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Agriculture Committee  
February 17, 2015

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[LB359 LB360 LB377 LB389]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 17, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB377, LB360, LB359, and LB389. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Burke Harr; Merv Riepe; and Ken Schilz. Senators absent: Tyson Larson.

SENATOR JOHNSON: Good afternoon. Welcome to the Ag Committee hearing on February 17, 2015. That's for the record. Before we start the hearing today, I'll make some opening comments. We have four bills, of course, to be heard today: LB377, LB360, LB359, and LB389; that will be the order. All are related to the Commercial Cat and Dog Act. Several of you were here when we had our confirmation hearing on February 3, and we heard your messages. We heard them loud and clear. What I would ask of you today, either testifiers and committee members, if your testimony was heard two weeks ago or if you have questions that were asked at that time, please do not...try not to repeat them today. I'd like for the testimony comments today to be focused on where we're going with these four bills, how they might be able to improve the situation, and not spend so much time on how we got here. I know it's going to be hard to do, but I think that would be in everybody's benefit. If you have spoken before, it is already on the record. If you want your position known again, as you know, there's a white sheet that you can sign in in opposition to a bill if basically you're not going to testify today but you want to put in your opposition or your support for any of the particular bills. By limiting your comments today, it's going to give everybody more of an opportunity to talk about more of the issues. I have met and some of the committee members have met with the Department of Agriculture. We've met with Humane Society and we've met with HUA. We've had some good dialogue and I know some of those departments have had dialogue since our last...since two weeks ago. Again today we'll be using the clock, and we will have five minutes for the introducer to introduce the bill, and then we'll go with proponents, three-minute time limit again, and then the opponents will have three minutes. The time will not start for the proponents until the questioning is done of the introducer. That's when the hour will start and we'll have the one-hour limitation. We'll do that at least for three, LB377. We'll see how we're doing at that point because we still have three more bills to hear. So now the normal procedures. Make sure you turn off your cell phones so we don't have any interruptions there. Fill out a green sheet if you are testifying. And a reminder, if you are going to be testifying on more than one bill, you need a green sheet for each time you testify. Hand in the green sheet to the clerk or to the page if the page is available, and we will get that recorded in. When you come to the mike, you need to state your name and spell your name so we have that for the record. Again, three minutes for testifiers. You will have a two-minute green light, a one-minute orange or amber light; and then the red light means you need to wrap up your testimony. Let me introduce the committee members. We have a couple missing yet. Senator Chambers I believe will be here but he will be on my far right or far left. Senator

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Bloomfield; Senator Riepe; Burke Harr would be to my close right...left, and I know he's in the building. He might be here later. To the far right would have been Senator Larson. He is testifying, introducing a bill in another committee. Senator Schilz, I know you have a committee to introduce a bill later. And then Senator Kolterman is here and he will be introducing our first bill. To my far left is our committee clerk Travis Moore. To my right is our research committee...research analyst, Rick Leonard. Our pages today are Jay Linton from Dalton and Kelli Bowlin from Cody, both are students at UNL. At this time, we will begin our hearing and introduce Senator Kolterman, LB377. [LB377]

SENATOR KOLTERMAN: (Exhibit 1) Thank you, Senator Johnson and members of the Ag Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District of Seward, York, and Polk Counties. I'm pleased to be here today to introduce LB377. LB377 was brought to me on behalf of the Nebraska Humane Society and was written to serve as a funding mechanism to support dogs and cats that are impounded due to improper care. It was easy for me to carry this bill because I've been a dog owner, pet owner, my entire life. And several weeks ago we heard testimony on some of the things that had happened to other animals and it's just astonishing to me. But this was brought to me well before that took place and I'm glad that I can carry the bill. The bill establishes a process that allows the impounding agency to file a complaint in their district county court. This process then determines the disposition and cost of care for the dog or cat. If the court finds that probable cause exists, there's three things that can be done. One, they can order immediate forfeiture of the dog or cat to the agency and authorize appropriate disposition of the dog or cat, including adoption, donation to a suitable shelter, humane destruction, or any other manner of disposition approved by the court. The second option would be to issue an order to the applicant or licensee setting forth the conditions under which custody of the dog or cat shall be returned to the applicant or licensee for whom the dog or cat was impounded or to any other person claiming an interest in the dog or the cat. This order may include any management actions deemed necessary by the court to enhance the living condition and situation of the animal. Or, finally, number three, they can order the applicant or licensee from whom the dog or cat was impounded to post a bond or other security or to otherwise order payment in an amount that is sufficient to reimburse all reasonable expenses as determined by the court for the care of the dog or the cat, including veterinary care incurred by the agency from the date of impoundment and necessitated by the possession of the dog or the cat. You also have in front you AM376. It's an amendment which I would like the committee to consider alongside with LB377. This amendment introduces four changes, and it was worked on with...in conjunction with the Department of Agriculture and myself. First, it puts statute 28-1011 and 28-1012 back into the original statute. That's the Animal Cruelty Act that I'm citing. Second, the amendment replaces the word "department" with the phrase "public or private agency". When we're talking about public or private, we're talking about the courts, we're talking about the sheriff's departments, humane societies, police officers, as well as the Department of Agriculture. These first two changes will address the fiscal note that was

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originally in the bill. The third change in this amendment removes the option of sale at public auction by a public or private agency. The fourth change removes the authority to determine if the animal is in need of humane destruction from the law enforcement officer and gives it to a licensed veterinarian. And this amendment doesn't stray from the original intent of the bill, which is to provide a funding mechanism for the costs that are incurred when dogs and cats are treated improperly by a commercial operator. I ask that you support LB377 and consideration of AM376. There are experts here to answer questions and testify in greater detail, but I'm more than happy to try and address any questions that the committee has at this time. Thank you. [LB377]

SENATOR JOHNSON: Thank you for your opening. Any questions from the committee? Senator Riepe. [LB377]

SENATOR RIEPE: Senator Kolterman, thank you. The question that has been posed to me most of all is due process. Has that been talked about? I mean, concerns that...from people that have contacted me and said they are concerned that out of vengeance a neighbor might call in and report them and their pet would be taken away. And that's a great expense to get it back. [LB377]

SENATOR KOLTERMAN: Yeah. That's a good question. I've had that same question posed to me probably 20 to 25 different e-mails, concerns. [LB377]

SENATOR RIEPE: Sounds about right. Concerned people. [LB377]

SENATOR KOLTERMAN: Part of me shares that concern. I guess my answer to that would be if it goes to the courts, they're going to have due process there and more importantly if they take care of their animals properly, they shouldn't have to worry about due process. Does that answer your question? [LB377]

SENATOR RIEPE: I just wanted to get your reaction. Okay. Thank you. [LB377]

SENATOR KOLTERMAN: Thank you. [LB377]

SENATOR JOHNSON: Any other questions? Seeing none, thank you for your opening. [LB377]

SENATOR KOLTERMAN: Thank you. [LB377]

SENATOR JOHNSON: I know you're staying around... [LB377]

SENATOR KOLTERMAN: Yes, I'll be here. [LB377]

SENATOR JOHNSON: ...for the closing and the coming back up here, so. Okay. We

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got the clock. We'll start. First to testify as a proponent to LB377. Welcome. [LB377]

MARK LANGAN: (Exhibit 2) Thank you, Senator Johnson. My name is Mark Langan and I'm the vice president...I'll spell it, M-a-r-k, last name L-a-n-g-a-n, and I'm the vice president of field operations for the Nebraska Humane Society. We provide animal control service for the Omaha area. Frequently, we are asked by county sheriffs and county attorneys to act as advisors for animal cruelty cases in their jurisdictions. Over the past several years, we've assisted on convictions for animal cruelty in Boone County and Burt County, as well as numerous convictions for both misdemeanor and felony levels of animal cruelty in Douglas County. These cases involve both horses and dogs living in horrible conditions. During last year's session, we testified in support of LB1002, which mandated that the Department of Agriculture seize animals they located during inspections that were victims of animal cruelty. Opponents to the bill testified that LB1002 did not afford them due process in the court system regarding animals that were seized. After the hearing, we pulled the bill, did our research, and now come back with LB377. LB377 is not a new bill or even a new concept. It is a very close copy to an existing law in state statute, 54-913, which deals with the seizure of livestock during animal cruelty cases. We are asking for the same treatment that livestock receives be accorded to dogs and cats. LB377 deals specifically with dogs and cats seized by the Department of Agriculture as part of the Commercial Dog and Cat Inspection Act as defined in the 54 Code. The bill has due process built into it. For example, the bill states that within seven days of impoundment, a judge will determine if probable cause existed for the impoundment of the animals. If probable cause is determined, the judge has several options. The animals can be immediately forfeited to the Department of Ag or the seizing agency; the judge can rule the animals to be placed in a suitable shelter, adopted to a suitable adopter, or humanely euthanized, if needed; the judge can order the animals returned back to the owner with management actions, such as requiring a veterinarian to monitor the animals during the court proceedings; or the judge can order the owner to post a bond in an amount sufficient to compensate the department for costs incurred of maintaining the animals during the criminal court case. Many of you are aware of the puppy mill from Malcolm, Nebraska, in 2013, where dogs that should have been impounded by the Department of Agriculture were not. The judge in the case referred to the location as an "animal Auschwitz." Based on this bill, as well as our recent meetings with Director Ibach, I'm confident those animals would have been seized if this law was in place. We appreciate the amendments to the bill. We've had a chance to look them over. It takes the idea of auctions and sales out of the equation for an option for the judge. We appreciate that, as well as requiring a licensed veterinarian to euthanization any animals needed. So we appreciate the amendments. And that's my testimony. Thank you, Senator, for introducing LB377. And I'm here to answer any questions. [LB377]

SENATOR JOHNSON: Okay. Thank you. Any questions? Senator Schilz. [LB377]

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SENATOR SCHILZ: Thank you, Senator Johnson. Mr. Langan, thanks for coming in today. [LB377]

MARK LANGAN: Thank you. [LB377]

SENATOR SCHILZ: There's an issue that's out there in South Dakota, it's an impoundment issue. Could you shed some light on that and explain that to us just a little bit, please? [LB377]

MARK LANGAN: Yes. I've been coming down here now for about eight or nine years in front of the Ag Committee and the Judiciary Committee for numerous animal cruelty bills and we've had great success on over the years. And frequently the opponents will talk about a situation that apparently happened in South Dakota probably about ten years ago where some...my understanding is some dogs were seized and there's allegations that they were improperly seized, the courts ruled they were improperly seized and returned back to the owner. I'm not really aware of the specifics of the case but it's brought up year after year after year down here. But I guess I want to point out that based on my testimony here that we've shown great credibility in the state of Nebraska on how we approach our animal cruelty cases at the Nebraska Humane Society. We have a great reputation with the county attorneys. We have a great reputation with the courts in Boone County, Burt County, Douglas County. We've obtained numerous convictions for animal cruelty cases over the past eight or nine years. So I guess mentioning the South Dakota case, which I'm guessing will be brought up here today, I guess I'd just ask questions of the people if they bring it up. What does that have to do with Nebraska? What does that have to do with how we've approached our animal cruelty cases here in Nebraska? And if the idea of due process gets brought up, we certainly listened last year in this very room and realized that the bill needed to be changed, and there's all kinds of due process built into this bill. It's actually...there's two types of due process built in the state of Nebraska. One, the investigating agency has to get a search warrant signed by a judge to even go on the property to seize animals. And, two, the due process built into this impoundment law requires a judge within seven days to determine if the animals were lawfully seized. So there's actually two ways of means of due process built into this procedure here. Hope I answered your question. [LB377]

SENATOR SCHILZ: Yeah, thank you. [LB377]

MARK LANGAN: Thank you. [LB377]

SENATOR JOHNSON: Other questions? Senator Chambers. [LB377]

SENATOR CHAMBERS: Mr. Langan, since that South Dakota case had been mentioned, I had cast it out of my mind for the same reason you did. But let me ask you

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this, whatever is said about that case, I haven't heard of anybody pointing out such a thing having happened in Nebraska. So I don't know why it continues to be brought up. And, frankly, I don't even know if I believe it to be true because these kind of things always happen someplace else where nobody can document it one way or the other. But since I've started, when you and I first ran across each other, it was like a collision, wasn't it? You were a member of the Omaha Police Department, is that true? [LB377]

MARK LANGAN: That is correct. [LB377]

SENATOR CHAMBERS: And I was called in those days a neighborhood of some kind of activist, right? [LB377]

MARK LANGAN: Among other things, yes. (Laughter) [LB377]

SENATOR CHAMBERS: Yeah, among other things, but in mixed company I don't use that kind of language, I will indicate... [LB377]

MARK LANGAN: Okay. [LB377]

SENATOR CHAMBERS: ...leave some things to the imagination. But down through the years, the common concern that we have about these animals erased all that other stuff and it's as though it never happened as far as I'm concerned. How about you? [LB377]

MARK LANGAN: You know, within the first week that I started at the Humane Society ten years ago, myself and my boss Judy Varner came and met with you in your office and we agreed to bury the hatchet from our animosity of our law enforcement days. We probably still agree to disagree on a lot of law enforcement issues. But like I wrote in a recent book that I wrote, we both love our dogs and we've joined forces now to work together in the state Legislature. It's...I think if me and you can get along, just about anybody can. [LB377]

SENATOR CHAMBERS: You got that right. (Laughter) [LB377]

MARK LANGAN: And we've done a very good job of doing it and we appreciate all you've done for us legislativewise. You've been a big proponent of ours. [LB377]

SENATOR CHAMBERS: And it's mutual in terms of what you all have done for the animals. [LB377]

MARK LANGAN: Thank you, thank you. [LB377]

SENATOR JOHNSON: Okay. Any other questions? Thank you, Mr. Langan. [LB377]

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MARK LANGAN: Thank you. [LB377]

