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Agriculture Committee  
February 03, 2009

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[LB241 LB389 LB588 LB677]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 3, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB677, LB588, LB241, and LB389. Senators present: Tom Carlson, Chairperson; Annette Dubas, Vice Chairperson; Brenda Council; Merton "Cap" Dierks; Russ Karpisek; Scott Price; Ken Schilz; and Norman Wallman. Senators absent: None.  
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SENATOR CARLSON: (Recorder malfunction)...the February 3, 2009, legislative Agriculture Committee hearing. I'm Senator Tom Carlson, Chairman of the Agriculture Committee. Committee clerk over here to my left is Barb DeRiese. To my immediate right is our research analyst, Rick Leonard, and our page over here is Kim Weber. And the committee members that are present, to my far right is Senator Council from Omaha. Just about in his seat is Senator Wallman from Cortland, and next to him is Senator Dierks from Ewing. And then to my left is Senator Schilz from Ogallala, and we should have Senator Karpisek and Senator Dubas. She was introducing a bill in another committee, and she will be here shortly. And we normally have Senator Price, but he had to accompany his son to the doctor this afternoon, so he won't be a part of this hearing. Before we begin, I'm talking to myself as well as all of you. Turn off your cell phones, if you would, pagers or anything else in the hearing room. Now those wishing to testify on a bill should come to the front of the room to be heard, and as someone finishes, the next testifier should move into the on-deck chair, and the on-deck chair would be to either side here in the center. If you do not choose to testify, but would like your name entered into the official record as being present at the hearing, there's a form by the door that you can sign. This will be made a part of the official record of the hearing. Also, if you do not choose to testify, you may submit comments in writing and have them read into the official record. However, you'll not be listed on the committee statement unless you come to the mike and actually testify even if you just state your name and position. This year we're using a computerized transcription program, and it's very important to complete the sign-in sheets for testifiers before you testify, so please have those completed before you testify, and then you can give those to Barb on my left. If you're testifying on more than one bill, you need to submit a form for each one. Don't turn in the form before you testify, and then please fill it out so that Barb can read it. If we have questions about your testimony, she uses the information on that to contact you. Now, as you begin your testimony, state your name and spell it for the record even if it's an easy name, because that puts it into the transcript, and it makes it much easier to track who's really speaking. Keep your testimony concise. We have a lot of people in the hearing room today, and that's good, and try not to repeat what someone else has covered. We'll see how this hearing goes. It may come to putting a time limit on testifiers as time goes on this afternoon, but we'll not start that way. If you have handout material, give it to our page, Kim, and she'll circulate it to the committee. As someone testifies, there will be no displays of support or opposition to a bill. Now,

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having said that, it is important that you've come to the hearing. Those of you that perhaps this could be the first time you're at a hearing in the Unicameral in our form of government, we have 49 state senators that make policy for the state of Nebraska. We don't have a second house, and you, in fact, are the second house. So when we have a public hearing, it's your opportunity to come and be heard on a bill. And certainly, that has an impact on those of us on the committee, and so we want you to feel welcome, and if you have never testified before, when you get up here where Senator Dierks is, you're going to be nervous, but try and relax and even enjoy it, if you can, and we'll try and help you along that line. Senator Karpisek just joined us to my left from Wilber, and with that, we'll begin our hearing. Senator Dierks will introduce LB588. [LB588]

SENATOR DIERKS: (Exhibit 1) Thank you, Senator Carlson, members of the Ag Committee. My name is Cap Dierks, spelled C-a-p D-i-e-r-k-s, and I represent Legislative District 40. I am here today to introduce LB588. I've introduced this bill on behalf of a gentleman I've known for many years, Mr. Clem Disterhaupt of Stuart, Nebraska. Clem will present his own testimony today, but he has been actively involved in legislation concerning dogs and cats for 40 years. I've also met with other breeders to try to present a bill to the Ag Committee that a majority of responsible animal breeders can support. This bill was designed to help people who buy animals from pet shops, commercial breeders, casual breeders, and dealers. It covers serious congenital and hereditary defects in dogs and cats that cause illness or death up to one year from the date of purchase. It also covers any contagious disease in a dog or cat that causes severe illness or death up to seven days from the date of purchase. This bill was also drafted to help reputable breeders and dealers. A licensed veterinarian must examine a dog or cat and issue a health certificate before that animal may be sold out of state. A retail purchaser must have the dog or cat examined by a licensed veterinarian within four business days after the date of purchase for the Dog and Cat Purchase Protection Act to apply. Section 5 on page 5 is a place in the bill where remedies can be found if a dog or cat has been declared unfit for sale by a licensed veterinarian or dies. If the animal is returned because it has a congenital or hereditary illness the retail purchaser can receive a refund of the full purchase price, an exchange for a dog or cat of equivalent value, or receive reasonable reimbursement for veterinary fees not to exceed the full price of the dog or cat. Similar remedies exist when an animal dies with the full refund or exchange for an animal of equivalent value plus reasonable veterinary fees up to the full price of the animal. Section 6 covers situations when there would be no refund, replacement, or reimbursement under this act. Section 7 covers court proceedings if no remedy can be agreed upon. Section 8 makes clear the Dog and Cat Protection Act does not limit any other rights or remedies otherwise available under the law. It also makes clear that the rights under this act cannot be waived by signing another agreement or contract. Section 9 is very important, and I want to make clear for the record that LB588 does not apply to animal control facilities and animal shelters. The parties...I've passed around an amendment. And so what I've told you about them as introduction is the way the green copy reads. There will be some changes on the bill

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by way of the amendment, and that includes the age of up to 15 months of age as far as the guarantees are concerned. And I think you'll see another amendment that deals with some other things. I'm pleased that these people with the breeding facilities are able to come and present to you their ideas as well. And we'll see what we need to do with those amendments as they bring them up. One of the things that you'll hear about is the number of days that a parvovirus animal is protected. It stipulates seven days, up to seven days of ownership. And the other diseases are up to ten days. Thank you, Mr. Chairman and members, for your time and attention. Several of a group of breeders have met and agreed upon some amendments to the bill which I've just passed out. I will try to answer any questions you may have. [LB588]

SENATOR CARLSON: Okay, thank you, Senator Dierks. Any questions for him of the committee? Okay, hearing none, thank you. [LB588]

SENATOR DIERKS: You're welcome. [LB588]

SENATOR CARLSON: And do you want to close? [LB588]

SENATOR DIERKS: I will. I mean, I'll reserve the right. [LB588]

SENATOR CARLSON: Okay. All right, first testifier. [LB588]

CLEM DISTERHAUPT: (Exhibit 2) I do have some handouts here to start with. My name is Clem Disterhaupt, that's spelled C-l-e-m D-i-s-t-e-r-h-a-u-p-t, and I'm from Stuart, Nebraska. [LB588]

SENATOR CARLSON: Excuse me, Clem, let me stop you. Did you fill a form out...out a form? [LB588]

CLEM DISTERHAUPT: I signed a form over there, yes. It was by the other door. [LB588]

SENATOR CARLSON: We have the form to fill out before you speak. [LB588]

CLEM DISTERHAUPT: Oh, I guess, I didn't see that over there. Want me to do that real quick here first? [LB588]

SENATOR CARLSON: Okay. Anyone else then waiting in line, if you didn't get that form to fill out, please do so. [LB588]

CLEM DISTERHAUPT: Okay, now it's complete. [LB588]

SENATOR CARLSON: Okay, Clem, you did spell your name, so you can go on with

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your testimony. [LB588]

CLEM DISTERHAUPT: Okay. I'm from Stuart, Nebraska. And first of all I'd like to thank Senator Dierks. And yes, we have known each other for many, many years and I have a great deal of respect for Senator Dierks. And I think he's come forward with many us...and we're far overdue to present a bill which I think will help the pet industry in general. We refer to it commonly as the puppy lemon law. Next August, my wife and I will have been in the dog business for 40 years. I have served as president of the Dog Breeders Club for over nine years and currently am president of the Nebraska Professional Pet Breeders Association. The purpose of the association is to better the pet industry by supporting legislation that is fair to both breeders and consumers and not supporting legislation that is not. I have served as a licensed show judge for two different registries. I've attended 200 educational seminars, dog seminars in which I've been the speaker for about 100 of them. I've been active in dog...Nebraska dog-related legislation for many, many years. I was instrumental in participating in the passage of the Nebraska Dog and Cat Inspection Act and the eight-week-old puppy bill. Three years ago my wife and I began to work on a bill to stop importation of puppies. We did this on a national basis by working with the Nebraska Humane Society and other humane groups. We took it to Senator Ben Nelson and last year it was implemented, we were successful in passing, stopping the import of puppies under the age of...eight weeks of age. They brought disease in and flooded our markets with inferior quality puppies. Over the past three years I worked to implement legislation that would establish fairness in our judicial system which has become known as the Nebraska Dog and Cat Purchase Protection Act, LB588. Many states currently have similar legislation. And I handed a sheet to Senator Dierks and he can share those states with you, if necessary. Sorry I didn't get around to getting you each a copy. Nebraska currently does not have this law. This bill serves as protection for both consumers and breeders. Many times a pet purchaser will buy a puppy or a kitten and may have sickness or hereditary or congenital defects and, unfortunately, some do not stand behind them. For example, last year a breeder purchased a very expensive dog with a severe hereditary problem. The breeder refused to replace it or give any refund, and due to no existing legislation to cover it they have an unhealthy puppy with a severe problem, and they paid a lot of money for it, and the breeder has no responsibilities to stand behind the dog. LB588 would require the breeder to replace it or take it back and give a refund. Also there are numerous cases in which a breeder will be victimized as well. For example, I had an attorney tell me he had a client who sold a puppy for several hundred dollars. The purchaser's veterinarian ran up an unreasonable vet bill for several thousand dollars, and again since there is currently no legislation to cover this, they ended up having to pay a vet bill of over four times the purchase price of the dog. LB588 will establish fair legislation by establishing fair and reasonable veterinarian bills and time frames which is basically seven days on parvovirus, and ten days on all other contagious sickness, and one year on any serious congenital or hereditary defect. It also establishes that vet bills do not exceed one-half the purchase price of the animal.

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We've come to a conclusion on this that we think half price is fair. Some wanted full vet reimbursement. I think there should be some. I don't want this bill watered down to where you buy a puppy and the next day it's sick already, it has something and the breeder doesn't have to stand behind any of that. You paid \$500 for the dog and now you're going to have \$300 worth of vet bills and we think the breeder should be responsible for at least part of it. This bill is based on the content of other bills possessed by other states. Some breeders are offering health guarantees, some of which are misleading to the public. For example, some breeders offer a guarantee which says the buyer has 48 hours to take the animal to the vet. If the vet don't find any problem with the dog, the buyer is no longer responsible for any health issues. However, most congenital or hereditary defects cannot be detected by a veterinarian in 48 hours, it sometimes takes months or longer to detect. Also, most contagious sickness does not show up immediately either. I did a lot of research on what would be a fair time frame on contagious sickness. I recently contacted Dr. Bob Page, who is considered one of the top small animal veterinarians in the United States and a specialist in canine and feline disease. He told me that a seven day warranty on parvo is maximum and more than fair. And it would not take longer than seven days in any case to incubate parvovirus. I also made a phone call to Dr. Leland Carmichael, from Cornell University, who first discovered parvovirus in the United States, in 1978, and he told me the same thing. The handout that I gave you is a copy of an actual court document which was from Dr. Bob Page that verifies the four-day time frame for the incubation of parvo. LB588 is a commonsense bill that serves many purposes. Number one, it protects breeders from unreasonable vet bills and unreasonable time frames. Number two, it protects consumers by giving them reasonable warranties by law with unhealthy pets. Number three, it provides clear interpretations to our judicial system. Number four, it will discourage the backyard breeders and irresponsible breeders from bringing animals with genetic problems and it will encourage them to vaccinate and breed healthier puppies and kittens. We as breeders must take pride in the breeding of our dogs and cats. We must raise the best quality, healthiest animals we can and we must take responsibility for them. On the other hand, consumers must be fair and take reasonable responsibility as well. We must defeat policies by backyard breeders and so called puppy mills that are simply breeding for profit and aren't interested in standing behind the pets that they produce. I will say, however, that while most breeders are very fair and reputable, there are those few who are not and this bill is meant for those people. LB588 will put fair legislation in place which we currently do not have that will protect both the consumer and the breeder. Senators, as I said, I have been involved in every piece of the dog legislation in Nebraska for almost 20 years. I believe LB588 may be the most feasible, the most practical, the most responsible, the most common sense, and perhaps even one of the most effective dog and cat related bills ever proposed in the state of Nebraska. I've sold and purchased many puppies in this state and therefore have seen both sides of breeders and purchasers, and I've spent nearly three years putting this bill together with research on other state's puppy lemon laws, talking to breeders, purchasers, holding meetings, as well as 40 years of experience in the dog

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breeders industry and attending educational seminars. We must not allow this bill to be watered down to defeat it's effectiveness. For example, we had a discrepancy about the life-threatening disease changed from just being a serious...and life-threatening disease won't work for me because things can be really serious, such as some congenital and hereditary defects and still not be life-threatening. So we must make sure that it doesn't word "life-threatening." Examples of those things are hip dysplasia, sublux. patellas, hernias, demodex and many other things. Those are all serious but not life-threatening. The contents of this bill have been worked on with breeders and veterinarians, top experts on disease. The Nebraska Humane Society heard the bill and had a copy of it and I think that they endorse it. And finally, it was approved by the Nebraska Professional Pet Breeders as well other...many other breeders throughout the state. LB588 will no doubt help Nebraska to become a more reputable pet producing state. I ask you to vote for LB588 as proposed with its amendments. Thank you. [LB588]

