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Agriculture Committee
October 02, 2009

[LR104 LR229]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, October 2, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR229 and LR104. Senators present: Tom Carlson, Chairperson; Annette Dubas, Vice Chairperson; Brenda Council; Merton "Cap" Dierks; Russ Karpisek; Scott Price; Ken Schilz; and Norman Wallman. Senators absent: None. [LR229]

SENATOR CARLSON: (Microphone malfunction)...to my right and clear to my left our committee clerk, Barb DeRiese. Senators to my right: Norm Wallman from Cortland; Brenda Council from Omaha; Cap Dierks from Ewing; Annette Dubas, Vice Chair of the Ag Committee from Fullerton; Scott Price from Bellevue; Ken Schilz from Ogallala; LeRoy Loudon from Ellsworth. And as we begin our time together, myself as well as you, turn your cell phones off if you would or put them on silent or vibrate. Those of you wishing to testify on this resolution should come to the front of the room to be heard. As someone finishes testifying, the next one should move to the on-deck chair, which is either side there, and be ready. If you do not choose to testify but would like your name entered into the original...official record as being present at the hearing there's a form at the door that you can sign. And this will be made a part of the official record of the hearing. Also, if you do not choose to testify, you may submit comments in writing and have them read into the official record, however you will not be listed on the committee statement unless you come to the microphone, actually testify, even if you just state your name and your position. We're using a computerized transcription program. It's very important to complete the sign-in sheets prior to testifying. And then when you come up to testify give the form to Barb here, in the box on her left. And then as you begin, please state your name and spell it so that the transcription can pick it up. Try and keep your testimony concise, try not to repeat what others have said. If you have handout material give it to one of our pages and our pages today are Haley Schwartz from Homer, lift your hand, Haley, and Justin Trauernicht from Pickrell. So they'll be here to help you as well. LR229 from Senator Dierks is an interim study to examine the

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impact of federal and state bans on the slaughter of horses and the options available for the disposal of horses. So, Senator Dierks, the floor is yours. [LR229]

SENATOR DIERKS: Thank you, Senator Carlson and members of the Ag Committee. My name is Cap Dierks, that's spelled C-a-p D-i-e-r-k-s. And I represent Legislative District number 40. I appear before you today to introduce LR229, an interim study to examine the impact of federal and state bans on the slaughter of horses. It also examines options available for the disposal of horses. According to statistics on the American Veterinary Medical Association Web site, there are 9.2 million horses in this country. When there were slaughterhouses for horses in this country, approximately 100,000 were sent to slaughter annually. Prior to 2007, there were three slaughterhouses operating in the United States. One is Dallas Crown, Incorporated in Kaufman, Texas; one is Beltex, Incorporated in Ft. Worth, Texas; and one is Cavel International, Incorporated in Dekalb, Illinois. These three slaughterhouses exported approximately \$42 million worth of horse meat per year to countries such as France, Belgium, and Japan where horse meat is considered a delicacy. The federal government has not banned horse slaughter. In 2006, the House and Senate had both voted to prohibit USDA funds to pay for the antemortem inspection of horses under the Meat Inspection Act. All USDA appropriation bills since 2006 continue this prohibition of funds. We are here today to discuss horse slaughter, but there are many others issues that are raised by this study. We want an economical way for the citizens of our country to care for all animals, especially when they are older. According to the AVMA, the lifespan of a horse is approximately 30 years. It costs thousands of dollars per year to care for each of the 9.2 million horses in our country. What happens to older horses? Is it inhumane to slaughter horses for the consumption of meat or more inhumane to allow older, sick horses to be dumped on federal lands or abandoned at auction markets? What about state's rights? I wonder about sovereignty. Does the state have the right to override federal laws to protect our horse industry? Is that part of our charge? Can we do that? I have grave concerns about what is happening to horses on my ranch and what happened to horses all across this state when it comes time for them to be

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disposed of. We don't have anyplace to dispose of them. Either take them out and shoot them and bury them in a Sandhill pasture or I've read several cases where horses have been taken to town and tied up at the back of other people's empty stock trailers at the auction market. So we need...we have some problems and we need to talk about it. That's why we're here today. And I appreciate your time and try to answer any questions you might have. [LR229]

SENATOR CARLSON: Okay, thank you, Senator Dierks. Questions from the committee? Senator Dubas. [LR229]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Senator Dierks, for bringing this forward. We really do need to have this discussion. So just to help me understand things better, do we still have these slaughterhouses that you mentioned, two in Texas and one in Illinois? [LR229]

SENATOR DIERKS: I don't know. I know the one we had in Nebraska was at North Platte. And I understand that's been destroyed or that it's a wreck. Another thing that I think has happened, and I've read a little bit in the Western Ag Reporter that they had passed a law in Montana to allow for slaughter of horses. The Governor had vetoed that legislation. And I think, as I understand it their legislature up there overrode the veto. And they've...another thing that I'm not sure of but I think I heard that before they could build the plant they had to have the money in hand to do it. And I think that...I don't know that they've started building this yet. But I think that this is supposed to be ready to be built. How they're going to get the inspection done I don't know. [LR229]

SENATOR DUBAS: So we can't export anything or sell anything then if we don't have that inspection done, correct? [LR229]

SENATOR DIERKS: Yes. And I think that Congress is...what they've done is establish legislation that would prohibit transportation of horses to slaughter. [LR229]

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SENATOR DUBAS: So right now as you said, the only option if you have an aged horse is to basically dispose of it yourself. [LR229]

SENATOR DIERKS: Yeah, I'm not even sure that the rendering plants will take them. The rendering plants are having problems of their own. I'm not sure they'll even take a horse. And if they do it's going to cost the owner big bucks to do that. [LR229]

SENATOR DUBAS: Thank you very much. [LR229]

SENATOR DIERKS: You bet. [LR229]

SENATOR CARLSON: Thank you. Other questions? Senator Council. [LR229]

SENATOR COUNCIL: Yes. Thank you, Chairman Carlson. Senator Dierks, as I was reviewing the material that was distributed, it indicates that there are measures pending in both the House and the Senate to permanently ban horse slaughter. Now is it your understanding of that legislation that it bans horse slaughter for any purpose or horse slaughter for the purpose of human consumption? Because as I hear the issue and it's not clear to me whether the issue is whether or not we should be, we being horse owners in the state of Nebraska, should be able to slaughter horses for human consumption, whether exported or not, because as I read the ban from the USDA, all they say is they're not going to provide funding for inspection. Is there any federal law that you are aware of that prohibits any other form of inspection? [LR229]

SENATOR DIERKS: Not that I'm aware of. I think that the...but the answer to the first part of your question is that they prohibit the slaughter of all horses, whether it's for human consumption or for animal, dog food or that the prohibition is on all horses. And I think that...I'm not sure where the thing came from, where the legislation came from. But I suspect that there are people who look on horses as part of the family, like they do

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their dogs, you know, companion animals. And they frown on this method of disposal. But right now the only place I can take a horse to get rid of it is out in the pasture, dig a hole and shoot him and cover the hole up. That's the only way I can go. [LR229]

SENATOR COUNCIL: Okay, so... [LR229]

SENATOR DIERKS: For a long time there was a man in Colorado that was taking these horses on a consignment basis and taking them into Mexico and they had a place in Canada where they could take them to slaughter them. But I think the ban that they put on from the federal government is a ban on transportation. So... [LR229]

SENATOR COUNCIL: Okay. And I think that's what probably we need clarification. Has there been any research on whether or not HR503 or Senate bill 311 bans transportation? Senator Carlson, may that research analyst answer? [LR229]

SENATOR CARLSON: I'll let Rick answer. [LR229]

RICK LEONARD: Those bills are pending in Congress. Currently, the only, as Senator Dierks mentioned, what Congress has intervened or at last enacted are the appropriations language that prohibit the use of funding, basically withdraw public support or public funds from providing an inspection for horses for human...slaughter for human consumption. There was an amendment, a revision, a clarification of that prohibition in 2008 that said not only can you not provide it for free, in other words through public funds, but you cannot provide it...neither can you provide as a fee for service. There are certain species that FSS inspects, but they provide it at a fee to the... [LR229]

SENATOR COUNCIL: To the processor. [LR229]

RICK LEONARD: ...to the processor pays a fee for it. Other meats, like beef, FSS pays

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for that, except in over time certain cases. The pending legislation would ban basically the processing, sale, transport of horses, horse meat, meat products, or carcasses or horses for the purpose of for human consumption. Those are just pending. They've been introduced in, I believe, in the last four Congresses. And that legislation was introduced again this year. But it's still pending. And Congress has not acted to enact that at this point. [LR229]

SENATOR COUNCIL: Thank you. [LR229]

SENATOR CARLSON: Any other questions? Senator Price. [LR229]

SENATOR PRICE: Senator Carlson, thank you. Senator Dierks, thank you. A couple of questions come to my mind. The first one is, are we wrestling with the slaughter of horses versus putting the horse down that's aged or sick? Because that seems to be two different things. Slaughter seems to have the connotation of a profit motive, and putting a horse down has the connotation of humane treatment. So the question I have and what you've characterized here is, if a horse is sick you can't take him to a vet and have a vet put him down versus...or are we just going to say, hey, can I make a little money on the carcass? So I think there's two distinct avenues available for an owner of a horse, if you know went out and bought the horse, raised the horse, had it your whole life, whether it's a companion animal or not. So could you address slaughter versus putting them down for humane reasons. [LR229]

SENATOR DIERKS: I think that probably the putting them down for humane reasons is still an option. And many people who have these companion animals, had considered them somewhat as pets and they'd prefer to have that done rather than have them go to slaughter. But if they don't think that they want to have them put down, they really don't have much other option. Because I think of those 100,000 horses that were slaughtered every year, I'm sure that a very minute part of those, a very small percentage would be sick. I don't think...I think usually sick horses are put down. [LR229]

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SENATOR PRICE: So when you brought up the part about people taking them into town and tying them up so they didn't have to get rid of them, that leads me more to the humane aspect than it does to the slaughter aspect. Because if you were going to take them to be slaughtered, okay, then you wouldn't tie them off, they're as asset. People don't leave assets lying around. They leave liabilities lying around. [LR229]

SENATOR DIERKS: Well, and I think probably the reason that that turns out to be a liability is because they're not...they cost, to keep a horse costs a lot of money. Costs more to keep a horse than it does a cow. Cow has got...a horse is kind of like a goose, they never quit eating. Once they get started they just eat all day long and all night. And it's costly. And if you're going to take good care of them you're going to have grain for them. And the cost to keep a horse is high, higher than a cow. And the cows are going high enough right now. [LR229]

SENATOR PRICE: All right, thank you very much. [LR229]

SENATOR DIERKS: You bet. [LR229]

SENATOR CARLSON: Joining us since we started is Senator Russ Karpisek from Wilber and we're glad to have him with us. Any other questions? Yes, Senator Louden. [LR229]

SENATOR LOUDEN: Thank you, Senator Carlson. Senator Dierks, you being a veterinarian, my observation has been the reason these people take these horses and tie them up is it costs to put them down. Is that correct? I've heard it's somewhere around \$400 or so to dispose of a horse. And most of these people that do that don't always have the money to do it because they can't afford to feed them, so they...do you know what the cost would be to put a horse down and dispose of the carcass and everything? [LR229]

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SENATOR DIERKS: I can tell you what it cost the last horse I put down was nothing. He belonged to a good friend of the family and he was a good cow horse. Everybody knew John, he was a great asset to the community, any kid could ride him. He broke his leg and they called me to come out and see if I could fix it. Well, I couldn't fix it so I just anesthetized him. Gave him an overdose of an anesthetic. And I didn't charge anybody anything. But I don't know what they cost. And that's been a few years ago. But I'm sure that you're probably right, somewhere between \$200 to \$400 by the time you get them out there to do it and... [LR229]

SENATOR LOUDEN: Well, several years ago I said the last horse I had to put down, I had a fellow there that he actually dug the graves for the city of Bayard. And I told him, I said I'm going to need a hole big enough to put a horse in. And he says, well, he says, that takes twice the size of what I dig in the cemetery. He said, that's how I figure it for burying horses. So that was the expense on that there was to dig a hole big enough to put a horse in because it's got to be six feet deep or more in order to get a horse down underneath there. And then, of course, I don't know what your stuff costs, but usually the veterinarians that I work with, whenever they do anything to work on an animal or something like that, the anesthesia usually runs at least 40 bucks for the shot, let alone the cost of them doing their business and that sort of thing. And that's the reason I'm wondering if where we're seeing these horses dumped placed it's because the people can't afford to do anything else with them. [LR229]

SENATOR DIERKS: Well, you talk \$40, that's probably a pretty accurate fee for anesthetizing a 50 pound dog. So you multiply the dog's weight by 20 and you're up close to a horse, takes more to do the horse than it does to do the dog. It's usually done based on a per pound need. So yeah. [LR229]

SENATOR LOUDEN: Then the anesthesia would cost probably five times as much then? You're talking about \$200 for anesthesia? [LR229]

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SENATOR DIERKS: Oh, I'm sure, at least, yeah, at least five times as much. [LR229]

SENATOR LOUDEN: Okay, thank you. [LR229]

SENATOR DIERKS: You bet. [LR229]

SENATOR CARLSON: Thank you, Senator Louden. The noise we're hearing back here is the window and the wind. And it's sure bothering us but there's nothing we can do about it. So we'll grit our teeth and go forward. Any other questions? Yes, Senator Schilz. [LR229]

SENATOR SCHILZ: Thank you, Senator Carlson. Senator Dierks, thanks for coming in. I was just sitting here thinking, with all the other questions going around, if it's no longer possible to slaughter any of these horses, and you say there's 100,000 a year that used to be slaughtered. Will we see folks running into trouble on how to dispose of the carcasses? I mean because you can't just dig big pit and start dumping 1,000 pound carcasses in them and make that work over time. Or is that what will happen? [LR229]

SENATOR DIERKS: Well, I think you're going to see all sorts of things. I think that could be one scenario. I think you're going to see horses just taken out in the country someplace in the dark of night and dumped. You're going to see...they tell me out in the desert country, where they have these federal horse preserves, that they're getting a lot more horses out there than they knew they had. And one of the things about that, people think that's humane. Why they don't understand horses because if you take a gelding that's been ranch broke and turn him loose out in the desert with a bunch of mares they'll kill him. I mean that's just the way the horse society works. And same way if he gets out there with a stallion, why he's a dead horse. And there's a lot of stuff goes on in among those horses that people don't even understand about it. But, no, I think that...and the other thing I forgot to mention was the fact that I don't think the rendering

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plants are taking horses anymore. So if they do it's going to be a big fee to get them killed. But I don't think they...as I understand it, it's hard to get them to take those horses. They don't even want to take cows anymore very bad. [LR229]

SENATOR SCHILZ: Thank you. [LR229]

SENATOR CARLSON: Okay. Any other questions? All right, thank you, Senator Dierks. [LR229]

SENATOR DIERKS: You bet. [LR229]

SENATOR CARLSON: And don't be bashful, those of you that wish to testify on this resolution. Hand in your green sheet and step forward if you would. [LR229]

DEBBY BREHM: (Exhibit 1) Mr. Chairman and members of the Ag Committee, my name is Debby Brehm, D-e-b-b-y B-r-e-h-m. I live in Lincoln, Nebraska and currently serve as a Nebraska director for the American Quarter Horse Association and have been involved for most of my life in the horse industry. The American Quarter Horse Association, the largest United States-based equine breed registry and membership organization, represents a broad base of members who are involved in many different areas of the horse industry. From ranchers to recreational riders and from racing enthusiasts to horse show competitors, AQHA's membership of nearly 345,000, including 6,000 plus in Nebraska, is more diverse than at any other point in its history. I want to address three key areas that AQHA brought up early on its opposition to a ban on slaughter. Before doing so, I want the record to reflect that AQHA does not favor slaughter as a way of dealing with American's unwanted horses. However, the association's board does recognize that the processing of unwanted horses is currently a necessary aspect of the equine industry. [LR229]

SENATOR CARLSON: Could I interrupt you just long enough to ask you to move a little

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closer to the microphone if you could. Thank you. [LR229]

DEBBY BREHM: Sure. It provides a USDA supervised humane euthanasia alternative for horses that might otherwise continue a life of discomfort and pain or inadequate care or abandonment. Some have publicly mischaracterized AQHA as not being for the horse. And that couldn't be further from the truth. If it wasn't for the horse, American Quarter Horse Association would not exist. Because it's likely that AQHA will be accused of over breeding, I also want to briefly address that point. As a breed registry, the association's primary role is to record the pedigrees of American Quarter Horses. It's not AQHA's role to restrict a breeders right to breed their horses. In fact, courts have ruled in certain cases it is a restraint of trade for the association to do so. Also, I believe it's important to note that we ask that horses be classified as livestock for very important reasons. What we are...see occurring with horses is alarming. And to those of us in this industry, it appears some are taking steps to change that classification. Horses are not companion animals like cats and dogs. I know this committee recognized the importance of having horses classified differently. As citizens we rely on you, the knowledgeable lawmakers who understand the agriculture industry, to make decisions based on sound reasoning, not emotion, propaganda or exaggerated claims. Animal rights activists seem to think that all animals, including horses, live idyllic pastoral lives until they slip quietly into sleep and then death. Unfortunately, that naive view does not match the realities of life with horses. Horses can and do suffer injuries that might require euthanasia. At times, horses suffer chronic lameness or pain. Old horses' teeth become so worn and smooth they can no longer eat. And if they're left to pasture, they slowly starve to death. In many of these cases, the most humane response, the response that is required of us a horse owners and lovers is to euthanize the horse. It's heartbreaking, but it is necessary and it's the right thing to do. In many states and counties in the United States, there are limited options for euthanasia and carcass disposal. Water and sanitation regulations often prevent a horse owner from burying an animal on his or her property. Many communities lack adequate facilities or landfills to handle large animals like horses. There are far fewer rendering facilities taking horses.

