [LB788]

DENNIS HUGHES: No. [LB788]

SENATOR DIERKS: Wonderful. Thanks, Dennis. [LB788]

SENATOR DUBAS: Any other questions? Thank you very much, gentlemen. Well, our esteemed Chair is back and so I will turn the meeting back to Senator Erdman. [LB788]

SENATOR ERDMAN: Thank you, Senator Dubas. Okay. Can I see a show of hands of those that wish to testify in support of LB788? I see two. Those that are opposed? I see none. Anyone in a neutral capacity? I see none. Okay, come on forward. That's the quickest response time we've ever had with a witness willing to come forward and testify, Pete, so we appreciate your enthusiasm. [LB788]

PETE McClymont: Thank you, Senator Erdman, members of the committee. My name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I appear before you today as a registered lobbyist for Nebraska Cattlemen in support of LB788. LB788 makes some needed changes from the original statutes dating back to 1933. The Nebraska state veterinarian and the Department of Agriculture have the ability to administer the needed

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authority to address the oversight in potential discovered cases of anthrax. LB788 gets the department to work with local veterinarians to control any potential outbreaks or cases via the uses of such tools as were stated earlier as vaccination, testing, carcass disposal. Section 5 of the bill gives producers a clear message to work with authorities to gain immediate control and hopefully maintaining herd health and to get on a case early allows for best-case scenario for that herd and obviously adjacent herds. The major concern that NC members would have with LB788 is in Section 4, paragraph 3, which states that the costs of cleaning the infected premises is at the owner of the premises or the custodian of the livestock. Obviously the outbreak in these instances is very rare. But as we heard in the previous testimony, given the right weather conditions, this can spread. So the question would be, how do you clean up a meadow, a pasture? And obviously if the spore basically is almost impossible to kill, then how is that possible for the cleanup of an infected premise to actually be able to happen? So if this were to happen, worst-case scenario would be the reverse of winning the lottery. How would you clean something up that's almost impossible to clean up? Part of the problem, as was stated, spores live a long time. With the cattle drives that were prevalent 150 years ago, those were the highways to get animals to the markets. And so thus you had the transportation of the spores. So that's something that's there and has to be concerned with. It's a liability issue, it can be addressed with more fairness to the exclusive financial responsibility borne to the producer and/or the landowner that would make LB788 more appealing. Nebraska Cattlemen members would appreciate that and support that. So it is a much needed update to our regs so we're in support of it with that one concern. And with that, Mr. Chairman, I'd be happy to try to answer any questions. [LB788]

SENATOR ERDMAN: Thank you, Pete. Any questions for Mr. McClymont? Pete, what would be a satisfactory resolution to that section of law? You've identified the problem, which we are very good at, being problem identifiers. But what's the solution, in your mind, in the statute as far as who would be responsible for handling those premises when the anthrax has been determined...has been found? [LB788]

PETE McCLYMONT: In talking to Dr. Hughes, you know, there is no federal program so it's always easy to look to the federal level to try to gain funds. But if they are not there, you know, that takes away a potential solution. Obviously, we all remember what happened in Great Britain and how awful that was. So their government stepped in at a federal level to address it. But I guess this is just a nice way of saying I don't know if I have a solution, Mr. Chairman. So the hope is that early detection, vaccination would basically control it. But I don't know if just the lack of...the expectation of the landowner to clean up the land when it is impossible to clean up, I guess if that was removed out of the statute, I guess, we would feel more comfortable. [LB788]

SENATOR ERDMAN: Okay. Senator Dierks. [LB788]

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SENATOR DIERKS: Pete, when I read that section, my thoughts went to cleanup from the standpoint of getting rid of the infected carcasses and making sure they were buried properly or burning, if that's what they're going to do. I mean, you can clean and disinfect tanks. And I mean, there's some things that you can't do. But I don't think you can ever clean the land up. [LB788]

PETE McCLYMONT: And I agree with that, Senator. I mean, that is fair to ask that custodian of the livestock to do that. I mean that I would agree with you. But just as the way it's written in statute to clean the premises up in terms of a meadow or a corral or something like that, I think that basically is not needed. [LB788]