SENATOR JOHNSON: Next proponent. Welcome. [LB377]

PATRICK CONDON: Welcome. Members of the committee, my name is Patrick Condon, P-a-t-r-i-c-k C-o-n-d-o-n. I am the chief deputy county attorney for Lancaster County and I'm here today...Mr. Langan asked me to come in and testify in support of this bill. Lancaster County attorneys office does support this bill. A lot of times what the county attorneys see and what they're concerned with at times is, you know, the cost which is dealt with in this case or with this bill. Most of these puppy mills are multijurisdictional. They go over different counties, sometimes even in different states. And it just makes sense to have the state Department of Agriculture be responsible for that and not have the individual counties doing that. Again, the case for Malcolm last year that our county prosecuted, you know, to be able...we had to leave some of the animals there. But under this bill we would be able to go in...the department would be able to go in and seize those animals and take care of those animals and get the appropriate care for them. I did...in reviewing the bill, the proposed bill here today, LB377, I did note, Senator Riepe, the question that you had. I believe there's even the due processes built into it, Mr. Langan talked about that as opposed...as a requirement within seven days that the probable cause finding be met. And then I believe at the Section, I believe, it's 6 of this bill also that if the individual is found not to have violated the statutes, that they can get reimbursed from the state for that. So there is mechanisms built into this law. I think it is a good law. Again, unfortunately we had to have the issue in Malcolm to kind of bring this to the forefront. I believe Senator Chambers introduced a bill last year, LB674, that again we testified in support of to tweak the ability of the judge to limit the ownership of animals for people that have been convicted of cruelly neglecting animals. So, you know, I appreciate having the opportunity to come down and talk to the committee members about this bill, and again I think it's another furtherance of the step to...the right step going towards regulating these types of operations. So thank you. If you have any questions... [LB377]

SENATOR JOHNSON: Questions for Mr. Condon? None. Okay. Thank you. [LB377]

PATRICK CONDON: Thank you. [LB377]

SENATOR JOHNSON: Next proponent. Welcome. [LB377]

LORI HOOK: Thank you. I'm Lori Hook. I am the executive director of Hearts United for Animals. We support this bill as it puts the onus of payment for care of the dogs or cats upon the person who neglected them, which is where it belongs. It removes the obstacle of expense for housing and care of dogs or cats seized which should theoretically make it more feasible for the department to seize animals when they are suffering. We would suggest that a sentence be added on page 2 after the paragraph

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ending on line 20 that requires the inspector to report noncompliant items threatening the health or welfare of the animal to local law enforcement and/or the county attorney the same day that it is witnessed. Currently the department has that obligation, however, it makes more sense for the inspector witnessing the violation of the law to be the one to report. At this time, the inspector calls supervisors who do not witness it themselves and they make the decision as to whether law enforcement should be contacted and then they make the contact. The inspectors used to have the authority to do this themselves. I would put forth that since they are the witnesses to the crime, not the supervisor sitting in their office in Lincoln, that they not only should be the ones to report but they have the duty to report. This is similar to a professional who witnesses child abuse being obligated to report it. It would also expedite matters and make sure that correct information is relayed to law enforcement from an eyewitness and not the supervisors of an eyewitness. [LB377]

SENATOR JOHNSON: Thank you for your testimony. Any questions? Seeing none, thank you. Other proponents. Other proponents? Okay. We'll move to opponents, first to testify in opposition to LB377. [LB377]

CLEM DISTERHAUPT: Good afternoon. My name is Clem Disterhaupt, Sr., spelled C-l-e-m D-i-s-t-e-r-h-a-u-p-t. I have operated a kennel near Atkinson, Nebraska, for some 45 years. I am the president of Nebraska Professional Pet Breeders Association. I'm also the originator of the Nebraska Dog and Cat (Operator) Inspection Act, working with Senator Dierks and Senator Price to get an inspection act into the state of Nebraska. I also am the originator and worker with the...for the puppy lemon law, which is called the Nebraska Dog and Cat (Purchase) Protection Act...consumer's protection act, and I am also the author/originator of the national puppy import bill, and have been involved in nearly every dog- and cat-related bill in Nebraska for the last 25 years. When former Senator "Cap" Dierks and Marian Price sat down with me and worked on the inspection act, there was no intentions of it bearing great burdens on pet breeders and putting them out of business. However, bills such as this one have done that. A once great program has turned into a program that I am no longer so proud of as I once was. LB377 would open the door for huge tragedy to pet owners and tremendous liability to the state. This bill would allow for the same thing to happen that happened in South Dakota and, yes, this is important. A lot of people don't understand and know what happened over there, and it has a lot to do with this because this bill was...is pretty much similar to what they had over there at the time this happened. The humane society from Sioux Falls, South Dakota, took 67 dogs and charged them \$250 for care each day. They hauled them in an open-stock trailer to Sioux Falls, South Dakota, something a breeder would never consider doing. They were moved to breeders...from the breeder's premises to the humane society. Serious mistakes were made by the humane society. One was that the owner possessed a 14-year-old Maltese with a dry eye, and in court was found that the owner was actually treating this dog by advice of her veterinarian. In the end, the judge ordered the dogs to be returned to the breeder,

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however, by this time, severe damage was done. Some of the dogs came up missing due to poor placements and others had missed heat cycles. And that breeder, due to all of this and large legal expenses, was forced to be out of business. These are things we cannot allow to happen. We must be very careful. There are laws in order to deal with inhumane conditions, and Senator Karpisek and I worked on a bill called LB1084 a few years ago in 2010 to deal with confiscation in a way that could be done and that could be acceptable to everyone. I thought that bill was passed and if it is, we have that in place. I would urge you to look at LB1084 and see what's in that particular confiscation law. We have USDA, state, and AKC inspectors and hundreds and hundreds of pages of regulations, so many that oftentimes inspectors cannot even determine the rules. Pet breeders, like so many other businesses, are sadly overregulated to the point they cannot stay in business. I sat here before this same committee a number of years ago and predicted that such bills would put breeders out of business. Guess what? [LB377]

SENATOR JOHNSON: Can you start to wrap up and then maybe some questions you'll be asked that maybe you can follow up on? [LB377]

CLEM DISTERHAUPT: Okay. Do I...I timed this, do I still have the three minutes, right, from the time I started? [LB377]

SENATOR JOHNSON: Yeah. [LB377]

CLEM DISTERHAUPT: Okay. [LB377]

SENATOR JOHNSON: Well, three minutes are up. [LB377]

CLEM DISTERHAUPT: Oh, they are? [LB377]

SENATOR JOHNSON: Yeah. (Laugh) [LB377]

CLEM DISTERHAUPT: I'll try to wrap it up real soon. I'm sorry. [LB377]

SENATOR JOHNSON: Okay. Thank you, sir. [LB377]

CLEM DISTERHAUPT: Okay. So, anyway, I want you to all know that we do not support...we breeders do not support cruelty to animals in any way and my records shows that I've written bills myself to keep that from happening. I think this bill is not workable for the people. I think there could be tremendous problems with it. And I would be happy to sit down this summer with senators and humane societies and others to put a good bill in place that would really work for all of us. Thank you very much. [LB377]

SENATOR JOHNSON: Thank you for your testimony. Any questions? Senator Schilz. [LB377]

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SENATOR SCHILZ: Thank you, Senator Johnson. Clem, you talk about the issues with the bill. Can you...and I don't...don't take a lot of time, but please could you line out specifically just bullet point issues... [LB377]

CLEM DISTERHAUPT: Yeah. Well, my biggest issue is it's kind of like you take...you could take the animals first and then decide whether that person's guilty. And I think there's a problem with that. I think there should be a stay where the animals stay. They'd be cared for, looked after by somebody from the state or a local sheriff or somebody until they find out if there's a problem, not do what South Dakota did, take all the dogs first, and then worry later, oh boy, we made a mistake. We got to take them back. By this time it puts somebody out of business. That's my concern with this. [LB377]

SENATOR SCHILZ: And then if...okay, let's say those animals are put into an observatory kind of situation. Would that then be taken care of by the person that owns the animals? [LB377]

CLEM DISTERHAUPT: That would...not necessarily if they feel like that person is abusing the dogs, it could be the state could appoint somebody, the local sheriff or somebody, to take care of that. There's a...I know other states that have talked about this and I believe some of them have it in place. You leave the animals where they're at if the facility is suitable but it's only a problem with the dogs or the horses or whatever it is, so you don't have to move all these animals, stress them all out, and then worry about bringing them back if the person is not guilty. So you confine them to the facility under the care of the state. Then I wouldn't have a problem with it. [LB377]

SENATOR SCHILZ: Right. And then my next question would be, that owner would be, who owns the dogs, right, would have expected to take care of those dogs no matter what...now hold on. They would have expected to take care of those dogs no matter what. If there's no problems found, they would be responsible for that care. If there are problems found, who should then be responsible for that? [LB377]

CLEM DISTERHAUPT: Somebody appointed by the Nebraska department, inspection department. [LB377]

SENATOR SCHILZ: Okay. Then would at that point if there's found to be issues with who's taking care of those animals, would you be opposed then that those people that were found responsible for that, should they then be responsible for the care of those animals going forward and taking care of what's happened with those? [LB377]

CLEM DISTERHAUPT: Are you talking the people that's appointed by the state or are you talking about the breeder? [LB377]

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SENATOR SCHILZ: The breeder. [LB377]

CLEM DISTERHAUPT: Yeah. [LB377]

SENATOR SCHILZ: If they got them to that situation as it is. [LB377]

CLEM DISTERHAUPT: Yeah, and I think a bill could be written, things could be put in there, such as dogs that need to go to the vet for emergencies go, the owner has to pay the expense if that dog needs care and so on and so forth. But rather than moving all the animals to--and a lot of times there's no facilities to place these animals--confine them to the facility and then wait for a court hearing. Have them checked by the...and watched and fed. The animal care is right there. The feed is right there. The facility is there. The air exchangers, everything is right there, rather than moving them, then saying maybe later, oh, we need to return them. And then you put the breeder out of business because those dogs bring in new disease, all kinds of new problems and so forth. [LB377]

SENATOR SCHILZ: I understand. [LB377]

CLEM DISTERHAUPT: I'm for a confiscation bill. I just think this one needs some work. [LB377]

SENATOR SCHILZ: I appreciate that. Thank you. [LB377]

CLEM DISTERHAUPT: Okay. [LB377]

SENATOR JOHNSON: Other questions? Senator Riepe. [LB377]

SENATOR RIEPE: Senator Johnson, thank you. I'm trying to back up a little bit. I want to make sure that we're working on the right problem here and if we back up past inspections, my question is trying to look at comparable situations. And I think of Whole Foods who, you know, promote themselves as selling organic foods in their grocery stores. My question gets to be is, why wouldn't the breeders support something to the kennels that say unless you're a certified breeder that has proven beyond a reasonable doubt that you are a good, honest, legitimate, loving, caring breeder of--I'm going to limit this to dog--of dogs that they wouldn't buy from anyone other than a, quote, unquote, five-star breeder? Does that make any sense? [LB377]

CLEM DISTERHAUPT: I'm not sure I quite understand your question, but... [LB377]

SENATOR RIEPE: Well, I'm trying to get the kennels to say, look, I only buy from a quality breeder. [LB377]

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CLEM DISTERHAUPT: Oh, yes. [LB377]

SENATOR RIEPE: And I won't buy from any other of the run of the mill, the horror stories, I won't buy from them. You get enough people, you fundamentally have a boycott of the bad breeders. They go out of business. But, you know, you kind of let the industry rule and control itself, and educating the population, if you will, that you only want to buy from a kennel that assures you, like Whole Foods that they're buying organic food, that you're only buying from a breeder that buys well-treated puppies. That's what I'm trying to say. [LB377]

CLEM DISTERHAUPT: Yes, and I think the USDA is trying to correct that particular problem by now starting to license people who...changing USDA rules, now if you're advertising on the Internet and you can't see the puppy, you have to be licensed by USDA so they're really inspected and watched closely and so forth. Before any Tom, Dick, or Harry could advertise on the Internet and not be...not have that licensing and inspection program and sell them on the Internet. No longer so. [LB377]

SENATOR RIEPE: I'm just trying to get the government out of the whole thing, get it down between...pressure between the breeder and the buyer and the kennels. [LB377]

CLEM DISTERHAUPT: I know, and there are states that have five-star programs or such and we would really like to work with people to get that done to show the kind of breeders that most of us really are. [LB377]

SENATOR RIEPE: Do you think that's possible? [LB377]

CLEM DISTERHAUPT: Yeah, I do think it's possible. Missouri has it. [LB377]

SENATOR RIEPE: Okay. So we have your assurance that you will work on that? [LB377]

CLEM DISTERHAUPT: I would...if I can get...Judy Varner and I talked about it. I'd be happy to sit down with people and try to work out a good program. [LB377]

SENATOR RIEPE: Thank you, sir. [LB377]

SENATOR JOHNSON: Senator Chambers. [LB377]

SENATOR CHAMBERS: Some of the atrocious things that I've seen happen to animals make me not very sympathetic to what I understand you to be saying. When they show horses where you can see their ribs, you can see their pelvic bones, you can see feces scattered around, animals injured from having fought each other for what little food

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might be there, dogs and cats that have visible injuries that have been going on for some time and they remain in those conditions, I want something to be done to rescue those animals in the same way that if a person is accused of abusing a child, the child is not left there in the tender mercies of this person accused but is taken to a place of safety. And that's what I want to see happen. I read someplace where you had indicated that these horrible things that people are talking about you had not seen at kennels and that you had traveled all over the state. Now that was in the paper. I don't know if you actually said that or not, so I'll ask you. When we see these photographs, are you saying that these photographs are made up and these things are not happening?  
[LB377]