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Horses euthanized by lethal injection must be treated as toxic because of potential impact on wildlife, yet most veterinarians don't have the facilities to dispose of horses. With that, the three areas that I want to comment on are long-term care for horses versus abandonment, funding for enforcement and an equine welfare system versus creating hardships for owners, and how the industry is handling the unwanted horse issue without government reacting to animal rights activists. Regarding long-term care and abandonment, because of successful horse challenges from the Humane Society of the United States, earlier last year the nation's three horse processing facilities were closed. AQHA and many others in the agricultural industry warned that if this were to occur without addressing long-term care solutions, some horses would needlessly suffer. Their owners would not have a way to sell a horse they no longer wanted or could afford to keep. Horses can become unwanted for different reasons or an owner's circumstance can change. Regardless of what those reasons are, an unwanted horse is a burden rather than a joy to its owner. Certainly, all owners should care for their animals properly. But unfortunately, not all can do so because sometimes they can no longer afford to. Activists and misguided legislation circulating in Washington related to horse slaughter already are having a harmful impact on the very animal meant to be protected. Additionally, legislation that does not establish standards of care that horse rescue facilities must meet is not doing what is best for the agriculture community or America's magnificent horse. Now whether or not we want to admit it, economics comes into play. The slaughter market determines the base or floor price for horses. When the bottom falls out or is forcibly removed as it has been with the closing of the three slaughter plants, it simply stands to reason that it will adversely affect the horse industry and the horses themselves. The other economic issues deal with how we're going to care for some 90,000 horses each year now entering the equine welfare system. By providing only the most basic care of hay, feed and water, which we conservatively estimate at \$1,900 per year per horse, it will cost \$171 million to care for 90,000 unwanted horses displaced as a result of banning horse slaughter in the United States. That figure does not include any veterinary or farrier care. Additionally, if Washington is going to legislate a ban on horse slaughter, it should explore ways to provide shelters

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such as those we have for dogs and cats, where owners can divest themselves of unwanted horses and where they can be properly cared for. As a result of closing the nation's processing facilities, today there are more horses on the market, causing the value of most horses to plunge. Low prices do have consequences. Reduced prices put horses into hands of people without the financial resources to provide proper care, which leads to neglect. It also can drive owners to abandon or neglect horses. Those owners who had a horse worth \$800 to \$1,200 now have one worth much less and they won't pay a veterinarian to euthanize it; a rendering facility to take the body away; or to have the animal buried somewhere. Slaughter is not pretty, but it does provide a humane, economical way for an owner to relinquish an unwanted horse. Now people have shipped horses into Mexico and Canada as a result of the recent closing of the United States slaughter facilities. But once an animal is taken outside of our borders, we lose our standards of care. And with gas prices continuing to rise, for states that don't border Canada or Mexico, abandoned, unwanted horses will soon become the norm because sadly the economics just don't work in the horse's favor. But for those who believe that slaughter must be outlawed, the good news is that the industry is addressing the issue without government intervention. For people who are serious about helping America's unwanted horses and putting real action to work there is the Unwanted Horse Coalition. The Unwanted Horse Coalition, which AQHA helped establish in 2005, is working to eliminate America's unwanted horses. UHC is a coalition of breed registries, veterinary groups and animal welfare groups brought together to work on solutions of the well-being of the horse. The goal of UHC is not to pay for the care of unwanted horses but to reduce the number and improve their welfare. Ultimately, it's the industry's hope that there will be no more unwanted horses in America. Through education and hard work, we are addressing this problem without creating inadvertent problems like this ban has. I would like to submit to the committee a recently completed review commissioned by the Unwanted Horse Coalition which I think you will find useful in sorting out some of the facts and fiction on this issue. That is what this is here. This study looked at several of the options available and addresses positive and negative aspects of each. And I've also include a copy of the official policy of AQHA

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on the unwanted horse. I want to thank the committee for your time and effort. And I'll attempt to answer any questions that you might have. [LR229]

SENATOR CARLSON: Okay. Thank you for your testimony. Do we have questions?
Senator Wallman. [LR229]

SENATOR WALLMAN: Thank you, Chairman Carlson. Thank you for coming and testifying. Just a couple questions. Are you in contact with the race horse association, how they handle their problems you know? [LR229]

DEBBY BREHM: No, I'm not. I have show horses, not race horses, so I don't know how they do. I know thoroughbreds, I know a lot of times they can donate their horses for training facilities. But I'm not sure what else they're doing. [LR229]

SENATOR WALLMAN: I come from the district, a friend of mine had Peter Rabbit, you know probably, the national news. [LR229]

DEBBY BREHM: Yes, uh-huh, yes. [LR229]

SENATOR WALLMAN: (Laugh) So, yeah, if you have any ideas, you know, as a state maybe we could set the standard for the nation. [LR229]

DEBBY BREHM: I would think so. I've had to put horses to sleep. And even though AQHA's position is, you know, that they're not companion animals, and I would have to agree with that, they are family members to me just like a dog or a cat. And putting a horse to sleep has been extremely painful, a very difficult thing to do. But when I've had horses that have gotten so old that they're so lame and they hurt because an animal has to be able to walk in order to pump the blood up from the bottom the foot through their leg, and if they become so crippled that they can barely do that, they can hardly walk and they can't stand, it's a very difficult thing to watch. And so we've had to put

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horses down because of that. And it's an extremely painful, very difficult decision, but at least that is an option. And the question was asked if that was an option. It is but you do pay a veterinarian to do that. A lot of people probably will not always do that because it does cost. We live on an acreage, have been able to bury them. I know that in Lancaster County you're not supposed to do that for any animal that is 1,000 pounds or larger. I know that you're not supposed to. And sometimes people have done that just because they do have a farm or an acreage to do so. But finding a place to take a horse that has been put down is extremely difficult to do because there aren't any facilities. And veterinarians don't have the ability to dispose of them properly. So I think it is a problem. [LR229]

SENATOR CARLSON: Okay. Senator Council. [LR229]

SENATOR COUNCIL: Thank you, Senator Carlson. Ms. Brehm, thank you for your testimony. During your testimony you made reference to rendering facilities as an option. Maybe my understanding of rendering facilities is not accurate. But it was my understanding that we've been using the term slaughterhouse, we've used the term rendering facility. And, I guess, in this context as I've been hearing slaughterhouse, those are facilities where the meat is processed for human consumption. Rendering facilities don't involve processing of meat for human consumption. So why would there be a cost? Don't the rendering facilities utilize the remains and carcass in some profitable way? [LR229]

DEBBY BREHM: Well, I don't even know where they have any rendering facilities. I don't even know if we have any Nebraska or not. Perhaps we do, I don't know. [LR229]

SENATOR COUNCIL: Well, I was just wondering because your testimony said that that was one of the options available to an owner is to have a veterinarian euthanize or have a rendering facility take the animal away or have the animal buried somewhere. And I was just wondering about rendering facilities and whether we... [LR229]

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DEBBY BREHM: I would assume though that you'd have to have some...I don't know if you have to haul the horse to the facility to have it put to sleep there or if it would have to...if the carcass would have to be hauled there. But obviously there would be cost in that. And a lot of the unwanted horses are from people that can't afford to keep them. I think this study here has shown that that's what usually the problem is, that the person doesn't have the ability to take care of it anymore. And so they're certainly not going to spend the money to put it to sleep either. It's easier just to, I suppose, leave them out in a pasture. I do know of an individual that went to Palmyra for a horse sale, they took two horses out of their trailer, took it into the sale barn. When they came out, someone had put two horses in their trailer. (Laughter) Yeah, so it's just...here in our area here, even in... [LR229]

SENATOR COUNCIL: Okay. I just needed clarification as to whether we're using rendering facilities and slaughterhouses interchangeably and whether there are any bans on rendering facilities as opposed to slaughterhouses. [LR229]

DEBBY BREHM: And I'm sorry, Senator, I'm unable to answer that. [LR229]

SENATOR COUNCIL: Okay, thank you. [LR229]

SENATOR CARLSON: Any other questions? Senator Louden. [LR229]

SENATOR LOUDEN: Thank you for your testimony, Ms. Brehm. As you're a member of the American Quarter Horse Association, I myself am not a member but I've got a lot of neighbors around there that are. When you have like your rodeo horses, you know, when they get about 25 years old or so, and some of them have got ring bones and spavin from some of that hard work, roping and that sort of stuff. What do you do with...what does your organization recommend you do with those horses? You say in here that you don't favor slaughter. What do you recommend doing with them for those

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members of your organization when they have these horses that are beyond there?
[LR229]

DEBBY BREHM: Well, they certainly hope that they're humanely euthanized and not just abandoned somewhere. [LR229]

SENATOR LOUDEN: Okay. But when you say you don't necessarily favor slaughter, are you saying you don't... [LR229]

DEBBY BREHM: We don't favor that as the only option if somebody has an unwanted horse. [LR229]

SENATOR LOUDEN: Okay. And you don't...when you don't favor slaughter, I was wondering whether you didn't favor using them for human consumption or what, you thought they should just be put down and cremated or something? [LR229]

DEBBY BREHM: Yes, that...because that isn't AQHA's position. Their position is to make sure that the welfare of the horse is considered first and foremost. And if somebody has an unwanted horse that maybe there isn't...maybe it isn't old, maybe it isn't suffering, you know, they don't consider that as an alternative just because it's an unwanted horse to put it to slaughter. Hopefully, there will be other alternatives of selling it or finding a person that would take it or donating to a 4-H. [LR229]

SENATOR LOUDEN: Now my question then, the next one would be, then have you polled your members to see whether they were against slaughtering horses for human consumption or not? Have you taken any kind of a... [LR229]

DEBBY BREHM: No, I could not answer that. Perhaps AQHA has, but I don't know that.
[LR229]

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SENATOR LOUDEN: Then who comes up with this idea that the American Quarter Horse Association isn't in favor of that? Is that just something that some of the officers have decided or where did that come from? [LR229]

DEBBY BREHM: No. They must have done a polling, but I do not know for sure if they have. But I'm sure that's not just an opinion that was made. I have been to some of the conventions where it has been discussed. And the individuals that I have been on committees with and listened to are definitely in favor of not supporting, you know, a ban on it. But I'm not saying that there was a poll of the 345,000 members. I don't know that that's been done. [LR229]

SENATOR LOUDEN: Okay. That's what I was wondering because up there where I live, well, not very far from where I live, south of Alliance, there was over 200 head of horses nearly starved to death, you know. And it was...well, they figured between 60 and 70 that were dead out there. They couldn't count them for sure. And that was mostly on one of these cases where they were supposed to be bringing their horses in and letting them live to a ripe old age on... [LR229]

DEBBY BREHM: I read about that. That was horrific. [LR229]

SENATOR LOUDEN: This was a terrible thing out there. And this is mostly there was no place to go with them. And they finally had to load them up and try and get (inaudible) with them. And that's why I was wondering about that. What about some of that legislation that they have in Congress now if the transporting of horses. What position does your association take on transporting horses? Because that was the problem. And I'll point out to you what the problem is when I hear what your position from your association is. [LR229]

DEBBY BREHM: No, we feel that the transportation should be allowed, to have existing facilities. And we don't like the fact that the transportation to Canada or to Mexico

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perhaps could be banned. We don't like the process of having an animal go to Canada or Mexico because we don't know what the care is like once it leaves the United States. We don't know what the animal suffers from when it's actually in Mexico or Canada. [LR229]

SENATOR LOUDEN: Then you're concerned about the suffering after they get there, not on the suffering on the transportation? Because what brought that about on the transportation where they were hauling horses in these cattle pods and the horses had to stand there with their heads down. [LR229]

DEBBY BREHM: Yes, that is...they are totally...AQHA is totally against that, yes. [LR229]

SENATOR LOUDEN: Okay, that's what I was wondering. If you'd taken a position that if they are transported they have to have...be transported in a vehicle where they can have their... [LR229]

DEBBY BREHM: Yes, a very humane form of transportation, not the double layer, height of trucks. Yes. [LR229]

SENATOR LOUDEN: Yeah, where they have, what six foot of space or something like that so they can't hold their head up. [LR229]

DEBBY BREHM: No, AQHA is totally against that. [LR229]

SENATOR LOUDEN: Now has that been brought out from your association or has anybody said anything about that on the ban on transportation? [LR229]

DEBBY BREHM: I don't know. Usually this is presented to Congress by Scott Meritt, who is actually a lobbyist for AQHA and representative here from Nebraska. And he

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asked me to sit here today. So I cannot answer what he has taken to Congress. [LR229]

SENATOR LOUDEN: Okay. Thank you for your testimony. [LR229]

SENATOR CARLSON: Okay. Thank you. I'm going to follow up on something that Senator Louden asked. We appreciate your testimony. But his question about how did the Quarter Horse Association arrive at the opinion that you're against horse slaughter. Would you try and get that information? [LR229]

DEBBY BREHM: Yes, I sure will. [LR229]

SENATOR CARLSON: And then get that to us, we'd appreciate that. [LR229]

DEBBY BREHM: And they may have done a survey. And if they did, I will certainly find out and let you know, Senator. [LR229]

SENATOR CARLSON: Okay, appreciate that. Other questions? Then I want to ask you something. The three areas that you wanted to comment on, it's on your second page: "Funding for enforcement an equine welfare system versus creating hardships for owners with bottom-end unemployable horses." So funding is a problem. [LR229]

DEBBY BREHM: Yes. [LR229]

SENATOR CARLSON: Where should the funding...how should the funding come about? [LR229]

DEBBY BREHM: Well, I would assume that if there was a way of having slaughterhouse in the state, I would think that that would be a form of economic development right here within our own state. And then people would actually have an option for taking their horses, and a smaller community that would have a plant would be able to use that as a

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form of economic development and jobs in their community. So I'm not asking for government funding on it. I think private industry funding would be very important. [LR229]

SENATOR CARLSON: Okay. Now, (inaudible) disagreeing with you there. But to make that statement along with your first statement that you're against horse slaughter, if we had a horse slaughter allowable in the state of Nebraska and the owner of that business would operate for profit, that's part of it, and be humane in the way they put down animals, then you're not opposed to that. [LR229]

DEBBY BREHM: No. [LR229]

SENATOR CARLSON: Okay. Okay. All right, thank you. Any other questions? Thank you for your testimony. Next testifier. [LR229]

KEVIN HAECKER: Hello, ladies and gentlemen of the committee. My name is Kevin Haecker, that's spelled K-e-v-i-n H-a-e-c-k-e-r. I happen to be from Senator Wallman's district, down in Gage County. I currently have an equine breeding operation, predominantly draft horses and warm bloods. And the problem you're wrestling with isn't a lot different than matters involving other types of livestock. I spent...grew up on a dairy farm, spent 20 years as a dairyman. The impact of horse slaughter, you vets, organizations that would like to classify equine as a companion animal, they're domestic livestock, the state of Nebraska recognizes them as livestock. I've been involved for five or six years in the matter of the disposal of horses. The matter came about to me through conversations with other horsemen, farriers and the like. The state of Nebraska, if you read their agricultural law, you can dispose of an equine carcass, such as domestic livestock, on the property where it dies. It's illegal to transport it unless you're transporting it to research facility or a veterinarian for a diagnostic analysis. The only way you can transport that domestic livestock in the state legally is if you are a licensed rendering company. Now rendering plants dispose of dead carcasses. And they have a