SENATOR CARLSON: Okay, thank you for your testimony, Mr. Disterhaupt? [LB588]

CLEM DISTERHAUPT: Yes. [LB588]

SENATOR CARLSON: Any questions from the committee? You...you're from Stuart. [LB588]

CLEM DISTERHAUPT: Yes. [LB588]

SENATOR CARLSON: Give us an idea of the size of your operation. [LB588]

CLEM DISTERHAUPT: Right now it's...we're at about 55 dogs. We're not a real big breeder. And I will say that we have been as high as 165, many years ago. And I can tell you that we scaled down to 50. And we make as much money with 50 as we could with 165, because we can do a better job. And so that's where we're standing now. We're semiretired with the 50. Any other questions? [LB588]

SENATOR CARLSON: So you're scaling down is to put you in a more semiretired position versus necessity? [LB588]

CLEM DISTERHAUPT: Scaling down, I'm glad you asked that question, because scaling down has done a couple of things. When we were at 165, for example, we had one very good full-time young lady working for us, my wife and I were younger. We had a son in high school and we had two really good responsible part-times gals working for us. And with 165 dogs, by the time we paid their wages, self-employment insurance and all that, we make as much money now by ourselves with the 50 as we did with 165. So that's why we're scaled down and we're semiretired. We're older so we don't want quite that many dogs. [LB588]

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SENATOR CARLSON: Okay, thank you. Any other questions? Thank you for your testimony. [LB588]

CLEM DISTERHAUPT: You're welcome. [LB588]

SENATOR CARLSON: Now as we move forward, how many people do we have that will testify in a position of a proponent for the bill? Okay. [LB588]

JUDY VARNER: (Exhibit 3) My name is Judy Varner, V as in Victor, a-r-n-e-r. I'm president and CEO of the Nebraska Humane Society. Thank you to Senator Dierks for introducing this important piece of legislation. Senator Dierks has long been a champion of the needs of companion animals. Thank you also to Senator Carlson and the others of the Ag Committee. The Nebraska Human Society is a nonprofit animal welfare agency. As an animal welfare agency, we do not take a stand on hunting, furs or animals in research. We do care about cruelty to animals, providing loving care for any animal who finds its way to our door and helping the public become good, responsible pet owners. We are the largest humane society in the state of Nebraska. We provide care to over 25,000 animals. We provide animal control services for Omaha and all of the towns of Sarpy County. We are also asked to assist in animal abuse cases throughout the state. We have one of the highest conviction rates in the country on animal abuse and neglect cases. We receive no funding from any national organization other than specific grants for explicit purposes involving sheltering animals. Just as there are differences in humane groups, there are differences in commercial kennels and commercial breeders. In Nebraska, a commercial breeder is basically anyone with four or more breeding animals. The vast majority of commercial breeders are professionals who have chosen this line of work because they love dogs and they work hard to provide the best possible environment for their dogs and produce the best possible puppies. Unfortunately, some breeders are in this simply for the money. They don't care about their dogs, they provide minimal care, and then tend to produce sick puppies. These are the puppy mills. LB588 provides protection for the public when they purchase a puppy from a disreputable breeder, a pet store who gets their puppies from a disreputable breeder, or even a breeder who does all they can to produce quality puppies, but in that rare instance sells a puppy who is sick or has a congenital defect. LB588 also protects the breeders from unreasonable claims. Again, the good breeders want to do everything they can to produce quality puppies who will be a family member for the life of the dog. They do everything they can to prevent sick puppies or puppies with congenital defects. In the rare cases it happens, the citizens will have some protection if LB588 is passed. More importantly, it will send a strong message to those who do not care what quality of puppies they produce or they purchase to resell. It will tell them that Nebraska is going to hold them accountable. LB588 is a good, reasonable law. It will protect the public and the breeders. We strongly support LB588. [LB588]

SENATOR CARLSON: Okay, thank you for your testimony. Questions? Senator

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Wallman. [LB588]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes. In your humane society occupation, I got one dog from the humane society. And, I guess, I can say I know why somebody brought it there. It was disobedient but it was an Irish Setter. (Laugh) So have you had many dogs come in with congenital, you know, genetic defaults? [LB588]

JUDY VARNER: You know, I was talking to our staff about that. I don't know the percent we have because, unfortunately, a lot of times people will have a dog, they'll take it to the vet and discover a heart murmur or bad hips or some other problem and then they bring it to us because they can't afford the medical care. We do, we try to determine, with the amount of resources we have available, if the dog can be a valuable family member or, frankly, if the best interest of the dog is to put it to sleep. [LB588]

SENATOR WALLMAN: Thank you. [LB588]

SENATOR CARLSON: Okay. Any other questions? Senator Schilz. [LB588]

SENATOR SCHILZ: Ms. Varner, thank you for coming in today. I was just wondering, to follow up on Senator Wallman's question, do you know or do you have any record of complaints of people that have purchased dogs or...yeah, that have purchased dogs and that have had problems such as getting sick and dying. Do you have any... [LB588]

JUDY VARNER: From pet stores? [LB588]

SENATOR SCHILZ: Yeah, pet stores, from individuals. [LB588]

JUDY VARNER: Or any other breeders? [LB588]

SENATOR SCHILZ: I'm just kind of looking to see... [LB588]

JUDY VARNER: Not that comes to mind immediately, no. [LB588]

SENATOR SCHILZ: Okay. [LB588]

JUDY VARNER: Because, typically, they don't tell us that they're sick when they bring them in. [LB588]

SENATOR SCHILZ: Sure. Okay. Thank you. [LB588]

SENATOR CARLSON: Okay, any other questions? I have a question. And it's more for my benefit. Define a little, help me out, what does the term "puppy mill" really mean? Is that a universally understood term? Is it sometimes positive? Is it always negative?

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[LB588]

JUDY VARNER: (Laugh) You know that's an excellent question. And I equate the term, a good commercial breeder, I'll turn it around a little bit, to art. You know it when you see it. It's the same thing with a puppy mill. There's a lot of room for interpretation. I have had my attitude about commercial breeders changed a lot through my conversations with Amy, with Clem, with Casey, and some of the others. I think that puppy mill is used way too often. I think to the general public there's no difference between a puppy mill and a commercial kennel, and that's what I keep trying to share with the good commercial breeders. I'm very excited, and actually I'm going to talk about this in some of my later testimony, in working with the commercial breeders to try to dispel those myths and to promote the really excellent commercial breeders while putting puppy mills out of business. A puppy mill, and I've got pictures I'm going to show you on the, I think, it's the next bill or the last bill. So you'll see it. It's when puppies are in deplorable condition, dogs are in deplorable condition, they smell, they...the dogs tend to be neurotic from lack of anything. The food quality is bad. Typically, they don't have water. We've gone into puppy mills where the dogs literally, there were seven dogs, and one of them was still alive, the rest had starved to death. They are horrible and they need to be shut down, and the state needs to do everything it can to get them shut down. And the good breeders want them shut down because they don't want to be painted with the same brush. So is there a lot of misuse of that term? Yes. [LB588]

SENATOR CARLSON: So as you would look at it, when you say you go into a place, there were seven dogs and only one was alive, then does puppy mill carry with it that it's a place where they're trying to sell dogs or did this person just own seven dogs? [LB588]

JUDY VARNER: Well, this person...no, this person was breeding them. They typically are breeding them. But if you have basically, and the definition, and again we're going to get into that in further bills, but the definition is basically if you have four breeding animals you're a commercial breeder. So this person had been breeding them. I think the dogs had been in such horrible shape, he hadn't been able to produce puppies in a long time. [LB588]

SENATOR CARLSON: Okay. So if you are...you own four animals and you're a bad commercial breeder that's a puppy mill. [LB588]

JUDY VARNER: You'd have to be a really bad commercial breeder to be a puppy mill, yeah. [LB588]

SENATOR CARLSON: Okay. Okay, well, you're helping me out with the concept. [LB588]

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JUDY VARNER: Yeah. A lot of...it's very difficult because of the regulations for any breeder to not have violations of some kind of the laws, state and federal. But the really bad ones are the puppy mills. And they are alive and well in Nebraska. [LB588]

SENATOR CARLSON: Okay, thank you. Okay, this brought a little spark here. [LB588]

JUDY VARNER: Sorry, sorry. [LB588]

SENATOR CARLSON: Senator Karpisek. [LB588]

SENATOR KARPISEK: Thank you, Senator Carlson. Ms. Varner, thank you for coming in. Your testimony is invaluable. Now I'm going to have to think about what I was going to ask you. Last year we passed so every dog breeder would be inspected at least once a year. [LB588]

JUDY VARNER: Twice, every two years. LB12 and LB12A got changed, got amended down. It's every other year. [LB588]

SENATOR KARPISEK: Every other year? [LB588]

JUDY VARNER: And prior to licensure. [LB588]

SENATOR KARPISEK: Okay. And how many was it before that? How many... [LB588]

JUDY VARNER: It was only complaint-driven. [LB588]

SENATOR KARPISEK: Okay. Well, I stand corrected. I thought it was every year. Has that helped? [LB588]

JUDY VARNER: Oh, tremendously. Oh, my gosh, yes. And the breeders that, here I'm speaking for you guys, but the breeders that deal with Dr. Boucher and his team of inspectors, I think they have as much respect for them as we do. They're doing a wonderful job. The Department of Agriculture really scored a bull's-eye when they hired Dr. Boucher. [LB588]

SENATOR KARPISEK: And I have also heard good things. But I also want to hear from your side to see that it is... [LB588]

JUDY VARNER: Oh, absolutely. Very professional, I think they are very interested in the welfare of the animals, I think they are very reasonable. They want to help breeders be good breeders. I've been very impressed with them. [LB588]

SENATOR KARPISEK: I'm glad to hear that because that was a little contentious vote

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when we're spending money there. So I'm glad... [LB588]

JUDY VARNER: Yes. And I appreciate every vote we had for it. It was tough. [LB588]

SENATOR KARPISEK: ...to hear. I'll have to look back. [LB588]

JUDY VARNER: I'm sure you...we only had one no vote. It wasn't you. [LB588]

SENATOR KARPISEK: Oh, well then that wasn't me I don't think. (Laughter) Thank you, Ms. Varner. Thank you, Senator Carlson. [LB588]

SENATOR CARLSON: Okay. Senator Schilz. [LB588]

SENATOR SCHILZ: Thank you, Senator Carlson. Ms. Varner, you said that with the state and federal laws that we have now it's very hard to stay in compliance or to find some uncompliant issue that you come up with. Do you know exactly in a percentage what the percentage is of people that... [LB588]

JUDY VARNER: Yeah, as a matter of fact, and now you're hearing all my testimony for three bills at one time, but... [LB588]

SENATOR SCHILZ: That's okay. [LB588]

JUDY VARNER: ...I think the number is 42 percent of the kennels had one to four violations. And what the...this is state inspectors. Now... [LB588]

SENATOR SCHILZ: Sure. [LB588]

JUDY VARNER: ...USDA is a whole nother ball game. But the state inspectors, all of those were remedied. But when you look at the work of the inspectors they have to go back to make sure they're remedied. [LB588]

SENATOR SCHILZ: Sure. [LB588]

JUDY VARNER: And that can be anything...I mean it can be very small, minute things. I think a lot of them are not major at all. [LB588]

SENATOR SCHILZ: Um-hum. Mostly just, hey, we need to...this is something that you may have overlooked... [LB588]

JUDY VARNER: Right. [LB588]

SENATOR SCHILZ: ...that needs to be... [LB588]

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JUDY VARNER: Right. [LB588]

SENATOR SCHILZ: And I would take it that most of those situations were corrected? [LB588]

JUDY VARNER: They were all corrected. [LB588]

SENATOR SCHILZ: Right. Okay. And so do you know, are the state statutes, are they more stringent than the federal statutes? [LB588]

JUDY VARNER: I would ask a breeder that's here. [LB588]

SENATOR SCHILZ: Okay, that's fine. [LB588]

JUDY VARNER: I would think not, but they would know more than I would about that. [LB588]

SENATOR SCHILZ: Okay. I can wait. That's fine. Thank you. [LB588]

JUDY VARNER: But also what's important is that the federal, and again I would ask one of the breeders that's going to testify. But it's my understanding that the only people that have to be registered with the USDA are dealers, breeders. You know what, somebody else can answer that that knows better than I do. [LB588]

SENATOR SCHILZ: Okay, that's fine. [LB588]

JUDY VARNER: I don't want to mislead you. [LB588]

SENATOR SCHILZ: Thank you. [LB588]

SENATOR CARLSON: Okay, one other question. [LB588]

JUDY VARNER: Yes. [LB588]

SENATOR CARLSON: LB...the purpose of LB588, part of it, is to protect the buyer. [LB588]

JUDY VARNER: Um-hum. [LB588]

SENATOR CARLSON: And you mentioned that the bill will also protect breeders from unreasonable claims. Could you explain that a little further. [LB588]

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JUDY VARNER: Well, I was told a story, actually by Clem, of a puppy that he sold directly to some people in Colorado. Do you mind if I repeat this? [LB588]

CLEM DISTERHAUPT: Go ahead. [LB588]

JUDY VARNER: And it was eight weeks old. And those of us in the business of animals understand the public is not very bright when it comes to animals and their care. He gave them all the lectures, everybody gives them, about parvo and how to take care of a young puppy. They got home and they took the puppy to a dog park. Well, the puppy contracted parvo. They spent, I believe, it was \$4,000 trying to save the puppy and it died. Well, it was their stupidity that caused the puppy to have parvo. Clem had to drive to Colorado. The case was, what do you call it, you know...didn't go to court. They did settle it out of court. But he had to go all the way to Colorado and they were expecting him to pay \$4,000 of medical bills when it was their stupidity that caused the disease. [LB588]