SENATOR ERDMAN: Thank you, Senator Dierks. Further questions for Pete? I don't see any. [LB788]

PETE McCLYMONT: Thank you. [LB788]

SENATOR ERDMAN: Thank you, sir. Next testifier in support of LB788? [LB788]

LARRY WILLIAMS: Good afternoon. My name is Larry Williams, L-a-r-r-y W-i-l-l-i-a-m-s. I'm a veterinarian retired, representing the Nebraska Veterinary Medical Association. And it's on their behalf that I'm offering testimony in support of LB788. We appreciate Senator Erdman introducing this bill. We believe it to be consistent with the introducer's statement of intent in that it replaces outdated language of the current anthrax statute and replaces it with current epidemiological and disease management practices. Although the NVMA offers its testimony in support of the bill, there are a few issues we'd like to have considered. In regard to quarantine, anthrax is a site-specific disease in that the disease is not transmitted from animal to animal or through contamination of inanimate objects such as vehicles, equipment, that sort of thing. So when the outbreak occurs, it generally is isolated to that pen or pasture. The way the quarantine language is written, it defines "herd" as being all the animals that have any contact with one another during the course of the ranch operations. And we think that that definition is too broad for the reason that I explained before. Generally, it's not the herd that is infected, it's a subset of that herd, just the pen and pasture mates that would be infected. The quarantine should have provisions for moving the animals, as soon as possible, off of the affected site to a place where it's thought to be clean as far as anthrax exposure. After what Senator Dierks says, I'm a little hesitant to bring this up but (laugh) I think a method to help control this--and generally, as the testimony before has stated, many of the cases that we see when we rarely see them is due to the fact that the operators or owners or caretakers have not followed the history of the land and do not know that anthrax is there or they neglect to deal with it because there hasn't been anthrax disease in recent years. If there's some way to cost-share vaccine in those areas to vaccinate animals that are going to be pastured on those affected sites, it seems that that might be one way to assist the producers. The state is asking that the

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producers be responsible for testing, vaccination, cleanup, and all sorts of things that we ask producers to do in an eradication program; although this is not an eradication program, it's a control program, and generally part of the difference in those is that indemnity is usually provided for in eradication programs. And we're not suggesting that there be indemnification paid. But seems that there could be some means to help cost-share some of the vaccinating costs. The owners could vaccinate their own animals if they purchase their vaccine from a veterinarian. And so the cost should be fairly minimal. If there were to be an appropriations bill, I think it would be very...not a very large appropriation. And then as Mr. McClymont mentioned, we also had a concern about releasing the quarantine. And somehow the language should be stated in such a way that the department is not expected to verify the site is no longer posing a threat from anthrax, because as was mentioned, the anthrax spore can remain in the soil viable for 30, 40, or more years. The current language implies, in my estimation, implies that cleaning and disinfection rids the facility of the disease. And we know that that's not possible. And so rather than get someone in trouble because of a different interpretation years from now, I would hope that there's some way to rectify that issue. And again, we respectfully ask the committee to address these concerns and hopefully to give the department the authority necessary to carry out their disease control responsibilities for this relatively rare but very important disease. Thank you, and if there are questions I'd be happy to answer. [LB788]

SENATOR ERDMAN: Thank you. Any questions for Dr. Williams? Senator Wallman. [LB788]

SENATOR WALLMAN: Thank you, Chairman Erdman. Yes, Doctor, what does the anthrax vaccine cost approximately now; do you know? [LB788]

LARRY WILLIAMS: I have no idea. I don't think it's a lot. [LB788]

SENATOR WALLMAN: And if you do vaccinate your animals, you know, like for slaughter, do you have to wait a while or... [LB788]

LARRY WILLIAMS: I'm sure there's a withdrawal period for vaccine. There is for most vaccines. And since this is a live vaccine, it would be... [LB788]

SENATOR WALLMAN: Okay, thank you. [LB788]

LARRY WILLIAMS: ...more likely, probably be a 30- to 60-day period. [LB788]

SENATOR ERDMAN: Thank you, Senator Wallman. Other questions for Dr. Williams? Thank you, sir. Appreciate your testimony. Anyone else in support of LB788? I see none. Anyone in opposition to LB788? I see none. Anyone in a neutral position on LB788? I see none. And I'm under good advisement that we're going to waive closing,