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criteria for the transport of that. It was brought up earlier, rendering. Within the last year, the information I had from two rendering companies that still function in this area, Darling International, I got a quote from them for \$150 to \$180 to pickup a horse carcass, and then Platte Valley Rendering, they charge \$95 to \$100, kind of dependent on your specific location. They wanted compensation for fuel. Problem with a rendering company if you put down a horse, they put you on a list. It might be there four hours, it might be there two days. So for a rendering company to pick up a horse or a cow, anything like that, they have to be located alongside the driveway, within plain view, and the driver is not allowed to enter any premises that could be livestock housing because they don't want to be liable for contamination or infection of the other livestock on the premises. So if you have your horse put down and call a rendering company, they're going to have to drag that horse out to the driveway, within sight to of the road, so when the driver pulls in he doesn't have to enter any premises, he's not allowed to, and he has to be able to view the animal. They also require cash payment before the animal is picked up. So somebody either needs to be present or you had to have arrangement to pay for it in advance. So there's not a lot of economic value in them rendering a horse. I was of...when I investigated this matter a few years ago, about helping some people dispose of their pet horse, because I do live on a farm in Gage County, incineration, if you were going to cremate the horse, if let's say any facility that offered that has to be licensed by the Department of Environmental Quality because you have to have incinerator inspected for particulate emissions and so forth of that nature, any kind of environmental contamination, disposal of any ash and/or any "uncremated" remains, which on a mature animal you will not dispose of all of the bone through cremation. It would take a considerable amount of time. Composting was suggested by the university. And that process takes several years for the carcass to completely decompose. And it still doesn't dispose of all the heavier, more dense bone fragments. So you still have those matters to dispose of. As far as burial goes, I provided some information to Senator Wallman. After discussing it with the university soil scientists and they say that it is safe as long as you don't run into problems with high spacial density, shallow ground water, flowing streams or things of that nature. But the state doesn't

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have a law that allows you to do that. Now the horse owner, the only way you could legally do that in the state of Nebraska, if a concerned competent owner wanted to put down a horse and didn't want to see him go to a rendering plant, and this is without any economic restrictions, he would have to haul the live horse to someone who would bury the horse for him, have the horse euthanized on the new premises after it was there, because technically it will be on the property where it died. And then that person, whoever buries it, can't be within a zoning restricted area, where any municipality has a well field or any kind of local zoning that would prohibit it. And we had a trial or kind of, I guess, a rough draft of changing the legislation made up, and I gave it to Senator Wallman. And it stipulated in there that it would not infringe upon any local county or municipality restrictions for burial, but it gave some outlines for it. And I didn't have time to make enough copies to provide everyone, but Senator Wallman does have that. The horse value issue, yeah, when the economy goes in the tank people have to cut back. That's why you have a lot of people who cannot afford any longer to maintain the horses that they have or maybe they just need to cut the number back. Instead of having one for every member of the family, have one for everybody. And it creates a problem. But it's really no different than a lot of other situations. You know, government gives you a cheap deal on rebating you for getting rid of your gas-guzzler, and now used car dealers are buried in cars. So when you do one thing you always have an opposite reaction. The concern that I've had for a number of years is that the state does not allow any kind of legislation to provide a viable option to a rendering company the way the law is written now, unless it was slaughter. And slaughter is not a viable option now due to what's happening on the national level. And as far as transportation goes, there's humane ways an inhumane ways of doing it. And you're always going to have somebody, you can never police it 100 percent. But if the state sets up a committee to discuss this matter, they need to look at it from a realistic standpoint. If you could reinstitute horse slaughter, you'd be drawing business in from all the surrounding states. We're probably going to be a target because PETA and the Humane Society of the United States, I believe, versus the Humane Society of America, or the American Humane Society, one of them is very pro-anti-horse slaughter as a soapbox to stand on.

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They just, like with PETA, they make their demonstrations and they have a lot of money for lobbying and so forth. But they don't provide an alternative. If we had written in the law the ability for individuals to provide the service, then I do believe that most of the individuals in the state of Nebraska would take stock in using that option. But you're never going to prevent the guy who decides just to drive him out in the country and turn him loose on a county road or stick him in a pasture with somebody's cattle. So you're never going to solve the problem completely because there's just going to be people who don't want to follow the rules or they've got a cheaper way of doing it. The circumstance I hope that you look at is just to provide a viable option. And I've got 27 horses. I've put them down for various reasons, I have sold horses to slaughter. Most of the individuals I'm acquainted with in the draft horse community, the Belgium Corporation of America is the closest affiliation I have with a national registry. And they all viewed that as one option for an animal which didn't have a functional use as a safe or a productive animal for anybody to own. And by taking that percentage out of the mix, you alleviate some of the over glut stress that's being dealt with currently. But there's a lot of economic matters involved that you just can't plan on solving the whole problem, but just provide a few options the state is capable of doing. I don't think I probably should go on any farther. This would last a long time. So if you have any questions, I'd be glad to answer them if I could. [LR229]

SENATOR CARLSON: Okay. Mr. Haecker, thank you for your testimony. (Microphone malfunction)...a law to allow an individual to provide a service. In other words, you'd be for legalization of horse slaughter in Nebraska. [LR229]

KEVIN HAECKER: I would be for any matter that allowed for the slaughter of horses in Nebraska. I do not have any prejudice against that as an option. And along with that option, though, it would be nice to have a viable means of disposing of your beloved pet in a way...aside from rendering, which the majority of the people that own horses, aside from the western part of the state which has the territory resource, you know, a lot of open, agricultural land, you get the eastern part of the state, Fremont, Omaha, Lincoln

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area, you have a lot more zoning issues that prevent horse owners from burying the animal on their own property. And there is no option for those people, aside from rendering companies. And if we lost that option completely then there is no way. The only thing I know about veterinarians being able to dispose of them, rendering companies would pick up an animal from them for free. Because the local vet in Gage County used to allow people to bring in horses, he would euthanize them, and the rendering company would pick them up from his clinic for free because it was a professional courtesy, so to speak. But most veterinarians don't have that option available. [LR229]

SENATOR CARLSON: Okay, thank you. Any other questions? Thank you for your testimony. [LR229]

KEITH HAECKER: Thank you very much. [LR229]

SENATOR CARLSON: Okay. How many others do we have that intend to testify? Okay, we have a number. And let's try and keep the testimony from this point on, please don't repeat what others have said. And let's try and keep it to less than 5 minutes, if we can. [LR229]

RICHARD HEDRICK: I'm Richard Hedrick, H-e-d-r-i-c-k. My experience with the disposal of a dead horse is limited. About 30 years ago, my father-in-law, Leonard Sweet, moved from Sargent, Custer County, Nebraska to Montana. He moved his pet horse with him. To provide for the horse he bought a ranch out in Montana. When the horse died he hired a bulldozer to bury the horse. The expense was well worth it. I told my wife that their pet horse was the only horse that never made an owner any money. The ranch with a stream has become a valuable home site. I would say that a horse has become a valuable for a hungry man. I read a book a couple years ago, Collapsed, the author wrote about how he thought ancient societies failed, east Ireland and other sites. The world was not looking ahead. We have too many people hungry now. Thank you.

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[LR229]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions of Mr. Hedrick? Okay, thank you. [LR229]

LARRY HENNING: I'm Larry Henning and I represent the Nebraska Veterinary Medical Association. I'm a veterinarian practicing at Gretna, Nebraska. [LR229]

SENATOR CARLSON: Would you spell your last name, please. [LR229]

LARRY HENNING: H-e-n-n-i-n-g. [LR229]

SENATOR CARLSON: Thank you. [LR229]

LARRY HENNING: And I do better with horses than people, so bear with me. The Nebraska Veterinary Medical Association met September 17, and the board voted to support the humane transportation and slaughter of horses. And as their representative, that's what I'm bringing forth to you. In addition, I'm a member of the American Association of Equine Practitioners. And they support the horse...they support the humane slaughter of horses and transportation. By the articles that we're getting out today, I think you got to realize...and I've been following this since 2005, when this legislation first appeared in Congress, brought forth by Willie Nelson and Beau Derrick and a few other people. We have a problem out there. I, personally, have picked up horses off the highway. We have searched endlessly to try to find their owner, have not found it. Through some horse rescue groups we've been able to adopt out all of the horses we've found so far. But there is a problem because death is not inhumane, starvation and neglect are. And that's what we're starting to see out in the area. And I know that it's not all due to the loss of slaughterhouses. The economic impact of the economy on the horse industry right now is just tremendous. But we've got a big problem and I don't know how to deal with it. Because it's already through the federal

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government. And I realize that unless we can get a federal inspector into the slaughterhouse, we cannot transport the meat. But there's a growing need for meat for zoo animals in the United States. They're facing a severe shortage right now. There are articles coming out on that at this point. The thing I want you to understand is that the problem with rendering is that if I'm called out to euthanize an animal, I'm going to put it down with a tremendous amount of narcotics. Those narcotics are going to go into that animal. That makes that meat unable to be fed to a zoo animal or anybody else. So it really limits the rendering company's ability to use that meat for processing, where the slaughtered meat can go and be fed back to zoo animals and so forth. And right now there's just a huge shortage because there just is nowhere for them to go get their meat. I realize they use a lot of deer meat and so forth. But horse meat was a big part of their feeding regime for their cat population and so forth. So that's a big problem. I just come here to ask you to help deal with the problem, because somebody has to before it gets totally out of hand. And as far as, you know, rendering, there is a facility in Nebraska that does cremate horses, it's located in Gretna, Nebraska. But there's a charge of \$500, plus you have to pay shipping to get to it, which eliminates all of your low-level horse owners. So I am not sure in regards to the gentleman before last. But there is a facility operating right now that will cremate a horse. But the fact is there are a lot of unwanted and unusable horses that are produced every year. And we need an option as far as where to go with them and a humane option. And death is not inhumane. [LR229]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Dr. Henning? Senator Price. [LR229]

SENATOR PRICE: Senator Carlson, thank you. Dr. Henning, thank you. Question brought to mind then is, do we have to have a USDA inspector for zoo meat? [LR229]

LARRY HENNING: That I'm not sure of. I think you should be able to sell that meat as zoo meat. [LR229]

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SENATOR PRICE: Okay. (Inaudible.) [LR229]

LARRY HENNING: As far a dog food, that kind of thing, there's no, I don't believe at this point in time there's any. [LR229]

SENATOR PRICE: Great, thank you. [LR229]

SENATOR CARLSON: Senator Karpisek. [LR229]

SENATOR KARPISEK: Thank you, Senator Carlson. Dr. Henning, thank you. Sorry, I was a little late getting here. We will see a bill this year, I have a problem going on in my district of horses being, I think it was one of the rescues and left. The county ends up footing the bill for those animals, which can run to be a lot of money. And I think there was about 27 horses in this one...in one of my counties. This same person has had them all over the state. So there will be a bill on trying to let the counties, after ten days, so many days, to do something with them, take possession of those animals. Because right now it's just until the person can pay for them or get out of their fines. So that's not working. So I just wanted to bring that up that we will have that. But this plays a huge part in that bill. And I don't know if that will be my bill or maybe Senator Ashford's bill. But we will at least have a bill on that. But this does play a huge part in that, because even if the county can do something with them, what are they going to do? I have been working with the horsemen's group, the Benevolent Association. Hopefully, anyway, that will start some of that. But I just wanted to put that out there. And thank you for your testimony. Thank you, Senator Carlson. [LR229]

SENATOR CARLSON: Okay, thank you, Senator Karpisek. Other questions? Senator Schilz. [LR229]

SENATOR SCHILZ: Thank you, Senator Carlson. Thank you for coming in today. As

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you stated earlier, you were talking about lower-end horse owners that don't have the ability to continue to care for horses in certain situations and things like that. Do you also believe that with something like a prohibition like this that other folks that are trying to do the right and honest thing are being duped into thinking that some of these rescues and things like that are places that they can take their horses to be taken care of for the rest of their natural lives and end up giving those to people that are scam artists and just are there for quote, unquote, the profit mode of "themselves," and turn around and exacerbate the problem even further and cause the exact problem that this prohibition supposedly was supposed to solve? [LR229]

LARRY HENNING: This goes back to the humane society. When the humane society started in the United States, it's a feel good thing, everybody feels good about it. Before they enacted the spay-neuter policy, where anything that went out of their was spayed or neutered, you know, they created a bigger and bigger and bigger problem. Personally, I've worked with two horse rescue groups. Neither one of them is functioning at this point in time. And it's all due to funding. Those people that were involved in it, I believe, their heart was in the right place, they believed in what they were doing. There was just not enough money provided from any effort that they put forth to provide for those horses. So, in essence, in my experience those horses went through more neglect, just all they did was prolong the neglect and starvation and problems that those horses were facing in the beginning when they rescued them. [LR229]

SENATOR SCHILZ: Sure. And maybe I should take a step back and say that. Yeah, even those folks that are running it may have that...may have their heart in the right place. [LR229]

LARRY HENNING: You know, I believe their heart is there, it's just there isn't enough funding. [LR229]

SENATOR SCHILZ: Right. And then unfortunately what happens is when the situation

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like that arises, it seems that those groups that are in favor of the prohibition itself use the prohibition and it's, quote, unquote, unintended consequences to come back and hammer on the industry even further. Is that the scenario that you see played out over and over? [LR229]

LARRY HENNING: I would pretty much agree with that, yeah. [LR229]

SENATOR SCHILZ: Thank you very much. [LR229]

SENATOR CARLSON: Any other questions? Seeing none, thank you for your testimony. [LR229]

KEITH SCHUMACHER: Good afternoon. I'm Dr. Keith Schumacher from Howells, Nebraska, K-e-i-t-h S-c-h-u-m-a-c-h-e-r. I'm also here on behalf of the Nebraska Veterinary Medical Association. Probably a lot of the things I'm going to bring up have been touched upon in some way or another. But my issue is that there are lots of unwanted horses and they're becoming a hardship for many owners, including a number of my clients. They cannot afford the feed, they cannot afford proper veterinary care, some cannot afford veterinary euthanasia. And in our area, the rendering trucks will not pickup horses, at times that's been the case. I don't...today I don't know. But I know in the past they have refused to come and pickup those animals. We need an avenue to humanely dispose of these horses that no longer have a productive usefulness to their owners, whether it's due to injuries, maybe not life-threatening injuries, but we have horses that, for instance, you can take a gelding that cuts a tendon. And the tendon will heel so that the horse can walk, but he would not be safe to ride. So if that's a young animal, the animal has no use to anyone other than just to be able to go out and pet him. And if one of my clients has a number of horses they can't afford to keep one around just to have a horse to look at. Right now there's no place to go with that horse. Age is another reason that they may want to get rid of a horse. Some have disposition problems that are things that you can't fix, they're just mean, they

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cannot be trusted. There again they have no place to go with those kind of horses. Humane transport and slaughter would help ensure that these horses don't go through unnecessary neglect and/or starvation or simply being turned loose to fend for themselves, posing a danger to themselves, going through fences, getting cut up, getting on the roads, causing traffic accidents. So there again posing a danger to the people that are on the roads. It's a lot different hitting a 1,200 pound horse than it is hitting a 250 or 300 pound deer. But it's the same risk. The horses don't know any better. When they're turned loose, they just run. And when they see a vehicle some of them get startled and they jump on the road, and a lot of times there's nothing you can do to avoid the accident. Right now there are still sales where horses can be brought to sale barns. But if the horse is perceived as having no value to anyone, they don't get a bid on the horse. The person who brought the horse doesn't necessarily take the horse back home. There's many cases where they leave them at the sale barn for the sale barn to do with what they want. But the sale barn has no place to go with them. Or they'll put them in someone's trailer, tie them to a trailer, or take them out in the country, or to a state park and turn them loose. Slaughter in the U.S. humanely, under our inspection I think really needs to take place. When these horses are taken to other countries and there are horses from the U.S. that go to other countries for slaughter, and those plants are not necessarily inspected like our plants can be. I think if we can slaughter horses here it would provide another protein source worldwide, that that meat could be used for people like it has in the past. We can generate jobs for this country, which we seem to be in pretty short supply of right now, and also increasing tax revenue. You have people working, making money, they pay taxes. So there's a lot of good things that could come out of this. And probably the biggest one would be to decrease horses suffering from neglect and people who just can't afford to take care of them. Thank you. [LR229]

SENATOR CARLSON: Okay, thank you for your testimony. Any questions for Dr. Schumacher? Okay, thank you. [LR229]