SENATOR CARLSON: Okay. So LB588 helps with stupidity. (Laughter) [LB588]

JUDY VARNER: Oh, nothing helps with stupidity. (Laughter) [LB588]

SENATOR CARLSON: Okay. [LB588]

SENATOR SCHILZ: I got one more. [LB588]

SENATOR CARLSON: All right, one more question. [LB588]

SENATOR SCHILZ: I'm sorry. [LB588]

SENATOR CARLSON: Senator Schilz. [LB588]

SENATOR SCHILZ: Do you know, does Colorado have a similar law to this? Do you know? [LB588]

JUDY VARNER: I don't know that. But... [LB588]

CLEM DISTERHAUPT: May I answer this (inaudible). [LB588]

SENATOR SCHILZ: Well,... [LB588]

SENATOR CARLSON: No, no. [LB588]

JUDY VARNER: Okay. [LB588]

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SENATOR SCHILZ: And I can ask somebody else too. That's fine, thank you. [LB588]

JUDY VARNER: Okay. [LB588]

SENATOR CARLSON: Okay, thank you for your testimony. [LB588]

JUDY VARNER: Thank you. [LB588]

SENATOR CARLSON: Next testifier. [LB588]

LAGENE FLOWERS: Hi. My name is Lagene Flowers, L-a-g-e-n-e Flowers, F-l-o-w-e-r-s. I'm a dog groomer by trade and have been involved with breeding, showing, grooming, and training dogs for almost 40 years. My first litter of Standard Poodles was born in 1978. My husband and I are hobbyist breeders. We do not make our living breeding or selling dogs. We do breed our dogs and sell them to the public, directly to the public. We do not sell to pet shops or brokers. As hobbyist breeders, these new dog laws affect us, too, not only the commercial breeders but the hobbyist or casual breeder. We believe that all breeders should guarantee the health of their puppies. And we also believe that breeders should be protected against the ridiculous vet bills and attorney bills that you find sometimes. We are thankful that a lemon law has finally been introduced. And I'd like to tell everybody that our guarantees go far above and beyond what the lemon law says and I think it's important that breeders do guarantee their puppies. That's all. [LB588]

SENATOR CARLSON: Okay, thank you for your testimony. Any questions? Senator Dierks. [LB588]

SENATOR DIERKS: Thank you, Senator Carlson. Lagene, you might explain that a little bit that you provide protection as a breeder that isn't even required by law. [LB588]

LAGENE FLOWERS: Right. We do, first of all, we guarantee our puppies for 28 days after they leave our house. Our puppies never leave until they have their second set of shots. Usually, after they've had their second set of shots they're guaranteed that they won't contract parvo simply because by then they should have their immunity. Our belief is that if by the second set of shots they don't have their immunity, then there may be something wrong with the puppy. But we do tell people that they are not to take their dogs to the dog park or anything until they have their third set of shots. We also guarantee against inherited problems until they're two years old, this includes things like sublux. patellas. But our puppies are all inspected by our vet, inoculated the first time by our vet, and we're pretty well guaranteed that there isn't any kind of a patella problem, there isn't any kind of hip problems, there aren't...you know, you can get some things that are eye problems. And I believe it's the responsibility of the breeder to protect not only themselves but they need to be able to guarantee their puppies to be wonderful

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pets for the entire life of the dog and not to be sickly. [LB588]

SENATOR DIERKS: And isn't that probably true with a larger number of breeders that they'll do... [LB588]

LAGENE FLOWERS: Yes. I think nowadays, you know, I've been in this industry for 40 years and I've seen a lot of changes over those years. And it used to be, you know, being a dog groomer I see a lot of dogs come into our grooming shop. And I see them come from all different places. And very seldom do we see dogs come in that are sickly or in ill health from commercial breeders. A lot of what we see now are dogs that are bred by what we call the backyard breeder who doesn't know what they're doing and who isn't responsible enough to take the time to investigate what they're doing. And most of those health problems come from those people. But by and large the commercial breeder is doing a wonderful job. [LB588]

SENATOR DIERKS: Yeah, that's the point I wanted to make. Thank you. [LB588]

LAGENE FLOWERS: Um-hum. [LB588]

SENATOR CARLSON: Okay. Any other questions? Hearing none, thank you for your testimony. [LB588]

LAGENE FLOWERS: Thank you. [LB588]

SENATOR CARLSON: Anyone else testifying in favor as a proponent? [LB588]

ROBERT DOWNEY: Chairman Carlson, distinguished members of the Ag Committee, Robert Downey, D-o-w-n-e-y, executive director of Capital Humane Society in Lincoln, Nebraska. There's not much more I could say that hasn't been said here this afternoon other than Capital Humane Society is in support of this bill. One of the features of the bill that I do like is the two-way protection. If you work in an animal shelter or humane society long enough you will find a doctor who tried to take advantage of medical situations with animals that they adopt from shelters. And I'm sure breeders experience the same thing. [LB588]

SENATOR CARLSON: Okay, thank you. Any questions? Thank you. [LB588]

ROBERT DOWNEY: You're welcome. [LB588]

SENATOR CARLSON: All right. Anyone else testifying as a proponent? Do we have anybody as an opponent, against the bill? Anyone testifying from a neutral position? [LB588]

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CASEY SCHAAF: (Exhibit 4) I do have some handouts for the senators also. My name is Casey Schaaf, C-a-s-e-y S-c-h-a-a-f. I'm the president of the Nebraska Dog Breeders Association. I'm also the president of Nebraskaland Pets, which we are a breeder and a broker in Atkinson, Nebraska. First of all, I'd like to thank you for meeting us last Wednesday, for those of you who had time for us to come in your offices. And I thank you again for your time today. This bill was introduced for the purpose of protecting the consumers on a buying a puppy. We agree that a puppy lemon law would be good for consumers as well as a breeder. If you read through the original bill it was asking for a 200 percent guarantee if the puppy dies. No other state has this type of guarantee. Which if you kind of...that will answer Senator Schilz's question. Does Colorado have a lemon law? It's...those copies there are just kind of an outline. Senator Dierks agreed to have someone kind of go through state by state and see, you know, what everyone is really asking for in theirs. That kind of just outlines, you know, what they guarantee or what they don't guarantee. Whenever you get into the final bills of each state, that's all we're really asking for. We're trying to keep even par with all the other states. We're not asking for anything special. We're just asking to be as an even keel with the other states. A lot of the states aren't covering, for instance, hereditary or congenital. They're only going ten days. To me that's just a waste of time. It at least needs to be one year of age to find hip dysplasia, things like that, otherwise it just doesn't give the consumer any time whatsoever. A lot of them whenever they do their guarantees or their replacement or whether they do vet expenses or not, you really need to look and see...the three things you need to look at is to see whether...how many days they're doing contagious or contagious sickness, and then how long they're doing the hereditary/congenital. They all kind of tie-in with each other on how, you know, whether they do vet expenses. If you're only going to cover things for ten days, you probably can afford to do that 150 or 200 percent guarantee. That's what we're asking for is to be as, you know, consistent and fair as we can with the replacement of the vet expenses and everything else. Most of the breeders that belong to our club, the Nebraska Dog Breeders Association, actually had a written contract that would stand before, let's see, ten days for contagious sickness, one year for hereditary or congenital. Our kennel actually, we stand behind ten days for contagious sickness, and we go two years for hereditary or congenital. And that's what a lot of the breeders that, you know, are commercial kennels, that's the contract that they have actually adopted. So it's actually even better than what this lemon law is even asking for. But that's what the problem we have, it's not like we don't want to stand behind our sick puppies. It's the fact of with the vet expenses, if we're standing behind our dogs longer than anyone else, you know, it's kind of...we need to find a happy medium on where we need to be at on that. We have been in the business for over 12 years and sold puppies all over the U.S. We've used, like I said, the contract the Nebraska Dog Breeders accepted years ago. And we have never had to go to court. We've always been able to, you know, if there was vet fees, as long as they were reasonable we have always just paid the vet fees and we've always been able to settle out of court without having to go to court. We believe this contract has held up for this many years, and apparently it works for us and the consumer. If it didn't protect us then

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I'm sure in 12 years time, I'm sure we would have been to court sometime in 12 years. Senators, all we are asking for is something to be fair for both parties. We don't feel this bill does this. We believe the bill is too vague and needs much more clarification for breeders who sell privately alone, breeders who sell to brokers, brokers who sell to pet stores, and pet stores who sell to the individual. This bill may work for some of the breeders who sell privately, but there are a lot of questions yet to be answered for the other parts of the industry. Again, please refer back to what other states are covering and you will see we are agreeing to the seven to ten days for contagious sickness and one year on hereditary/congenital. But the problem we have is the 200 percent guarantee if the puppy would die. It isn't like we don't stand behind our puppies, but we are asking for a lemon law that is comparable to what other states have. Please again look at what other states are offering and please let's base our lemon law on what surrounding states have done and what is working for them. Thank you. [LB588]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? Senator Wallman. [LB588]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yes, in today's environment are a lot of puppies sold on the Internet? [LB588]

CASEY SCHAAF: Yes and no. It really increased about three years ago. A lot of the breeders are seeing that it's a lot of work between pictures and just dealing with the public, you know. And Judy goes back to the stupidity deal, you know, a lot of it, you know, it's hard to sell someone a puppy off the Internet and then send it to Massachusetts. You can do everything over the phone, but you don't have that one-on-one basis like if you would buy it from that pet store. You could go back to that pet store and, you know, what do I need to do? The dog isn't eating, you know, at least the pet store could take the puppy back, get it back on its feet or whatever. It's kind of hard to do that from, you know, 20 hours away or whatever. Then that's whenever a lot of times you see those large vet expenses whenever they're relying totally on the vet, you know, they have to get it to their vet, the vet has to make money, you know. I mean, that's the reason a lot of times those vet expenses get very, very extreme. There's really not a lot of preventative care before that. And that's...so, yes and no. I would say it probably peaked about a year, two years ago. But it is kind of starting to fall off a little bit. [LB588]

SENATOR WALLMAN: Because then they have to be certified, don't they, as a healthy pup? [LB588]

CASEY SCHAAF: They will have to be checked by the veterinarian before they can leave, yes, before you can fly them on the airlines you have to have a health certificate that's dated within ten days. So, yeah, they would be seen by your local veterinarian ten days before they would fly. [LB588]

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SENATOR WALLMAN: Okay, thank you. [LB588]

SENATOR CARLSON: Okay. Any other? Senator Schilz. [LB588]

SENATOR SCHILZ: Senator Carlson, thank you. Mr. Schaaf, is that correct? [LB588]

CASEY SCHAAF: Yes. [LB588]

SENATOR SCHILZ: Thank you for coming in today. You had mentioned that your particular company that you have or your endeavor guarantees their dogs at a much stricter level than even what we're talking about here? [LB588]

CASEY SCHAAF: Yes. [LB588]

SENATOR SCHILZ: Being the president of the Nebraska Breeders Association, do you know what percentage of breeders out there have similar guarantees to what you have or at least some guarantees that would be similar to what this bill is asking for? [LB588]

CASEY SCHAAF: I think a majority of them do. [LB588]

SENATOR SCHILZ: Um-hum. [LB588]

CASEY SCHAAF: It's not really the people...you know, the people that really go...they're like here today, they go to the seminars, they go to the monthly meetings. They're the ones that, you know, will stand behind their dogs. It's not...it's usually not those ones that are usually ever caught up in court cases and everything else. Those are the ones that, like Judy was referring to the backyard breeders, the ones that, you know, bought a dog, bought a Maltese from someone, well, my neighbor's got a Maltese, then we'll breed it. They're the ones that don't understand a lot about how their shots work, you know, all that stuff. Whenever you give the shots and everything, nothing is ever foolproof. But whenever, you know, you do the right things, you know, recommendations from what your veterinarian called for and everything else. There is a very good way to prevent things. And that kind of goes back to that. That's where the backyard breeders, because of their ignorance more or less, they don't know that they need to have shots on this day, you know. That's where we run into a lot of the problems with that... [LB588]

SENATOR SCHILZ: Sure. Does your organization have, you know, what we like to call best management practices? Or if nothing else, a program that says, hey, an outreach program or educational program telling folks, you know, this is like what you were talking about. When they need to vaccinate,... [LB588]

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CASEY SCHAAF: Yearly we have a...we have...we didn't have it this year. The last two years we've had a yearly seminar down in Grand Island where we fly in like Dr. Bob Page or someone like that, have a speaker come in for an education purpose. The Nebraska Dog Breeders and the UPPA also they kind of have a joint effort where we have an educational seminar and have an all-rounded...where we have numerous vets or, you know, people in the industry to help kind of educate the commercial breeders. [LB588]

SENATOR SCHILZ: Sure. And is that...is there any sort of, I mean, I guess the question is obviously you guys want to put out the best product you can, put out...not only for...to keep the money flowing but also, you know, to take care of the dogs and make sure that... [LB588]

CASEY SCHAAF: Exactly. You know that kind of goes all back to, you know, with commercial breeders. (Laugh) Like Judy says, it's kind of hard for, you know, commercial breeders, you know, they do produce puppies for money. I mean it's just, you know,...but the way we look at it is... [LB588]

SENATOR SCHILZ: "Gotta" make a living somehow, don't you. [LB588]

CASEY SCHAAF: ...the better we take care of those animals, the better they make us, you know, as business people. I mean all around it gives us a better image. The more puppies are produced with no problems, you know, the less vet expenses I have to pay. You know, it only makes sense for me to do every preventative thing that we can do to have a perfect end product. [LB588]

SENATOR SCHILZ: So then, I guess, my next question would be, in your mind and in your opinion, seeing as how you've been with this organization for a while, exactly what percentage of the folks out there would this apply to? [LB588]