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and we will close the hearing on LB788. We will now proceed to LB790 and Rick Leonard, research analyst for the committee, shall present the bill. [LB788 LB790]

RICK LEONARD: (Exhibits 9 and 10) Thank you, Senator. Chairman Erdman and members of the committee, again, my name is Rick Leonard, R-i-c-k L-e-o-n-a-r-d, research analyst for the Agriculture Committee. LB790, again, is another bill that was brought to us by the Department of Agriculture and introduced on their behalf. Basically, the bill simply increases statutory maximum compensation that may be paid to owners for land entered into the buffer strip program from the current \$150 per acre to \$250 per acre. The Nebraska Buffer Strip Act, which is found at Sections 2-5101 through 2-5111, was enacted in 1998. Under the program, landowners are compensated for managing land adjacent to streams and other surface water and appropriate vegetative cover to serve as a filtering strip to intercept sediments, pesticides, and other pollutants and runoff from adjacent lands. The program is jointly administered by the Department of Agriculture and the natural resource districts. The department is responsible for setting regulations determining land eligible for the buffer strip program and the manner in which eligible lands are managed and maintained in order to qualify for the buffer strip payments. The NRDs take applications from landowners and enter into contractual commitments with these landowners for periods of no less than five, no greater than ten years. NRDs then apply to the department for approval and payment of the buffer strip compensation. The program is funded from an earmark of \$60 of pesticide product registration fees. The department will provide additional explanation of what they...the purposes for bringing...they see as a necessity to increase the compensation allowable under this program. You may have seen an article in this weekend's Lincoln Journal-Star that relate to the subject with economic conditions in agriculture. Potentially other economic uses of that property are outbidding some of the environmental services, conservation programs that are available to landowners. This is related as well. In your book, I do have some information that discusses other types of land idling and buffer strip programs for which buffer strip management of the land would be eligible. There's also some data regarding the program participation by year. It's my understanding that the department currently has no applications; in other words, either for new applications or renewal applications. And so eventually as those existing contracts go out, we'll have no...we won't have the--at least in terms of the buffer strip--contractual commitment for those lands to remain in buffer strip management. There's information there about the amount of sign-up per year, the amount of dollars that are being spent, and that information may be helpful. I'd like to enter that into the record. Again, that information is available to you behind your tabs for LB790, if the committee clerk would assign an exhibit number to that. And, Mr. Chairman, I do have a communication from the Nebraska Association of Resource Districts in favor of this bill. As I understand, a last-minute personal matter came up and their representative couldn't be here and asked if he could enter a letter in his stead. [LB790]

SENATOR ERDMAN: Okay. We'll have a page distribute that. [LB790]

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RICK LEONARD: That conclude... [LB790]

SENATOR ERDMAN: Okay. Thank you, Rick. Any questions? Senator Wallman. [LB790]

SENATOR WALLMAN: Thank you, Senator Erdman. Yeah, Rick, that means I could just tack onto my existing contract, immediately apply for this? [LB790]

RICK LEONARD: Tack on to your existing contract? [LB790]

SENATOR WALLMAN: Yeah. [LB790]

RICK LEONARD: The...I don't believe we've... [LB790]

SENATOR WALLMAN: You'd have to wait to expire, is there... [LB790]

RICK LEONARD: Yeah. I believe you're contractually committed to the current thing. But do you...I'm assuming you have some land in a buffer strip program or in some manner... [LB790]

SENATOR WALLMAN: Yeah. [LB790]

RICK LEONARD: ...that I don't know if you have five, seven, ten years? No, I don't believe that to be the case. But that's a good question. I don't believe that to be the case, that you're contractually committed under the current program... [LB790]

SENATOR WALLMAN: Thank you. [LB790]

RICK LEONARD: ...under existing...right. [LB790]

SENATOR ERDMAN: Thank you, Senator Wallman. I see no further questions. Thank you, sir. Let's see a show of hands of those who wish to testify in support of LB790. Two. Those in opposition? I see none. Neutral? I see none. Have you gentlemen arm-wrestled for the first spot or...come on up, Neil. [LB790]