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DON WESELY: (Exhibit 2) Mr. Chairman and members of the Ag Committee, I'm Don Wesely and I'm representing the Humane Society of the United States. And I won't be repeating much of what you've heard previously, so we have a different point of view on this issue. But we also see common ground. So we'd like to get to that point with you. The Humane Society of the United States has over 11 million members, 49,546 of them in the state of Nebraska. And the Humane Society of the United States has been very involved at the national level with stopping cruel and inhumane practice of horse slaughter. By the way, I'm not going to read, you don't have much time, so I'm going to try and summarize this and just leave the material for you to take a look at and then offer to work with you on the issue. There has been a stop to the funding for USDA inspectors which has, for the most part, stopped some of these, the three remaining plants that were out there that were slaughtering horses for human consumption. We do not see that as an option that we want to return to. We realize that the result of that is that we've got to deal with the horses that once went to those slaughterhouses and how we might more humanely find a solution to that. Senator Price, you were exactly right, that's...we have no opposition to euthanasia. There are other options out there. We know that we need to help work with these folks to find those options and make them possible for people to utilize. Our opposition is for the slaughter for human consumption. We just...that has not happened in America. The consumption is elsewhere. The product of those plants was sent to Europe, Japan and China. So Americans do not see horse slaughter and consumption as an option. And there is legislation pending in the Congress that's mentioned here. I don't know the exact status. I don't know, evidently there's a lot of support for it based on the testimony I received from the HSUS. But where it is and what might happen to it, who knows? I mean, who knows anything about what might happen in Congress. But evidently there is legislation pending. One of the things that's been talked about in terms of these plants, if you go to page 3 it talks about, horse slaughter does not provide any service to the community. One of the points there in the middle of that paragraph it says, USDA statistics show that 92.3 percent of all horses slaughtered are in good condition. So this thought that the old horse or, you know, the horse that's not able to do much anymore is sent off to a

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slaughterhouse, 92.3 percent aren't in that condition, they're in good condition. So the point is trying to find another home for them or if there isn't another home for them to humanely euthanize them. There actually was a Nebraska horse rescuer who's quoted at the bottom of that page 3 in Congressional testimony that talked about the fact that they tried to rescue horses. But because of these individuals buying, they're called killer buyers for slaughterhouses, the price went up to a point where they couldn't actually buy the horse and rescue it. So you can take a look at that quote. Also, this idea that this would be economic development for Nebraska to have a horse slaughter plant, if you look at page 4 and 5 and 6, onto page 7, you'll see the experience in those towns that did have horse slaughter plants was not a good situation. There was a lot of problems, environmental and otherwise. And these towns that had these plants wanted to see them shut down. They did not support their continuation. They are not an economic solution to any problems we may have with our economy. And so I definitely think it's a very bad idea to talk about setting up a horse slaughter plant in Nebraska. There is some other information here that indicates that though there have been changes, the horse slaughter figures are down only slightly, this says 7 percent in 2008. The auctions are still seeing brisk sales at least across the country. I'm not sure about Nebraska. They did find and California did ban horse slaughter in 1998 and experienced no rise in horse cruelty cases, but did document a 34 percent drop in horse theft, as people were stealing horses to then sell them to slaughter houses. Let me just skip over the rest of it and tell you that we understand that there's a problem, what do we do with these horses now that the slaughterhouse option is not there. And HSUS stands ready to work with this committee and the others who have testified who obviously care about horses, the veterinarians obviously do, the owners of horses do, we do. We should be able to find a common ground and figure out what we can do short of having a slaughterhouse here in Nebraska. So we stand ready to work with you on the issue.

[LR229]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Senator Wesely? Senator Dubas. [LR229]

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SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Wesely, for being here. I guess, I'm going to have maybe a two-pronged type question. While I think most citizens in the United States aren't inclined to want to eat horse meat, there are segments of the population, maybe not necessarily in the United States but abroad that do it. [LR229]

DON WESELY: Oh, yeah. [LR229]

SENATOR DUBAS: And I don't think it's in our purview to judge what they do or they don't eat. So, obviously, there's a market for... [LR229]

DON WESELY: Oh, yeah. [LR229]

SENATOR DUBAS: ...horse meat. As a farmer/rancher and someone who has a small business where I sell my beef products and my pork products to consumers, and I have to go through a USDA inspected facility where there is an inspector on...everything has to meet certain standards. I'm very concerned with the direction that we're going as far as banning the slaughter of horses. Are we taking another step towards, well, we don't like the way beef animals are slaughtered, or we don't like the way pork are slaughtered. I'm very concerned about the direction that this type, these type of legislation is taking us. So I'd appreciate your comment on that. [LR229]

DON WESELY: I think there are some issues out there about treatment of farm animals that have been raised in other states. But in the end, there is an understanding that there is a tradition of the consumption of that type of meat here. And there's no objection to ultimately that continuing into the future. And so I don't see this as a domino thing that leads to other type of farm animals not being allowed to be slaughtered and consumed in this country or anywhere else. [LR229]

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SENATOR DUBAS: I guess, I'll back up again towards that there is a market for horse meat, even if it's not something we are necessarily inclined to agree with. Is your organization at all inclined to think are there ways that we can supply that market in a humane fashion? [LR229]

DON WESELY: No. I think they are very opposed to the idea of horses being slaughtered and consumed, whether it's here or anywhere else in the world. [LR229]

SENATOR DUBAS: Thank you. [LR229]

SENATOR CARLSON: Senator Price. [LR229]

SENATOR PRICE: Yes. Thank you, Senator. I have a quick question for you. What about the option that was presented using the rendered meat or the slaughtered meat for zoo consumption. [LR229]

DON WESELY: I guess, I had not heard that before. I don't know if that's an issue or not. [LR229]

SENATOR PRICE: Because, I guess, that hinges on, you know, if it's the euthanasia of a horse based on a medical prescribed necessity, all right. And we've already seen testimony today that that runs a gamut, you know, from a horse has a tendon versus and an injury, they're unsafe, even though they're capable of living a longer life versus those who obviously can't. And the word "slaughter," as I brought up in the very beginning, slaughter again denotes that you're going to have an asset resolved versus a liability. And if you're going to...are they quite hung up on the word "slaughter" or put down? That's really what I come to grips with. And what we're doing with the end product. [LR229]

DON WESELY: Yeah. [LR229]

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SENATOR PRICE: Because I think there's some middle ground so to speak here that we're not exploring enough. [LR229]

DON WESELY: Well, that's what I'm suggesting is we're willing to try and see if there is a middle ground. And the rendering issue is one I wasn't familiar with. So I will certainly see if that's something that is acceptable. [LR229]

SENATOR PRICE: All right, thank you. [LR229]

SENATOR CARLSON: Senator Council. [LR229]

SENATOR COUNCIL: Yes. Thank you, Senator Carlson. And thank you, Mr. Wesely, for your testimony and providing it in writing as well. But Senator Price was getting to one of the questions that I had. And, I believe, you were present when I asked the earlier question about whether we were using the term "rendering facility" and "slaughterhouse" interchangeably. Because as I was hearing the testimony, I was hearing rendering house as an option for the disposal of a carcass. And that a slaughterhouse is a live animal is taken for purpose of basically preparing that meat for consumption. And I definitely see the distinction. And I definitely understand the disagreement on whether slaughterhouse, under that definition is appropriate. But, I guess, I'm looking more at the rendering situation. And one of the reasons I stepped out was to take a text message. It's my understanding that there currently are no rendering facilities in Nebraska. And I don't... [LR229]

SENATOR PRICE: I can attest that there's one outside of Bellevue, south of Bellevue. We smell it on occasion. (Laughter) Correct? [LR229]

_____: Yes. [LR229]

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SENATOR PRICE: Thank you. [LR229]

SENATOR COUNCIL: All right. And then, I guess, that's the issue for me is to try to find...I mean, if animals that are near death or horses who are near death or who have died are sent to rendering plants...and that's what I'm having trouble with. I mean, you don't run a facility if you don't make a profit. [LR229]

DON WESELY: Right. [LR229]

SENATOR COUNCIL: So there obviously are some uses that aren't human consumption but there are some uses for the renderings from a horse. So, I mean, the question I have is, then that middle ground, are we looking at some humane option that doesn't involve slaughtering the animal for human consumption but a humane way of arriving at the ultimate outcome, which is some use of the renderings? What does your organization... [LR229]

DON WESELY: I think that is a possibility. If you look on page 10 of the handout, we do on 9 and 10 list some options, some resources in Nebraska. There's a listing of some rendering carcass disposal. There's one in Bellevue, and maybe it's not a complete list. But obviously, that's one of the options they were suggesting that be looked at. So it seems to me that we might have something we can work on there. [LR229]

SENATOR COUNCIL: Thank you. [LR229]

SENATOR CARLSON: Senator Price. [LR229]

SENATOR PRICE: If I may just for a minute, for Senator Council's benefit. Because of the rendering plant by Bellevue, I decided to take on a study of what is a rendering plant, why does it exist. They're incredibly crucial to our industry, our agriculture and our meat industry. You know, there's only so much of a carcass you can use for meat, the

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rest of it goes to a rendering plant. There's a tremendous amount of that. So that happens. That's a facet of it. Another facet is all these deer that get hit on the road, animals that die, a veterinary...they can't mix, as we said it before, because the medications are basically a type poison. But there are end products from all of this that are used in different ways, whether it be for feed, to fertilizer, to multiple things. And I believe what we see here is the percentage of horses that die of a natural cause or, you know, from getting run over is small and most of it being put down. And then you've introduced chemicals into their bodies and therefore they become basically the lowest possible use. They can do it, but you pay to put it down, you pay to get rid of it. And that makes up the majority of the animals in question. If that helps at all. [LR229]

SENATOR CARLSON: Okay. Thank you. I have a follow up question of Senator Council. Because you've indicated that you think you feel like the U.S. Humane Society and having listed these rendering plants here, as the (microphone malfunction)...often get diseased animals. And for that reason (microphone malfunction)...having much use other than the parts that would not be for human consumption. But if we talk about the difference between human consumption and just the treatment of a rendering plant, if you have an animal that's old, not getting along well, not diseased, (microphone malfunction)...value there as meat, but because your organization is against that, you'd rather see that animal euthanized. In doing so the meat is no longer of any value. Isn't that a waste of natural resources, renewable resources? [LR229]

DON WESELY: Well, I think it comes back to the humaneness issue and the transportation and the actual killing of the animal. Though the horse isn't in the slaughterhouse, it's just the feeling that that isn't an appropriate way to move forward. Euthanasia is a humane way to end the life of a horse or another animal. So I think that's their point. But I am...the rendering issue did not come up and I don't know the answer to that. But just as I've been listening it seems to me worth pursuing if that might be a way to deal with this. And then there are other ideas, too, they may have that we talk about here that we need to find some solution to, because there is a problem, we

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recognize that. [LR229]

SENATOR CARLSON: Okay. Senator Karpisek. [LR229]

SENATOR KARPISEK: Thank you, Senator Carlson. Senator Wesely, I'm not going to pick on you but I'm going to pick on the association here a little bit. [LR229]

DON WESELY: Thank you. [LR229]

SENATOR KARPISEK: (Laugh) You know it talks about this one plant, how bad it is for the economy. There is, on page 4, 500 horses a week slaughtered and discharge approximately 13,000 gallons of wastewater per day. Farmland is about six miles away from me and I think they use about a million gallons of water a day. So, I mean, let's put it in context, it's just slaughter, it's the same thing. So, I mean, just some of these things are...it's not only about horse slaughter. The other part is the beef and pork industry that, I agree with Senator Dubas, how...where do we draw the line here? The other part about the rendering is fine if the animal is dead. And I agree that we need to get it there. But I don't know why rendering plants don't take them, won't take them. I know for awhile, when I was still in business, they wouldn't take deer carcass because of chronic wasting was a concern. I don't know what the deal is with the horses. However, if you have a horse that's right on the edge of death and I think if you euthanize it that might be...I don't know that they would take it. I don't know that they could use it. I don't know. We'll have to find more out again. [LR229]

DON WESELY: I don't know. [LR229]

SENATOR KARPISEK: So I think that does help if they take it, but you've still got all these horses that, I mean, unless they're dead they're not going to go to the rendering plant. You don't load them up on the truck and take them to the rendering plant and knock them off. [LR229]

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DON WESELY: No, no. [LR229]

SENATOR KARPISEK: So I had the same question as Senator Price about the zoo meat. I understand, I don't really...I've eaten a lot of different animals. And I suppose I'd try horse, but I'm not...a road-kill cafe. But I'm not that excited about it either. But I do think we need to do...there has to be something that we can do in between. I mean, I'm glad to hear that you're trying to think of things. The rendering, I didn't realize, I know it's tough anymore to get rendering plants to come out and pick up cattle. And they charge. It used to be that they'd pay you. When I first...when my grandma had my business, I think they paid 2 cents a pound for scrap, you know, when you bone out meat. When I took over, I got half a penny a pound, and at the end I was paying \$10 a month for them to pick the stuff up. So That's an issue, how does all that work. But I think we do need to look into that. But I would just like to say, let's not just call these guys bad actors because we all use water in slaughterhouses. And it's not a pretty thing to go watch. But (microphone malfunction). Thank you. [LR229]

SENATOR CARLSON: Okay. Any other questions? Yes, Senator Louden. [LR229]

SENATOR LOUDEN: Senator Carlson, (microphone malfunction). Thank you for bringing the Humane Society's proposals forward, Don. I guess, I can't resist asking you if you know more about horses than you do about pigs. [LR229]

DON WESELY: Not really. (Laugh) [LR229]

SENATOR LOUDEN: But we'll go from there. On page 3 you said, you know, they oppose the practice of horse slaughter in the United States because it flies in the face of common sense, public safety, and decency. Well, actually the Humane Society opposes slaughter of livestock or anything else, don't they? [LR229]

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DON WESELY: Oh no, no. [LR229]

SENATOR LOUDEN: They haven't come out against the slaughter plants? Then how come they're always the ones that are in here with these candid cameras in some of these slaughter plants, trying to find ways that they can shut them down? [LR229]

DON WESELY: I think they're looking for like downer livestock and some of those practices. But overall they recognize... [LR229]

SENATOR LOUDEN: But your downer livestock are usually controlled by USDA inspectors, I mean, they don't allow that in there anyway. [LR229]

DON WESELY: It's supposed to be, yeah. [LR229]

SENATOR LOUDEN: I'm wondering why you talk about horse slaughter flies in the face of common sense, public safety, and decency. Now, can you explain any one of those or all three of them? [LR229]

DON WESELY: Well, yeah, there are other alternatives we have not developed as we should to not have...to look at horse slaughter as the way to deal with horses that are unwanted. [LR229]

SENATOR LOUDEN: Now is that the common sense part? [LR229]

DON WESELY: I think so, yeah. It should be the last resort. And I think everybody agrees to that. But our feeling is it shouldn't be a resort at all because then people turn to that when there are other things that are better to deal with that. But we're not there yet because the slaughterhouses have been out there. [LR229]

SENATOR LOUDEN: Well, what about your, when you say common sense, what about

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this? This was a viable export market we had of a natural resource that we have in western Nebraska or, well, all of Nebraska, and in the United States. And we've done away with that resource. Now we've shipped all of those jobs to Mexico or Canada because we don't allow slaughtering horses for human consumption, and yet that is a food animal around. I mean, you get overseas there, and I've had some information on that. They eat the donkeys, they eat all of it, you know, goat and everything else. So why was it you singled out horses, that you don't want them slaughtered for human consumption? [LR229]

DON WESELY: I think just that's the American perspective is that horses aren't for slaughter and consumption. And there are other countries that see it differently and I understand that, but the preference of most Americans is that that not happen, so. [LR229]

SENATOR LOUDEN: When I grew up around homesteaders out there, yeah, clear up into the '20s and probably into the '30s that was common practice, horse meat in the United States. [LR229]

DON WESELY: Is that right? [LR229]

SENATOR LOUDEN: And even it was sold in some of the stores in the United States up until this ban came about. So I mean this is something that I think you've had some Hollywood people come out there and get on a band wagon and now we've got somebody in the Congress. Then we get onto when you say that 93 percent of USDA statistics show that all horses slaughtered are in good condition. If there haven't been any slaughtered for, what, since 2006 or before, where do they come up with these statistics? I mean, in other words, 92 percent of those horses that were slaughtered--that was on page 3 also--that was evidently...that was some kind of trade goods or a commodity that was being sold and if they were in good shape, so they were sound horses being used in the food supply, whether it's zoo meat or whether it was

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human consumption or whatever. And yet your organization is opposed to that? [LR229]

DON WESELY: Yes. I could find out when that statistic was found. I don't know the year or the circumstance, but. [LR229]