CASEY SCHAAF: Have the contract, you mean, that already give a contract out? [LB588]

SENATOR SCHILZ: Yeah, well, this law, if this law were in place, how many folks would have problems with this? [LB588]

CASEY SCHAAF: Which part of it? (Laughter) As far as the lemon law on the whole, I think 100 percent of us are really for the lemon law. The problem we have with it is the vet expense part on what we're going to be... [LB588]

SENATOR SCHILZ: Liable for. [LB588]

CASEY SCHAAF: ...liable for. You know, ideally, if we could write it our way and how

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we always did it in the past was if a puppy gets sick and a puppy ends up dying we will either give them another puppy or we will refund them the money of what we ended up paying for the pup, or what they ended up paying for the puppy. So if we sold a puppy to you for \$600, if the dog ends up dying of parvo on day six and you had \$200 or \$400 worth of vet bills or whatever, we would end up paying up to the \$600 to refund you for the vet expense. So that's...I mean, that's what we done for years. That's what we feel works. And that's what we're asking for is,... [LB588]

SENATOR SCHILZ: Sure. [LB588]

CASEY SCHAAF: ...you know, like I said, a lot of that goes back to how long you're going to guarantee them. You know, if you start looking through there, every one of those states, there's not...there's nothing set in stone what, you know, what it should be, if it should be 10 days for this, 14 days for that. To me if you don't stand behind a dog for at least one year on hereditary/congenital, you're just wasting your time. It's not even worth the taxpayers money for the paper to write that, you know. Because very, very, very, very seldom are they ever going to find a hereditary problem within the first ten days. [LB588]

SENATOR SCHILZ: Sure. Okay, thank you. [LB588]

SENATOR CARLSON: Any other questions? Senator Karpisek. [LB588]

SENATOR KARPISEK: Thank you, Senator Carlson. Mr. Schaaf, if you could go back for me through what you'll pay back. If you bought a puppy for \$600 and you had \$200 worth of vet bills, what would you... [LB588]

CASEY SCHAAF: Right there if...we would pay up to the \$200...well, if they were only \$200, we'd pay \$200. What this is asking for, originally, how it was drafted was a 200 percent guarantee. And no other state's got even...the highest is Vermont and California which is 150 percent. So say if you sold a dog in California...let's say from Nebraska, at 200 percent, if the dog was...if you bought the dog for \$600 and you ended up having \$1,200, you'd have to refund the puppy, if the puppy died, plus you'd have to pay up to \$600 for the vet expenses. So to me that's a 200 percent guarantee. [LB588]

SENATOR KARPISEK: Okay. I'm still not following very well. Help me out. Have a \$600 puppy, it dies and you have a \$200 vet bill. Do I get \$200 or do I get \$800? [LB588]

CASEY SCHAAF: Well, if the puppy ends up dying, you would actually get a new puppy, the way ours is written right now, you'd be responsible for the \$200 vet bill. We would give you...we would replace your puppy. We either replace a puppy or give the money back for whatever the puppy was worth if your vet, you know, if you decide you don't want another puppy, why, we had hard luck last time, I just don't want to deal with

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that again. If your vet expenses were \$600 and we sold you the dog for \$600, we would give you \$600 back, one way or another, whether it goes to another puppy through our facility or if it's cash to help pay the vet expenses. [LB588]

SENATOR KARPISEK: But if the vet bill was only \$200 and I don't want another puppy... [LB588]

CASEY SCHAAF: We would pay \$200. [LB588]

SENATOR KARPISEK: Just \$200. [LB588]

CASEY SCHAAF: Yep. [LB588]

SENATOR KARPISEK: Okay. I guess, to me that doesn't quite seem fair for me to have a \$400 loss on it if there was something wrong with the dog. [LB588]

CASEY SCHAAF: And a lot of the...the way we always did it is, you know, if it was something that was our fault, then yeah, we agree that you're right. But on a case like with Clem just, you know, if it was your negligence and you don't take that dog to the vet clinic for shots, you know, I mean, you need to do...you know, I mean, we set a regimen this is...when we give our puppies to you, here's a, you know, it's typed out, these are what the shot record has. You need to take it to your vet within so many hours and the reason that is they're going to set you up on a protocol where this is when that dog needs shots. If you don't take that dog to the vet clinic for its shots, and say you're ten days behind, you know, parvo is ten days. So do you feel like the breeder should be responsible for that if it's in your negligence? [LB588]

SENATOR KARPISEK: No, I don't. And, I guess, that's where I'm not quite following for sure. [LB588]

CASEY SCHAAF: And see, that's when it goes back to so much vagueness. I mean there's...this bill is really good. And we really support it, Senator Dierks, it's just that there's a lot of things in there we need to clarify a little bit more. There's a lot...I mean, you know you're trying to get a lot of stuff into about four pages there. And there's a lot of scenarios that are going to come, you know, through the woodwork. And that's the reason you guys keep having jobs, (laugh) because you keep re-amending. You know, nothing is ever perfect. The constitution is not even perfect. That's why we needed to keep redoing, redrafting and everything else. And I totally understand, we're not going to get this right the first time. But if we can at least try to get it as close to workable for everybody that's all we're asking. [LB588]

SENATOR KARPISEK: Okay. One more quick question. Six hundred dollar dog, I take it, get its shots, do the whole regime like you say. The dog gets sick, \$200 vet bill and it

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still dies. Then what do I get? [LB588]

CASEY SCHAAF: On a deal like that right now you're asking what we, personally, would do right now? [LB588]

SENATOR KARPISEK: Yes. [LB588]

CASEY SCHAAF: We would give you the puppy and we'd probably pay the \$200. If the vet bills were only \$200, we would pay the vet bills. Yet a \$3,000 vet bill, I wouldn't see that would be reasonable. And that's why we put the word "reasonable" in our contract is to, you now, it's got to be halfway reasonable. Because a lot of times, you know, vets in Lincoln and Omaha are a lot different than they are in LA, you know. So that goes back to, you know, whenever you were talking about the Internet sales. That's one reason, I mean, you can really get burnt on that deal with, you know, the larger cities. They charge a lot more money than what they do locally. [LB588]

SENATOR KARPISEK: And health insurance has the same things, "reasonable" and another word. But thank you for helping me through that. [LB588]

CASEY SCHAAF: Okay. [LB588]

SENATOR KARPISEK: Thank you, Senator Carlson. [LB588]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. [LB588]

CASEY SCHAAF: Thank you. [LB588]

SENATOR CARLSON: That was in a neutral position. Any other testifier in a neutral position? [LB588]

PAUL NICHOLS: (Exhibit 5) My name is Paul Nichols, P-a-u-l N-i-c-h-o-l-s. I won't take much of your time. But I'm a breeder/broker from western Nebraska. I've been in business for over 18 years. And when I say breeder/broker, I'd be classed as a commercial breeder on the licenses that you've talked about. And broker, I buy from a lot of the breeders and resell to pet stores and other sources. Neutral on LB588. We could support it with some of the amendments we've been talking about. I think they passed around earlier the amendments. My concern on it is being limited to our liability. Basically, I don't think LB588 is for the breeder or the commercial breeder I should say. It's going to help govern all these puppy mills that you guys have been talking about and hearing about. It's substandard kennels, it's going to give us a source of...a way of making them live up to the standards that we do already do. We guarantee...our guarantee is a little stronger than what that guarantee is. We haven't had any problems.

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If a puppy was to die of parvo or something like that, no questions, you get a vet statement, we replace the puppy or we refund the money. And we go a couple of years on the genetics, you know hip dysplasia and stuff like that. And usually on them we just refund the purchase price of the dog or we'll bring the dog back and find a suitable place for it too. But I think we really need to work on it to fine-tune it so the liability end of it and the wording of it because we all need the protection one way or another. But I just think it will...we've really gone a long ways with this inspection that we've gone. It's only been in effect two years. As I've traveled over the country in the last 18 years, I've traveled the whole state, the kennels are in much, much better condition today than they were when we first started. They've improved greatly in the last five years. And I think we're on the right track. And I think LB588 could be on the right track, it just needs some more fine-tuning. [LB588]

SENATOR CARLSON: Wait a minute. Okay, thank you for your testimony. Any questions? I had one and now it left me, so you're going to have to sit there a minute until it comes to me. (Laughter) You want to expound a little bit on fine-tuning. Were you agreeing with the testifier before you on 200 percent? [LB588]

PAUL NICHOLS: Yes, I was. Yes. I was pretty much in agreement with Casey. I just...I think there's a lot of room for...that we just don't quite understand the wording. I think we're all here for the same purpose that it's the wording of the...we just want to be sure we're clear on it and understand it. I don't think a breeder should be obligated to pay 50 percent of vet bills because I see them in \$6,500 for hip replacement. And I've seen bills as high as \$3,000, \$4,000 for parvo that's lingered on and on and on. And I just think it's really hard if a person will...I understand the end of the consumer. But almost every situation that I've been involved in where I see these kind of bills there's been neglect on the retail person that bought the dog. There's been some issue there that wasn't done right. [LB588]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony. [LB588]

DENISE BLEDE: Mr. Chairman, members of the committee, my name is Denise Bledé, D-e-n-i-s-e B-l-e-d-e. I am here before you today on behalf of the United Pet Professionals Association, located here in Nebraska. Although we believe that most responsible breeders, commercial breeders do back their puppies and kittens, you know, we do understand that there are those that don't. This would be, you know, a good recourse for the seller as well as protecting the breeder. So therefore, you know, we really believe that we need to look at some of the terms used. It needs a little bit more work I think to get everybody on the same page. But it could be a real viable tool for this industry. And that's, you know, that's really all I had. It really does need some more work. [LB588]

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SENATOR CARLSON: Okay. Any questions? What is your...tell us a little bit about your practice. [LB588]

DENISE BLEDE: What do I do? (Laugh) Actually, I was a former cat breeder. So you know, where this...the UPPA or what I did personally? [LB588]

SENATOR CARLSON: No, in your operation, what...are you a commercial... [LB588]

DENISE BLEDE: I was a former cat breeder and I was a commercial breeder, yes. [LB588]

SENATOR CARLSON: Okay, okay. But you're not now. [LB588]

DENISE BLEDE: No. [LB588]

SENATOR CARLSON: Okay. All right, thank you. [LB588]

DENISE BLEDE: Thank you. [LB588]

SENATOR CARLSON: You want to give that to Barb over there. And you're still classifying your testimony as neutral? [LB588]

LORRAINE REXROAT: Neutral. [LB588]

SENATOR CARLSON: Okay. [LB588]

LORRAINE REXROAT: I am Lorraine Rexroat, R-e-x-r-o-a-t. I am an owner of a pet store in Bellevue, Nebraska. We have a guarantee that is actually stronger than the one on the proposed LB588. We give up to three years on genetics and we have a seven-day mandatory, they have to take it to a vet for a health exam after our veterinarians have checked it. If there are any problems, they are to contact us immediately. What we have found over the many, many years of business is the veterinarians have to make a business. We have seen this. A medication as low as \$3 and as high as \$48 for the same size puppy. We try our hardest to keep our puppies healthy and, with that in mind, buy from reputable commercial breeders. They have to be USDA. This is a law the United States government has passed. With this in mind, I am not opposed to the lemon law at all, I'm for LB588. What I am opposed to is it needs critiquing a lot. As a pet store, even though we give money back, puppies...replace puppies, the media has a frenzy with us. We can do all we want but the media does have a frenzy. I would like that added that if you decide to pass LB588, that somewhere these customers that we have begged to come back to us cannot go on and spread bad rumors about us. I would love to have any of you come to my store and check it out. Second, I would like to be able to have in the bill a second opinion. We had a Pug once,

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the veterinarian said it had a patella knee. To this day, the dog is six years old, has never had knee surgery. We have the money set aside for it because this vet claimed it had a bad knee at eight weeks of age. A second opinion would be helpful so these veterinarian bills could not get up into the thousands of dollars, which they do very easily. And third, I would like to see everybody involved, anybody that sells an animal, a rescue group is now selling puppies up to \$500. They get these puppies free of charge. They have volunteers working for them. Along with that you have the general public. If they are producing puppies, even one litter, they are making money. So it should entail everybody that produces a puppy of any kind or sells a puppy to have to be involved into the lemon...LB588. Any questions? [LB588]

SENATOR CARLSON: Okay, thank you for your testimony. Well, Senator Council. [LB588]

SENATOR COUNCIL: You mentioned about an individual who obtained a puppy for free and then ends up breeding the puppy or having puppies, they should be help accountable too. Now are you saying that the language in here regarding casual breeder isn't broad enough to encompass those individuals? [LB588]

LORRAINE REXROAT: It depends. I try to encourage people not to breed unless they know something about breeding. Most of them don't do shots. The first vaccine should be done at six weeks of age or even lower. A lot of casual backyard breeders, they probably will not know what the law is. But if this bill gets passed we need to let people know there is a bill out there called LB588 and to follow it. Don't go to the media. The casual breeder will never give the media, that's kind of what I'm trying to say. [LB588]

SENATOR COUNCIL: Oh, okay. So your concern is not that the bill doesn't cover the casual breeder. Your concern is that the casual breeder doesn't get exposed to the same level of scrutiny that a commercial breeder or a pet store does. [LB588]

LORRAINE REXROAT: Um-hum, pet store, yes. Um-hum. A lot of times, if this bill passes, I can say to a customer, because I'll come into my store and say, what will you do? And my answer right now is take it to small claims court. You do have that alternative because usually it will be under \$3,000. [LB588]