CLEM DISTERHAUPT: No. I'm just saying...what I'm saying is that they are few and far apart and I think that even the inspectors, state inspectors, USDA inspectors, will tell you that. Sadly, the one in so many hurt all of us, and that's the ones I'd like to see cleaned up and...I just think this bill is a little out of order to do that. I think bad things are going to happen. I would be happy to work on a bill that would work. But, no, I know these places exist and I did say I did a lot of traveling and I don't see these places. I saw one in Missouri a few years ago. I turned around and walked away from it. But obviously they do exist, but I think they're few and far between. [LB377]

SENATOR CHAMBERS: Well, I disagree with your characterization based on what has been my experience. And I've been travelling around the state, but having been contacted even by law enforcement people and prosecutors about places where they cannot obtain the kind of information they need. I've talked to Mr. Ibach about situations where people at these locations will hide and pretend that they're not home, and it's just very difficult for them to even do what they know needs to be done in some of these situations. So I can appreciate what you're saying, but as a policymaker I've got to do what I think is called for. And I don't see where these bills, once the amendments are added, are going to hurt anybody who is legitimate. All they have to do is follow the law and they're not going to have a problem. [LB377]

CLEM DISTERHAUPT: I understand, Senator. And as far as your remark with the people and taking care of the dogs the way you take care of your kids, do you know that we have more regulations with dogs than we do with our kids? They don't come along and tell our families we have to keep the temperatures at 70 degrees, we have to have an air exchanger in your house. We've got all those things with dogs that they don't tell us about our kids. So as far as your comment is concerned, we have laws that way over...force us to do more things and better things with their dogs than we do our own kids. That is a fact. [LB377]

SENATOR CHAMBERS: Well, here's the difference. Certain things are presumed to be required where children are concerned and you don't have to pass a law saying keep the temperature this, that, or the other. If you find out these things are not like they

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should be, the children are removed. When it comes to animals, they're treated like objects and handled in a way that requires protection. There was a man named Mohandas Gandhi. He was called Mahatma Gandhi, and he had indicated that you can judge a civilization by the way it treats its animals, and those who are most vulnerable are the ones who need the most protection. Now if you are as legitimate and caring as you say you are, it seems to me that you'd be one of those who wants to clean up the profession so that what these others are doing are not going to reflect negatively on you. [LB377]

CLEM DISTERHAUPT: And I do, Senator. On the other hand, I don't want to open the door to see what happened in South Dakota to have the state do the same thing here. That's my concern. [LB377]

SENATOR CHAMBERS: Has anything like that happened in all these years that you've been giving that example? [LB377]

CLEM DISTERHAUPT: No, because we haven't had this law in place all these years. [LB377]

SENATOR CHAMBERS: But you said it when other bills were enacted and those bills were enacted and none of those things has happened and the same incident is given. If that was so bad, are there any articles that were written about that in South Dakota? [LB377]

CLEM DISTERHAUPT: Many articles. [LB377]

SENATOR CHAMBERS: Could you send one, just one to me? [LB377]

CLEM DISTERHAUPT: I would be happy to do that. [LB377]

SENATOR CHAMBERS: Okay. I appreciate it. [LB377]

CLEM DISTERHAUPT: I'll have to go back to some old newspapers and try to find them, but absolutely. It was all over the news and a lot of the papers. Absolutely. [LB377]

SENATOR CHAMBERS: Okay. But you're not aware of that having happened in Nebraska, are you? [LB377]

CLEM DISTERHAUPT: No, but like I said, we didn't have this law in place. That's what I'm trying to prevent from happening. [LB377]

SENATOR CHAMBERS: Well, why didn't it happen when those other laws...you had

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objected to other laws on the basis of the same case because I've been here, and some of those laws were enacted. [LB377]

CLEM DISTERHAUPT: But we didn't have confiscation law like this in place, Senator. That's why we didn't have this happen in Nebraska. [LB377]

SENATOR CHAMBERS: Okay. [LB377]

CLEM DISTERHAUPT: That's what I'm trying to prevent. [LB377]

SENATOR CHAMBERS: Thank you. [LB377]

CLEM DISTERHAUPT: Thank you. [LB377]

SENATOR JOHNSON: Thank you, Senator. Any other questions? I just have...these breeders that we're talking about today that do not take...properly take care of their animals or abuse their animals, how do they stay in business? Who do they sell to or what's their market? [LB377]

CLEM DISTERHAUPT: See, that's an awfully good question, Senator. I've done a lot of checking on that and the good senator here, my friend for many, many years and we have worked together, we have differences, but we have worked together. We went through such things, him and I. I presented a bill for...to make it legal to...you couldn't sell a puppy under the age of eight weeks. There were people out there years ago who were selling Yorkies as young as five weeks, no shots in the puppies, immune system wasn't fulfilled, such things as that. And Senator Chambers and I worked together, we did get a bill passed to make that eight weeks. But I'm not sure how these are getting by. We have...like in my case, I'm...my dogs are AKC registered, so I got AKC inspectors, I got USDA inspectors, and I got state inspectors. Some of those people who are doing this are falling through the cracks somehow. Either their inspector is allowing that to happen for some particular reason, I don't know why. Like in our facility, we've had people come in and...an inspector and say, oh, you've got a cobweb up above the water heater. Good lord, like you'd find one in my house like that, you know. And so how these people are getting by with such horrific conditions I really don't have any idea. Somehow they are falling through the cracks and that needs to be handled, so. [LB377]

SENATOR JOHNSON: Just curious. [LB377]

CLEM DISTERHAUPT: I wish I had a better explanation for you. [LB377]

SENATOR JOHNSON: Thank you. Any other questions? Thank you, sir. [LB377]

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CLEM DISTERHAUPT: Thank you. [LB377]

SENATOR JOHNSON: (Exhibits 3 and 4) Next opponent. Any other opponents? Anyone in a neutral position? No one in the neutral position? Okay. We're ready to close. While he's coming forward, we do have a letter of support for LB377 from the Humane Society of the United States. That will be in the record. And also an opposition to LB377 from the American Kennel Club. You may proceed with your closing. [LB377]

SENATOR KOLTERMAN: Thank you, Senator. Well, again, my sole intent in carrying this bill was to eliminate the tragedies that we've had and we've heard about over the last several weeks. I don't understand how anybody could treat an animal as inhumanely as we've seen pictures of. It's not my intent to hurt those that treat their animals well and do take good care of them. In fact, I applaud the individual that came and spoke against this. I personally am not familiar with what went on in South Dakota. I think very few of us have been. On the other hand, I'm of the opinion that if you don't have anything to worry about, you shouldn't have to worry about it. If you're taking good care of your animals and you're living up to the standards that this individual is talking about, I can't imagine that we would have somebody step in and try and take those livestock away. I just can't see that happening. We have a great state. We're working in conjunction with the Department of Agriculture, we're working in conjunction with our local sheriffs and police departments, our humane societies. If that's the case, then we need to look at that down the road. But I would encourage you to help move this out of committee and support this bill because I think it's a step in the right direction of taking care of an animal whether it's a cat or a dog that really has no say in how they're taken care of. And we just need to...we need to protect them from the inhumane treatment that they're getting from some of these breeders that are out there. So thank you. [LB377]

SENATOR JOHNSON: Any questions on his closing? If not, we will close the hearing on LB377. I will turn the chair over to Vice Chair Kolterman. [LB377]

SENATOR KOLTERMAN: Give me a minute. All right. We'll now open the hearing on LB360. Senator Johnson, go ahead with your testimony, your opening. [LB360]

SENATOR JOHNSON: Thank you, Vice Chair Kolterman and committee. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. LB360 inserts a series of clarifying revisions to the Commercial Cat and Dog Operator Inspection, which are as follows. "Significant threat to the health and safety of dogs or cats" is inserted as a new defined term in Section 54-626. This term is utilized in existing Section 54-633(2) as a standard authorizing interventions by the Department of Agriculture to impound or referral to law enforcement when inspectors observe inhumane conditions. Amends Section 54-627 which sets forth a requirement for a licensee to operate as a commercial breeder or other licensed activity and it establishes application process for license fees. The act

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currently provides for an annual license expiration and annual license fee collection with renewal applications. LB360 would provide for a nonlapsing license but retain the annual license fee. This avoids impediments to administrative procedure to revoke licenses in the event of nonpayment due to the lack of jurisdictions licensees...technically, licenses would lapse. Resolves a statutory uncertainty regarding the annual license fee of persons who meet the definition of one or more license category. LB360 inserts new text in subdivision (3)(b) that the operator shall pay one fee according to the primary licensed activity. Revises a provision which currently assigns a duty of the licensee to make licensed premises available for inspection. LB360 would expand this duty to include an applicant or other person the department has reason to believe is subject to licensure. Inserts express authority of the department for entry to inspect premises of new license applicants. If animals are not present, the inspection shall be part of the applicant's records and the facility plans. Inserts additional clarification regarding the initial license fee for a first-time license application. This puts in some new clarification, some new issues or some issues that have been out there. Primarily, if you pull somebody's license, then they can still operate but they would be operating as a nonlicensed and still continue to possibly see that same abuse out there. I will close with that. [LB360]

SENATOR KOLTERMAN: Thank you, Senator Johnson. Any questions for Senator Johnson and his opening? Seeing none, we'll move on to the people in proponents of the bill. [LB360]

JUDY VARNER: (Exhibit 1) My name is Judy Varner, V-a-r-n-e-r, and I'm the president-CEO of the Nebraska Humane Society. And I appreciate the...oh, yeah, that's yours. I'm here to testify in support of LB360 and, frankly, I want to take a second to restate my support of Director Ibach and the leadership of the Department of Ag. The most important part of this bill, LB360, is that it allows the inspectors to look for the significant threat to the health or safety of dogs or cats, which means inadequate shelter, acute injuries or medical emergencies in which the owner refuses to get medical care, signs of starvation or dehydration, signs of egregious human abuse such as trauma from beating, torture, mutilation, burning, or scalding, and failing to maintain sanitation so that animals cannot walk, lie down, or stand without being in feces. This language is currently in the regulations of the Department of Ag. In a perfect world, they might be a little stronger but this is what's in regulations and this is a...and a very important step to move forward for the safety of animals in breeding situations. [LB360]

SENATOR KOLTERMAN: Thank you, Ms. Varner. Are there any questions? Thanks again for testifying. [LB360]

CLEM DISTERHAUPT: Good afternoon. Again, my name is Clem Disterhaupt. It's still spelled the same way, C-l-e-m D-i-s-t-e-r-h-a-u-p-t. As president of the Nebraska Professional Pet Breeders, we support LB360 to its fullest extent. This bill is a good,

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commonsense bill. It simply defines what's meant by significant threat to the health and safety of the dogs or cats. The defined definitions are good commonsense things and, therefore, we support the passage of LB360. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you, sir. Are there any questions? Senator Chambers. [LB360]

SENATOR CHAMBERS: So did I until you spoke. (Laughter) [LB360]

CLEM DISTERHAUPT: I figured as much. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you. Any other proponents? [LB360]

GREG IBACH: (Exhibits 2, 3) Thank you. Members of the Ag Committee, I am Greg Ibach, G-r-e-g I-b-a-c-h, the Director for the Nebraska Department of Agriculture. I am here to testify as a proponent for LB360. LB360 proposes changes to the dog and cat program statutes that we believe will address some of our existing concerns with the program. We appreciate Senator Johnson bringing this bill forward. The Department of Agriculture has additional program concerns, and we invested time this past year in developing legislative proposals to address those concerns. That proposal is outlined in the list of issues that is attached to my testimony. We believe these proposed changes to the Dog and Cat (Operator) Inspection Act would allow the department to be more effective in its program enforcement. The department has estimated that these changes would have a minimal fiscal impact and could be absorbed within our budget. I ask that you consider amending these additional concepts into LB360. We are continually reviewing this program to improve it, so you will find on the attachment an additional issue at the end of the list that relates to premises access when an operator is not on site or avoids the inspector when the inspector comes to conduct an inspection. The department needs to gain access promptly in order to inspect the facility as it is at the time the inspector arrives. Without the element of surprise, the delayed inspection may not be representative of the facility in its normal condition. If the operator is allowed to delay or postpone an inspection, violations of the act or regulations existing at the facility, including egregious or multiple violations, may not be found. I ask the Agriculture Committee to also assist in the resolution of this issue. A potential legislative fix could be to require the operator, or a representative designated by the operator, to be available within one hour of the inspector's arrival. I am very hopeful that the act will be changed, as proposed in the handout, in order to help the department meet the expectations of both the Legislature and the public. I look forward to working with the committee and the full Legislature to improve the program. In closing, please keep in mind LB360 and the issues I've proposed still provide for the state to allow for regulated dog breeding facilities. This legislation also still needs to involve local law enforcement to handle any criminal actions in matters of animal neglect or abuse. And with that, I'd conclude my testimony and open for questions. [LB360]

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SENATOR KOLTERMAN: Thank you, Director. Are there any questions? Yeah, Senator Bloomfield. [LB360]

SENATOR BLOOMFIELD: Thank you. Director, I looked at your second page here and item 11, you have limited authority to enter premises when the operator is not on site or hides. How limited are you anticipating here? Are you looking at the sheriff to come in or...any time you have somebody go on private property... [LB360]

GREG IBACH: Right. [LB360]

SENATOR BLOOMFIELD: ...I start to have questions come up in my mind. What are you...what would your guidelines be? [LB360]

GREG IBACH: Right. I think we would have to have some type of...I think what we're envisioning or considering at this time is some kind of an expectation that there's a way for us to get ahold of the licensee and tell him that we're on site and that they have a set amount of time to show up and either they or a representative of them to allow us access to the facility. [LB360]

SENATOR BLOOMFIELD: You're not looking at something like a court order for you to get in there? [LB360]