NEIL MOSEMAN: (Exhibit 11) Thank you, Mr. Chairman. Senator Erdman and members of the Agriculture Committee, my name is Neil Moseman, N-e-i-l M-o-s-e-m-a-n. I am the assistant director of the Nebraska Department of Agriculture and I am here today to testify in favor of LB790. I'd like to thank Senator Erdman for introducing this bill on behalf of the Department of Agriculture. I have additional written testimony that I ask to be placed in the record for this bill. Also with me today is Rich Reiman, division administrator of the Nebraska Department of Agriculture's plant

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industry. He'll be available to answer some technical questions as well. The Nebraska Department of Agriculture is responsible for implementation of the Buffer Strip Act. This law has been in effect since 1998 to provide an incentive for creating buffer strips. As you know, buffer strips are intended to help maintain water quality by reducing the level of sediment, crop nutrients, pesticides, and other chemicals from reaching surface water resources. The act provides any person who desires may create a buffer strip adjacent to surface water on his or her property, may submit an application for reimbursement of costs associated with creation of that buffer strip. If this application meets the rules and regulations adopted by the Department of Agriculture and funding is available, reimbursement in compliance with the rules and regulations is provided to the applicant. LB790 would amend the Buffer Strip Act by increasing the maximum per-dollar amount from \$150 to \$250. The dollar amount is paid annually for the length of the contract. The Buffer Strip Act allows contracts to be a minimum of five years or a maximum of ten years. Recently the department has received few new applicants to this program. We believe this is because of the increase in land values and commodity prices. The increased payment for buffer strip enrollment is needed to attract new participants and to retain current participants when their contracts expire. The actual payment per acre for enrollment in the buffer strip program is set in rules and regulations adopted by the Department of Agriculture. If LB790 is enacted, the department intends to seek the input of groups representing landowners and other interested parties prior to amending the buffer strip regulations. The Department of Agriculture, we have already received requests from various association and groups to increase the buffer strip enrollment rates. We have been encouraged to seek this increase by landowners, the Nebraska Corn Growers Association, and the natural resource districts. That concludes my testimony and I'd be happy, along with Rich Reiman, to try to answer any questions the committee may have. Thank you, sir. [LB790]

SENATOR ERDMAN: Thank you, Neil. Any questions for Mr. Moseman? Neil, can you answer Senator Wallman's question as far as how the program gets administered going forward? You raised...set by rules and regulations depending upon the type of land and the fees that are going to be reimbursed to the producer under their contract. So an individual that has a contract in place currently, should LB790 pass, when their contract comes up they're eligible for renegotiation or are they...have that opportunity now? [LB790]

NEIL MOSEMAN: May I allow Mr. Reiman to give you every fact and figure? [LB790]

SENATOR ERDMAN: Sure, yeah. And Rich, when you come up, state your name and spell it for us please. [LB790]

RICH REIMAN: Senator Erdman, my name is Rich Reiman, R-i-c-h R-e-i-m-a-n. Regarding the question you asked, Senator Erdman, unfortunately, Senator Wallman, you'll have to wait until the contract expires and then resubmit the application at that

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time before it can be reenrolled. [LB790]

SENATOR ERDMAN: Okay. Very good. Any other questions? I don't see any. Thanks for coming forward. [LB790]