SENATOR LOUDEN: And then I think Senator Karpisek mentioned about on page 4 where you talked about the 13,000 gallons of water in the cattle operation or the horse operation, but yeah, cattle operations. And if you looked around the United States for some of these little small slaughter houses that go on in different parts of the area...in fact, out in western Nebraska we've got several small private...they're not USDA inspected. In fact, we only have one USDA-inspected anymore. But I'm sure you could find some problems with them someplace along the line. So I hate to see testimony coming forward when you single some of them out. And just to get across that horse products for human consumption or for zoo meat or whatever isn't a viable situation, because like I say, we had that whole herd of horses out there in Morrill County that were starving to death. And when you go...well, turn off at Elm Creek and you go look and see what the Bureau of Land Management has that herd of horses out there for years there that they're feeding hay at the cost now. Can you tell me that those horses are happier (laugh) than they could be otherwise, they're in these pens, you know, because this give-away horse program BLM has doesn't work. I mean, you get rid of some of them, but, gee whiz, if you've ever broke about three wild horses you're not going to break very many more. I mean, you know, you've got to know what you're doing. And that's what happened to that guy south of Alliance. He thought he was going to be able to get those horses in there and break them and sell them and that was it. Well, it never happened. I mean, there's horses and then there's good horses, and there's a big difference between them. That's the reason you have your American Quarter Horse Association and stuff like that. You try to weed out them that will kick on the instant, you know, as soon as you walk by them or something like that. We call them kickers (inaudible), so. And then you said where they had to compete against killer buyers so that they were trying to rescue horses to go to these private places, I guess,

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to be rescued. Well, evidently those killer buyers, there must have been a viable business out there or they wouldn't be buying these horses. And so is your organization trying to do away with that business of horse business or horse meat business in the world? Is that what you're trying to do? [LR229]

DON WESELY: Well, not in the world, but certainly in terms of public policy in America, yeah. But there was a business, the killer buyers were buying for the slaughter houses, and that was not something we supported, so. [LR229]

SENATOR LOUDEN: Now at the present time that business isn't as viable, though, because you can't... [LR229]

DON WESELY: Right. [LR229]

SENATOR LOUDEN: I mean, when you go to these, they have horse sales, I think once a month or so, in Rushville or once every so often in Rushville, and they have to try and get them (inaudible) sold to do something with, and those horses are out there in a corral there for a month or more until something happens to get something done with them. And this is my question, is where you people are trying to go and what you intend to do? I mean, you can't just say, well, we can't kill any more horses, because we'll have horses grazing on the Capitol lawn here. [LR229]

DON WESELY: Well, I mean, we support the humane euthanasia, other options hopefully that we can look at. But again, you're right. I mean, there's a national policy that our group has taken a position on. But there are consequences, and we need to deal with those consequences and that means working on solutions. [LR229]

SENATOR LOUDEN: Thank you. [LR229]

SENATOR CARLSON: Senator Wesely, I've got another question here, because I

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asked another testifier to look back and come up with some verification on what her organization says about quarter horses. Would you see what you could find in U.S. Humane Society, because you indicated most Americans are against horse slaughter. So that's come about some way, and could you get that information to us as to how that decision came about and what kind of a survey it may have been and who was asked (inaudible)? [LR229]

DON WESELY: Fair enough. Yeah. Thank you. [LR229]

SENATOR CARLSON: Okay. Thank you for your testimony. Do we have anybody else that wishes to testify? And how many more people do we have? Two more. Okay. [LR229]

ROSS GARWOOD: (Exhibit 4) Good afternoon, Senator Carlson. I am Ross Garwood. That's R-o-s-s G-a-r-w-o-o-d. I'm a farmer and a beef producer from Amelia, Nebraska, and I currently serve on the Nebraska Farm Bureau state board of directors. I'm here today on behalf of the Nebraska Farm Bureau and offer comments on LR229 and also pass along our appreciation to Senator Dierks for bringing this issue of horse slaughter before the Agriculture Committee. I spent most of my life working with, raising and showing these animals--horses--and I understand the great emotion that surrounds horse ownership and the sense of connection that people can have with these animals. However, the action of the federal government to eliminate funding for federal inspection at horse slaughter facilities and with the unwanted horses that it is having, it is not only a nationwide impact but an impact here in Nebraska. If I could share with you a little bit my own personal experience with horses. And to let you know, I understand the emotions around this thing and Senator Dierks will back me up. (Inaudible) from the American Quarter Horse Association. My family, in I believe it was around 2000, received an award from the American Quarter Horse Association, my dad did posthumously after he was gone, for registering horses continuously for 50 years. Only four other people in the nation at that point had that record. Our horses have won state,

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national, and international competitions. I have a trophy sitting at my desk that my dad won that the Queen of England gave to one of our trainers as they were having an exhibition, and I believe it was in Quebec, and it was a cutting exhibition when I was a child, and our horse won and she gave this beautiful big trophy reminiscent of the crown jewels and all these things on it. That horse died on the way home. It got colic and died. I mean, the emotion surrounds that type of thing. I remember as a child it made an impact. Just recently, in the early 1980s, we had a horse qualify for the super horse of the world in Oklahoma City. My dad was extremely attached to that animal. That horse died on our place through an injury, a puncture wound in its side. It had an impact. You know, we understand what this is and why people are attached to these things. I really understand it. I've experienced it. However, I will tell you, even though I care about these animals, it's a horse and it's an animal, but people take precedence and I'm not ashamed to say that. I am an agriculturalist at heart and I believe we have a responsibility to feed our fellow human beings that are residing on this planet, even though I enjoy animals and so forth. So I am an agriculturalist. I see no problem with utilizing them in the safe harvesting and using that product for people, if not here, in other parts of the world. Previous testimony said that they're really just only concerned because only people outside of our borders participated in eating horse meat. I would suggest to you that in our other animal industries, in our cattle industry and our pork industry, many of parts of that carcass is that we try to totally utilize that carcass, are moved out of this country. Our population now does not eat many parts of that carcass like we used to: hearts, tails, stomachs, intestines, kidneys. We don't utilize that. And when we lost export markets, we saw the price of those animals drop considerably based on those things. So to say that we're not going to export something just because we don't eat it here really doesn't hold water because there are people in the world that are hungry and there are people that will utilize that. And I feel, as an agriculturalist raising something, that that's important to me. You have my testimony. There are parts there that I will not mention because they have been already mentioned. I would say that Farm Bureau has been opposed to the removal of dollars for the federal inspection program for horse slaughter facilities at the national level and we continue to oppose the

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Horse Slaughter Prevention Act that is pending in Congress that would attempt to prevent the movement of these animals to other countries for slaughter. Because this issue is national in scope, we recognize the options for action here at the state level may be somewhat limited. However, we do believe that there are some options for the committee to consider specific to horse slaughter and these options would include (1) examining the potential for horse slaughter on tribal land. Our member-adopted state policy supports an investigation of the potential for placement of horse slaughter facilities on tribal lands. We acknowledge there are many issues involved in the development of a horse slaughter facility on tribal lands, but the idea of developing an in-state horse processing industry is one that continues to circulate when horse slaughter is discussed and may warrant further discussion. (2) Collection of Nebraska-specific information on unwanted horses. Currently, there is no in-state mechanism or collection site that we are aware of working towards gathering more information on unwanted and abandoned horses in Nebraska. There may be value in establishing a mechanism where state-specific information about horse abandonments could be reported and documented. (3) Seek to influence national policy. Many states have gone the route of examining state resolutions encouraging Congress to defeat the pending federal legislation, which would only worsen the unwanted horse problem. Resolutions have already passed in Utah, Missouri, Wyoming, South Dakota, Arkansas, Georgia, and North Dakota. Arkansas and Missouri have also initiated resolutions calling for Congress to support the continuation of horse processing facilities in the United States, while South Dakota has established a resolution calling for USDA to reinstate and fund a federal inspection program governing horse slaughter and euthanasia facilities. And (4) has been covered; feel free to read that. (5) Create awareness about the impact of the animal rights movement. One of the frustrations in the elimination of horse slaughter for our members is not only the expanded costs and limited options for horse harvesting, but the fact that the entities who successfully advocated for the elimination of humane slaughter of horses has now created the unwanted horse problem and are now attempting to capitalize on the abandonment issue for the gain of their organization. The Humane Society of the United States has

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and continues to be a major advocate for the elimination of horse slaughter and is a major supporter of the horse slaughter legislation now before Congress. The advocacy of this organization has helped destroy the horse market while creating a potential epidemic of unwanted and abandoned horses. This same group is now engaged in a national marketing campaign seeking financial support to help rescue the abandoned and unwanted horses that exist as a direct result of their advocacy. In the public policy arena we raise this issue because it is important to note that the same national animal rights organization has also been the main sponsor of legislation and ballot initiatives that have worked to ban veterinary-approved farm animal care practices such as stalls in swine production and cages in egg laying facilities in numerous other states. Horse slaughter is the tip of the iceberg for the public policy objectives of this organization, and they have already attempted to establish a presence in Nebraska through their horse rescue efforts at the Three Strikes Ranch near Alliance, Nebraska. It is important that members of this body and the public at large better understand the implications of the policy actions of the ban on horse slaughter and the potential impacts that their policies advocated by the organization would have on the viability of Nebraska and America's food system. In closing, we appreciate the opportunity to come before the committee and share these comments and would be glad to work with the committee to proactively develop a strategy to address the many issues surrounding horse slaughter. I'd welcome your questions. [LR229]

SENATOR CARLSON: Okay. Thank you, Mr. Garwood. Senator Wallman. [LR229]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, thanks for coming. Regarding Native lands, is there a problem with the abandoned horses on reservations? [LR229]

ROSS GARWOOD: I don't believe there's a problem there probably more than any place else. I do know that working with some tribal issues on some other things, they do already have a mobile abattoir, and I don't know how many, but they can process a

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number of buffalo a day and they do it in the field. Of course, when you start talking processing horses, you know, I don't know what it would be like, and there's a lot of other things, developing markets, and so forth. But I don't know if there's any more of a problem. [LR229]

SENATOR WALLMAN: Does the USDA inspect there when they process buffalo, do you know? [LR229]

ROSS GARWOOD: No. [LR229]

SENATOR WALLMAN: Thank you. [LR229]

ROSS GARWOOD: That's specifically why they were doing buffalo. [LR229]

SENATOR WALLMAN: Thank you. [LR229]

SENATOR CARLSON: Senator Dierks. [LR229]

SENATOR DIERKS: Thank you, Senator Carlson. You know, I make it a policy not to ask questions about bills or resolutions that I've introduced. I want to make an exception today just to make a comment. I'm always looking for the perfect horse. I had two of them once. They were both out of a stud that Ross Garwood's dad owned. Outstanding gelding and mare, full brother and sister, and just...I'm still looking for one of those kind of horses. I just had to make that comment. [LR229]

ROSS GARWOOD: Thank you, Senator. [LR229]

SENATOR DIERKS: Ross is a great horseman and his dad was really a super horseman. [LR229]

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SENATOR CARLSON: Thank you. Senator Dubas. [LR229]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Garwood. Do you know if there is or if they have moved forward with a horse slaughter facility in Montana? [LR229]

ROSS GARWOOD: I do not know. [LR229]

SENATOR DUBAS: You don't know? I've been hearing some things... [LR229]

ROSS GARWOOD: I have too. [LR229]

SENATOR DUBAS: ...and I've received some e-mails and things. But I haven't... [LR229]

ROSS GARWOOD: Um-hum. [LR229]

SENATOR DUBAS: Okay. Thank you. [LR229]

SENATOR CARLSON: Any other questions? Thank you for your testimony. [LR229]

ROSS GARWOOD: Thank you. [LR229]

SENATOR CARLSON: And I think the last testifier on LR229 is coming forward. [LR229]

MICHAEL KELSEY: Good afternoon, Senator Carlson, members of the Agriculture Committee. My name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y, here on behalf of the Nebraska Cattlemen. I want to thank Senator Dierks for introducing this very important study, and obviously there's been a lot of very important comments. I won't belabor;

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many of the points we would make would have already been made. The impact of this legislation or types of, I should say philosophies--is a better word--has been very profound, but I would like to compliment Senator Dubas as well as Senator Karpisek and Senator Louden this afternoon for seeing beyond the impact that we're seeing now, because that impact is coming even further, and certainly Mr. Dierks understands that in introducing this so that we could have this discussion. The philosophies that have been presented are the foundation of these types of legislations: the philosophies of the use of animals for human consumption and the philosophies against that. A statement was made opposed to the slaughter for human consumption here or anywhere else, and that sums up that philosophy. So we're very concerned about that. We would urge the Legislature to support resolutions that would advocate that the federal bodies be very wary of these types of philosophies and protect the American people in terms of our ability to not only consume but have the ability to produce very high quality food, which we currently do. So with that I'll end the testimony and answer any questions if I could. [LR229]

SENATOR CARLSON: Okay. Thank you, Michael. Questions of Mr. Kelsey? Senator Price. [LR229]

SENATOR PRICE: Thank you, Senator Carlson, Mr. Kelsey. Just real quickly, did you see this effort with the ban on the slaughter of horses, predicated and based on the testimony we heard today, that it's actually just a movement closer to trying to have a livestock animal classified as a pet, a companion animal? [LR229]

MICHAEL KELSEY: In terms of statute, either state or federal? [LR229]

SENATOR PRICE: Yes. [LR229]

MICHAEL KELSEY: That would be possible, certainly, because...but I don't know if that would be a particular strategy that would be employed by those who have those

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philosophies. But those types of philosophies would do something to advocate that domestic livestock--meat animals, if you will--be treated the same as nondomestic livestock or nonmeat animals, and so...and in that case, that would ban the use or the slaughter of, the processing of those types of animals. So I don't know...to answer your question, I don't know if that would be a strategy that would be employed by those philosophies. It certainly might. But you've got to look at the end result. Very well-publicized philosophies are no animal use for humans whatsoever. That's a various and sundry organizations that have publicized those philosophies. If they use the strategy that you mentioned, they certainly might, and they might employ other strategies as well. [LR229]

SENATOR PRICE: All right. Thank you. [LR229]

SENATOR CARLSON: Okay. (Inaudible) Senator Council. [LR229]

SENATOR COUNCIL: Yes. Thank you, Senator Carlson, and thank you, Mr. Kelsey, for testifying. And I guess I'm trying to get at the root of the issue that's being debated here, because on one hand we talk about economic development and the allowing of slaughter facilities for horses, and on the other hand we talk about the ultimate objective being not to expand any prohibition on slaughter of livestock to cattle and pigs. And I see the distinction. I don't think there's any reason for anybody to be concerned about my position. I eat enough pork and beef to never be concerned about where I stand on the slaughtering of livestock. But when I see these resolutions passed in these other states on horse slaughter--and it may not be fair to ask you the question--but it appears that the genesis of those resolutions is to make it clear that we don't want to see any limitations on the slaughter of cattle and beef and pork, more so than to allow for the slaughtering of horses, because if there was slaughtering of horses in every state that's passed a resolution--Utah, Missouri, Wyoming, South Dakota, Arkansas, Georgia, and North Dakota, when there were only three plants that existed before--you know, where are these horses coming from? I mean, there are not 100,000 horses being abandoned.

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So I guess the point I'm making is that isn't the real issue here not so much whether or not the state of Nebraska should allow for the slaughtering of horses for consumption of meat, either here or abroad? That the issue is really not allowing the movement along that slippery slope towards banning the slaughter of beef and pork. [LR229]

MICHAEL KELSEY: That's a very good question and let me begin by saying thank you for your commitment to consumption of protein, at least the latter protein that you mentioned. I won't speak for the pork industry but... [LR229]

SENATOR COUNCIL: I eat beef and pork all day. [LR229]

MICHAEL KELSEY: And certainly I would say that I think you have a fair assessment, depending upon your own personal...either personal or organizational philosophy. We are very...the cattlemen are very concerned about the very slippery slope that this type of philosophy has proposed, and...but I would think the wisdom of Mr. Dierks' proposal is far beyond that, as well, in terms of how do we deal with these horses, these animals, as a result of this legislation. So certainly that's a very important piece of this, as well, but absolutely we're very concerned about the precedent that this is establishing and do not want to see it continue any farther. [LR229]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony. Any other testifiers? Okay. Thank you. With that, we conclude the interim hearing on LR229 and will proceed with LR104. [LR229]

SENATOR COUNCIL: Mr. Chairman, would you entertain a break?

SENATOR CARLSON: Let's take a five-minute break.