GREG IBACH: Well, you know, if they would not comply with that, I think that we already have some authority to get those type of court orders to enter the property or conduct an inspection with the help of the local sheriff. [LB360]

SENATOR BLOOMFIELD: Okay. Thank you. [LB360]

SENATOR KOLTERMAN: Senator Harr. [LB360]

SENATOR HARR: Thank you. I guess my question is, this looks to be mainly cleanup language that, you know, half facetiously I'll say even Clem would agree to. Have you had a chance to show this to many people to see the comments on it? [LB360]

GREG IBACH: So we have discussed this briefly with, you know, some of the senators here today, as well as I think the Humane Society has seen it, Nebraska Humane Society has seen it. And so, yeah, we have edited it a little bit, not extensively. [LB360]

SENATOR HARR: Do you have this in an amendment form from Bill Drafters? Are they just general vague? Because it's my... [LB360]

GREG IBACH: We don't have it in amendment form. We would have worked with the

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Bill Drafters to have it in original language at one time. [LB360]

SENATOR HARR: Okay. All right. I think I know what that means. Okay. Thank you. [LB360]

SENATOR KOLTERMAN: Senator Chambers. [LB360]

SENATOR CHAMBERS: Thank you, Mr. Chairman. Ms. Varner of the Humane Society opened a way for me to say this. So, Mr. Director, I was opposed to your confirmation. Are you aware of that? [LB360]

GREG IBACH: Yeah, I think I am aware of that. (Laughter) [LB360]

SENATOR CHAMBERS: And I didn't bite my tongue when I expressed my points of view, did I? [LB360]

GREG IBACH: No, you did not. [LB360]

SENATOR CHAMBERS: Since that meeting, that occurrence, have you and I had a meeting and a relatively detailed discussion of these issues? [LB360]

GREG IBACH: Yes, we have. [LB360]

SENATOR CHAMBERS: And we came away, if I understand the way our discussion went, with an arrangement where we're going to work with each other as much as we possibly can, keep open lines of communication. And since you're the hand I was dealt and I'm the hand you were dealt, we're going to play the best we can with the hand that each of us was dealt with for the benefit of the animals and to see that the best laws that we can put together will be fashioned. Is that basically correct? [LB360]

GREG IBACH: That's very correct, yes. [LB360]

SENATOR CHAMBERS: Now the church can say, amen. (Laughter) I just wanted that on the record. [LB360]

GREG IBACH: Okay. Thank you. [LB360]

SENATOR KOLTERMAN: (Exhibit 3) Any additional questions? Hearing none, thank you, Director. Any additional testimony in support? Okay. We'll move into opposition. We do have a letter of support from the Humane Society of the United States. Anybody in opposition to the bill? [LB360]

LORI HOOK: (Exhibit 4) It's Lori Hook with Hearts United for Animals. I oppose this bill

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because the definition of "significant threat to the health or safety of dogs or cats" is completely inadequate, in my opinion, and would make the laws and regulations more difficult to enforce. There is no definition of shelter or protection. Based on my experience with the comfort of dogs and on expert opinions from veterinarians, attached herein, access to indoor housing areas with temperatures no lower than 50 degrees and no higher than 70 degrees should be provided at all times. This would be much more enforceable. The section regarding life-threatening medical emergencies does not appear to be meant to protect animals at all. It appears to be meant to protect the dog breeders who allow their animals to suffer. Dogs must suffer from acute injuries and literally be bleeding to death for it to be considered an emergency. This is preposterous. There are many conditions other than acute injuries, many of which do not involve an animal bleeding out in front of an inspector, that are life-threatening emergencies. I would support this if the language were changed to injuries, illnesses, or conditions involving potentially life-threatening emergencies in which an owner refuses to seek immediate veterinary care. This strikes the words "acute" and "hemorrhaging" and provides for the possibility of other conditions--such as a dog turning blue from lack of oxygen due to pneumonia, shock, diabetes, cancer, chronic diarrhea, etcetera. The food and water provisions also lack teeth to be able to enforce it. Not providing water is not enforceable under current standards unless the breeder admits to the last time the dog was provided with water and it was more than 12 hours before. Regulations state that water does not need to be provided any more often than twice a day for one hour each time. This is not only unhealthy for the dog, causing possible vomiting from overdrinking, susceptibility to bloat, and urinary tract infections, it is not enforceable because inspectors cannot say with certainty that a dog is or is not provided with water twice daily. I would support the provision if it read, "Not providing a sufficient quantity of good, wholesome food and a continuous supply of potable water in clean containers resulting in conditions of potential starvation or dehydration." Failing to maintain sanitation resulting in egregious situations where a dog or cat cannot avoid walking, lying, or standing in feces also seems to be an extremely low threshold. For example, if I were sitting in this room alone surrounded in feces and urine but I had a small path to walk in, that would be okay. The provision should read, "Failing to maintain sanitation resulting in situations where more than 12 hours accumulation of urine and feces exists." Lastly, many unlicensed breeders go under the radar and, if caught, find there is no price to pay for operating without a license. Many of the conditions, as we have witnessed recently, are even more atrocious than the licensed breeders. Having no penalty encourages them to go undetected as long as possible. We would propose that language in 54-627(1) be added to order an immediate cease and desist and fine the unlicensed operator \$100 per day until they obtain a license or go out of business. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you. Questions? Senator Schilz. [LB360]

SENATOR SCHILZ: Thank you, Senator Kolterman. Ma'am, thank you for coming in

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today. And you talked about some of the things that you'd like to see in the language and you talked about one where you talked about a clean water dish and all that. Define what you mean by clean because I know when my dog takes a drink out of his water dish, all of a sudden it doesn't seem to be clean anymore. [LB360]

LORI HOOK: Right, right. [LB360]

SENATOR SCHILZ: And I don't mean to...but at times when you put things into law, it becomes the law and then people can misinterpret that. And I want to make sure that when we're talking about these things, a clean water dish can mean different things to different people. [LB360]

LORI HOOK: That's true. That's a good point. And that would be something that would probably require some work, but then again, you know, it's one of those things, too, where you kind of know it when you see it. If you see green slime, you know that it would have nonpotable water, and be filthy, and we'll have some photos for you later today to illustrate that. You know, I think that would...in a court of law you would know it when you saw it. [LB360]

SENATOR SCHILZ: I understand. [LB360]

LORI HOOK: It wouldn't be like a...you know... [LB360]

SENATOR SCHILZ: Like a little slobber from the dog. [LB360]

LORI HOOK: A little slobber from the dog or a fly floating on the bowl. It would be like you'd have to say, wow, is that water, you know, type of a... [LB360]

SENATOR SCHILZ: Right, but if we're not careful as we do that, that could become an area for a complaint and we don't want to get into that where we're just able to do this. I mean, we want to make sure that we're not tit for tat kind of thing. You know what I mean? [LB360]

LORI HOOK: Right, right. I think it could be appropriately worded. [LB360]

SENATOR SCHILZ: I appreciate that. Thank you. [LB360]

LORI HOOK: Yes, yes. [LB360]

SENATOR KOLTERMAN: Thank you. Senator Bloomfield. [LB360]

SENATOR BLOOMFIELD: Thank you, Vice Chair. Ms. Hook, my question comes to your temperature range, 50 to 70. Given the makeup of our weather in Nebraska I

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sometimes can't maintain that in my house, (laughter) particularly if we have a...if we have... [LB360]

LORI HOOK: Well, we'll come rescue you. (Laughter) We'll be right there. [LB360]

SENATOR BLOOMFIELD: It might be a good idea sometime. But if we...two, three years ago we were without power for three days, would you foresee any exception to this in case of a power outage or anything like that because... [LB360]

LORI HOOK: You know, I imagine something could be written in where if there was a power outage they could call the Director of the department and say, you know, this is what's happening, this is what I'm doing to try to take care of my animals. Perhaps the department could work with them, you know, to reach out to organizations like Nebraska Humane Society, Hearts United for Animals, who might be willing to pitch in and come help and bring out generators to help keep the animals warm. But, you know, I would think the exceptions would need to be very short term, like you stated, and... [LB360]

SENATOR BLOOMFIELD: I would actually be more concerned with keeping them below 70 degree when it's 110 out. [LB360]

LORI HOOK: Keeping it below 70? Oh, whether the equipment would keep up, you mean? [LB360]

SENATOR BLOOMFIELD: Yeah. Again, as Senator Schilz mentioned, we put things in statute, we better have it right because somebody else is going to read it another way than what you intended and not... [LB360]

LORI HOOK: Right, yeah. And I do have, you know, opinions from several veterinarians here if, you know, you could look those over. And while they don't agree down to the exact degree, you know it's definitely nobody said below 50. And we have several cases where dogs were found, you know, dying in 4 degree weather, 6 degree weather here recently, very recently, last month even in Nebraska. So I think some reasonable terms could be reached. [LB360]

SENATOR BLOOMFIELD: Okay. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you, Senator Bloomfield. Any other questions? Senator Chambers. [LB360]

SENATOR CHAMBERS: I've had a lot of contact with Hearts United for Animals and the staff and the people who work there and I'm willing to work with them because I like to see definitions that really tell you something. And we would work to get language that would mean the same thing to most people who would read it, ordinary words that are

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understood in an ordinary way. So I'll let the committee know that I'm willing to do some work in that regard on some of the specific issues here. But I wouldn't want the bill necessarily held up until all of that is done if there's an inclination to support the bill itself, because we can offer amendments on the floor. And if we hold the bill in committee too long, then it might drop so far on the schedule that we won't get to it. So if a version of the bill would happen to come out that doesn't happen to have these changes, that doesn't mean nothing is being worked on. It just means that considering how the Legislature operates, it might be best to move the bill, then try to get some changes done on the floor. But that's what...an approach I'd be willing to work with. [LB360]

LORI HOOK: That sounds great and we certainly appreciate your support and willingness to do that. [LB360]

SENATOR CHAMBERS: Okay. [LB360]

SENATOR KOLTERMAN: Okay. Thank you, Senator Chambers. Any additional questions or statements? Hearing none, thank you very much. [LB360]

LORI HOOK: Thank you. [LB360]

SENATOR KOLTERMAN: Any additional opposition? [LB360]

LYNN ERISMAN: (Exhibit 5) Good afternoon, Senators. My name is Lynn Mac Erisman. I'm president of the board of HUA. I live in Auburn, Nebraska, E-r-i-s-m-a-n. I'm a better talker than I am a reader, so bear with me. I oppose LB360 because of definition of "significant threat to the health and safety of dogs or cats" are grossly insufficient. The definition of "providing food and water" cannot be enforced as reads. I have seen breeders that feed their dogs boiled macaroni with no nutrition value at all. I have read reports where dogs have gone more than 24 hours without food. I have seen the photos of the facilities where the water is frozen and no more than green slime. It is a sad state of affairs where we have to spell out to breeders how to feed a dog or a cat, but apparently we do. The current registration...regulation, I'm sorry, that says dogs can go 12 hours without water is ridiculous by any standard, but some of the breeders don't even meet that standard. Inspectors can't enforce because they are not always there to know if the dog had water every 12 hours. If a breeder does get a warning for no water, frozen water, or slimy, disgusting water, nothing happens. A warning letter is sent and a breeder is notified the date and time of reinspection. Of course, they always pass the reinspection because they are told the exact date and time. But what happens with the dog the other 364 days a year? Do they have sufficient water and food? If setting a minimum standard, let us set one that can be enforced. A breeder should get no strikes no matter of food and water. The standards have to be something that an inspector can see while they are there, like water must be available, potable, and clean containers.

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Attached reports illustrate the problem. An inspector report from December 14 of Mystic Kennels in Hartington noted the breeder stated the dogs haven't been in water since the night before. Food, water, and dishes filthy, dogs insufficient bedding on a 21-degree day, meaning there was no heat provided for them at all. Wulf Kennels in Guide Rock had frozen water on November 17 and more than a day of feces accumulation. Maline (phonetic) from Gothenburg told the inspector on December 2 that the dog hadn't had water for 24 hours; the food dishes were filthy and reeked; two weeks of feces had accumulated in the dogs' pen; and the dogs did not have protection from the elements. On the day of inspection, the breeder...inspector remained and items were taken care of. What do you think it was like happened all the other days after? None of those breeders even received a warning letter since Mr. Ibach and Governor Ricketts appeared to be ready to make good on their promise to help the dogs sufficient in these substandard facilities, let them...all the tools that they...give them all the tools that they need to do it with and surely if the law goes through and is written in a way that means something and makes the department job protecting animals easily achieved rather than setting them up for more than nothing the past decade. Also, I want to say from my heart that I groom and I clean the animals as they come in from rescues. I see little dogs that have 26 teeth pulled. I see big dogs with 30-some teeth pulled. Can you imagine a tooth being that bad? You've all had a toothache. Can you imagine having 26 of them? You know those poor dogs have got to be in pain. We've got a dog from breeders around Beatrice area and she told the...the guy that went and got him, she told him, she said, well, the little Shih Zu has a bad front leg. I got her in and started clipping around. All of a sudden her front leg come down. It was so matted in her chest that the breeder thought there was something wrong with her leg. She limped on that leg for about 15-20 minutes, and from then on she could walk on all fours. That's the kind of dogs we get from these breeders. I see if every day, every week. I've been there a little bit more than...going on five years and it just amazes me how people can treat these creatures. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you. Any questions for the testifier? [LB360]

LYNN ERISMAN: Oh, I'm sorry. [LB360]

SENATOR KOLTERMAN: That's all right. Thank you for coming to testify. Yes. [LB360]

JASON PAINE: (Exhibit 6) Hello. First of all, Senator Chambers, I'd like to thank you for being willing to work with us to get a version of this bill put through that would do what we all need it to do. I also wanted to say that I finally agree with something Mr. Ibach said, and that's that if these people know they're coming to get inspected, of course they're going to pass. [LB360]