SENATOR COUNCIL: And I'll tell you that I have found myself, personally, in that position. I was just sharing with Senator Wallman, about five years ago I paid a nominal fee, but nevertheless, paid a nominal fee for a chow puppy. And took the dog into the vet for what I understood to be the basic shots. And six months later I was told that the dog had contracted parvo. Now that was the first I'd ever heard of parvo. And I've been reading the material on it. And I want to thank everyone who has been writing and sending e-mails. Yes, as I'm reading the literature, maybe you can help me because you're in this industry. And Senator Dierks, I'm sure, can help me as well. The

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parvovirus is just that, it's a virus. I mean... [LB588]

LORRAINE REXROAT: It's an airborne virus. [LB588]

SENATOR COUNCIL: It's an airborne virus. So I guess one of the concerns I had when I was looking at the bill, and I apologize, I had to introduce a bill in another committee. But I heard one of the neutral testifiers speaking about the negligence of the purchaser. Now if it's an airborne virus, I mean, what do you do to prevent an animal from contracting parvo? [LB588]

LORRAINE REXROAT: That is why it's important to vaccinate at a younger age. I go to several educational seminars a year. And the more I go the more educated I get. Parvo, even though we give a shot at four weeks, or six weeks, if momma's immunity milk has not left, that vaccine did not take effect. We have a lot of veterinarians, because you'll see the pet stores do it every two weeks. The reason we do it every two weeks is we don't want that window of opportunity to come because we have people from all over, we don't know where they've been, you know. So we don't want that window to open up. So when I had my first case ten years ago, I decided, hey, I got to learn about this parvo disease. And you cannot even with the dogs having two or three vaccines, they still can come down with it if mom's immunity milk was too strong when the vaccine was taken. So you try to explain to customers this is an airborne virus. Please do not take your puppies to the puppy parks before they're six months of age, until their immunity is totally developed. Usually by six months of age their immunity is totally developed. [LB588]

SENATOR COUNCIL: Well, I learned a \$2,000 lesson. Thank you. [LB588]

SENATOR CARLSON: Okay. Any other questions? Senator Wallman. Any others? [LB588]

LORRAINE REXROAT: Thank you. [LB588]

SENATOR CARLSON: Okay, thank you for your testimony. [LB588]

DAVID ENGLER: My name is David Engler, D-a-v-i-d E-n-g-l-e-r. I am the owner and general manager of the Petland store in Omaha, Nebraska. I agree with Mr. Schaaf and Lorraine as well on most of the issues that they brought up. I'm against the legislation in general for the support of this industry. I think the breeders as a whole do a fantastic job with self-regulating because we have to, they have to. The amount of scrutiny that our industry has received over the last several years, most of it falls from a variety of groups, has forced us to be in a position where we have to ensure that everything we do is 100 percent aboveboard, and we do everything better than anyone would expect us to do because the opportunity for someone to come after us for any issue is too great

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and we have to protect ourselves from the beginning. And I look at a bill like this and I see that it's designed to protect both sides, but in reality it really does not protect those of us on the retail side in particular from additional litigation when we already have a warranty in place that is far better than what is being proposed. We have a three year health warranty for any congenital and hereditary defects. We provide a 14-day limited warranty for any of the potential issues that may arise with a puppy when it's sent home. Introducing legislation like this, while I think in general is good for the state and good for both parties, my concern is that it opens the door for additional litigation against us for any type of issue that may come up, anybody that may not be satisfied with the warranty that we already have in place. Now they have an opportunity or an avenue to come after us for additional funds, above and beyond what we paid for the animal...or what we took from the retail purchaser. And as Mr. Schaaf had said, we really wanted to limit what we have in place right now as far as what we have to end up spending out of pocket for an issue that arises. We take in \$1,000 for an animal, we should be liable for that same \$1,000 back out again, not up to an additional larger amount. The other item that I had noted throughout the bill was that it was a little vague in the sense that it didn't always refer to veterinarians as licensed veterinarians. I wanted to just make sure that that was consistent throughout the bill. And I also agree with Lorraine that I would like to have something in there relating to a second opinion. Our warranty at this point, we have a consulting veterinarian that we work with who handles all of our warranty-related issues. We do pay claims for folks that have actually gone to an additional veterinarian, someone that they trust more fully than our consulting veterinarian. But we have ours look at it and verify the information before we pay claims. That was all the additional information I wanted to add. [LB588]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Mr. Engler? My question would be, if you are already exceeding the requirements of LB588, then why is that a threat? [LB588]

DAVID ENGLER: As I mentioned, my only concern is that now there is another avenue. I think it's probably already there in general that someone can take us to court if they don't like what we've been able to provide back for them based upon our warranty. This just really kind of solidifies it and opens, I think, another door potentially for them to get something above and beyond what we already provide. That's my only concern. If it...I mean if it doesn't, and that's unfounded, then I certainly have no opposition. [LB588]

SENATOR CARLSON: Okay. Senator Council. [LB588]

SENATOR COUNCIL: Thank you. Good afternoon. Thanks for appearing to testify. In terms of your warranty, what I'm hearing, and it relates back to a question that Senator Karpisek asked an earlier witness, under your warranty, based upon your testimony, correct me if I'm wrong, if I pay \$1,000 for a puppy at your establishment and within the time period stated I discover through a licensed veterinarian that there is some potential

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problem with the puppy, and my vet tells me, well I'll try, I'll start this four- or five-day treatment to see if we can correct the situation. That fails and that treatment, and someone already testified, I mean depending upon the vet, that treatment can run from \$100 to \$600. Under your warranty is my recovery limited to the price I paid for the puppy? [LB588]

DAVID ENGLER: That is correct. [LB588]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. [LB588]

DAVID ENGLER: Thank you, Senator. [LB588]

SENATOR CARLSON: Anyone else in a neutral position? Okay. Hearing none, that closes our hearing...no, it doesn't close it. (Laugh) Thank you, Senator Dierks. [LB588]

SENATOR DIERKS: Thank you, Senator Carlson. I just have a couple of points I wanted to make as a result of what we've heard this afternoon. Some of the highlights, I think, that under this amendment that you got, AM161, the act applies to dogs and cats up to 15 months of age, which was the original intent. Most of the breeders have agreed to AM161 and there are still some differences on the veterinary costs if the animal dies. And we need to talk about that as a committee. There are also some concerns about Section 7, about court costs and the limited cost, and whether Section 7, subsections (1) and (3) should even be removed. LB588 sets the parameters. Many breeders have guarantees over and above these parameters. And I think LB588 establishes the precedent of the lemon law and gives Nebraska legal limits to do this. I wanted to take the opportunity to thank these breeders that have come here today. They've done an excellent job of helping me put the bill together and helping you to understand what it all is supposed to do. So my thanks to the two different sides, the two different groups of breeders that have come here. Thank you. Questions? [LB588]

SENATOR CARLSON: Thank you, Senator Dierks. Any questions? Okay, thank you, and... [LB588]

SENATOR DIERKS: You bet. [LB588]

SENATOR CARLSON: With that, that closes the hearing on LB588, and we will open the hearing on LB677, Senator Haar. [LB588 LB677]

SENATOR HAAR: (Exhibits 1, 2, and 3) Ready? Okay. Senator Carlson and members of the Agricultural Committee, first of all, I'd like to tell you, that door is to my office, so if you hear a commotion on the other side, ignore it, and I'll do the same (laugh). LB677 directs the Nebraska Department of Agriculture to place certain restrictions on

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commercial dog breeder licenses issued and to provide standards for animal care. The main concern that this bill wishes to address is the possibility of very large breeding facilities moving into the state of Nebraska. LB677 requires breeders to conform to new standards of care that will help assure that dogs are treated humanely and are adequately cared for. In just a minute, I'll distribute to the committee a summary sheet that is sort of a CliffsNotes that describes the requirements of the bill. The bill also sets a cap of 75 dogs allowed in a commercial breeding facility, but you'll be getting an amendment that will grandfather existing breeding facilities at their current level. This amendment will protect current breeders while protecting large breeding facilities from moving into Nebraska. I've talked with Senator Pahls, who also has a bill with the same kind of concerns, and the sheet that you're getting now, we prepared giving you a kind of a CliffsNotes of LB677 and also a summary of Senator Pahls's bill, and he went over that, so he agreed that this accurately described his bill as well. Obviously, features are negotiable, the 75 and so on. And I would hope that after this, maybe Senator Pahls and I can get together and combine some of the features into one bill. So let's see, did you get those two handouts then? One is LB677 with bullet points, and the other is LB241 which is Senator Pahls's bill. And then you should have gotten an amendment. The testifiers that follow me will be able to answer questions, and I'm open to questions now. [LB677]

SENATOR CARLSON: Okay, any questions of Senator Haar? Senator Council. [LB677]

SENATOR COUNCIL: Yes, good afternoon, Senator Haar. One of the statements in your opening give rise to the question, because when the bill was introduced and I've received a number of e-mails and phone calls regarding the issue. And I guess I need to have some clarity on the intent. You mentioned during your opening that there's a concern about large breeder operations coming in to Nebraska. [LB677]

SENATOR HAAR: Um-hum. Right, correct. [LB677]

SENATOR COUNCIL: What gives rise to that concern? [LB677]

SENATOR HAAR: Well, we've seen it in some other states. Kansas, for example, has a huge facility, and it's the concern of some people that we would get the same kind of facility. [LB677]

SENATOR COUNCIL: Okay. Now, in terms of the huge facility in Kansas, what types of problems are associated with it? [LB677]

SENATOR HAAR: Well, my understanding is that, for example, it has a thousand dogs or so, and with that many dogs, it's very difficult to keep high standards of hygiene and those kinds of things. [LB677]

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SENATOR COUNCIL: Currently, in Nebraska and maybe the witnesses who will testify after you, what is the average size of breeding operations in Nebraska currently, if we know? [LB677]

SENATOR HAAR: I don't know the average size, but we built into this, setting a new limit of 75 which, again, is negotiable, but there are larger facilities than that, and we would grandfather those existing facilities. And I'm...to answer your question directly, I'm not...I can't answer that, giving you the exact numbers. But some of the people to testify certainly will. [LB677]

SENATOR COUNCIL: Thank you. [LB677]

SENATOR CARLSON: Any other questions? I have one, Senator Haar. [LB677]

SENATOR HAAR: Sure. [LB677]

SENATOR CARLSON: You mentioned this facility in Kansas. Have you been there? [LB677]

SENATOR HAAR: No, I haven't. No. [LB677]

SENATOR CARLSON: Okay. So it's what others have told you. [LB677]

SENATOR HAAR: Um-hum. Yes, exactly. [LB677]

SENATOR CARLSON: All right, thank you. And do you wish to close? [LB677]

SENATOR HAAR: Yes. [LB677]

SENATOR CARLSON: Okay. All right, let me get an idea as we start here. How many people do we have testifying in favor of LB677? Okay. [LB677]

ROBERT DOWNEY: (Exhibit 4) Chairman Carlson and distinguished members of the Agriculture Committee, I would like to go on record that Capital Humane Society in Lincoln, Nebraska, is in favor of LB677. My name is Robert Downey, D-o-w-n-e-y, executive director of Capital Humane Society. The bill does two primary things related to the housing of dogs. It improves healthcare conditions under which animals are maintained along with improving standards for their physical comfort, care, and sanitation. No one is saying that some licensees are not meeting or even exceeding the standards set out in this bill already. What the bill does is set a baseline for the items addressed. This is important for the humane treatment and confinement of these animals. The other item this bill addresses is the number of breeding dogs that future licensees can have, that number is 75. As amended, it does not require current

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licensees who have more dogs to come down to that number, and, therefore, it does not create hardship or loss of income for them in doing so. There is no question that there is an overabundance of dogs and cats in this country and in this state. This overabundance of animals is a tax issue for all states. Dogs and cats are companion animals and are not livestock. They are animals that we choose to take into our homes and live with. All states need to be taking steps to help control the excess, and organizations like Capital Humane Society need to be spending funds on education about the importance of sterilization as well as sterilizing all animals they adopt out and other animals in the community as they can. We thank Senator Haar for introducing this legislation, and on behalf of Capital Humane Society, I ask that you give LB677 your support. [LB677]

SENATOR CARLSON: Okay. Thank you. Senator Council, you have a question. [LB677]

SENATOR COUNCIL: Yes. Thank you for appearing and testifying, Mr. Downey. The question I have with regard to the grandfathering,... [LB677]

ROBERT DOWNEY: Yes. [LB677]

SENATOR COUNCIL: ...and in your testimony you said that the grandfathering would not result in loss of income for current breeders coming down to that level. [LB677]

ROBERT DOWNEY: Yes. [LB677]

SENATOR COUNCIL: But my question is, with regard to capital costs, if on the effective date of this law which would trigger the grandfathering, say a breeder has 70 dogs...if that's the number, and I understand that that's negotiable, but has investments and capital in terms of cages and other items that would accommodate 150 dogs. By virtue of this bill, wouldn't they be suffering an economic loss associated with that? [LB677]

ROBERT DOWNEY: Yes. I do agree that they potentially would be suffering a loss of that nature, but certainly opportunity would be available to them to put hard goods like that out on the market for resale. [LB677]

SENATOR CARLSON: Senator Wallman. [LB677]

SENATOR WALLMAN: Thank you, Chairman Carlson. Thank you, Mr. Downey, for coming here. [LB677]

ROBERT DOWNEY: You're welcome. [LB677]

SENATOR WALLMAN: Appreciate what you do. [LB677]

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ROBERT DOWNEY: Thank you. [LB677]

SENATOR WALLMAN: But the population in your, you know, the pets you have... [LB677]

ROBERT DOWNEY: Yes. [LB677]

SENATOR WALLMAN: ...are mainly from, what would you say, recreational breeders or wild dogs or abandoned dogs? I have an abandoned dog right now. We took care of it; it's a good dog. [LB677]