SCOTT MERRITT: (Exhibit 12) Senator Erdman, members of the Ag Committee, I do have a prepared statement. My name is Scott Merritt, spelled S-c-o-t-t M-e-r-r-i-t-t. I am the exec officer of the Nebraska Corn Growers Association. We do have a written testimony that we have submitted on behalf of the Corn Growers Association so I'll just maybe summarize a few points, if I may. We're supportive of this increase for the state buffer program. I want to thank the Department of Ag for their years of administering it and getting it utilized to the best. We think this is a big step in a conservation and habitat practice that's out there. The reason for the state buffer program was, as we saw it a decade ago, there was several shortcomings in federal programs out there such as intermediate grazing and nonreflection of land values in Nebraska in irrigated ground. So the state program was put in place. It's been a very successful...it's actually been, if you want to use the term, sold out over the last decade and utilized very well. The reason simply, as you've heard several times, is land values, the unintended consequences of high commodity prices. We have a concern that the last two decades of very good conservation practices in this state, federal and state, could be in jeopardy because of a lag of payments to that. One thing that was mentioned is we are also part of a group of buffers. It's state, federal conservation groups and agencies that have worked over this in the last five to eight years. And we are part of a group in the central plains basin CREP project that has now had \$150. We received a grant from the Environmental Trust two years ago to cost-share in cooperation with the NRDs for buffer strips at \$150 using the CREP. As of today, we have issued out of our \$200,000 available money under \$1,200. So as you can see, there's a lot of reluctance this fall to go back into these projects when basically there's an economic driver for land and land use in this state. Just a couple...three points, a couple points I'd like to summarize with. In the changes that are being proposed does not automatically move it to \$250. It gives the authority to go there. We feel that in talking to the Department of Ag that they want to try to have this adjustable for current land values. If they go down, then hopefully they can put more acres with less dollars in. If they need to go to the max to be competitive in the market, then that's what it is. The other thing, there is no new dollars. This is the same pool of money we've used the last decade. We think that's a positive thing. The only thing that we'd like to bring up in closing is in conference call with some of my people as I try to do some quasi-surveys of land values and after conversations, I decided I didn't even want to comment on those or even put it on paper. Depends on which coffee shop you were in which day. But we question whether \$250 is going to be enough and whether that is a true cap. If the current trend continues and we see these jumps in land prices over the next three years, which many of the economists are projecting. So we would like to consider that maybe the committee consider moving that to \$300 as a cap as we move forward with this. And we look to the opportunity to have a

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chance to visit with you as we move forward and have more discussions with the Department of Ag and some of the conservation groups. So if there's any questions, I'll be happy to take those. [LB790]

SENATOR ERDMAN: Thank you, Scott. Any questions for Mr. Merritt? Scott, let me run a scenario by you, and I think the answer is obviously. But if we raise it to \$300, the current cap is \$150, and as you pointed out not all land is at \$150 now, that's the max and it's set under rules and reg. If you go to \$300, you potentially have half as many acres available with the same amount of money. [LB790]

SCOTT MERRITT: That is true. [LB790]

SENATOR ERDMAN: So if we're serious about the proposal, an investigation of additional funding probably has to be a part of it. Otherwise we're simply setting up a future discussion in which nobody has any money to do anything and we have half as many acres enrolled in the interim. Obviously there needs to be an assessment of what needs to be done to be competitive in the market. But at the same point, if what we're offering isn't successful in meeting the needs or the opportunities, it's probably no different than leaving it at \$150. So any thoughts on that? I know the letter from the NRDs also asked us to consider additional funding. Because if we do what we just outlined to you, we'll be enrolling possibly less acres with the same amount of money. [LB790]

SCOTT MERRITT: We would very much like to see more dollars be put into the pool, if you want to so say. I mean, that is the discussion we had on a conference call the other day, is if we go to \$300 we're going to get half as many acres and we're doing half as good a job in the countryside as what we'd like to do. Is there more dollars out there? I can tell you we have not had a lot of...we had not explored that. Yes, we would like to have more dollars. Where they're going to come from, I can't sit here and say on behalf of my organization where they want to get those dollars from. But yes, they would like to double the total pool and keep those acres that are there now. When we talk about the federal programs to change the CREP rental rate on another project, we had projected it would take a few months and it was 18 months. So we have started with the CREP to try to make this change. But here, we're two years probably out before that goes to the countryside. And if you look at the charts that the Department of Ag has, a lot of the sign-ups will be coming due next year. And we would hate to have, you know, lose any more than what we have. And we're going to lose some federal acres, I know that. [LB790]

SENATOR ERDMAN: One might make the argument that having half as many acres is better than having no acres. [LB790]

SCOTT MERRITT: I would agree with that argument. [LB790]

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SENATOR ERDMAN: Because when you look at the numbers from the department as far as the acres that come up for...or when they expire, the contracted acres and how that plays out into the future, there's a large number of acres that expire in '08, '09, and '10. And obviously if these are five- and no more than ten-year contracts, it doesn't take a rocket scientist to figure out that the reason why there's not more contracted acres expiring in the later years is because people aren't signing up. [LB790]