SENATOR KOLTERMAN: Excuse me, could you state your name and... [LB360]

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JASON PAINE: Oh, I'm sorry. My name is Jason Paine, it's J-a-s-o-n P-a-i-n-e. [LB360]

SENATOR KOLTERMAN: Thank you. [LB360]

JASON PAINE: I apologize for that. And the other thing, Clem back here--I'm sorry, I can't remember his last name--also said he's never seen anything like that, but he needs only go to his son's facility to see that kind of conditions, so. I oppose LB360 because it makes it impossible to place any dog or cat suffering in a substandard facility in the category of having their health and safety significantly threatened before they are on the brink of death. To expound on what Mac was saying, the bar is so low that the dogs can be dying, yet they wouldn't fall into this category. On February 2, an inspection at JoAnne Steiger's kennel, called In God's Hands, in Randolph, Nebraska, showed frozen water. The breeder said she gave the dogs water yesterday. The place was filthy, few dogs had any bedding, two dogs were fighting and she could not provide the name of a veterinarian for over 30 adult dogs and 19 puppies that were on the premises. Apparently leaving it all in God's hands is not working out the best for JoAnne's animals. A warning letter was sent, but no follow up has taken place to this date. On October 15 in Swanton, Nebraska, the Peseks had yet another inspection noting that the dogs were not being fed properly, were underweight, and had hook and whipworms. This affected 50 dogs and 3 puppies. It was noted that there were not enough employees to take care of the dogs. They also had no vet care plan and no name of a veterinarian, even though they have had multiple prior inspections, including ones where dogs were found underweight, injured, and with completely frozen water. The report notes that "Dogs must be fed at least once each day." In January, the Isoms from Page, Nebraska, were noted to have frozen water and had not provided fresh since the night before for 44 dogs and 11 puppies. There was no bedding or protection for dog houses and there was waste accumulation for a few days. The same conditions were noted at the Kirkwood (phonetic) Kennels in Tekamah in February. This new definition, unfortunately, would make it even more difficult for the department to take the immediate enforcement action necessary in cases like these. Perhaps that is their intent and I would hope not. But let's not give them a big loophole they can point to as an excuse for continuing to not do their job. Over a decade of denial and apathy is enough. Thank you. [LB360]

SENATOR KOLTERMAN: Okay. Thank you for your testimony, Mr. Paine. [LB360]

JASON PAINE: Thank you. [LB360]

SENATOR KOLTERMAN: Senator Chambers. [LB360]

SENATOR CHAMBERS: So in my agreeing to work with this, are you willing to have conversations with me--I know you would, but for the record--so we can try to get some of the kind of language necessary to carry out what we want the intent of the law to be?

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[LB360]

JASON PAINE: Absolutely, Senator. [LB360]

SENATOR CHAMBERS: Okay. And before you go, I'll get your phone number where I can reach you. [LB360]

JASON PAINE: Yes, sir. [LB360]

SENATOR CHAMBERS: Thank you. [LB360]

JASON PAINE: Thank you. [LB360]

SENATOR KOLTERMAN: Any additional questions? Thank you very much. [LB360]

JASON PAINE: Thank you. [LB360]

SENATOR KOLTERMAN: Any other opponents? [LB360]

PAULINE BALTA: (Exhibit 7) Good afternoon, senators and ladies and gentlemen. My name is Pauline Balta, P-a-u-l-i-n-e B-a-l-t-a, and I am a long-term volunteer at Hearts United for Animals. I oppose LB360 because it is a ridiculously low standard where ongoing suffering will be allowed to occur with no action taken. The definition of "significant threat to the health and safety of a dog or cat" must be rewritten. For example, in failing to maintain sanitation, if a dog were to sit in one semi-clean spot surrounded by weeks of feces and urine with one small path that he could walk in, that would not be considered a threat to health or safety. I totally disagree with that. As a 13-year volunteer at Hearts United for Animals, from the very beginning of my volunteering until last week I have witnessed dogs arriving covered in excrement and urine and suffering from parasites. In the Malcolm case, which was described by the judge as "an animal Auschwitz," many of the worst horror scenes would not have even met this very lame threshold. I hate to be skeptical of Mr. Ibach's newfound enthusiasm for doing his job, but if I were skeptical, I would say this looks like a set up to give him the tools to continue not doing his job well into the future. Please ask yourself if you want a department that does their job, is equipped to do their job, and protects the animals or if you would like to continue supporting their sidestepping ways and help them continue to protect the breeders who are so viciously neglect these helpless animals. The animals don't need to be helpless. You can help them, and I'm here to ask that you do so. Any questions? [LB360]

SENATOR KOLTERMAN: Thank you. Seeing no questions, are there any additional opponents? Just to get an indication, how many additional opponents might there be? All right. Thank you. [LB360]

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MARY DOUGLAS: (Exhibit 8) Hello. My name is Mary Douglas, M-a-r-y D-o-u-g-l-a-s, and I'm a 12-year volunteer with Hearts United for Animals. I am here today to oppose LB360. It is a travesty that this definition was proposed and accepted by anyone. The substandard conditions allowed today would only reinforce...be reinforced by this bill. The breeders think that it is wonderful news that a dog has to be hemorrhaging to death or having its internal organs fail by dehydration and be able to have weeks of feces piled up in order to have it be considered a significant threat. One of those breeders, from the Nebraska Breeders Association, is Clem Disterhaupt, Jr. I'll spell that for you, D-i-s-t-e-r-h-a-u-p-t, from Spencer, Nebraska. He just spent months dodging inspections at his breeding facility, and I have given you the Department of Ag inspection reports. When he finally relented and inspectors visited his facility on February 4th, they found unsanitary conditions, including mouse feces in buildings where 48 adult dogs and 5 puppies reside. There was also no veterinarian and no veterinary care plan available noted on the inspection. Let's not fall into the trap yet again of accepting a compromise that is no compromise at all. The health and well-being of living creatures is not something to be compromised. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you, Ms. Douglas. Any questions? I'm sorry, Senator Schilz. You're hiding over there. [LB360]

SENATOR SCHILZ: Thank you. Mary, thank you for coming in, and, you know, I hear all the horror stories that you talk about. Does, you know, Hearts United for Animals or any of these other groups that are out there, do you guys have a program to uphold and shine a light on those breeders that are doing a good job, that are doing it the right way so that you can show people, hey, this is where you need to go? This is who you need to find your dogs from. Is there any program out there like that? [LB360]

PAULINE BALTA: Well, we're a shelter and we... [LB360]

SENATOR SCHILZ: No, no, I understand, but... [LB360]

MARY DOUGLAS: We promote adopting because we don't get breeder dogs turned into us from good breeders. So we don't...we aren't in the business of trying to promote a good breeder because we have so many of them on our own to adopt. [LB360]

SENATOR SCHILZ: But let me ask you a question. If you did promote good breeders, wouldn't that lessen the problem out there for you? [LB360]

MARY DOUGLAS: Personally, there are so many dogs put down in this country that there is absolutely no reason to breed dogs. Absolutely none. There are 70,000 cats and dogs born in this world every year. [LB360]

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SENATOR SCHILZ: So if somebody would like to...so... [LB360]

MARY DOUGLAS: If you looked at the euthanasia numbers in any shelter in this country, you would wonder why are we breeding dogs. [LB360]

SENATOR SCHILZ: Well, because some people enjoy that not only as a hobby, but some people do that as a business and some people do it responsibly, ethically. [LB360]

MARY DOUGLAS: That may be. [LB360]

SENATOR SCHILZ: And so what would be the problem with showing those that do it right? [LB360]

MARY DOUGLAS: I'm not saying there's a problem. I'm just saying there's really no need for it, but in my eyes. [LB360]

SENATOR SCHILZ: I understand what you're saying. But do you think it would be a good idea to highlight those folks that do it right to take some...? [LB360]

MARY DOUGLAS: Sure. If someone is going to buy a dog, it would be nice if they knew that it was a good breeder. [LB360]

SENATOR SCHILZ: Right. But they...so... [LB360]

MARY DOUGLAS: But there would need to be a definition of a good breeder. [LB360]

SENATOR SCHILZ: Say that again? [LB360]

MARY DOUGLAS: There would need to be a definition of a good breeder. [LB360]

SENATOR SCHILZ: Do you have that? [LB360]

MARY DOUGLAS: It's hard... [LB360]

SENATOR SCHILZ: Let me ask you this, is there such a thing? [LB360]

MARY DOUGLAS: There may be. [LB360]

SENATOR SCHILZ: Can you tell me what that is? [LB360]

MARY DOUGLAS: I would say that if you were to buy a puppy you would want to be able to see mom and dad at the same place. You would want to see where it was

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raised. You would want to see where it was being born and raised. You would want to see the environment it was raised in. [LB360]

SENATOR SCHILZ: Sure. [LB360]

MARY DOUGLAS: You would want to see its medical records and you would want to see its parents' medical records. [LB360]

SENATOR SCHILZ: Right, and I can't disagree with any of that, and I would say that as much as anything I think that that's important to let people know. And as much as I can't disagree that there's probably folks out there that are doing things wrong, I also believe at the same time there's people out there doing things right. And I would hope that as much as you're out there to talk against the folks that are doing things wrong you would want to recognize the folks that are doing things right. So I appreciate you coming in today, but I would just say that, look, there are ways to get to people that are doing things right and to help solve the problem by that as well. So thank you very much for coming in. [LB360]

SENATOR KOLTERMAN: Any additional questions? Thank you. [LB360]

JULIE LAVIN: (Exhibit 9) My name is Julie Lavin, that's spelled J-u-l-i-e L-a-v-i-n, and I am a manager at Hearts United for Animals. I am here today to oppose LB360. The language as stated for the definition of "significant threat to the health or safety of a dog or cat" is not acceptable. It will promote further suffering of dogs in substandard breeding facilities. As a manager at Hearts United for Animals, I am appalled at the conditions that exist in many of the breeding facilities. We are a nonprofit and our standards of animal care are far and above what is provided for the poor dogs who make money month after month and year after year for the breeders who so terribly neglect them. I cannot imagine having dog dishes with no water, solid ice, water as filthy as the attached inspection report from January 28th at the Roy Schrunck facility in Friend, Nebraska. On that date, there was 46 adult dogs and 35 puppies at the facility. Pens were covered in feces, outside dogs had no protective flaps on their dog houses. Some dogs had extremely matted fur and others needed immediate veterinary care. The likelihood that a person who operates a facility in this condition is going to keep up on it in the future is extremely low, as evidenced by the excessive number of problem breeders who are cited year after year for the same violations, cleaning it up by their next inspection date, which is always scheduled, then falling back into their lazy ways once they think inspectors are no longer watching. If the department did decide they wished to start taking enforcement actions, this bill would make it clearly...make it nearly impossible. Please take the advice given for proposed changes to provide for better conditions for the dogs as opposed to stating that they must be bleeding to death before one's very eyes before anything meaningful can be done. Caring for dogs is my life's work and I find this bill as introduced completely detestable. Thank you. [LB360]

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SENATOR KOLTERMAN: Thank you. Any questions? Senator Riepe. [LB360]

SENATOR RIEPE: Senator Kolterman, thank you. I guess my question is--because I know this is so near and dear to many of your hearts--is that why not create an Angie's List, if you will, or something like that that can be done outside of government and can be done to force the bad breeders out of the business? I mean, it seems to me you'd rather, you know, supply-demand. People that are going to buy dogs love dogs and they will want to buy a dog that's not raised in a puppy mill. It just seems real straightforward to me. Angie's List is just another example...and I wouldn't say through Angie's List. [LB360]

JULIE LAVIN: I'm not familiar with Angie's List, so. [LB360]

SENATOR RIEPE: That's where you can get carpenters and other help people and... [LB360]

JULIE LAVIN: Oh, okay, okay. [LB360]

SENATOR RIEPE: ...they're kind of like, it's almost Better Business Bureau kinds of things, and, you know, you get the stamp of approval and...so you can put some real pressure on them with a very intense group that's very committed to this. [LB360]

SENATOR KOLTERMAN: Senator Chambers. [LB360]

SENATOR CHAMBERS: I don't think shelters should be in a position to promote anybody because the people in the shelters do not go around and inspect all these kennels. And if they can know that an inspection is coming and clean everything up, the shelter could go there at a time when everything seems right and make the mistake of putting a stamp of approval. I think it's all that can be done and more than the shelters can handle to receive these animals in horrendous conditions where they spend an inordinate amount of money to nurse them back to health, more than the average pet owner would spend. I don't think that there should be an obligation or anybody should even think of putting an obligation on them to say who is a good operator just like the police department if they know of people running chop shops. That's where you get cars and you cut them up and, you know, you steal them. Nobody asks the police, well, why don't you put out a list of honest car dealers, honest used car dealers. And I understand what Senator Schilz was getting at, but it's too much to have to fight these issues with all the time you have and then at the same time be told, tell us who's good. I hope that Hearts United, and no other shelter, will undertake to do that because it would just be...it's pointless, in my opinion. And I thought I'd put that in the record in case somebody, in view of the comment having been made in the record, nobody on the committee expressed a reason why maybe that shouldn't be the case. And the

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impression could be that everybody on the committee agreed with that, which I really don't. I'm skeptical of people who make money selling animals. That doesn't mean all of them are bad. But I don't...well, I'm not going to repeat what I said, but thanks for all the work you all are doing. Keep doing that. [LB360]

JULIE LAVIN: Thank you, thank you. [LB360]

SENATOR KOLTERMAN: Thank you, Senator Chambers. Senator Schilz. [LB360]

SENATOR SCHILZ: Thank you, Senator Kolterman. And, I mean, just to go off what Senator Riepe said and Senator Chambers said, I...with all due respect to Senator Chambers, and I don't mean to put you in the middle of this, but we're...and it's absolutely right for you to come up and represent where things are wrong. But I think it's also absolutely right that an organization like you that see where things are going right and that can see the positive things should say, yes, this is the right way to do it. [LB360]