SENATOR CARLSON: All right. We'll open our hearing on LR104, an interim study to examine mechanisms to mitigate marketing risks to producers and other grain market

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participants beyond those available under the Grain Dealer Act and the Grain Warehouse Act. And I might comment before we get started that apparently those of you that are listening and watching, the sound cuts in and out once in awhile. It's a problem that Chuck can take care of but not as we speak, so bear with us as best you can and we'll continue with our hearing today and let Chuck fix it for the next one. So, Rick Leonard, go ahead and open on LR104. [LR104]

RICK LEONARD: Thank you, Chairman Carlson and members of the committee. Again, Rick Leonard, L-e-o-n-a-r-d, research analyst for the Agriculture Committee. Just to provide a quick introductory statement here for the purposes of LR104. LR104 came about, probably two things. We had in response to a couple business failures of a warehouse and an ethanol plant, as well as the Public Service Commission had opened an investigative docket to seek input from the industry of whether there was interest in establishment of a grain indemnity fund in Nebraska. Indemnity funds are essentially publicly administered accounts into which producer premiums that are collected similarly to the checkoff assessments are deposited or alternatively probably operated much like an FDIC account insurance assessments that are collected from insured institutions. And accumulated funds and interest are then managed to indemnify storers and sellers of grain for losses incurred when a grain business fails and is unable to honor payment and the storage obligations. There are currently 14 states that have established grain indemnity funds. I have provided in the information provided to you prior to the hearings, it's in the packet and I think many of you have had a chance to review those, a summary of grain indemnity funds that are in operation in the 14 other states. And that was produced by the Association of American Warehouse Control Officials. Nebraska's grain laws do currently provide a level of protection to producers when dealing with licensed warehouses and dealers. Again, I've prepared in your packet a brief background of what the existing grain laws do. Nebraska law...I've attached a separate, an overview of the existing grain laws with description of those entities required to be licensed. Minimal financial performance are indicators of business soundness to be maintained. Nebraska law also requires licensees to be

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bonded or maintain security to the ultimate benefit of certain sellers and storers of grain. The amount of bond or other security maintained is also discussed in the attachment. The Grain Warehouse Act further authorizes the Public Service Commission to take title of the grain inventories when it intervenes to revoke a license or to close a facility and further declares that available grain inventories in the warehouse at the time of closure are first utilized to satisfy the claims of those that meet the definition of valid storer and owner. While these protections exist, business failures of grain entities have recently and historically resulted in significant losses to producers and sellers of grain. In your packet I've provided some material that provides some summary of failures...some business failures of grain and the resulting claims and ultimate losses that resulted at that time. I would take any questions, if you have any, and end with that. [LR104]

SENATOR CARLSON: Okay. Thank you, Rick. Any questions of Rick? Okay. Thank you. [LR104]

BRANDON HUNNICUTT: (Exhibit 1) Mr. Chairman and members of the Ag Committee, my name is Brandon Hunnicutt, B-r-a-n-d-o-n H-u-n-n-i-c-u-t-t. My family and I farm in the Giltner area and I currently serve as the president of the Nebraska Corn Growers Association. Our association appreciates the time to be here today to provide comment on an issue that many in the ag community have been working on the past year. Our organization and others have met with members of this committee, Public Service Commission representatives, and stakeholders to develop ideas and concepts based on a grain indemnity fund. Being a grassroots-based organization, we are guided by resolutions voted on by our members at our annual meeting, which develops our policy. A position which is currently in our policy book is directly related to our opposition to the proposal of a checkoff-funded grain indemnity fund. We are not able to support the use of a checkoff being used in any form than originally intended. During the discussion the past year, we have encountered other areas of concern with an indemnity fund. Granted, there are no established guidelines that we or others are working from at this point, so many of our concerns may be more in the unknown details. As part of the

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process that has taken place, several alternative ideas have been reviewed. Some ideas are widely supported, some have been dismissed. NeCGA would like to share with the committee a few thoughts that could be considered as a method to increased confidence in the grain marketing area. First, increase the bonding levels of dealers/warehouses licensed in Nebraska, bonding companies base rates on risk factors and act as another review source. Second, Public Service would be granted civil action authority, thus to work with troubled dealers in a more direct manner. Third, increase Public Service staff to include a CPA position to allow for more focused reviews based on financial position. Four, provide a producer education component to raise awareness on what protections are in place and the need for producer due diligence. These are general ideas that NeCGA would like to advance to be considered by the stakeholders. We are aware there are several more ideas that have been offered the past year and we would look forward to working with the committee, Public Service Commission and other groups, to consider and evaluate. Thank you for your time.

[LR104]

SENATOR CARLSON: Okay. Thank you, Brandon, for your testimony. Questions? I usually wait...no, don't close your book, Brandon. I'll let the committee members have their questions first. I underlined some things on your concerns down here, the bullet points: increase the bonding levels of dealers/warehouses licensed in Nebraska. And how possible do you think that is? And we may hear something on that from some other testifiers. [LR104]

BRANDON HUNNICUTT: You know, I think it's something that I'm not sure on how possible it is, but I think it's something that definitely needs to be looked at. I think we realize that the bonding levels aren't very high right now based on the size of elevators. You know, being out at Husker Harvest Days, we had a good discussion on that with the Public Service Commission, with the Co-op Council, myself, and Senator Carlson. So I think there's still some more to be done there. I don't know if it's possible but I think it's something that we need to look at. [LR104]

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SENATOR CARLSON: And I think it's important from the committee's viewpoint that companies that offer bonds, I don't think that we want to mandate that they increase what they offer as a bonding level. If they do it voluntarily, that would be fine, but...we would all like to see that if that were possible, but we don't want to mandate it. [LR104]

BRANDON HUNNICUTT: Correct. [LR104]

SENATOR CARLSON: Now in the next three bullet points--Public Service would be granted civil action authority, and then increase Public Service staff, and then provide a producer education component to raise awareness--I think these things are all good. They all three cost money. Where would that money come from? [LR104]

BRANDON HUNNICUTT: That's a good question. [LR104]

SENATOR CARLSON: I'm not putting you on the spot, but that...I mean, that's a fact. [LR104]

BRANDON HUNNICUTT: Right. And I think that's one of those things that we are still in discussion about. You know, we haven't, at least in our organization we haven't come to a full detailed description of the funding level of how we would go about funding it. The first thought was, okay, these are the ideas in place, these are what we think need to be done, and then now is there a way to go about doing it. But these are...well, I guess what we see as maybe...instead of funding it through an indemnity fund, there's got to be some way to do it and we would look at the ways to do that at a later stage. [LR104]

SENATOR CARLSON: Okay. Senator Council. [LR104]

SENATOR COUNCIL: Yes, thank you, Senator Carlson, and I apologize, Mr. Hunnicutt, that I wasn't present during your testimony. But I was just reading your testimony and

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the one question I had was with regard to the bullet point, "Public Service would be granted civil action authority, thus to work with troubled dealers in a more direct manner." As a lawyer, I look at civil action authority and I think, you know, the ability to initiate some kind of proceeding against a troubled dealer. Is that what you're talking about? And I guess if they're troubled, you know, what would the expectation be, any kind of recovery or remedy in that situation? [LR104]

BRANDON HUNNICUTT: Yeah, that's a good question. I think not really looking at my understanding is, is not really looking at a civil action, so to speak, where we, you know, take them to court. But more in the manner of...as dealers get into trouble and we look into that, just looking at ways to handle it better, because, you know, sometimes, as Mr. Leonard brought up, you know, the two big things that have brought this about was VeraSun and Alvo. And so we need to find a way to really work with these guys in a better manner, and that's kind of our point. You know, we weren't really looking at some sort of civil lawsuit, so to speak. [LR104]

SENATOR COUNCIL: (Inaudible) are you looking at more regulatory authority or more...? [LR104]

BRANDON HUNNICUTT: I would think that would probably ultimately be where it is, is if that if there's somebody that's more getting into deeper trouble, then there would be a way to regulate it better, or maybe they would be under more scrutiny as part of the education component. Part of it would be...one area we had talked about was that, looking at it, that if there is a elevator, grain dealer, whoever it is, that's in trouble, that there would be some sort of posting on it, as well, you know, maybe like you do in a restaurant, and say, hey, this place is unsafe. Maybe the same thing with an elevator, so to speak, is that, hey, you may want to be careful doing business here because we have discovered that they are, in fact, having some troubles financially or so forth. [LR104]

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SENATOR COUNCIL: Okay. And maybe that gets to the other part of my question. Currently, are there any practices, policies, procedures in effect in terms of the dealers having to report on a periodic basis, their condition? [LR104]

BRANDON HUNNICUTT: That I'm not sure of. I'm sure one of my other fellow testifiers will be able to testify better to that. [LR104]

SENATOR COUNCIL: Okay, because, I mean, if there's no requirement in place right now to give periodic reports of financial condition, I mean, the time at which you're going to find out that they're in trouble is probably at a time where it's too late to do anything about it. [LR104]

BRANDON HUNNICUTT: And I think that's a lot of times what ends up happening is that, you know, it ends up...you do have some of those, whether it's an annual meeting or whatever, you have an idea maybe what their financial position is, but a lot of times it comes about too late, whether it's due to fraud or maybe just poor business practices. [LR104]

SENATOR COUNCIL: Thank you. [LR104]

SENATOR CARLSON: Senator Dubas. [LR104]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Hunnicutt. I especially appreciated your fourth bullet point about an educational campaign or a component. And I think that's something that can be done very easily, just through the number of ag associations and groups that we have, bankers, etcetera, etcetera. I mean, as a producer myself, I learned a lot after the VeraSun bankruptcy about just exactly what rights farmers and producers have when it comes to marketing their grains. And I learned about the bonding, and I think many of us were under that assumption that, well, they're bonded and so we're going to be okay. And so I think, you know, we just

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traditionally we just want to go out and plant our crops and harvest them and sell them and be done with that. But there's so much more that we really need to become heavily involved in and understand. And we're not price makers; we're price takers. And so often...we use the tools that are available to us, so we'll use the forward contracts, we'll use the hedge-to-arrive. We'll use a lot of different things. But I'm kind of thinking that, you know, we're either working with reputable firms or that there's some protections in place if things fall apart and we're going to be okay. I think many of us discovered that really we're at the bottom of the totem pole when it comes to if things fall apart, you know, what options do we have. So I think that is really a critical, key component that I think we can do fairly easily, is to help those of us who are producers really understand just how fragile the marketplace is and really our rights are pretty limited, and so we need to take as many precautions as we can when we get out there. So I hope that's something that the various organizations will pursue in educating its membership, because I think that's really important. [LR104]

BRANDON HUNNICUTT: I appreciate those comments and I'll make sure we bring that up because I do think that's probably the easiest thing, I agree with you, is that we can go out there and educate our fellow farmers of what actually is their responsibility and what might be the elevator's responsibility, and if you enter into certain contracts, why they may or may not be paid, or whatever the component might be. [LR104]

SENATOR DUBAS: Thank you very much. [LR104]

SENATOR CARLSON: Senator Price. [LR104]

SENATOR PRICE: Senator Carlson, thank you. Mr. Hunnicutt, thank you for your testimony and coming today. In listening to my peers ask questions and listening, a couple questions come to my mind. First and foremost is defining the universe of problems within the natural market, if you would. How many grain elevators...and I look back through Mr. Leonard's information, it seems about once every five years, three

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years, we have a failure. I mean, that's no exact number, but of the total market in any given year, over a period of years, what does one failure represent as a percentage of that total market? The reason I'm asking this question is are we fixing...not to diminish the impact of those people who had grain in that elevator, okay, where it was being stored, but in the total market are we trying to fix a problem that is 3 percent of the market, 2 percent of the market, or 30 percent of the market? So that's one question I have there. Because then you're looking at their return on investment, okay, when we talk about you said, you know, we want to do the checkoff dollars used in any other way. So that's one thing. And then the second part, when we talk about poor business decisions. And Senator Council was asking about, you know, you can call Dun and Bradstreet or you can call your Better Business Bureau and get a rating on an elevator, you know. Obviously that doesn't seem to be something that's done today, and correct me if I'm wrong, but it was my understanding that the volatility of the market, of itself, could cause someone to be in trouble in a hurry. That if you went and put your grain in, and at the end of the year now sometime in January or February something could change. You had no control, if you had called up and checked on their rating. So to give the degree of monitoring that you would need to cover the volatility of the market--in a world-driven market, mind you--would require a lot, a lot of regulation and a lot of inspection above and beyond what we do today. So again, the two parts of the question are, you know, what is the total size of the problem compared to the market, and, you know, how much regulation are you looking at to contend with the volatility of the market? [LR104]

BRANDON HUNNICUTT: Well, I think for the first question, the total size. You know, obviously that would be dependent upon, if we're talking an elevator, which elevator we're talking about. You know, if it's one of the big ones in Nebraska, the four or five that are really, really large, yeah, it could be significant bushels maybe specifically in a certain area. But I think overall, as you've alluded to, is that there haven't been a whole lot of elevator failures. The ones that have failed have affected those people greatly in that community at times. You know, the VeraSun thing was a localized event where the

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VeraSun plants were located, but again it affected the people. Overall, in the scheme of things, I don't think it's a large number and that's where some of our concern came in, is that, okay, are we trying to fix a small problem in a big way and is that something we really need to be looking at, at this time? As far as the regulations, again we'd have to look more into that. You might be talking a lot of regulations, you might not. I'm probably not the qualified one to answer that question at this time without doing a little more research for you. [LR104]

SENATOR PRICE: Well, I'm hoping it would set that question up for those who would come after you, particularly like you said, if we're trying to get a fly we might not want to use a sawed-off shotgun, you know, is one thing. And the other part is, it's not so much the regulation that concerns me; it's the amount of monitoring. You'd have to send people on a regular basis to look at the books of that grain elevator, the deals they've entered into, the price and the market where it's fluctuating. So it's more about the time on station, time on target that can be required of someone who was examining. So thank you very much. [LR104]

SENATOR CARLSON: Any other questions? [LR104]

BRANDON HUNNICUTT: Thank you. [LR104]

MARK McHARGUE: (Exhibit 2) Good afternoon, Senator Carlson and members of the Agriculture Committee. My name is Mark McHargue, M-a-r-k M-c-H-a-r-g-u-e. I'm a farmer from Central City, where I raise hogs, corn, and popcorn. I'm a member of Nebraska Farm Bureau's state board of directors and I'm here today on behalf of Nebraska Farm Bureau. Thank you for your opportunity to weigh in on these issues. As you know, last year's closing of the elevator in Alvo, VeraSun's ethanol bankruptcy, and the volatility in the grain market led to questions on the adequacy of protections afforded farmers when marketing grain. Experience suggests that the current regulatory programs of the PSC licensure and bonding of dealers and warehouses have been

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reasonably successful in presenting significant loss to farmers. Since 1992, 12 licensed facilities have been closed, and only a few of these have had significant farmer losses occurred. Partly as a result of last year's market happenings and financial failures, several policy resolutions were discussed during our Farm Bureau policy process last year relevant to creating a grain indemnity fund. A thorough discussion was had, and our members voted to stand on current Farm Bureau policy which does not support a grain indemnity fund. Concerns with funding an indemnity fund with a checkoff and a view that farmers need to take personal responsibility to make sure the entities they do business with are financially sound were raised as arguments against the fund. This summer, Nebraska Farm Bureau created a working group consisting of members from across the state to further discuss the issue. I served as the chair. The working group spoke with John Fecht of the Public Service Commission to learn more about the existing law and regulations in Nebraska. It also spoke of the representatives from Farm Bureaus in Illinois and Michigan to learn more about grain insurance programs in their respective states. The working group had a wide range of discussions and spent a considerable amount of time discussing the risks farmers face in today's markets. Interestingly, the members of the working group questioned whether a farmer's risk of not being paid for delivered grain was the biggest risk faced by farmers. Rather, members suggested the greater risk for producers is forward contracts. The reneging or failure to meet obligations on forward contracts, either through bankruptcy or closings, can severely disrupt farmers' marketing and financial plans. In the end, the members of the working group questioned the need for a grain indemnity fund. Instead, the working group in its recommendations to our legislative committee suggests exploring alternative means to enhance current law and PSC authority. Specific ideas included greater transparency for farmers concerning the financial health of licensed purchasers, additional PSC staff, staff with expertise in financial audits or grain risk management, and providing PSC additional authorities to examine risk management strategies. The group also thought Senator Carlson's idea concerning a voluntarily, private insurance product to offer protection to farmers is worthy of further exploration. These recommendations will be considered by our legislative committee this fall. Given this

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background, Nebraska Farm Bureau respectfully offers three suggestions to the Agriculture Committee on how to proceed on this issue. (1) Continue efforts to increase farmer awareness of existing laws and protections when marketing commodities; (2) seek more input and study alternative means to improving the existing regulatory structures; and (3), continue ongoing discussions between parties on the means or mechanisms that producers would have available to protect themselves outside of PSC regulation. Once again, thank you for the opportunity to comment on these issues. I'd be happy to answer any questions. [LR104]

SENATOR CARLSON: Okay. Thank you, Mark, for your testimony. Senator Price. [LR104]