SCOTT MERRITT: Right. [LB790]

SENATOR ERDMAN: So...okay. Thanks, Scott. Other questions for Mr. Merritt? I don't see any. [LB790]

SCOTT MERRITT: Thank you. [LB790]

SENATOR ERDMAN: Thank you, sir. Next testifier in support? I see none. Anyone in opposition to LB790? I see none. Anyone in neutral capacity? I see none. That will close the hearing on LB790 and we will proceed to LB791. And again, I will call upon Rick Leonard, research analyst for the committee, to introduce the bill. [LB790 LB791]

RICK LEONARD: (Exhibit 13) Thank you, Mr. Chairman. Senator Erdman and members of the committee, again, my name is Rick Leonard, L-e-o-n-a-r-d, research analyst for the Agriculture Committee. Again, I'd like to introduce LB791. Again, LB791 is brought to us at the request of the Department of Agriculture. It essentially authorizes the department under the authority of the Plant Protection and Plant Pest Act to promulgate rules governing the planting of seed potatoes. Just some background: under the authority of the federal Plant Protection Act, the animal and plant health inspection service of USDA has undertaken an initiative in cooperation with states and potato growers and industry groups for the control of diseases and pests of potatoes through the mechanism of consistent certification standards for potatoes entered into under state commerce and export markets. This initiative is referred to as the national Harmonization Plan, under which states agree to apply uniform phytosanitary standards utilized in certifying seed potatoes for tolerances of plant pests and potato diseases. State departments of ag also designate official certifying agencies. Such standards and other details of the state and federal roles under the harmonization initiative are set forth in a memorandum of agreement between the Nebraska Department of Agriculture and the Animal and Plant Health Inspection Service of USDA. Under Article V, Subsection 8 of the MOU--and again, I would mention a copy of this MOU is behind the tabs for LB791, and at the conclusion I'd like to enter the copy of the MOU into the hearing record. Under Article V, Subsection 8 of the MOU, the state agrees to require that certified seed produced within the state and offered for interstate and export sale meet the certification standards specified in the agreement. And again, I've pointed out a copy of that agreement is available in your books. Essentially LB791 amends the Nebraska

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Plant Protection and Plant Pest Act to provide express authority to the Department of Ag to promulgate rules governing the planting of certified seed potatoes in the state. Specifically, LB791 inserts a new defined term "certified seed potatoes" in Section 3 of the bill, which is incorporated into the Plant Protection and Plant Pest Act by Sections 1 and 2 of the bill. The bill further amends Section 2-10,116 to add rules pertaining to the planting of certified seed potatoes to a list of items relevant to the regulation of plant pests for which the department is expressly authorized by this section to promulgate rules and regulations for. That would conclude my testimony. If you have any questions... [LB791]

SENATOR ERDMAN: Thank you, Rick. Any questions for Mr. Leonard? I don't see any. Thank you, sir. Can I see a show of hands of those who wish to testify in support of LB791? I see one. Anyone in opposition? I see none. Anyone neutral? I see none. Unless you can't answer our questions, Neil, then I'm sure that somebody here can, right? (Laugh) [LB791]

NEIL MOSEMAN: (Exhibit 14) Senator Erdman and members of the Agriculture Committee, my name is Neil Moseman, N-e-i-l M-o-s-e-m-a-n. I'm the assistant director of the Nebraska Department of Agriculture and I am here today to testify in favor of LB791. I'd like to thank Senator Erdman for introducing this bill on behalf of the Department of Agriculture. I have additional written testimony that I ask be placed in the (inaudible). Also with me today, in addition to Rich Reiman who I introduced previously, Gary Leever who's with the Nebraska potato certification program. The Nebraska Department of Agriculture is responsible enforcement of the Plant Protection and Plant Pest Act. LB791 would amend this act to allow the department to adopt by rule and regulation provisions related to the planting of certified seed potatoes in the state. The department, with the approval of the Nebraska Potato Development Committee, has entered into an agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service to participate in the development of a uniform national potato program in an attempt to protect against pests and establish protocols for addressing pest infestations. In order to comply with the agreement, by June 2010, Nebraska must require potatoes planted in the state that are intended for interstate distribution be produced only from certified seed potatoes. If Nebraska does not adopt this legislation, potato producers may be prohibited from shipping their potatoes to other states and to other countries. That concludes my testimony and we're happy to answer questions. [LB791]