JULIE LAVIN: Well, I've been doing this for ten years in South Dakota and Nebraska. I've never met a good breeder yet, to be honest with you, and I've worked with a lot. [LB360]

SENATOR SCHILZ: So there's no dog out there that has been bought and sold that's been bred by somebody that cares about dogs? [LB360]

JULIE LAVIN: No, I believe that exists but I've never seen it. [LB360]

SENATOR SCHILZ: That's a big statement. You know that, right? [LB360]

JULIE LAVIN: It is. It is, but it's true. It's true and I've rescued a lot of dogs. [LB360]

SENATOR SCHILZ: Well, then we have all failed miserably then, haven't we? And I don't know...well, then it's all incumbent upon us then, isn't it, to turn that around, and you can't turn that around...I've been in this Legislature now for six years. Senator Chambers has been here many, many more than I have, and this issue hasn't gone away. And we've been trying to fight it... [LB360]

TRAVIS MOORE: I'm having technical difficulties with the recording device, so if we could pause for a minute. [LB360]

SENATOR SCHILZ: And I was just ready to make some... [LB360]

TRAVIS MOORE: Sorry. (Laughter) [LB360]

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SENATOR SCHILZ: Maybe it's a sign? (Laughter) Okay. I'll hold my thoughts. [LB360]

SENATOR KOLTERMAN: We have one more and then how many in the neutral? Any? Well, bear with us, we'll get through this. [LB360]

SENATOR CHAMBERS: Senator Schilz, that may be the work of the god of the dogs. [LB360]

SENATOR SCHILZ: You never know. (Laughter) [LB360]

SENATOR CHAMBERS: But while we're off the record and passing the time, I won't refer lawyers because in the past I used to do that and people thought because they know how I try to be fair that a lawyer would do the same thing. Then they'd call me upset because filing dates were missing. I said, well, all I did was gave a name, so now I let people know that I'd rather not do that because I can't ensure that this lawyer is going to do that. Now if I had personally used a lawyer, I would tell the person, tell the lawyer I made the referral. And if he or she doesn't have these kind of cases to let you know, then I want you to tell me what the lawyer told you. I just won't make referrals. But I do speak highly of Hearts United for Animals and other no-kill shelters. I'll do that because I'm familiar with their work. [LB360]

SENATOR SCHILZ: Sure. Absolutely. [LB360]

SENATOR RIEPE: You don't do a dating service either then obviously. (Laughter) [LB360]

SENATOR CHAMBERS: I what? [LB360]

SENATOR RIEPE: You don't do a dating service. [LB360]

SENATOR CHAMBERS: Are you out of your mind? (Laughter) They could call me an aider and abettor if somebody got killed. [LB360]

SENATOR SCHILZ: I don't know how we got here. I don't know. [LB360]

SENATOR KOLTERMAN: Are you ready to go? [LB360]

TRAVIS MOORE: (Inaudible). [LB360]

SENATOR KOLTERMAN: Okay. I believe Senator Schilz had the floor. [LB360]

SENATOR SCHILZ: Thank you, Senator Kolterman. And, ma'am, sorry for the disruption. And I was just saying that...and I think just to bring us up to speed, you were

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talking that you personally haven't seen any good breeders out there. And I'm not going to dispute you on that. I'm not in the business of going out there and looking at that, so I'm not going to dispute you on that. But, you know, in your business or in whatever you do you know that there's people that do things that are good at it and people that do things that are not so good at it. And the ones that are good at it you go back to them and ones that aren't, you stay away from. And I would just think that when you see folks that are not doing a good job, you expose that. And when you see folks that are doing a good job, you should also espouse that as well. And that's all I'm trying to say here is that if you do see things--and I have to respectfully disagree with Senator Chambers--is that I think that it is all of our duties that if you see these kind of things going on and you see somebody that is doing a good job, that it is also your responsibility, all of our responsibilities to say, hey, look, if you want to buy a pet and you want to go to a breeder to do that, there are some...if there is a good one out there, these are the ones that you should go to. And folks like Hearts United, when they see that should tell folks, yes, this is somebody that you can trust and you can go to. Even if that person, like you said, if they do these certain things, they should be somebody that you can go to and trust to buy a pet from. [LB360]

JULIE LAVIN: We have 400 dogs at our shelter, so I think we'd promote our own dogs before a breeder. [LB360]

SENATOR SCHILZ: I get that, I get that. But you can't deny that there is...there are people out there everyday that are going to breeders to buy dogs. [LB360]

JULIE LAVIN: Yeah, there are, absolutely. [LB360]

SENATOR SCHILZ: And so it's not something that you're probably going to...it's not going to disappear. And people are in the business...it is a business and it is a legal business, and so whether you like it or not philosophically, if you're going to be volunteering for this kind of thing, if you...and you can correct me if you think I'm wrong and that's okay. But if you want to make it better, then you're going to have to accept that this goes on out there and you should probably say, okay, it's...and I don't mean to...I don't want to put words in your mouth, but even though it's not a perfect world, if somebody is doing it better than somebody else you should point out those that are doing it better to try and better the situation. Is that a fair statement? [LB360]

JULIE LAVIN: Yeah, I understand what you're saying. It's just like I said before, I don't know of any that are doing a good job. [LB360]

SENATOR SCHILZ: Okay, okay. And I appreciate that. Thank you very much. [LB360]

JULIE LAVIN: Okay. Thank you. [LB360]

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SENATOR CHAMBERS: Just to kind of wrap it up, Senator Schilz... [LB360]

SENATOR KOLTERMAN: I was going to do that. [LB360]

SENATOR CHAMBERS: Say it again. [LB360]

SENATOR KOLTERMAN: I was going to do that, Senator Chambers. [LB360]

SENATOR CHAMBERS: Oh, well yeah, you can wrap it...okay. [LB360]

SENATOR KOLTERMAN: Go ahead. [LB360]

SENATOR CHAMBERS: I'll put the paper on it and you can tie the ribbon. Senator Schilz, I'm not disagreeing with the thrust of what you're saying, but a shelter like Hearts United spends all of its time receiving the victims of the misdeeds of all of these other people. So they would really have no way of knowing how many and who these other people are. And if they would become known as those who say, go to A, B, C, and D. If somebody is doing well but they're not on the list, then it could seem like favoritism is being shown, and now they're not in the business of rescuing animals but of promoting certain, maybe, favored individuals. That's just the way I view it. [LB360]

SENATOR KOLTERMAN: Thank you, Senator Chambers, and thank you, Senator Schilz. Looks like we're going to have fun in Executive committee (sic). (Laughter) I would...I have a question for you, Ms. Lavin. [LB360]

JULIE LAVIN: Okay, okay. [LB360]

SENATOR KOLTERMAN: How...from about the last five or six testifiers, we've had these pretty thick reports and they deal...I mean, you're statements are almost like you were on the field trip with the inspector. How do you get such accurate...I mean, the reports are here but do you follow up on these reports and go look at the animals? I'm just curious because I've never been...I've never seen a report like this. [LB360]

JULIE LAVIN: The inspection report? [LB360]

SENATOR KOLTERMAN: Yeah. [LB360]

JULIE LAVIN: No, we'd have no way of following up on reports. [LB360]

SENATOR KOLTERMAN: So your testimonies that people have been giving are coming directly from these reports. Is that what I'm hearing you say? [LB360]

JULIE LAVIN: Directly from the Department of Ag inspection reports and pictures.

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[LB360]

SENATOR KOLTERMAN: Okay. And the pictures as well? [LB360]

JULIE LAVIN: The pictures that the inspectors take during their inspections. [LB360]

SENATOR KOLTERMAN: Okay. I was just curious because I...like I said, I've never been exposed to this. Thank you. [LB360]

JULIE LAVIN: Thank you. [LB360]

SENATOR KOLTERMAN: Any other questions? Thank you for your testimony. [LB360]

JULIE LAVIN: Thank you. [LB360]

RACHEL CURRY: (Exhibit 10) Hi! I'm Rachel Curry, R-a-c-h-e-l C-u-r-r-y, and I am a full-time caregiver at Hearts United for Animals. I oppose LB360 based on the fact that it appears to encourage breeders to feel free to mistreat and neglect dogs to the very brink of death before any significant action will occur. That would not be acceptable where I work. It should not be acceptable anywhere. Leaving dogs out to freeze or succumb to heat, allowing them to suffer from ailments month after month or year after year, allowing water to become scummy or nonexistent when the inspectors are supposed to take the breeder's word that the dogs get water every 12 hours, and living with weeks of feces are all not acceptable to any true animal welfare person. The definitions are not extensive enough. The bad breeders know this, therefore, they support it. I do not. At an inspection of the Brosh Kennel in Pender, Nebraska, on January 26, the couple who own the facility were told by an inspector that they could, and I quote, could use an employee to help keep up. They have 131 dogs and 39 puppies. At HUA, we have 400 dogs with 25 employees. Myself and three other people work full time in a building with as many dogs as the Brosh's have. If 39 of those dogs were puppies, 4 of us could not even begin to keep up. We are a full-time day shift and there is also another night shift of four to take care of the 170 dogs in the building I work in at HUA. At the Brosh facility, two weeks worth of feces build up was noted. And at 11:00 a.m. in the morning, the Brosh's admitted that the dogs had been given no water since 5:00 p.m. the night before. The suggestion that they might need a little help seems like quite an understatement. They have not been reinspected since this occurred on January 26. This illustrates to me that the department is not serious about enforcement actions and cares little for the dogs who are going without the very basic necessities of life. On January 7, Jonathan Oswald of Milford, Nebraska, was inspected, and although he had only five dogs to care for, they were not provided clean, dry bedding as required on a 4-degree day. Surfaces were unclean, animal food and waste was not disposed of, and one dog who was too lethargic to stand up suffered hypothermia and had to be euthanized a day later. Dr. Vondra's report is attached

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stating that the dog registered no temperature as it was under 89 degrees and she only had 20 heartbeats per minute. The inspector also noted noncompliance with feeding the dogs at least once per day and offering sufficient water. Mr. Oswald had a reinspection two days later where...oh, sorry. Mr. Oswald had a reinspection two days later where two of the four remaining dogs were found without proper shelter on a 6-degree day. Within another five days, he was in compliance. Even with this new definition, this case could have easily been in dispute because shelter, protection from extreme weather, and enforceable requirements for food, water, and sanitation are not spelled out. One could say these things are common sense, but common sense seems to be in very short supply with breeders like Mr. Oswald, the other breeders mentioned today, and even the Department of Ag supervisors. The inspectors do a wonderful job of documenting and reporting, but if nothing happens after that, as has been the case for so many years, Nebraska will continue to be a very sad place for the suffering dogs. [LB360]

SENATOR KOLTERMAN: Thank you, Ms. Curry. Any questions? Senator Riepe. [LB360]

SENATOR RIEPE: Thank you, Senator Kolterman. My question is this, many of these reports sort of run over the same theme. Are these firsthand knowledge or are these based on the reports that were submitted by the Department of Agriculture? [LB360]

RACHEL CURRY: What I'm saying or what's in the report? [LB360]

SENATOR RIEPE: What you're saying, yes. [LB360]

RACHEL CURRY: What I'm saying is coming from the reports. [LB360]

SENATOR RIEPE: Okay. Not from...you didn't personally see this? [LB360]

RACHEL CURRY: No. But those reports are coming directly from the inspectors. [LB360]

SENATOR RIEPE: Okay. [LB360]

RACHEL CURRY: They're public knowledge. We're allowed access to them. [LB360]

SENATOR RIEPE: Okay. I just...it was important for me to know whether it's firsthand, secondhand kind of stuff. [LB360]

RACHEL CURRY: Okay. [LB360]

SENATOR RIEPE: Okay. Not that I doubt it, but thank you. [LB360]

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RACHEL CURRY: I don't think I could ever step foot in a facility like that. [LB360]

SENATOR KOLTERMAN: All right. Thank you. Any other questions? Appreciate your testimony. [LB360]

RACHEL CURRY: Thank you. [LB360]

SENATOR KOLTERMAN: There is none in the neutral position, so Senator Johnson, we welcome your close. [LB360]

SENATOR JOHNSON: Thank you. And I really appreciate the discussion we've had, both those that support LB360 and especially appreciate the people from Hearts United that come in and help explain a little bit where we've been. I think we know where we've been. To put something into a bill to start with, we probably would have had overreach and probably put in too much in it. I think what we've learned today and I believe this will be carried on through the committee, we'll put in some sort of guidelines, some kind of a structure there in order to better define some of the parameters of some of these situations and not put them into statute where we would have a tendency to probably overstate or get in trouble. So we definitely will be able to improve on LB360 and I would hope the committee will move the bill forward and then allow us possibly to continue to perfect it before we get on the floor or at least to Select if it moves that far. Thank you. [LB360]

SENATOR KOLTERMAN: Thank you, Senator Johnson. That concludes the hearing for today. Thank you for all coming to testify, both pro and con. And now I turn it back over to you. [LB360]

SENATOR JOHNSON: (Exhibit 1) Okay. I'm Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. I'm here to introduce LB359. LB359 increases a state fee imposed pursuant to 54-603 and collected by political subdivisions that impose a license fee for dogs and cats owned or harbored by citizens in its jurisdiction. The fee is currently \$1 per animal. LB359 would increase this fee to \$1.25. Fee revenues submitted pursuant to this provision are accredited to the Commercial Dog and Cat Operator Inspection Program Cash Fund. There's a handout that I think was in your book that talks about...shows the cash flow of the fund over the past few years and shows the direction it's headed. I won't go through all of the details but if you look in the projected, we're going into a negative at the, oh, probably \$50,000-60,000 a year. In the past, this has been funded partly by General Fund and partly by fees. Right now, it's pretty much, it's funded by fees. And with this change, it will keep us...if this change is made now, it will keep the fund from going into the red and having to make a change later on in the fees or going back to the General Fund. So I would close with that, and if there's any questions I would be available to answer. [LB359]