SENATOR PRICE: Thank you, Senator Carlson. Sir, just real quick--and you may not have the answer to this and that's fine--but if they were to do the checkoff, how much money would be raised, do you think? Did you organize this and look at the pool of funds that could be...that would be raised if it were mandated? [LR104]

MARK McHARGUE: Well, I think it would be limitless on how much you decided to put on the checkoff. I mean, if you wanted to raise X amount of dollars and you decided to put on a certain amount of checkoff to raise those funds, I think we felt like that wasn't the means...that wasn't the purpose of the checkoff and we don't think we needed to raise nearly that much money to do that. [LR104]

SENATOR PRICE: So you didn't...your organization didn't go to any what-if games, like if the Legislature did this at what threshold would our pain be unbearable versus...you just said right off the get-go, we're not going to explore it? [LR104]

MARK McHARGUE: Oh, no. We looked at several funding. I mean, there was talk about a \$25 million fund, how much that would take. We, through our working group, decided that that was probably way too much, given the current losses that we have already

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experienced. So probably, you know, really in the realm of \$2 million, \$3 million, \$4 million, was probably going to be enough. But there again, probably the checkoff wasn't the place to raise those funds. [LR104]

SENATOR PRICE: Okay. Thank you. [LR104]

SENATOR CARLSON: Okay. Other questions? I think that I understand, clearly, with in talking to several of you, that the word "checkoff" is about as scary as healthcare reform to most of us. And so I'm in agreement that's not a way to go, and but I appreciate the discussion and your bringing up your feelings and then indicating that a voluntary private product, if one were available, you'd like some more discussion and interest on. And certainly that's the direction that I'm interested, if possible. Any other questions? Yes, Senator Council. [LR104]

SENATOR COUNCIL: Just a comment. Thank you, Mr. McHargue. I mean I really want to commend the Farm Bureau on their thoroughness in examining the situation. And in terms of the suggestions that have been made by the bureau to the committee, I mean these are the areas where we have to look. I mean, quite frankly, based upon all of the information I have, it's...we have the existing laws and protections. We need to be sure that everyone is aware of them. But I think one of the things that I hear coming out of both, to some degree Mr. Hunnicutt's testimony and the recommendations, is that the answer doesn't lie in more regulation. The answer lies in individual responsibility for taking the necessary precautions. And if that means the development of a private insurance product as a means, because clearly if the issue, if the problem is as broad as it is represented to be and there are that many individuals who need that level of protection, believe me, the market will respond with a product that is a premium that's reasonably based and affordable. If it's not, then that's when you're going to see a product that is going to be beyond anyone's financial ability to access, and then you'd have to look at what do you do in that situation. [LR104]

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MARK McHARGUE: Right. You know, in studying all this, it seemed like it just really distilled down to it's probably not as big an issue as we thought it was. I live right across from a VeraSun plant, and you really get into it and we came up with, you know, we already had things in place. We need education and maybe let's try to beef up what we already have in place and deal with this problem. [LR104]

SENATOR COUNCIL: Again, thank you. [LR104]

SENATOR CARLSON: Any other questions? Let me ask you, like I did Brandon, because the things that you mentioned here, greater transparency indicating the financial health of licensed purchasers; and then additional PSC staff, staff with expertise in financial audits; providing PSC additional authorities to examine risk management strategies. Realistically, the source of dollars to provide this would be from producers, dealers, licensed warehouses, state General Funds. What do you like best and what do you like least? [LR104]

MARK McHARGUE: Well, I think the bottom line for us, as Farm Bureau, we're always concerned on costing the producer more money. We're in tight margins anyway. The PSC has already given oversight. It's funded already by the General Fund, as I understand. So the question is, just can we help them do a little bit better job? We kind of have...it seems like we have a consensus that there's been a little bit of, not of failure, but people wish that if we're going to do something, you know, we already have something that's already working, can we put a different staff person in there or maybe change it a little it that has a little more knowledge on the grain industry? Realistically, I don't think we can afford to hire a bunch more staff. Can somehow we do it more effectively? Can we do it...expedite it better? Can we do it...have the...there was some talk that put it up on their Web of what they already...they're out there, you know, once a year. Put their information up on the Web so somebody can go to it and say, I'm going to sell to this person: How are they doing, what was their last status? [LR104]

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SENATOR CARLSON: Okay. Thank you. [LR104]

ROCKY WEBER: (Exhibit 3) Senator Carlson, members of the committee, my name is Rocky Weber, R-o-c-k-y W-e-b-e-r. I'm a lawyer with Crosby Guenzel LLP, here in Lincoln, and I'm here today representing the Nebraska Cooperative Council. Mr. Andersen, the president of the Nebraska Cooperative Council, is present today, and he has prepared and signed a statement representing the position that the council has taken with regard to the matters under study with LR104. Approximately a year ago, the council, after speaking to the Public Service Commission, undertook to form a grain indemnity review committee amongst its own members and study the different aspects of the issues before the committee today. In March of 2009, in a full day of meetings, the committee heard from representatives of Illinois and Iowa, both in academics and the actual regulators of their grain indemnity funds, those people who were involved in forming the funds and amending the funds over the years. Steve Moline, the Iowa Attorney General's Office, was there to address issues with regard to the Iowa fund. There were other members of financial institutions and bonding institutions available, as well as farmer directors of our farmer-owned cooperatives and managers of those farmer-owned cooperatives. Since that time, that committee has met I think two, possibly three, additional times to review policies that they felt would work and not work. And I think the bottom line for the cooperatives is that a \$25 million indemnity fund or any indemnity fund is not the right answer to deal with the scope of the problem to the extent there is a problem in the state of Nebraska. I believe in your materials from Mr. Leonard you have a list of approximately 12 failures of both dealers and warehouses in the state of Nebraska, dating back to 1992. Of those, there are five that there were losses that were paid out on, out of the 12, and then in only four of those were those losses significant. I believe--and John is here from...John Fecht from the Public Service Commission is here--but I believe in almost all of those instances the losses came on the grain dealer side and not the grain warehouse side. So as losses in grain that had been delivered and not yet paid for or farmers had been paid but had not negotiated the checks, but that's where the losses came, and not in the stored grain area. So I believe,

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number one, to the extent Senator Price, there's a problem, I believe the problem with regard to the billions of bushels of grain sold, stored, and contracted in Nebraska each year is a very small problem. Secondly, to the extent there is a problem, it seems to be more on the dealer side than on the grain warehouse side. The other distinction I want to make is that we have a grain dealer law regulating licensees, and we have a grain warehouse law regulating those licensees for storage of grain. Neither one of those regulatory efforts cover forward sale contracts like that were at issue with the Aventine and VeraSun bankruptcies that took place in the last year, and rendered many contracts that farmers had with those companies void throughout the bankruptcy process. Those credit sale contracts are not part of anything that is regulated today in Nebraska. Iowa initially, when they set up their indemnity fund, chose to cover credit sales contracts. And in the course of a few short months, maybe the first year or two of the fund, realized that that risk was simply too great to cover and had to amend their fund to remove credit sale contracts from that fund. Whenever two parties do business there's going to be some risk involved in the relationship, and over the course of years I represent cooperatives. I get to represent people on the side or parties on the side of contracts where the producers have reneged on contracts, and this year we had situations where buyers, through bankruptcy, were not following through with contracts. To get back to the position of the council just a little bit though, we have several bullet points, beginning on page 2 and going on to page 3, many of which have been discussed by the first two testifiers already today. First of all, the council believes the full scope audits required of all licensees is the beginning of showing financial responsibility and transparency. And certainly I have noticed, since the financial crisis of 2008, that CPAs and independent auditors are much more on target and much more searching and investigative in their audits this year than I've noticed in past year. I believe independent auditing has turned the corner and they believe now they have much more responsibility and greater risk to themselves and are doing a better job of auditing. I think independent audits can be the starting point as a requirement for transparency and determining whether or not the licensee has the necessary means and resources to conduct their business they're conducting. We believe that, secondly, within the

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statutory regulatory system, there could be a tiered series of licenses. You could have small licensees--Class A, Class B, Class C for larger licensees--and within that process have separate requirements for capitalization and borrowing requirements, so when we got into volatile times in the marketplace the Public Service Commission would have a greater ability to review and audit what's going on with certain categories of licensees to determine whether they've got the funds available to maintain their contracts, their purchases, and the business they have done through those periods of volatility. We believe a tiered licensing system with separate requirements would be helpful in that regard. We believe that reporting on a Web site and giving the commission the ability to report on licensees that they believe have questionable business practices and providing the Public Service Commission with the proper liability protection, as long as due process is available for licensees, would be an important tool to providing the public with the education and a resource that the public needs to look up at one place and see, is the Public Service Commission concerned about this licensee; what has the Public Service Commission done with regard to this licensee; is there any reason we need to be concerned. We believe that requiring periodic examination of certain licensees that don't meet certain requirements would be helpful throughout the year rather than just at times when licenses are up for renewal annually and new applications are filed for licenses. We also believe that the commission should have the authority to take civil action to enjoin those licensees who are violating the law, who are not living up to their financial obligations. There have been several instances in the last several years where small dealers were conducting business at great risk to those doing business with them. They were reported to the commission. The commission reported to the local county attorneys and asked them to look into it and prosecute. Local county attorneys have bigger fish to fry than small grain dealers being unlicensed and not conducting the business they should be conducting. I believe that legislation or regulatory changes that would give the Public Service Commission the same authority that the Department of Environmental Quality has to cite, to enjoin, to fine, would be helpful in terms of keeping--especially in the dealer area--keeping rogue dealers in line and protecting the public from those who do not have the wherewithal to do the business they're doing. As

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we move through this, we believe also that the commission should engage properly experienced persons in grain accounting and in financial accounting in order to assist the commission in its ongoing review of licensees. I guess, in summary, we believe that through some additional regulation and statutory changes, the public would be better educated. There would be more transparency and greater protection for the public to deal with the size and the scope of the problem that exists. Thank you. [LR104]

SENATOR CARLSON: Okay. Questions of Mr. Weber? Senator Wallman. [LR104]

SENATOR WALLMAN: Thank you, Senator Carlson. Yeah, thanks for coming, Mr. Weber. I used to be on an elevator board, also president of an elevator board. But also when grains go up, delayed pricing contracts, sometimes you have trouble farmers delivering it or they don't have the grain. And do you keep...does the Public Service keep track of those contracts, you know? If I do that, I've got to sign a contract. Would it be hedge-to-arrive or the delayed pricing? [LR104]

ROCKY WEBER: The Public Service does not get into the issue of whether or not producers are honoring their contracts, that they are not involved in those issues. [LR104]

SENATOR WALLMAN: Thank you. [LR104]

SENATOR CARLSON: Senator Council. [LR104]

SENATOR COUNCIL: Yes. Thank you, Mr. Weber, and again I wanted to comment on the information that you've provided to the committee is very thorough and I particularly wanted to make note of the fact of your discussion of what has occurred under the Iowa indemnity fund. And I think that that's pretty significant that if the greater problem appears to be the credit sales contracts, and establishing a grain indemnity fund didn't resolve that situation issue in Iowa, and in fact it resulted in the elimination of those

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occurrences from the coverage of the indemnity fund, clearly we need to be focusing on some other alternatives to address the issues. And I think that what has been outlined as suggestions and recommendations--and I appreciate your explanation of the type of civil action authority that you would be looking to provide the PSC so that we can give some consideration to whether or not that type of authority is warranted under these circumstances. So I just wanted to thank you for the breadth and depth of your presentation. [LR104]

SENATOR CARLSON: Other questions? Thank you for your testimony. [LR104]

ROCKY WEBER: Thank you. [LR104]

SENATOR CARLSON: How many people do we have wanting to testify? Okay, we've got about five. Okay. [LR104]

JIM STEWART: (Exhibit 4) Good afternoon, members of the Agriculture Committee. My name is Jim Stewart, J-i-m S-t-e-w-a-r-t. I'm a soybean producer from just south of Lincoln, in Lancaster County, and I currently serve as the secretary for the Nebraska Soybean Association. I'm here today to offer our comments on the study of LR104 to see if new risk management options should be available to producers, in particular the concept of a producer-funded indemnity program as a means to insure marketing transactions entered into by producers and other market participants. We believe that the producers' best risk management protection is to know who you are doing business with. The discussion of another producer-funded mandatory checkoff assessment for the establishment of a grain indemnity fund is not supported by the Nebraska Soybean Association. The topic has been discussed several times and we still have a lot of questions about it. Perhaps a stronger effort needs to be made on educating producers on the existing law and protections that are out there when producers do market their grain. The Soybean Association is certainly open to being involved in further discussions that may come forth on alternative ideas that can enhance the current law.

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And in closing, I'd like to thank Senator Carlson for his efforts in exploring this issue and we look forward to working with the committee in the future. Thank you. [LR104]

SENATOR CARLSON: Okay. Thank you. Questions? Yes, Senator Dubas. [LR104]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Stewart. You've not been the only one to make the comment about it's important that we know who we are doing business with, and that is important, but especially again we're talking forward contracts versus some of the other things. And oftentimes we may enter into a forward contract with one company who, before that grain gets delivered, may become another company or may, you know, there may have been a merger or a sale or whatever. And so while we think we're entering into an agreement in good faith with good knowledge about that company and the way it does business, it might not always end up being that way. And with the volatility of the markets and as quickly as things change, we just don't always have the opportunity to stay on top of things like we would like to. And no matter what, we are obligated under that contract to deliver our grains, and so it's...again, I think it's been pointed out very handily and very appropriately that the forward contracts may be where our greater issue lies with. So I just kind of wanted to follow up on that comment. But I do think it's important we know who do business with, but we don't always... [LR104]

JIM STEWART: It is important. But as you said, we never know. It may change hands. One elevator we work with a lot, that's what they go on: You know, look at our financials; we're solid, we're huge. When things got shaky, they cut back on forward contracts because of the margin calls. So they knew there were issues there and they took care of it before they had a problem. But there are no guarantees. [LR104]

SENATOR DUBAS: You bet. Thank you very much. [LR104]

SENATOR CARLSON: Okay. Other questions? Thank you for your testimony. [LR104]

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JIM STEWART: Thank you. [LR104]

TIM SCHRAM: (Exhibit 5) Good afternoon, Chairman Carlson and members of the Agriculture Committee. I am Commissioner Tim Schram of the Public Service Commission, representing the 3rd District. My name is spelled, first name T-i-m, last name S-c-h-r-a-m. Also with me today from the commission is executive director Mike Hybl and grain warehouse director John Fecht. I would also like to thank Senator Carlson and the Ag Committee for LR104 to look at the current grain industry today. As you are aware, the commission regulates Nebraska grain warehouses and grain dealers. All warehouses are required to post a warehouse bond in the amount not to exceed \$500,000 to protect the owners, depositors, and storers of grain within the warehouse. Additionally, grain dealers are required to maintain up to a \$300,000 bond to provide protection to producers selling their grain for a period of 30 days from the last date of delivery. The most recent warehouse closure in Alvo highlights the significant potential losses borne by producers in grain dealer transactions. The value of the approved grain dealer claims frequently exceeds the amount of the bond. Also, many grain dealer claims fall outside of the specific time limitations for bond coverage and receive no reimbursement. The commission opened an investigation into the establishment of an insurance fund to provide additional protection for grain transactions and sought comment from all interested parties. Additionally, the commission held two meetings with producers and various industry representatives. In the course of the investigations, we have compiled a listing of the types of protection available to grain producers in other states. I have provided that information for the benefit of the committee as an appendix to my written testimony. The most recent failure in Alvo resulted in over \$3.3 million in grain dealer claims. Of those, the total approved claims totaled \$2,407,422.88. The proceeds available for satisfaction of the approved claims was the \$300,000 bond which will provide a payment of only 12.4 cents per dollar of each approved claim. A list of warehouse failures and the claims involved is also attached as an appendix to my testimony. Due to the volume of grain

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involved, the size of the bond presents only limited protection to those who engage in dealer activity. The commission will continue to work to educate producers regarding the extent of the protection available. We are neutral as to whether additional protections should be put into place. And a few comments I have from listening to the previous testimony, just to give the committee some idea. Currently, in the state of Nebraska, the Public Service Commission has 95 warehouses licensed and there are 135 dealers licensed currently with the Public Service Commission. The commission has a staff of five full-time inspectors and one part-time inspector. The grain warehouses and dealers are required...the commission does do annual inspections and requires financial statements of the dealers and warehouses. Just some quick thoughts. In the event of Alvo, Alvo was a long-time established elevator. Their family, I believe, first licensed with the commission in 1958. And things happened very quickly, as the volatility of the market as we just heard. In the claims hearing that we held in June 2007, the bank testified that as of December 31, 2007, Alvo was in good standing with them financially, and the license was, both the dealer and the warehouse license, was surrendered on April 4, 2008. So that's how quickly things can change in the modern marketing schemes that we have today as far as hedges going long and short and the margin calls. They can put anyone out of business in very short fashion if they're on the wrong side of the Board of Trade. So that concludes my testimony. I'd be more than happy to answer any questions the committee may have. [LR104]