ROBERT DOWNEY: We...yeah. Especially when it's a stray dog or an abandoned dog as you say, there really is no way to tell where that animal did originate from. And so, there's make up figures, we'd be making up figures for you, to answer that question. [LB677]

SENATOR WALLMAN: Thanks. [LB677]

ROBERT DOWNEY: You're welcome. [LB677]

SENATOR CARLSON: Any other questions? Senator Schilz. [LB677]

SENATOR SCHILZ: Thank you, Senator Carlson. Mr. Downey, thank you for coming in today. I have a number of questions here. And my first one, I'll just start out right from the top. Why 75? Where did that number come from? [LB677]

ROBERT DOWNEY: Well, that number was introduced by Senator Haar in there. The information I have, and you would certainly want to verify this is currently only about 10 percent of the licensed breeders in the state of Nebraska are above that figure of 75 at this time. And so, it's a figure that would accommodate most people at this time, and certainly by grandfathering those above that figure. It would, hopefully, limit hardship on them. [LB677]

SENATOR SCHILZ: Okay, okay. So...all right. And then as I go through the language, I see some stuff there that can you tell me what sufficiently ventilated means? Isn't that a...? [LB677]

ROBERT DOWNEY: There are standards on the market for ventilation of kennel areas. There are standards that are there for the veterinary community and operating a hospital. Obviously, those standards are going to be higher. There are standards for animal shelters. Typically, we like to have ventilation occurring of at least 13 to 15 complete air exchanges in an animal area during the course of an hour. [LB677]

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SENATOR SCHILZ: Is there any certain law on the books today that requires that as it is? [LB677]

ROBERT DOWNEY: No, there are not, but it's just good husbandry. And if you have an investment in those animals, and you want to protect their health, it's a good thing to do. [LB677]

SENATOR SCHILZ: Sure, yeah. And then, of course, the next question a couple lines down from that. Sufficient lighting to observe the animals as well. Is that a...is that...no standard for...? [LB677]

ROBERT DOWNEY: There is no standard on the market, but... [LB677]

SENATOR SCHILZ: So that would be a pretty subjective term if... [LB677]

ROBERT DOWNEY: It could be a subjective term and certainly probably some sort of standard would have to be promulgated by the commercial dog and cat inspection program. [LB677]

SENATOR SCHILZ: Sure. Back to the ventilation...does the USDA laws that are in place, do they have...? [LB677]

ROBERT DOWNEY: I believe the USDA has standards within their rules for breeding facilities, but I am not familiar with their standards. [LB677]

SENATOR SCHILZ: Okay, sure. And then I guess looking at the temperatures, can you explain why 50 degrees is a lower limit was picked as a...? [LB677]

ROBERT DOWNEY: Well, certainly going down below 50 degrees when you're housing a large number of animals together certainly, can have a role in upper respiratory viruses within their...as exceeding the upper limits that are indicated in there too. Certainly when you have a large number of animals kenneled together, caged together, you've got stress levels for animals within any setting like that. And everything that you can do to minimize stress such as have comfortable temperatures for them to live in will help control illnesses. They're no different than we are. When we're subjected to stress, we're more prone to illnesses. [LB677]

SENATOR SCHILZ: Maybe if we'd put it down to 20 degrees, then those bugs wouldn't have a chance to promulgate either (laugh). It's the way we look at it with the cattle anyway. If it's cold and dry, you're in pretty good shape. You know, and then, I guess, readily cleaned? I'm trying to figure out what that means too. [LB677]

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ROBERT DOWNEY: Well, it means that you... [LB677]

SENATOR SCHILZ: If you walk in right after I cleaned it and a dog has defecated on the floor, is that readily cleaned? Subjective again? [LB677]

ROBERT DOWNEY: Again, it's subjective, but if you see dried urine and feces within an area, so on and so forth, you fully realize that things have been living...or have not been cleaned for a period of time. Certainly, you can... [LB677]

SENATOR SCHILZ: Right, and then as...I'm sorry. [LB677]

ROBERT DOWNEY: ...walk into our shelter, and you can see an animal that has defecated or urinated maybe a half hour after a cage or kennel has been cleaned. [LB677]

SENATOR SCHILZ: Sure, yeah. And then I also jotted down, and I don't know if this came from the exact spot, but it says, free from debris, and I think that had to do with the waterers. You know, once again, dogs will slobber a little bit. Would you consider that debris in the water tank? [LB677]

ROBERT DOWNEY: Yeah. No, I would not. [LB677]

SENATOR SCHILZ: Okay, could somebody if they wanted to? [LB677]

ROBERT DOWNEY: I don't believe a trained inspector from the state of Nebraska who is the one who would be doing these inspections would. [LB677]

SENATOR SCHILZ: Okay. And then do you also think that it's absolutely necessary to have dogs inspected by a vet once a year whether they look sick or not? [LB677]

ROBERT DOWNEY: I personally do, yes, as a pet owner and as somebody who operates a shelter. [LB677]

SENATOR SCHILZ: I don't even go to the doctor once a year whether I feel good or not (laughter). And then the last question I have is, you know, anesthetics for docking tails. When are tails usually docked? [LB677]

ROBERT DOWNEY: I believe they're usually docked at five or six days, and I believe there will be neutral testimony from the vet association about that, and I would agree with their neutral testimony on it. [LB677]

SENATOR SCHILZ: Sure. And the only question that I have is understanding a little bit about that when you've got an animal that's so small. Doesn't the anesthetic itself pose

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a risk to that animal? [LB677]

ROBERT DOWNEY: It can be a danger to it, yes. Absolutely. [LB677]

SENATOR SCHILZ: Thank you very much. [LB677]

ROBERT DOWNEY: You're welcome. [LB677]

SENATOR CARLSON: Okay, any other questions? Senator Dubas. [LB677]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Downey, for your testimony. A few questions. It was brought up from the previous bill, just the amount of public scrutiny, the regulations that have been put in place recently appear to have addressed a lot of concerns in the way these types of facilities are ran, and they're really improving their standards. Is that something you would agree with you would say there's still room for improvement? [LB677]

ROBERT DOWNEY: Yes, I would agree with that, and talking with the inspectors of the state who do the inspections, that the advances that have taken place to date have done things to make the situation better than it was before. [LB677]

SENATOR DUBAS: Do you feel that Nebraska is maybe targeted for increase of larger facilities over the number of 75? [LB677]

ROBERT DOWNEY: I have no way of answering that question. I would have no knowledge. But I have heard that from promoters of the following bill too. [LB677]

SENATOR DUBAS: Okay. Some of the standards that are laid out in reference to the temperature and I can't see what I have highlighted now, but these are fairly blanket-type standards. Could there be differing types of...like temperature. Maybe some of the dogs that have, you know, heavier coats of fur or 50 degrees may be even too warm for them. Would you see it rather than the blanket-type standards, maybe they have some more standards that are more specific to the types of breeds that are being raised. [LB677]

ROBERT DOWNEY: I certainly think that that is an option, and I think Senator Haar has agreed that a lot of these things are negotiable. [LB677]

SENATOR DUBAS: And then from my understanding, many of these facilities have to meet federal regulations, USDA, etcetera. Are those types of regulations more stringent or less stringent than what we're outlining here? [LB677]

ROBERT DOWNEY: Not being familiar with the federal, I could not accurately say, but I

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believe they are actually more stringent. I believe one of the reasons for the rise of state inspection programs was the lack of funding for the federal inspection programs. And so even though they had standards, facilities went uninspected and standards went unenforced. [LB677]

SENATOR DUBAS: Okay, thank you very much. [LB677]

ROBERT DOWNEY: You're welcome. [LB677]

SENATOR CARLSON: Senator Dierks. [LB677]

SENATOR DIERKS: I know you don't have a good answer for me, but I'm going to ask you anyway, Bob. [LB677]

ROBERT DOWNEY: Thanks. [LB677]

SENATOR DIERKS: We've got a huge problem in this nation right now with no slaughter establishment for horses. Has your humane society had any access to horses in the area without...that have been mistreated or involved with that legislation? [LB677]

ROBERT DOWNEY: We routinely work with the Lancaster County Sheriff's Department on neglected and abuses horses and, in fact, we have a horse at the shelter at this time that we've been holding since December 10th, and providing veterinary care for, so on and so forth. To this point, the slaughter act has not affected us, but I can tell you, a lot of my peers across the country are very frustrated with the horse slaughter act and, indeed, are having difficulties and some even considering not providing housing for neglected horses because of it. [LB677]

SENATOR DIERKS: Okay. Just as a matter of interest for Senator Schilz, the anesthetic that veterinarians use to trim docked tails is simply a local anesthetic. It's a little bit of lidocaine and maybe a half a cc. It's not a general anesthetic, so. They do anesthetize, but it's just a local anesthetic, it isn't really a threat to the puppy's life. [LB677]

SENATOR CARLSON: Okay. Any other questions? Mr. Downey, I've got one. In your statement, there's no question that there's an overabundance of dogs and cats in this country, and in this state, and with your experience at the humane center, you know better than I do, but then I listed to the testimony about what to me are pretty high prices that people pay... [LB677]

ROBERT DOWNEY: Yes. [LB677]

SENATOR CARLSON: ...for dogs and cats. So is there really an overabundance?

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[LB677]

ROBERT DOWNEY: From my perspective and given the field I work in, yes, there is an overabundance. Animal shelters in this country are receiving somewhere between 7 to 8 million dogs and cats a year. About 50 percent of those animals nationwide are being euthanized, and so that tells us that there is an overabundance of those animals. And in regard to people paying high prices, there's a pet store here in Lincoln that sells puppies for 500 bucks up to \$1,000 and people go and pay that. But one of the frustrations that we see in relation to that, too, and in relation to that particular pet store is they have a no return policy. And on several occasions, we have taken in puppies from that pet store that people have paid anywhere from \$700 to \$800 for; 24 hours later change their mind, and the pet store refuses to take them back and refuses to refund their money. Society is very impulsive. In the previous bill, you heard people talk about both sides of the issue on that bill. You heard people talk about, you can't cure dumb (laugh) in relation to the public. One of the hardest things whether you're in my industry or whether you're in the breeding industry or pet store industry, selling from those types of operations is to get the public to listen to how to properly care, especially when it comes to medical or veterinary care for those animals. [LB677]

SENATOR CARLSON: So paying a lot of money for a big purchase, and 24 or 48 hours wanting to give it up, fault certainly works both ways in the instance that you gave. [LB677]

ROBERT DOWNEY: Absolutely. [LB677]

SENATOR CARLSON: Okay, thank you. Any other questions. Thank you for your testimony. [LB677]

ROBERT DOWNEY: You're welcome. [LB677]

DON WESELY: (Exhibit 5) Mr. Chairman, members of the Agriculture Committee, I'm Don Wesely, D-o-n W-e-s-e-l-y. I do have a handout from the Humane Society of the United States which I represent. The handout includes some different background material and a testimony from Stephanie Shain, who is the director of the Stop Puppy Mills campaign for the HSUS which is the nation's largest animal protection organization with over 10.5 million members and constituents. There are over 47,000 members here in Nebraska, and we thank Senator Haar for introducing LB677, again to place some parameters on commercial dog breeder licenses that are issued and to promote animal care standards for the humane treatment of dogs and commercial dog breeding facilities. Puppy mills are commercial breeding facilities that mass-produce puppies for sale in pet stores, over the Internet, or direct to consumers. Puppy mills commonly house many animals in overcrowded, filthy, and inhumane conditions with inadequate shelter and care. Breeding stock dogs live their entire lives in cages or pens and many

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are in poor health with genetic and behavioral problems. And let me note, we talk about puppy mills, we're not talking about many of the breeders that are here today and across the state of Nebraska. They do a great job. Puppy mills are the extreme factories, producing puppies in an inhumane way. And this is the point I think, Senator Carlson, you were asking about. Puppy mills drain state resources by contributing to pet overpopulation. The HSUS estimates that animal shelters care for between 6 and 8 million dogs and cats every year in the U.S., of whom approximately 3 to 4 million are euthanized. So as Bob Downey talked about, about half of the animals that go into a shelter end up being euthanized. And the estimate I saw from HSUS is that puppy mills produce somewhere between 2 and 4 million puppies each year, so that's the rough, different figures that...on a national level. Animal Control Management Guide suggests cities and counties budget between \$4 to \$7 per capita for animal control programs. In 2007, a Nebraska animal organization rescued 173 dogs and puppies from a puppy mill. They were found living in small cages in deplorable conditions. The dogs suffered from numerous physical and behavioral problems, and many required surgery. The total cost for care of the dogs was close to \$50,000. In 2008, two more puppy mills were raided, one with 70 dogs and one with more than 50 dogs. And Senator Dubas, you are right. Recent legislation has improved standards of care, and we're seeing progress on that front, thanks to the support of the Legislature over the last few years. And, again, HSUS has received dozens of complaints about dog breeders with a variety of illnesses and viral conditions. Again, we thank Senator Haar for introducing LB677. HSUS is involved in this issue in a number of states. There's about a dozen states that have introduced similar legislation. The question about why 75, Virginia and Louisiana have passed legislation, I think just two years ago, and one was 50 and one was 75. And in the other states, the bills are generally in that range of a number, so that's basically the reason. But, again, the vast majority of breeders in the state are below that number and wouldn't be affected. And with the amendment from Senator Haar, they'd be grandfathered anyway, so that's our testimony, and hope that you will work with us on passing legislation. [LB677]

SENATOR CARLSON: Okay, thank you. Any questions of Senator Wesely? Senator Dubas. [LB677]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Senator Wesely. I don't want puppy mills to be in Nebraska, and I would do whatever I could personally to make that not happen. But by the same token, we are looking at a roomful of probably very responsible people who are in various types of businesses dealing with pets. And I don't want to make it more onerous for them to do their job, so where's our balance? Where do we... [LB677]