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SENATOR KOLTERMAN: Thank you, Senator Johnson. Any questions for Senator Johnson? Seeing none, we'll move into proponents of the bill. [LB359]

CLEM DISTERHAUPT: Hi! My name is Clem Disterhaupt, C-l-e-m D-i-s-t-e-r-h-a-u-p-t. I'm from Stuart, Nebraska. And, first, I'd like to say I think it's wrong for people to set here and talk about things that are not facts. My son owns a \$100,000 facility in Spencer, Nebraska. The reason I know that is I put up the money to build it. It has automatic waters, electric heat, air conditioning, first class. So where this comes from I have no clue at all. Let's do facts today. Okay? The fact of the matter is this bill is drawn up the way that pet breeders and Senator Carlson in meeting in discussions for hours in funding for the Nebraska Dog and Cat Inspection Act. We sit down a few years ago, did a lot of research, and worked with different people and different breeders and Senator Carlson--who was the Chairman at the time of the Ag Committee--and we laid out a plan to support--by all three kennel associations--to increase funding by collecting a license fee from pet owners. This very small fee has been successful in funding and at the same time keeps kennel breeders from being burdened by huge license fee increases which, in turn helps to keep puppy prices lower. The 25 cent increase in this bill is the method of increase that we agreed on. It is the method that works. It's fair and it's affordable. Therefore, I urge you to vote for LB359. Thank you. [LB359]

SENATOR KOLTERMAN: Thank you, sir. Any questions? Appreciate your testimony. [LB359]

CLEM DISTERHAUPT: Thank you. [LB359]

JUDY VARNER: (Exhibit 2) Again, my name if Judy Varner, president-CEO of the Nebraska Humane Society and I would like to begin by thanking Senator Johnson for not only introducing LB359 but also LB360 and for being as interested in this issue as all of you are. We deeply appreciate it. Bottom line is you've heard a lot of conversation about what needs to happen with the Department of Ag in this program and everything has a price tag. So it's time for the Legislature to sort of put its money where its mouth is. That's not going to be easy. We sell 150,000 licenses in Omaha. We anticipate that this would bring in a \$35,000 to \$40,000 from Omaha alone if everybody complies. We have stopped taking the 3 percent fee that we are entitled to for processing the licenses. We want all the money we can to go to this program. I think this bill has value and I think Senator Kuehn's bill of LB389 also have value. And so I think you have several options available to you to provide the funds that the department needs. [LB359]

SENATOR KOLTERMAN: Thank you, Ms. Varner. Any questions? Thank you very much. Any additional proponents? [LB359]

JASON PAINE: (Exhibit 3) My name is Jason Paine, J-a-s-o-n P-a-i-n-e, and I'm glad I

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get to agree with everybody so far. As a volunteer at Hearts United for Animals, I support LB359. If money is the impediment to the department doing its job and the program is in jeopardy of running out of funding, by all means let's do all we can to fund it. The condition of the dogs who arrive from substandard breeding facilities in Nebraska is completely appalling to me, the photos that accompany the inspection reports that the Department of Ag does. Hearts United, we don't do any inspections, we don't check any place. That's the Department of Ag's job and it's your job to oversee them. Allowing dogs to continue to live in those conditions month after month, year after year, is not acceptable. If this is what it takes to get the job done, I say let's do it and let's make it more meaningful than 25 cents. Let's raise it to a dollar or \$2 so that the program can be as strong as Governor Ricketts and Mr. Ibach claim they wish it to be. Let's give them every tool that we can for them to do their job so that they can be no longer any excuses and the program can be strong going forward. I personally license my pets in Lincoln each year, and I would be glad to pay an extra \$2, \$3, or even \$5 if I knew it would help fix this hideous situation. Finally, in regards to every piece of legislation being considered today as well as every regulation that already currently exists and has for years, the limiting factor is the ability and desire to enforce it. If there is not a governing body with the backbone and integrity to carry out the duties designated to them, then this cycle will continue to repeat itself no matter how many laws and regulations are passed. There must be some measure of accountability and ultimately as the governing body of the Ag Department, as I understand it, that responsibility falls on all of you. Thank you. [LB359]

SENATOR KOLTERMAN: Thank you. Any questions? Thank you. [LB359]

JASON PAINE: Thank you. [LB359]

SENATOR KOLTERMAN: Next testifier, please. [LB359]

LORI HOOK: (Exhibit 4) Lori Hook with Hearts United for Animals. I appreciate the efforts to raise the license fee for dog owners to help further fund the dog and cat program. If funding is an obstacle for the department in their ability to enforce the law for bad breeding facilities, then I am all for removing that obstacle. I would, however, suggest that 25 cents is an amount that is puny and that it should be raised to at least an even dollar increase. This would still be a very low burden on owners of individual pets. Bringing the total paid to an even \$2 or even \$3 would not pose a hardship to any pet owner. Most pet owners would gladly pay it if they knew that the funds were going to help animals in distress in substandard breeding facilities. The further increase would help ensure a strong future for the dog and cat program, giving it additional flexibility and resources needed to follow up and take action on behalf of dogs and cats who suffer in substandard facilities. Thank you. [LB359]

SENATOR KOLTERMAN: Any questions? Thank you. [LB359]

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LYNN ERISMAN: Senators, my name is Lynn Erisman, again, president of the board of directors at HUA. I support this LB359 to increase funding for the dog and cat program. Each day I see that the substandard breeding facilities that have on the dogs. As a board member/volunteer at Hearts United, I bathe and groom the animals as soon as they are rescued. They are frightened, filthy wrecks whose bodies are falling apart. With each dog that arrives, I find new disgust for humans that do this to dogs and the enforcement procedures that are severely lacking to help protect them. My only suggestion would be to raise it more than 25 cents. I don't think that this is like a tax where we go a half a penny and a penny and everybody pays it. This is something very few people pay, the ones that own domestic animals, anyway, dogs and cats, and I think a dollar or \$2 they wouldn't mind, which would increase the fund to help the inspectors do their job. I license my dog every day in Auburn...I mean, sorry, every year in Auburn and would glad to pay several dollars each year if it meant that these poor, pathetic, breeding dogs would not continue to suffer in our state. [LB359]

SENATOR KOLTERMAN: Thank you very much. Any questions? Senator Riepe. [LB359]

SENATOR RIEPE: Thank you, Senator Kolterman. I wanted to come back I guess on partly reference to the dean of our legislative group, and that is, do you see a fee as the same as a tax? [LB359]

LYNN ERISMAN: No. [LB359]

SENATOR RIEPE: Okay. Thank you. [LB359]

SENATOR KOLTERMAN: Any other proponents? [LB359]

RACHEL CURRY: (Exhibit 5) Hello, again. Rachel Curry. Do you want me to spell it? [LB359]

SENATOR KOLTERMAN: No. Go ahead. [LB359]

RACHEL CURRY: Nope. Okay. As a longtime employee of Hearts United for Animals, I see the effect that substandard breeding facilities have on the lives of dogs who suffer there for so many years on end. It saddens me beyond words to see how frightened they are of humans and to see the suffering they endure just trying to fix them up to have a normal life. Just two weeks ago, I worked for hours to find the feet of a little Bichon. She was covered in mats the size of golf balls. Once we finally freed her feet from the cocoon of mats that encased them, I had to cut the nails that had grown so long that they curled back into her foot pads and had to use pliers to free them from the mats and feet. Her feet were bleeding from having the nails grow into them. She had to

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be completely shaved, in the middle of winter, as there was no fur on her body that was not matted. If this bill will help to end situations like that, then I would like to see it pass. I would also suggest that 25 cents may not be enough. Let's remove all the excuses that the department has for not doing their job and give them every tool they need to help end the misery for these dear creatures. Let's make it \$1 or \$2. After all the suffering the dogs endure, their lives are worth that. [LB359]

SENATOR KOLTERMAN: Okay. Thank you, Rachel. Any other questions? Thank you for testifying. Anybody else in support? Opposition? Neutral? Senator Johnson, it's yours to close. [LB359]

SENATOR JOHNSON: First of all, thank you for the support, the suggestions that maybe it should be higher. It'll be interesting if that was proposed on the floor because we've had some discussions on the floor already about talking about percentages of increase. So it would be interesting as we might pursue this particular bill. That's my closing. Thank you. [LB359]

SENATOR KOLTERMAN: Thank you. [LB359]

SENATOR BLOOMFIELD: I assure you, Senator Johnson, it would be interesting in Exec Session. (Laughter) [LB359]

SENATOR KOLTERMAN: All right. Senator Johnson, you want to take the chair back? I think Senator Kuehn is here. [LB359]

SENATOR JOHNSON: Thank you. Thank you, Senator Kolterman, for chairing for the two bills. And welcome, Senator Kuehn. [LB389]

SENATOR KUEHN: Thank you. [LB389]

SENATOR JOHNSON: You can begin your testimony on LB389. [LB389]

SENATOR KUEHN: All right. Thank you. I'm Senator John Kuehn, J-o-h-n K-u-e-h-n, representing District 38 in south-central Nebraska. And I'd like to thank the members of the Agriculture Committee this afternoon for entertaining my testimony here as I introduce LB389. LB389 seeks to address concerns surrounding the care and welfare of pets in Nebraska by amending Sections 54-628 and 54-627 of the Commercial Dog and Cat Operator Inspection Act. As you've heard today and in previous discussions both within this committee and on the floor of the Nebraska Legislature, we're all aware of concerns that have been raised about the conditions and welfare of animals in commercial breeding operations in Nebraska. The frontline in addressing and rectifying these concerns lies in identifying the facilities that are currently not in compliance with the standards of care outlined in the act and with accepted standards of animal care

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and veterinary care. In fiscal year of 2013-2014, the commercial dog and cat inspector program ran its third year of budget deficits while the number of inspections have continued to increase. During that fiscal year, the Department of Ag conducted 899 inspections and oversaw 236 commercial breeder licenses in addition to supervising 106 licensed boarding kennels and 8 dealers. As you have heard, the financial resources of this program continue to be strained while the demand for oversight is higher than ever and more needed. LB389 provides additional resources to the cash fund of the commercial dog and cat inspection program by increasing the initial license fee to \$150, and in prorating the fee schedule for all annual license fees to accurately reflect the commitment of resources by inspectors of the Department of Agriculture and the inspection and the documentation of the conditions and facilities housing dogs and cats in Nebraska. Starting with the current base level of ten or fewer dogs and cats paying at the \$150 fee, the currently implemented tiered scale is amended to address a \$10 per animals prorated daily average over the annual license period. The process of carefully inspecting and documenting conditions in a commercial breeding operation is obviously a function of size. Large operations, such as the 16 operations currently licensed in Nebraska with 100 or more annual population of dogs require an extensive increased commitment of inspector time, diligence, and documentation when compared to the 69 licensed operations with ten or fewer animals. It is in the public interest to ensure that the standard of care and welfare in these commercial breeding facilities is maintained, and the license fees should reflect the proportional demand of Department of Agriculture inspector resources and it is appropriate to place that burden on the larger operations. Additionally, LB389 assesses a fee of \$150 and mileage expenses for repeat inspections required for facilities found to be out of compliance and requiring additional oversight and the commitment of departmental resources. To illustrate the magnitude of the reinspections required, in fiscal year 2013-2014, 111 reinspections were conducted, up from 43 the previous year and 50 in fiscal year '11-12. These facilities are found to be out of compliance and should bear the cost of oversight to ensure their return to the standards of care and welfare. Simply put, bad actors in the system should bear the financial cost associated with the oversight required to guarantee their adherence to the law. On a personal and professional note, addressing the poor and inhumane conditions that have been documented to exist in these commercial breeding facilities that exist in some cases in Nebraska is of great importance to me. As a veterinarian, I took an oath to protect and promote animal welfare and care, and to promote the relief of animal suffering. Over the last 15 years of my professional career, I've had clients in clinical practice who have responsibly and carefully bred and cared for dogs of a wide variety of breeds--retrievers, pointers, hounds, and I'll even admit a couple families with schnauzers. This morning before I departed for session here in Lincoln, I had to navigate my way around my house, around a 130-pound, ten-year-old yellow lab named Titus who I bred myself out of a female named Jada who was my companion for 11 years before she succumbed to hemangiosarcoma. I'm well acquainted with the labor of love that is involved in caring for pets and the decision to even breed or have a litter of dogs. Compliance with the

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humane standards of care for our pets is both a vocation and a passion for me. Correcting the abuse and neglect that has taken place in puppy mills should be a priority for all of us in Nebraska, especially those of us involved in animal agriculture and in animal care and welfare. Providing the Department of Agriculture with the additional financial resources it needs to conduct the inspections as well as to support the reinspections for those out of compliance is our first step towards an effective resolution. The cost associated with this enforcement action should be distributed based on the burden that the commercial breeders represent to ensure that each individual is in compliance with the Commercial Dog and Cat (Operator) Inspection Act. I thank you for your consideration of LB389 and welcome any questions that the senators may have. [LB389]

SENATOR JOHNSON: Thank you, Senator Kuehn. Any questions? Seeing none, thank you. Will you stay for close? First proponent, those in favor. Welcome. [LB389]