SENATOR ERDMAN: Thank you, Neil. Any questions for Mr. Moseman? I'll throw you another softball, see if you take a pass at it. The bill would not restrict the seed potatoes that could be planted in Nebraska, but would authorize the department to regulate those that...which may be exported from the state. So in other words, we could have noncertified seed potatoes still planted in Nebraska, but by passing this legislation we would come into agreement with APHIS as well as compliance with exporting

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requirements for those which will leave the state. So Nebraskans could still plant potatoes in their backyard for their own purposes; that would be fine. But if they intend to transport them outside the state or in the export market, the department would have the authority to regulate to ensure that those potatoes comply with those requirements? [LB791]

NEIL MOSEMAN: You're correct. [LB791]

SENATOR ERDMAN: What a deal. Other questions? I see none. Thank you, sir. [LB791]

NEIL MOSEMAN: Thank you. [LB791]

SENATOR ERDMAN: Anyone else wish to testify? Gary, do you want to give us the state of the potato? Since you've made the long trip, we figured you might as well have something to say, right? And when you start, state and spell your name for us. [LB791]

GARY LEEVER: My name is Gary Leever, that's G-a-r-y L-e-e-v-e-r. I am manager of the seed potato certification agency for the state of Nebraska, and I want to thank you all at the Ag Committee. And I...you know, the state of the potato industry is very sound in Nebraska. We have had significant growth in the last 10 to 15 years in our industry. For your information, it's 20,000 to 25,000 acres a year across the state and that generates about \$50 million to \$70 million to our ag economy. And this new statute that we need to do to change...you know, that is a situation that is being done nationwide and it's already pretty much...I'm not...feel that there's anybody that I know of in the state of Nebraska that this would have any adverse effect on. Just about all of our growers do plant certified seed. The current protocols for us to export potatoes to Mexico require that the grower that exports, even table-stock, into Mexico must plant certified seed to do that. And you know, this is more a levelling of the playing field for the U.S. to better market our product to our northern and southern neighbors as well as internationally. I'll answer any questions that you may have. [LB791]

SENATOR ERDMAN: Thank you, Gary. Any questions for Mr. Leever? Generally how do we break down the acreage? You say across the state there's about 25,000 acres, predominantly western...eastern? [LB791]

GARY LEEVER: Actually it's spread from O'Neill to, you know, and down the Platte River. There's quite a production at Columbus, Kearney, and Minden. There's some in the southwestern corner of the state in Imperial and in Dundee County by Haigler. And the industry pretty much breaks down, it's about a third, a third, a third. About a third of that acreage is certified seed, about a third is processing potatoes for potato chips, and about a third is table-stock for consumption...for fresh consumption in the grocery stores. But Nebraska is not, you know, people don't think of anybody I meet in the state

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when you say potatoes and you represent the potato industry. They don't really realize we have a potato industry. But we are eighth in the production of certified seed. We are about tenth in the production nationwide. And when we're talking about this new memorandum of agreement, there will be about 16 states that will sign off, Nebraska being number eight. There are seven bigger than us, there are seven smaller than us. So we're sort of very sound where we are in this industry. Any other questions? [LB791]

SENATOR ERDMAN: Okay. Other questions? I don't see any, sir. Thank you. [LB791]

GARY LEEVER: Thank you. [LB791]

SENATOR ERDMAN: Appreciate it. Appreciate the update. Anyone else wishing to testify in support of LB791? I see none. Anyone wishing to testify in opposition to LB791? I see none. Anyone wishing to testify in a neutral capacity? I see none. That will close the hearing on LB791. We appreciate your attendance here today and would entertain a motion from the committee to go into Executive Session. [LB791]

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Disposition of Bills:

LB729 - Held in committee.
LB788 - Advanced to General File, as amended.
LB790 - Advanced to General File.
LB791 - Advanced to General File.
LB925 - Advanced to General File, as amended.

Chairperson

Committee Clerk