DON WESELY: It's a very good point, and we stand ready to work with the committee--Senator Pahls, Senator Haar, to find those standards that make sense. And, Senator Schilz, you pointed out a few vague areas that would be difficult. There are

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some in existing law I looked through that look a little vague too (laugh). [LB677]

SENATOR SCHILZ: It usually is, yeah. [LB677]

DON WESELY: (Laugh) But clearly, you know, we need to work on making it reasonable and would be happy to work with you on that. [LB677]

SENATOR DUBAS: Thank you. [LB677]

SENATOR CARLSON: Senator Council. [LB677]

SENATOR COUNCIL: Yes, thank you, Senator Wesely. And my questions kind of piggyback on Senator Dubas' question. I don't think anyone in this room wants puppy mills as that term has come to be defined. And when I think of puppy mills, I think of people who breed dogs and cats for sale and have deplorable conditions, don't provide adequate veterinary treatment and so on. The difficulty I'm having, I don't know that a number determines a puppy mill, and that's what I'm struggling with is the number of animals at a facility does not necessarily determine whether or not they're a puppy mill or not. Now one of the questions I have, based upon the information you have or your experience, in the state of Nebraska, are that puppy mills, in the negative sense of the term that we are aware of, are they all operated by licensed breeders? Or are these unlicensed facility, and if they're unlicensed facilities, how do we reach them? [LB677]

DON WESELY: Well, they would be illegal and obviously operating outside the law. In passing laws, you attempt to reach out and establish reasonable standards and some will ignore those, and, obviously, you have the right to go in and close them down. But you make a good point. The larger the facility, the harder it is to care for these animals. Seventy-five breeding dogs, and it's breeding dogs that you're talking about, and the estimates I saw is on average with the litters that they'd have, in a couple of years, you'd talk about maybe 700 puppies. That's a lot of puppies to take care of in any facility. And so I guess the thought is, the larger they are, the more difficult to take care of that many animals, and so that's the thought. It's harder to take care of, and so perhaps a limit would make sense. But you're right, it isn't necessarily just the number. [LB677]

SENATOR COUNCIL: Right. Because I could be in that exact scenario and have a staff of 30 people I employ, and those 30 people... [LB677]

DON WESELY: Yeah, right. [LB677]

SENATOR COUNCIL: ...add to the revenue base of the state of Nebraska, and they're operating that facility, you know, as sanitarily as you could possibly operate. I mean, that's what I'm having trouble with... [LB677]

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DON WESELY: You make a good point. [LB677]

SENATOR COUNCIL: ...penalizing large operations who are doing the right thing. [LB677]

DON WESELY: No, you make a good point on that. [LB677]

SENATOR CARLSON: Okay. Senator Schilz. [LB677]

SENATOR SCHILZ: Thank you, Senator Carlson. Mr. Wesely, thank you so much. I just...the only question that I have today is, do you agree with the Humane Society of the United States' definition of a puppy mill? [LB677]

DON WESELY: I don't know... [LB677]

SENATOR SCHILZ: I can read it to you. [LB677]

DON WESELY: Oh, yeah, the...yeah, the general one. Um-hum. [LB677]

SENATOR SCHILZ: It says that they're commercial breeding facilities that mass-produce puppies for sale to pet stores, over the Internet, or directly to the public. [LB677]

DON WESELY: Um-hum. [LB677]

SENATOR SCHILZ: Well, isn't that what everybody does that we're talking about here? [LB677]

DON WESELY: I guess I would add to that the conditions. Yeah. [LB677]

SENATOR SCHILZ: Well, yeah, but unfortunately what happens is just like Mr. Schaaf was saying before is that, you know, this negative connotation that comes down on these folks, even if they're doing the right things like Senator Council said, really, I mean, starts to become disturbing because all of a sudden you...everybody tries to lump everything into that. And any time you hear the word "puppy mill"... [LB677]

DON WESELY: Yeah. [LB677]

SENATOR SCHILZ: ...I mean, there is a negative connotation to that. And I think that the Humane Society of the United States really needs to inspect what they're saying here, and really be a little bit more... [LB677]

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DON WESELY: Careful. [LB677]

SENATOR SCHILZ: ...careful in how they come forward with that. [LB677]

DON WESELY: That's a good point. [LB677]

SENATOR SCHILZ: Because I think it's real, because we do want people to take care of things, and from what I've heard here today from everybody, whether opponents or supporters or whatever, is that the dog breeders in the state of Nebraska are doing a pretty darned good job. And I commend them for that, and I just want to make sure that we don't have people coming here, trying to stir things up a little bit. [LB677]

DON WESELY: Yeah, understand that. [LB677]

SENATOR SCHILZ: So, that...thank you. [LB677]

SENATOR CARLSON: Any other questions? Okay, Senator Wesely, I've got one. In your statement here, you say in 2007 a Nebraska animal organization rescued 173 dogs and puppies. What organization was that? [LB677]

DON WESELY: I can get you the details of that. I'll get it back to you. [LB677]

SENATOR CARLSON: Okay, I'd appreciate that. [LB677]

DON WESELY: On both of those cases. [LB677]

SENATOR CARLSON: Okay, thank you. [LB677]

DON WESELY: Thank you. Thank you. [LB677]

SENATOR CARLSON: Any other questions? Thank you for your testimony. [LB677]

TRACIE JORDAN: Good afternoon, senators. My name is Tracie Jordan, and I run Midwest Rottweiler Rescue and Irish Setter Rescue of Nebraska. [LB677]

SENATOR CARLSON: Tracie, I'm going to have you spell your name, please. [LB677]

TRACIE JORDAN: T-r-a-c-i-e J-o-r-d-a-n. And we are one of the foundation rescues in the United States. January marked 17 years. We pull dogs from all over the five-state area, and we've, especially in the last three years, we spent a lot of time running breed transport, working with other rescuers; all-breed, breed-specific, and we pull a lot of dogs out of mills. They're all nasty; they stink. Takes days to get them cleaned up. I mean, I spent nights up till three, four o'clock in the morning cleaning up dogs that have

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come out of little bitty tiny cages out of Nebraska, out of Iowa, out of Kansas, out of South Dakota, out of Missouri. Dropping the numbers to 75 would be a wonderful thing, because, I mean, my max is 65 dogs, plus I have the wolf hybrids out of Malmo that due to the problems of that owner, half of his dogs live at my house, you know, so I mean, I man 70 dogs a day. I mean, and I've got a lot of people that say, you can't do it; you can't do it; you can't do it. But you got 75 dogs that are breeding, that's a lot of puppies, a lot of unwanted puppies. And it ain't nothing for somebody to take and dump a thousand dollar dog in a shelter, at a rescue, humane society, out in the country. They just don't care. Dog don't work out; they don't care. I mean, I took in a bitch late this last summer who was out of a Kansas puppy mill, brokered by a Nebraska broker, sold to a Nebraska pet store who had issues, severe massive issues. By the time I got done doing my research, which the owner never ever gave to me, never gave me the vet records, nothing. When I got them the next day...well, the day before I got the records, the bitch nailed me. Lost the use of this hand; got a great big scar on my stomach. She went to doggy heaven. These dogs...if you've got over...you know, if you've got over that many dogs that you're breeding, you're not "hands-oning" these dogs every day. I mean, I deal with, you know, 65 to 70 dogs a day. I hands-on every animal. I have 50 dogs that live in my house. Every dog is hands-on, every dog is walked, you know. We got big kennels. The hybrids are out in their big pen. You know, their owner deals with them on a regular basis. You know, you have to socialize these animals. They have to be, you know, be able to go into homes and not have issues, you know, and by breeding dogs that aren't socialized, who come out of nasty temperament, untemperament tested parents, you know, you're going to have issues on down the lines. And that's why we have so many animals ending up in the humane society, you know, in the shelters and the rescues. You know, and we get no funding at all. This is all our own pocket. In 2008, I spent almost \$13,000 cleaning up the messes created by the Department of Agriculture in five states by a bunch of backyard breeders, you know, and by a whole bunch of professional breeders. I mean, I'm not very popular when I go ringside to show my dogs, and I mean, my last show dog cost me three grand, and he's a Belgium import. And I mean, we see a lot of breed standards not being met. I mean, you pull little dogs that are supposed to be this big and yet they're this big. You know, a Bichon is not supposed to be 24 inches tall. You know, a Bichon is supposed to be a small dog, you know. A Rottweiler is not supposed to be over 27 inches tall, and not have a back this long. An Irish Setter is supposed to be a fine-boned sporting dog. They are not supposed to have bone as massive as a Rottweiler. You know, breed standards are not being met. People don't do research on all ends, you know, the breeders, the brokers, the buyers, you know. I mean, we pulled last year over 150 dogs out of a 500-dog mill in Iowa. The place that got busted out in Lexington that everybody was questioning about, and nobody had information on; 173 dogs got pulled out of there by the Department of Agriculture and Nebraska Humane Society. Rick Kirkenbach (phonetic) was the inspector in charge. He told me that place hadn't been inspected in years. Ten of those dogs ended up at Best Friends out in Utah and made Animal Planet. So, I mean, reducing the numbers will also help, you know, reduce the amount

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of number of dogs being bred, will help reduce the number of dogs that end up in the shelters, the rescues, and the humane societies. You know, there aren't enough breed rescues, you know, and those few of us that there are, break our necks to do the work that, you know, the Humane Societies and the shelters aren't allowed to do, because they aren't given the time limits, you know, and don't have the funding either. [LB677]

SENATOR CARLSON: Okay, are you bringing your testimony to a close so we can ask you some questions? [LB677]

TRACIE JORDAN: Yeah, go ahead. [LB677]

SENATOR CARLSON: Okay, okay. Do we have questions? Senator Dierks. [LB677]

SENATOR DIERKS: Well, I have several, I guess, Senator Carlson. Nebraska has a pet inspection law. [LB677]

TRACIE JORDAN: Um-hum. [LB677]

SENATOR DIERKS: And every kennel or person that harbors animals is supposed to be inspected by the Department of... [LB677]

TRACIE JORDAN: And up until it was changed, it was on a complaint-basis. And some of these places, if they're selling to a broker and nobody goes, and the broker doesn't go in, a lot of these guys will only meet you out on the highways. The one we pulled all the puppies out of, out of Iowa, he meets my rescue friend out of South Dakota out on the highway. He won't let her come to his place. [LB677]

SENATOR DIERKS: Is there kennels in Nebraska that doesn't follow the rules? [LB677]

TRACIE JORDAN: There's one down south central Nebraska, the... [LB677]

SENATOR DIERKS: Well, I don't want a name. I just wonder if it happens. [LB677]

TRACIE JORDAN: And another rescuer could not be here today got a dog out of hers, and she hadn't been inspected in five, six years, and she's got Dachshunds and several other breeds whose jaws are rotting off. The bill on that puppy alone was over 1,500 bucks. [LB677]

SENATOR DIERKS: Thank you. [LB677]

SENATOR CARLSON: Any other questions? I want to ask you a question. In your statement, you said the Department of Agriculture, and I think five different states which insinuated you're including Nebraska so... [LB677]

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TRACIE JORDAN: Yes. [LB677]

SENATOR CARLSON: So, the Nebraska Department of Agriculture is at fault. [LB677]

TRACIE JORDAN: A lot of the Department of Agriculture's are at fault. Dogs are not... [LB677]

SENATOR CARLSON: Well, let's zero in on Nebraska. This is Nebraska. [LB677]

TRACIE JORDAN: Dogs are...dogs are not livestock, neither are cats. Dogs and cats are supposed to be companion animals, and they should not be farmed. And I mean, the Department of Ag will hand a lot of people out information, and a number of years ago, my ex-in-laws were having trouble with when the cattle end of it was going down, and the Department of Ag representative that my ex-father-inlaw was dealing with handed him information on breeding purebred dogs and cats. And I told him no, that wouldn't be a very good thing to do, because where are you going to get rid of them? Oh, the brokers get rid of them. Well, you know, a lot of these puppies that are sold to brokers don't live. And parvo, which is a devastating disease and nobody should ever have to deal with it, can show up, you know, can show up anywhere from 11 to 12 weeks to six to ten months of age, you know. And a lot of times it's a death sentence. I had a female come in out of Kansas that was severely abused, had one of her eyes punctured,... [LB677]

SENATOR CARLSON: But let's stay in Nebraska now. [LB677]

TRACIE JORDAN: ...and, you know, I mean, those puppies at 11 weeks contracted parvo, and my vet couldn't save any of them. And they had a parvo shot at four weeks, and they had three puppy shots. [LB677]

SENATOR CARLSON: Okay. Thank you. Any other questions? Okay, thank you. Senator Schilz. [LB677]

SENATOR SCHILZ: Thank you, Senator Carlson. Ma'am, you talked about these 173 dogs that were in the state of Nebraska. Do you know when those dogs were rescued? [LB677]

TRACIE JORDAN: Let's see, I think May of last year. [LB677]

SENATOR SCHILZ: Of last year? [LB677]

TRACIE JORDAN: Um-hum. [LB677]

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SENATOR SCHILZ: And do you know of any other...do you know of any other facilities where that occurred since the inspections have gone into...? [LB677]

TRACIE JORDAN: There was another one sometime mid-summer that involved a lady out of Iowa and a bunch of dogs dumped dead in a field at Grand Island, and they arrested another breeder. [LB677]

SENATOR SCHILZ: But was the breeder from Nebraska? [LB677]

TRACIE JORDAN: Yes. [LB677]

SENATOR SCHILZ: Okay. And did... [LB677]

SENATOR CARLSON: Okay, any... [LB677]

SENATOR SCHILZ: ...and that's the only ones you know of so far? [LB677]