BRADLEY BEAM: My name is Brad Beam, B-r-a-d B-e-a-m. Thank you, Chairman, committee members. I'm a companion animal welfare advocate, and I want to thank Senator Kuehn for sponsoring this proposal. I think it's the right direction where we're trying to raise more funds so that we can have better enforcement. I come to this from a perspective of being part of a national movement called No Kill, which is the idea that we want to save as many animals in our city and municipal pounds as possible. And as a no-kill advocate, I try to do everything that keeps animals from coming into the city pounds as well as trying to help the rescue groups and the shelters that get these animals out. So what I wanted to do is, again, support this, but I also want to ask the committee to have some thought in this process that they look at anything that happens in light of what would it do to cause more animals to come into a pound or to be put to sleep unnecessarily. And, for example, one of the revenues, possibilities for revenue, is increasing the fees off of the rescue groups. And, again, under this proposal, that doesn't exist, which is good because that means rescue groups who do a lot of the burden and are out there trying to rescue these animals from bad places, that they aren't going to be imposed upon with additional fees. However, under shelters and control facilities, there is an increase there. And so I'm concerned that this could affect the great organizations like the Nebraska Humane Society or Hearts United for Animals. So my comment here is to support this outline but maybe ask the committee to look at those things that could possibly have negative effects, which would again have more animals being brought into a animal control facility or in a pound or a shelter. And, again, just be mindful that there might be certain things that would happen when you're restructuring the licensing fees that could happen...that could cause that. I support the idea that commercial breeders ought to be paying more for the enforcement mechanism, but I wouldn't want it to be so much that it would force them to go underground. So I'd want the committee to be mindful of that. So, again, they should pay a bigger proportion because they're taking care of...they're responsible for most of the enforcement costs. But again I just would want to make sure that we don't

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inadvertently drive them underground and then we've got a bigger problem on our hands. So, thank you so much. [LB389]

SENATOR JOHNSON: Thank you. Any questions? I have one question. You heard the testimony on LB360, which is funding from another source. Do you see any type of a way of combining those and both sides supporting this and having maybe sufficient funds in order to really do the investigation and do the work we have to do? [LB389]

BRADLEY BEAM: Well, I'm familiar that we spend about \$400,000 a year on enforcement mechanisms. Again, I didn't speak but I was supportive of the idea of raising 25 cents. The funds need to come from someplace and maybe, again, we've got to look at other resources that are available to us that we haven't explored. I know we're all opposed to trying to raise taxes and we're mindful that we have lots of other programs that have to be funded. But, you know, I think we're all here to try to find a way to help this enforcement mechanism. I'm not for sure I'm really familiar with the fiscal notes on LB360 as much as I looked at this one. But, again, I wanted to support the general concept here that Senator Kuehn has proposed. And again I'm sure there are going to be lots of suggestions from other people as to how it could be massaged a little. [LB389]

SENATOR JOHNSON: Thank you. Any questions? If not, thank you. Next proponent. [LB389]

JASON PAINE: (Exhibit 1) My name is Jason Paine, J-a-s-o-n P-a-i-n-e. First of all, I want to thank all of you for hearing all of the testimony today and taking it into consideration. I support this bill to continue to fund the department and make up for the shortfall they are facing. It's a good start to solving the problem. The increased fees of \$10 per dog should cause minimal hardship to those who make their money from selling the offspring of the animals. I would suggest language be added on page 5 after the fee for reinspection that would require the department to make all inspection reports, warnings, disciplinary actions, and stop-movement orders, and photographs available on-line within two weeks. I would suggest that a requirement be added that photos be taken at each and every inspection. Right now, it is hit or miss and it's up to the inspector whether or not to take the photographs. As you can see from the inspection reports and the photos submitted here today, the photos don't lie. Having photos for each inspection would paint a picture of what happens at these places over time. It would show without question what violations are and make court cases more likely to be successful with better evidence provided. It would protect the consumer as well as they would be able to see without requesting paper from the department where the puppies for sale are coming from. Having reports available on-line should also have the effect of a decrease in workload for the department staff as they would only have to provide the items one time on-line rather than continue to have the burden of making copies for each person submitting a FOIA request. The inspectors have now been given iPads, as

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I understand it. And their reports will be submitted electronically and photographs would be easy to take at no additional cost. I am a senior systems engineer at a local technology company here in Lincoln and would be happy to answer any of your questions you may have regarding the technology or process to make this automation happen. With the recent statements from Mr. Ibach and Governor Ricketts that they are working to make conditions better in substandard breeding facilities, I feel that this would be a great way for them to show the improvements and enforcement actions to the public so we can have assurances that the noncompliant items causing animal suffering are being appropriately addressed. Currently, this is the practice of the USDA. They have a database on their Web site where PDF reports for all USDA licensed breeders are available to the public. [LB389]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you. [LB389]

JASON PAINE: Thank you again, gentlemen. [LB389]

SENATOR JOHNSON: Other proponents. Opponents, do we have any opponents? [LB389]

CLEM DISTERHAUPT: My name is Clem Disterhaupt, spelled C-I-e-m D-i-s-t-e-r-h-a-u-p-t. As president of the Nebraska Professional Pet Breeders Association, I strongly oppose this bill. Several years ago, I and other club representatives and someone from the Humane Society met with Senator Carlson in Lincoln and had a long discussion on the way to fund the...work on funding and helping this program. It was agreed to put the \$1 fee on. That's where this all came from. We all agreed on it, on licensed pet owners which passed and has been successful. We also agreed to a fee schedule basis for license facilities. And Judy Varner and I discussed this on the phone and that's the way it stands now and I think that's affordable and it's fair and I think it should be left in place. I was also shocked to read LB389 and find it basically throws out the fee structure as it exists and had no input from breeders whatsoever. Under the current fee structure, for example, if you own 50 dogs, just for an example, the license fee is \$200. If LB389 is passed, it would be \$150 plus \$10 a dog times the 50 dogs, raising that fee from \$200 to \$650. That's more than triple. We see people here complaining about not feeding the dogs properly and stuff. You can't have it both ways. If you take the money away and triple funds from breeders, there's that much less money to spend for vet bills and feed and so on and so forth. So I've worked on this fee schedule from the very beginning that this inspection was first enacted by Senator Dierks. And I think the fee is fine like it is and I think that we must not take away from breeders so they can afford to care for their dogs. People like myself, for example, have electric heat. We keep it 70 degrees in there and, yes, it does fluctuate a little bit, as one of the senators said, but never lower than 60 and never higher than 72. We have air conditioning, automatic waters, automatic feeders, backup generator. We have a lot of things in our facility that we don't have in our own house. Not only that, in addition to

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that, we do OFA hip certifications. Breeding dogs, make sure we...dogs don't have hip dysplasia when we breed them. We do OFA telecertifications. We do OFA heart certifications. We do eye certifications. We go to seminars all over the Midwest to speak with veterinarians and listen to educational seminars to learn the best procedures, how to control disease, how to breed dogs carefully, how to keep from getting hernias in your dogs through your breeding programs. We try to do everything the very best we can. Unfortunately, there's a few that do not. But to do these kind of things and put this kind of money in our programs and to try to do a very good job, we cannot afford these triple increases in wages...we need to...increases in license fees. We need to go back to the dollar fee that we agreed on. If we need to increase it 25 cents, 50 cents...my daughter has dogs in Grand Island, she pays fees. She said, I don't care if they're a dollar or \$2 dollars like everybody else is saying. This is the way to fund the program and not take away from putting money into these dogs in the programs. We already have a fee schedule. It's fair. We need to leave that be. As far as what I'm telling you, if there's any doubt about both sides of the equation, we invited Senator Carlson on a tour three years ago, gave him a tour of a number of kennels to see. If there was any question at all about how these facilities are, talk to Senator Carlson, talk to former Senator "Cap" Dierks, people who have actually seen and visited the facilities so they know that we're working hard to do the very best job that we can. You don't have to see what somebody says or hears. You don't have to take my word or anybody else's. Talk to the people that's been there. The fee proposal set forth by LB359 is far better and more commonsense proposal than that of LB389. Not only that, but the structure of the fee proposed in LB359 is the one that has already been agreed upon by those involved who spent countless hours working on it. [LB389]

SENATOR JOHNSON: Again, can you wrap up? [LB389]

CLEM DISTERHAUPT: Yes. Therefore, I ask you to vote against LB389 but for LB359. Thank you very much. [LB389]

SENATOR JOHNSON: Thank you. Senator Chambers. [LB389]

SENATOR CHAMBERS: Just one point. Mr. Disterhaupt, I know you do not think that all of these breeders put into their operations what you document that you put in yours. Would you agree with that? [LB389]

CLEM DISTERHAUPT: Yes, but I think the numbers... [LB389]

SENATOR CHAMBERS: You answered my question. Here's what I'm getting at. [LB389]

CLEM DISTERHAUPT: I can't answer your question with just a simple yes or no, Senator. [LB389]

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SENATOR CHAMBERS: Here's what I'm getting to. No Legislature can bind a future Legislature in terms of what it will do, so the fact that former Senator Dierks or former Senator Carlson agreed to something cannot bind anybody in the Legislature. And what we do this year cannot prevent a Legislature next year or the following year from doing whatever it is they want to do. So these agreements as they might be viewed are something like words written in water. They last as long as the people who made them are still around. Just like when I'm gone and the four years that I was gone a lot of what I consider bad bills were passed that wouldn't even be offered when I was here. A lot of things that I thought were good were erased while I was gone. So that is the vagary of the political process. The good thing is that people such as yourself and those who may disagree will come and put on the record your points of view. But there is no guarantee that anybody can give as to what another Legislature may do. I just thought I'd put that out there for the record. [LB389]

CLEM DISTERHAUPT: Yeah. I'm not quite sure I understand. I'm only making a point that with the discussion and the difference in viewpoints, those that see it are the ones that know, and that's Senator Carlson and former Senator Dierks and of course the inspector. [LB389]

SENATOR JOHNSON: Thank you. Any other questions? Senator Bloomfield. [LB389]

SENATOR BLOOMFIELD: Thank you, Chair. This is kind of for the record too. I've raised livestock for a number of years and I've always found out that livestock you take good care of does better than livestock you don't. Would you tell me if that's also true with the dog business? [LB389]

CLEM DISTERHAUPT: Absolutely. There's people out there, and I've been at seminars and I've been...taught as one of the teachers because I've gone there for so long, and I've preached this over and over and over. If you people think that you can go out and buy a \$50 house pet from some little old lady in Lincoln and that dog is going to produce and make you big money, you're kidding yourself. You need to go out and buy the very best product you can. I bought four Soft-coated Wheatens. I paid \$1,800 apiece for just young dogs. And then I turned around and spent all this extra money OFA certifications and so forth as I laid out. I've got thousands of dollars in each one of my dogs. And I'll bet you I may still make more money when it's all said and done than the guy that thinks he's going to go out there and keep the heat bill at 50 degrees and clean his building once a week and not have air conditioning at all. You're not going to make money that way. You're absolutely right. I agree 100 percent. [LB389]

SENATOR BLOOMFIELD: Thank you. [LB389]

SENATOR JOHNSON: Thank you. Any other questions? Thank you. Any other

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opponents? Anyone in a neutral position? Neutral position, seeing none, Senator Kuehn, do you want to come and close? [LB389]

SENATOR KUEHN: Again, thank you. You've had a long afternoon talking about commercial dog and pet breeders, so I thank you for your attention to the issue and the willingness to discuss it in this hearing today. I would like to just point out a couple of comments as to why in this particular bill I chose this kind of funding scheme. First, with regard to the idea of fairness under the current scheme, I think it's worth noting that if you have 100 dogs under the current scheme, you are paying about \$2.50 in licensing fees per dog versus the breeder who has 10 who is paying \$15 per dog. So in the current scale, it actually incentivizes from a financial perspective large breeding operations which increasingly come with a level of complexity and other concerns with regard to animal welfare. And so when we talked about the burden that it places just based on current numbers of the 206 licensed dog facilities--sorry, I didn't include the cat facilities, not prejudice, just for simplification--there's only 16 in the state that are greater than 100; 27 with animal populations between 50 and 100; and the remainder of the 206 are 50 animals or below with 43 being between 11 and 24 and 69 being between 1 and 10. So when we talked about a burden to some of these large numbers, we're talking about a very small number of breeders who, remember, are breeding animals for profit. And as the previous testifier explained, you know, a thousand dollars for a dog, a \$10 fee is 1 percent of the value of that animal. We have a well-established principle in Nebraska based on, for example, brand inspection fees of a per-head fee assessed as well as mileage assessment. So that's an established principle for funding these agencies and these cash funds in the state, and so I think it's acceptable. The other issue I just want to point out with regard to the idea of how we look at this licensing program, I think that there is a true benefit for the dog and cat breeders in the state of Nebraska to having a rigorous inspection program when it comes to marketing their animals. If we can guarantee that animals from licensed facilities in the state of Nebraska beyond the shadow of a doubt are raised in humane conditions within keeping with standards of welfare and veterinarian care and practice, that provides value to those animals. Certainly having a license and a certification that means something and is a value is in the best interest of the state and in the best interest of the breeding industry. So I find it a little bit suspicious that we want to defend bad actors. Again, as a veterinarian, I had been involved with commercial breeding operations, most of them small in number. I have assessed them in terms of their breeding plans and care. I've also been involved as an expert witness in animal abuse and neglect cases and seen some of the horrific issues that can happen when the care and welfare is not maintained. So ultimately I think we have to look at speaking for and defending those animals who do not have a voice as well as defending the industry,<sup>®</sup> because that's what we're doing in this program is we're defending an industry and letting them know that those animals raised in Nebraska come with a standard of care and a standard of humane treatment that is beyond reproach. And that is my objective with LB389. Thank you for your attention and have a great afternoon. [LB389]

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SENATOR JOHNSON: Thank you. Anybody have any questions before we close the hearing? Seeing none, thank you for the closing. That will close the hearing on LB389. It does close our hearings for this afternoon. I appreciate everyone's attention today. I think everything was handled very courteously, very friendly. You gave us some work to do and I will ask the committee, I have nothing to go into Exec on unless somebody has something that they want to go into Exec. Okay. With that, no Exec. Thank you. [LB389]