SENATOR CARLSON: Thank you, Mr. Schram. Senator Council. [LR104]

SENATOR COUNCIL: Yes, thank you, Senator Carlson. And thank you, Mr. Schram. I have a couple of questions, because one of the previous members of the public who testified talked about increasing bonding requirements, and you have given us a description of what had occurred in the Alvo situation. But earlier in your testimony you indicated that while the value of the approved grain dealer claims frequently exceed the amount of the bond, you also said many grain dealer claims fall outside of the specific time limitations for bond coverage and receive no reimbursement. Is it that they don't

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make the claim in time or that the purchase...the sale was made after a certain...?
That's what I'm trying to understand. [LR104]

TIM SCHRAM: In the regulations as they are today, once a producer delivers the commodity, they have 30 days to ask, from the last delivery, to ask for payment. If they have not demanded payment and the elevator fails, they fall outside the bond. They are not eligible to participate in the collection of their prorated share of the bond. In the case of Alvo and other--I've been on the commission three years--but just from previous failures, we had a couple in the case of Alvo where the producer either left the check, the warehouse or the dealer check...they gave them the check but they put it on the dash of their pickup or left it on their kitchen table, and anything beyond five days that check is no longer negotiable so those are some of the reasons they fell outside the claim. In the case of Alvo, there were 39 initial claims. And of the 39, 36 were approved. Three of them did fall outside the 30 days. And on the dealer's side, there were 52 initial claims. And of those 52, 40 claims were approved to share in the participation of the bond. [LR104]

SENATOR COUNCIL: Thank you. [LR104]

SENATOR CARLSON: Okay. Other questions? Senator Price. [LR104]

SENATOR PRICE: Senator Carlson, thank you. Commissioner Schram, thank you for your testimony and coming today. A couple questions I have. Has the commission looked at how other states handle this issue and looked at what you'd have to do to, based on what we see around us, how you would handle a change? [LR104]

TIM SCHRAM: Yes. We've done extensive research. Our staff has especially. And with the attachment you'll see there's a number of states that have various...it's really a mixed bag of what type of protection they offer. Some states only will insure direct sales. They don't get into what we'd call the futures contracts. And I think that's very

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important...that's a very key point is that in the case of Alvo, the dealer claims, as Mr. Weber stated earlier that's usually where the losses are. In the case of Alvo, the warehouse, those approved claims are going to collect 100 percent of what they had coming to them, plus interest. And it was the dealer's side that took the heavy losses. And there are inherent risks in agriculture and one of those risks is marketing. And as Senator Dubas alluded to, the education, we've been out there doing some education. But, you know, I think it's real important to know the producer, what marketing avenues are available to them, and what the risks are associated with each marketing avenue. Did that answer your question, Senator Price, or I...? [LR104]

SENATOR PRICE: Somewhat and that's good for today. The only other question I had was what would be the impact based on the costs of a bond, the price per bushel? I've heard a number. I thought I heard 30 cents the other day. I'm not sure. How much does it cost for a bond? So what I'm asking for is how much of a burden would we be putting on these individuals if we said now the bond has to go up to \$3 million? Now, one, they're going to pass it on, but how much is that bond going to cost? How do they figure that, in generalities? [LR104]

TIM SCHRAM: Well, I think you'd have to ask the insurance industry that, and that's an actuarial question as to, you know, how much risk they're taking associated with the amount of coverage that they're providing. But to some of the smaller elevators, you know, I think, you know, they may find some difficulty with obtaining a higher level bond, depending on the cost. But, you know, like I stated, that would be an insurance actuarial question as to the value of the bond and what the cost would be. [LR104]

SENATOR PRICE: Thank you. [LR104]

SENATOR CARLSON: Okay. Other questions? [LR104]

TIM SCHRAM: Thank you. [LR104]

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PAT PTACEK: Chairman Carlson and members of the Ag Committee, my name is Pat Ptacek. That's P-a-t, last name P-t-a-c-e-k, representing the Nebraska Grain and Feed Association today. Just last week we met as a board of directors and unanimously opposed the concept of a grain insurance or indemnification fund. However, as you've heard today, there have been many positive suggestions that have been thrown out for this committee to consider as they consider or a way of looking at legislation next session. One of the things that we did strongly support is the PSC civil action that was described earlier. We also felt strongly that an adjustment, either through General Fund increases or through slight increases to the license fee for state-licensed grain elevators or dealers to help beef up the Public Service Commission grain warehouse staff to hire a full-time auditor on staff that could be available to continue to review financial audits or reviews as they're submitted and to basically work with troubled warehouses or answer concerned customers of warehouses questions about the stability of those facilities. Obviously, since we worked to establish grain dealer laws a number of years ago, one of the strong components behind that was producer education. And I know the Public Service Commission, the Grain and Feed Association, and the Cooperative Council have all worked to better educate their producers that they do business with by producing pamphlets of Q&A of what they are entitled to, what their coverage is, what it does not cover. And I know that a number of our grain member facilities have those on hand, and hand those out with farmers if they have them there in the scale houses. The private insurance concept that has been raised by you is intriguing. It's something that I think should be considered and we would look to the farm organizations to see what kind of interest that would be in establishing something like that. To the full scope audit at this point in time, my membership is extremely split on that, I'll just tell you that right now, because we have a cross of privates, cooperatively owned, and independent grain elevators and dealers. Of course, some of those do maintain and submit full level audits. Others only submit the financial reviews. And so there are proprietary issues there that some of my members are very concerned with. But it's a question that needs to be put back on the table, we believe. Information again is extremely important for

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farmers to know who they're doing business with. As I said before, we have attempted to do that. We've held educational meetings. I know the Nebraska Farm Bureau, in the wake of the VeraSun failure, did a number of marketing educational sessions in cooperation with other farm organizations around the state to help educate their members. But I think it goes beyond that. You know, there are two things that we live by as grain warehouses. It's our banker on the one side to keep us checked and balanced, and it's the customers who pay their bills and that we do business with. Those are the two things that we maintain and maintain our business. And we're not going to do anything, at least knowingly, to violate the trust that we have with those two very important entities. With that, we look forward to working with the committee on any and all efforts, try to beef up the laws and the regulations. Again, we think it's important that the Public Service Commission has adequate staff and financial expertise on that staff to deal with these issues, as well as the resources to conduct more timely audits. We'd like to see these guys twice a year instead of once a year, to be quite honest with you. My folks will tell you that because they'd rather have a warning flag than have something come down on them, you know, a year from the last time that they visited. So it's that type of working together that our members who are state-licensed warehouses have come to appreciate with the Public Service Commission and anything that we can do to help that we'd like to do. When it comes to increasing bonding levels, I don't think you'd have a real argument within the industry about increasing bonding levels. You know, you've got elevators with 30 branches now that are covered by a \$500,000 bond. It's the bonding company you're not going to be able to get to write that higher bond. So those are just issues that you're going to have to examine, and we look forward to working with you as we try to solve this and get through this. It's a lot different year this year than it was last year, let's just put it that way. [LR104]

SENATOR CARLSON: Okay, good. Any questions of Pat? I have a question. In your opening statement you mentioned a little bit about the possibility of considering an increase in license fee. What are they? I don't have any idea. [LR104]

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PAT PTACEK: \$60? [LR104]

SENATOR CARLSON: You indicated there's 95 licensed warehouses and 135 licensed dealers. So we've got a limited number anyway. Are you going to testify? [LR104]

JOHN FECHT: I hadn't planned on it. [LR104]

SENATOR CARLSON: Well, testify real quick. Go ahead and answer that question. [LR104]

JOHN FECHT: I'm John Fecht. The license increased. For the grain dealer it's \$60 a year. Grain warehouses (inaudible) the size of their company (inaudible) vary. [LR104]

SENATOR CARLSON: What could that vary, from what to what? [LR104]

JOHN FECHT: Well, depending on (inaudible). [LR104]

SENATOR CARLSON: Okay. That's what I wondered, whether that had the potential of raising significant dollars or not. Any other questions? Okay, thanks for your testimony. [LR104]

PAT PTACEK: Thank you. [LR104]

LORAN SCHMIT: (Exhibit 6) Good afternoon, Mr. Chairman, members of the committee. My name is Loran Schmit and I'm testifying here today on my own behalf. I am the executive director of the Association of the Nebraska Ethanol Producers but I am speaking today on my own. I appreciate the opportunity to testify on this resolution. I appreciate the interest of the committee and I want to say that I commend you for taking the interest. I also want to commend the Nebraska Public Service Commission and their staff who I think have performed very capably for many years and in sometimes very

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volatile market conditions. And, of course, volatility is one of the factors that we see once in a while which caused many of the problems we're talking about today. But the idea of the creation of an indemnity fund is not a new idea, and it's always a hardship on those of us, as farmers who market grain to any source, if they do not receive the payment for that grain. In addition to marketing to elevators and to ethanol plants, of course there are hundreds of feedlots in Nebraska who buy their corn directly from farmers. And so when we talk about protecting the seller of the grain, we have to remember that it's not just a matter of selling to an ordinary licensed warehouse or grain elevator or an ethanol plant. And so if we are trying to protect against all of those risks, we have really a major job. I think it's interesting that in Nebraska we probably produce about a billion and a half bushels of grain in a single year. And it is amazing when you really get down to it--Senator Price touched on it--what really small percentage of losses we have in all of those transactions. And as someone said, you don't use a shotgun to get rid of a fly. And it's not any consolation to me if I happen to be the fly and lose \$100,000. On the other hand, it's no concern of Senator Price or Senator Dierks if I lost it, because they're not very anxious to pay a checkoff fee, again Senator, to protect me because I'm not a good marketer of grain. The volatile markets of 2008 were a most unusual condition. The basic fundamentals of supply and demand are not much different now than they were a year ago when the market price on corn exceeded \$7 per bushel. People like to talk about how much money they lost to these bankruptcies at the VeraSun plants and several others, but the farmers in my neighborhood were kind of joking with themselves because they said, we lost thousands of dollars because we were so glad to get \$4 a bushel for corn that by the time the corn got to \$7 a bushel we didn't have any left to sell. And I think that's kind of an interesting fact also. It hasn't happened very often. Twice in my lifetime corn went above \$5, and that's quite a span of years. So the volatile market of last year I think accentuated the concern we're seeing today. I can't predict that we will not see such a market again, but as it only happened about twice in my lifetime, I don't think it's going to happen probably again. It's also interesting that if we were to create such a fund, we'd have to first decide how to create it, and then you'd have to decide how much money, and third, who would govern the

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distribution of the money if you did. As was mentioned earlier, no matter where you or who you charge to raise the fund, the ultimate person who pays for that would be the grain producer. There's no other way you can do it. And when we talk about the size of the fund, the VeraSun bankruptcy was \$400 million. So if you created a \$2 million or \$3 million or \$4 million fund, there's going to be a bunch of people short anyway. So are we going to create a \$100 million fund? I would not like to have created a \$100 million fund and seeing the Legislature, which I respect very highly, in a tight fiscal position and maybe wanting to transfer some of that money to a more laudable use, which would cause great consternation among the rural people, and really rebel when it came time to replenish the fund. So it's a matter of fact that you can't, once that money is in the tax funds, it's money for the state to handle as they see fit, as they need it (inaudible). We've seen transfers of funds much, much smaller than that, and so it would be a real problem to try to protect that fund. I think that, most of all, as has been mentioned earlier, you have to know with whom you're doing business. And farmers make hundreds of decisions in the course of a lifetime on who they deal with and who they buy and sell from, and you have to understand that sometimes we might make the wrong decision. But the vast majority of grain purchasers are honest, but again I think probably the most concern we have heard expressed here today and during the past year was by the individuals who forward contract with their corn and were not covered. I don't see how there's any way we can craft a bill that would protect the forward seller of that corn. And so without that, these other losses are relatively small. So I think under those kind of conditions I would not be interested in seeing an indemnity fund created. Thank you very much. [LR104]

SENATOR CARLSON: Okay. Thank you for your testimony. [LR104]

SENATOR DIERKS: Thank you, Senator Carlson. Senator Schmit, it's good to see you at the committee again. I know that you probably have as good a knowledge of the ethanol industry as anybody in the room. A suggestion was made earlier today that the ethanol and biodiesel plants should be licensed and regulated by the Public Service

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Commission, as well. How would you see that working? [LR104]

LORAN SCHMIDT: Well, Senator, I think some of them are. I'm not sure. I think some of them are. I don't think that would be a problem for most of the ethanol plants. The problem is, as I said again earlier, is not with the day-to-day sale to the plant. It's the forward contract and that's outside the purview of the PSC. I don't think it would help any. But as far as the ethanol plants coming under the purview, I might have some folks who would object to my saying so. My own personal feeling is I don't think they would really object to that. [LR104]

SENATOR DIERKS: Thank you. [LR104]

LORAN SCHMIT: They are the largest purchaser of grain that we know. [LR104]

SENATOR CARLSON: Any other questions? (Inaudible) make a comment. You referred to the possibility of a \$100 million fund that the state might have some access to. We could take care of a lot of education (inaudible). (Laughter) Thank you for your testimony. [LR104]

LORAN SCHMIT: If you put that kind of a fund together, I'll go back to my aerial spraying business again, Senator. [LR104]

SENATOR CARLSON: Any other testifiers? (Inaudible.) [LR104]

ZOE OLSON: (Exhibit 7) Senator Carlson and members of the Agriculture Committee, my name is Zoe Olson. That's Z-o-e O-l-s-o-n. I'm the executive director of the Nebraska Wheat Growers Association, otherwise known as NWGA. The association is a membership organization comprised and representing Nebraska's wheat producers. NWGA has welcomed the opportunity to take part in many discussions relating to LR104, and we appreciate your time and solicitation of our opinion. NWGA, while

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sympathizing with producers who may have experienced a financial loss due to the failure of a grain warehouse or grain dealer, believes that historical losses occasioned by such failures, when viewed in the context of the total amount of grain stored and sold in Nebraska, are very limited. NWGA does not believe that the low number of losses that affect a limited number of producers justifies the expense that would be incurred by all producers in the creation of a producer-funded grain indemnity fund. Part of the reason that we are opposed to a checkoff, as you...you know, that's the dirty word. Nebraska has the lowest wheat checkoff in the nation. It hasn't been raised since its inception. And we're proud to be doing a lot of research. The Wheat Board does a lot of research and education and promotion and marketing with that, and we'd hate to see anymore money from our wheat checkoff go to an indemnity fund. NWGA believes that due diligence on the part of any producer when selling grain to a warehouse or a dealer is just one part of good risk management practices. Rather than creating an indemnity fund paid by all producers to protect a limited number of producers, we would like the Agriculture Committee to explore the alternative methods that have been expressed here by other testifiers, and we certainly do like the exploration of Senator Carlson's idea for concerning a voluntary private insurance product to offer protection to producers. One thing I will tell you is that this last year we began a series of educational events for our producers. They are timed around our quarterly meetings, and one of the things we have discussed is knowing who you are selling your grain to and how to do things with risk management. Just in closing, we oppose the creation of a grain indemnity fund as previously described by the PSC, and thank you for the opportunity to discuss this with you today. [LR104]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Zoe? All right, thank you. [LR104]

MICHAEL KELSEY: Good afternoon, Senator Carlson, members of the Agriculture Committee. My name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y. I represent the Nebraska Cattlemen here to speak on behalf of them. All of our points, if you will, talking

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points have been made earlier today, so I won't belabor that other than to say, just for the record, that we do not support the creation of a checkoff if it is against the philosophies, if you will, of those who would have to pay it. In this instance, the grain dealers...or excuse me, yeah, grain producers. We support checkoffs for producers and producer-oriented checkoffs. So otherwise I thought this hearing would allow myself to arm wrestle Senator Schmit for who would be the largest corn user in the state, and I see we're not going to do that so...I had to jab at him since he jabbed at me earlier with his comment about feedlots. We have a very good relationship with the ethanol industry, and the two largest corn users, obviously we--in the state of Nebraska, within the state--we want to be at the table in this discussion and that's our effort this afternoon. Thank you and I'll answer any questions. [LR104]

SENATOR CARLSON: Questions of Mr. Kelsey? Thank you for your testimony. Any further testifiers? If not, thank you all for coming, and that concludes our hearing on LR104. Members of the committee, thank you for coming, and Rick and Barb, thank you for your work, and we are adjourned. [LR104]