TRACIE JORDAN: The only ones that have made publicity. I know there's a bunch of people that, you know, we have gotten bad dogs out of, me and several other Nebraska rescuers. And, you know, we have filed complaints with the department, and we've never heard back as to what happened. [LB677]

SENATOR SCHILZ: Okay, thank you. [LB677]

SENATOR CARLSON: Okay. Thank you for your testimony. [LB677]

TRACIE JORDAN: You're welcome. Thank you. [LB677]

SENATOR CARLSON: Anyone else testifying in favor of LB677? [LB677]

SCOTT BESCH: Hello. My name is Scott Besch, S-c-o-t-t B-e-s-c-h, and I have the Nebraska Italian Greyhound Rescue, and I'm also a member of the Lincoln Animal Ambassadors which is a newly formed group here in Lincoln. And, essentially, I'm going to be speaking from my own experience. I'm going to keep it short, and I'm not going to degrade anybody's work that's out in the audience or that's speaking here today. But a couple of years ago, many of these items that are within these bills were put in front of people as a petition, and the petition drive was not finished. It was cut short, but at the same time, I was one of those people circulating the petitions, and by the time I had walked up and down my own street, I had over a hundred signatures, and many people saying, it's about time that something was put into place to take care of, you know, these animals that are in the state to make sure that there's some minimum standards. It wasn't hard convincing people. I basically just showed them the wording, and they were signing away. There were a couple of items that people questioned only because

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they didn't have the, you know, the specific knowledge in that area. But I think most of these things are common sense to pretty much everybody. So I think that this bill speaks for the majority of Nebraskans actually. At the same time, I want it to be known that this has been around in Nebraska for a couple of years now, and it's not an HSUS initiative as being made out to be. And there's many rescue groups that will support that as well as their members and many members of the public. And I think generally if anybody that's out there that's breeding animals or taking care of the animals, of course, they want to, you know, care for their stock or the animals under their care. And those who are responsible should already be in compliance with most of these rules. You know, I think that the rules that are being established such as, you know, a minimum cage size like they may put a little bit of initial burden on people. I don't, you know, I don't disagree with that, but at the same time, you know, I've seen situations that I've personally been to where I walk in and I see, you know, three dogs in a kennel that's the size to fit one, you know, and requiring that they have enough room to stretch out I don't think is, you know, is enough of an issue to question the price. And I, personally, have seen a lot of animals come in from situations. One of them earlier this year that the state of Nebraska confiscated a bunch of animals from somebody that was north of Grand Island, and the Kearney Humane Society ended up taking some of those animals, and we ended up taking some of those and putting those in our homes. And to be truthful, that was the beginning of...or I should say that was last year. That was approximately February of last year, and we've still got two or three of those in our care that have medical or severe mental problems. And those are the animals that this bill is meant to care for. That's all I have. Any questions? [LB677]

SENATOR CARLSON: Okay, thank you. Any questions? Senator Schilz. [LB677]

SENATOR SCHILZ: Senator Carlson, thank you. I'll be brief. I guess when you mentioned the dogs that were rescued north of Grand Island. Do you know how many total? Was it an operation? Was it a home? [LB677]

SCOTT BESCH: It was, from my understanding, it was somebody that had retired, and I don't know if they were breeding to, you know, for extra money in their retirement, or if they just got in over their heads and, you know, started having problems. I think there were only 20 or 25 in that particular... [LB677]

SENATOR SCHILZ: Twenty-five breeding dogs or? [LB677]

SCOTT BESCH: Yeah, 25 adult dogs. I know that out of the ones that were confiscated in that particular situation, we took in 12 of those dogs. And I know that of the breed that I handle, there were an additional four that stayed at the Kearney Humane Society that they adopted out. So that's at least 16 of the particular breed that I handle. [LB677]

SENATOR SCHILZ: Sure. [LB677]

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SCOTT BESCH: And two of those were puppies, so I guess you couldn't count those under this ordinance. [LB677]

SENATOR SCHILZ: Sure, okay. Thank you. [LB677]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. How many...any more proponents? Okay. How many more proponents are there? Are you for the bill or against the bill? Okay, how many more testifying for the bill? You can come on up. [LB677]

KIM MINGE: Hi. My name is Kim Minge. Last name is spelled M-i-n-g-e. And I run a boarding kennel in Nebraska. We do not do breeding. And I guess I just wanted to make the point that being that we are out in the country, we do see several strays a year get dropped off. We don't know everybody, you know, each dog's story of why they came to us. But I can only guess that most of them do get dropped off out there, and they are purebred dogs. And I do find that the community that...recently we had a dog come out, and we did try to sell the puppies to the community, and a lot of people that did call for the puppies were uneducated about the breed. And so I think that going with the number of 75 would very much limit, you know, the amount of strays and everybody can see from the local newspaper how they get recycled back into the community once the puppy loses its cuteness or becomes hard to train, or just takes up too much of somebody's time. They either get dumped at the Humane Society or they come out and see me, and we try again to find them a good home. And we've also had puppies that, you know, people were interested in that we...this was a pregnancy of a stray, mind you, that people had come out, and we weren't comfortable sending that puppy home with them. So when we're talking about, yes, the ventilation is good, and the size of the kennel gives them room to stretch, we're also asking the dog to potty in their cage which I don't believe is correct. And are we actually taking them out and giving them one-on-one time with us and just being a presence for the dog? I don't see how we can do that for a large amount of dogs. Dogs are social creatures, and they need to be with us, and they want to be with us. And so, I believe it would reduce the amount of strays, and, again, all you have to do is look in the paper and see columns of animals that aren't wanted or that are being recycled into somebody else's home yet another time. Personally, I don't believe that--keeping a breed established is a great thing, but do I think that it should be a livelihood for somebody? Absolutely not. These dogs are not cattle. They need us. You know, we all have a relationship with our animals. We do a whole thing where, you know, we take our dogs out for potty breaks throughout the day and actually walk them, even if it's cold; if it's raining, or whatever. And I see some families come in with five dogs to their household, and I am always amazed that they can really care for each dog. I mean, they can socialize with the other dogs in the home, but I am amazed that they have one-on-one time with their owner. So when I get full at Christmas time or the Fourth of July, and I have to hire extra help for these dogs to be,

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you know, in a good spirit when their owner picks them up, and not bouncing off the walls because they're so happy to get out of this cage or this kennel that they've been in. That's not who we are. We give everybody one-on-one time. So I believe 75 dogs is a great number. And that's all I have. [LB677]

SENATOR CARLSON: Okay, thank you. Any questions? Thank you for your testimony. Okay, do we have people testifying in opposition to LB677? How many in opposition? Okay. [LB677]

JOE HERROD: My name is Joe Herrod, J-o-e H-e-r-r-o-d. I'm here representing the Nebraska Council of Sportsmen's Clubs. I'd just like to tell you up front that this is not just a dog breeder's issue; this is a sportsmen's issue. Most of the testimony, I assume, will come from the dog breeders. We'll keep it simple from...we sportsmen, short as possible. We didn't realize that we fall under this act, those of us that keep, say a couple of vizslas for bird dogs, and a couple of black labs for retrievers and, occasionally, because we have a spectacular dog, and somebody hunts with it, and they want puppies out of it, and we figure out a way to do things, my gosh, we've had four dogs for breeding purposes, and we didn't buy \$150 license and so (laugh) we're kind of overwhelmed by this whole thing. We just kind of come into this thing, and so when we look at all of this other stuff, we say hey, you know, 75 dogs or 1,000 dogs...1,000 dogs when I first heard that, that sounded like economic development. But, you know, maybe I'm wrong. But when you're down to just a few beagles or just a few hounds or just a few retrievers or something, and you occasionally do something that creates a litter of puppies because you've got spectacular dogs, and then you think, I've got to start putting them...keeping them in where it's 50 degrees and they're black labs. That will kill them (laugh), you know, so to speak. So like I say, I'm going to be as short as possible, but I just want to emphasize it's not a dog...just dog breeders. This is everybody that works dogs, cattle dogs, sporting dogs, hounddogs, retrievers, pointers, whatever, and I wish these other people good luck, because I think they're all real quality people. Thank you. Any questions? [LB677]

SENATOR CARLSON: Well, there might be. [LB677]

JOE HERROD: Yup, yup, yup. [LB677]

SENATOR CARLSON: (Laughter) Okay, Senator Dierks. And another reminder, let's shut off cell phones, please. [LB677]

SENATOR DIERKS: Joe, I just want to make to make the remark that with these rules and regulations, you have to start somewhere. [LB677]

JOE HERROD: Yeah. [LB677]

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SENATOR DIERKS: And you have to stop somewhere. And when this legislation was introduced seven or eight, ten years ago, I think I introduced it. And we set the limit at four females, I think, would be where you start being involved with this legislation. And Rick could probably straighten me out on that, but...because Rick Leonard was a research analyst at the time. But I think we set it at four...at four females. [LB677]

JOE HERROD: Um-hum. [LB677]

SENATOR DIERKS: And maybe that's one too many or maybe that's one too few, I don't know. But you just got caught under the...into the snare there, so. [LB677]

JOE HERROD: Yeah, we just...when this bill came up, and we started looking at it and we looked at the definition of a commercial breeder, I mean, there's just an awful lot of guys that keep dogs for sporting purposes that occasionally breed those dogs, not on a regular basis. And so, you know, we're now, we're kind of in a quandary of just what we're doing, and do we really have to do all these things? I couldn't imagine keeping a Labrador inside hardly, let alone at 50 degrees, I mean, so. So it's just a...I just wanted to say, it's not just a dog breeder saying, that we sportsmen are watching this, and we'd like to have some input, too, and know what we're supposed to be doing to make sure that we comply. And that...you know, keep it as short as possible. [LB677]

SENATOR CARLSON: Any other questions? [LB677]

SENATOR DIERKS: Thank you. [LB677]

JOE HERROD: Thank you. [LB677]

SENATOR CARLSON: Okay, thank you for your testimony. [LB677]

JOE HERROD: Thank you. [LB677]

AMY LAMBRECHT: (Exhibit 6) I do have some handouts. [LB677]

SENATOR CARLSON: Before you start your testimony, last little while here, Senator Price came in, and so I didn't want to ignore him, so he's part of our group here. Okay. [LB677]

AMY LAMBRECHT: My name is Amy Lambrecht, A-m-y L-a-m-b-r-e-c-h-t. I did meet with some of you earlier or mid last week, and I do have a few copies of the presentation with some of the statistics from the Nebraska Bureau of Animal Industry here. If there is anyone who would like one from the council, I do have those. I'm going to start today with my presentation, and then I'm going to follow up on some of the topics that were asked that were not given a clear answer, because I do have some of

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those answers for you. Chairman Carlson and senators of the Agriculture Committee, my name is Amy Lambrecht. I'm a state licensed breeder, an active member of the NDBA, a board member of the National Alliance of Pet Owners, and a past president of the Northeast Nebraska Humane Society Board of Directors. I am here today to ask you to oppose LB677. The NDBA and UPPA, the two largest professional pet organizations in Nebraska, met with several of you last week. Reports provided by the Nebraska Department of Animal Industry show that 98 percent of Nebraska's kennels and catteries are compliant with regulations. Since the mandatory pre- and 2-year inspections began roughly two years ago, we have shown that Nebraska breeders are meeting or exceeding the current regulations. LB677 is not about improving the standards. This poorly researched and ignorant approach to rewriting animal husbandry and veterinary practices here in our state is the HSUS attempt to stop the professional pet industry and gain entry to the heart of the Nebraska economy livestock production. Here are some examples, and I have footnoted them as far as references so they're not taking up your time. You can reference many of these topics right there in my presentation. We're going to talk about imposed kennel limits and ages. Enclosed in this report, you will see that 98 percent of Nebraska breeders are in compliance and, with larger kennels, having a better compliance rate. When considering a puppy for show or a breeding program, it is determined after continual structural evaluations until that puppy reaches physical, emotional, or social maturity. This cannot be done before four months of age. Temperature restrictions: Temperature restrictions should be determined by a breeder and his or her veterinarian, based on the breed, where the breed originated, and the temperatures that breed was developed to work or live in. Take a working dog such as the Komondor, they were bred to work outdoors, can tolerate the cold climate, and thrive in a consistent working environment. This means that the temperatures will fall well below the suggested ones here. Simply keeping these breeds indoors to avoid those temperatures will defeat the purpose it was bred for. Breeding dog inspections, schedules, and veterinary practices: A veterinarian can only examine for current illnesses based on clinical signs and the physical structure of the dog. This says nothing about the genetics. Currently, there are few genetic tests available when compared to the number of genetic diseases that may afflict a particular breed. Breeding schedules should only be determined by a breeder based on litter size, health, and other criteria taken into account by the breeder and his or her veterinarian. This section interferes with the veterinarian's course of procedure and guidelines that they adhere to. For example, tails are generally docked at three days of age while the bone is still soft. It is not common, nor recommended, to give general anesthesia at that age, proving the HSUS is using this as a loophole to eliminate tail docking procedures. As Senator Dierks did mention, a local anesthetic is given where the bill requires a general anesthetic. And a lot of veterinarians...I'm including Dr. Stephenson out of Norfolk, do not usually use a general anesthetic even for a c-section. They will use gas and then proceed from there, so this bill actually is going to conflict with a lot of the procedures veterinarians use. Primary enclosure: This would completely void the current USDA regulations for housing. Height requirements would also be detrimental to

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cleaning, sanitation, evaluation, and socialization with our dogs and cats. They will no longer be at the eye-level for us to assess them and work with them hands-on. A senator recently asked us, and this was last week, why are they always picking on the professional pet industry? The answer is plain and simple. Almost every American has an emotional relationship or encounter with a dog or cat in their lifetime. The media is constantly seeking out sensational prime headline news, and animal abuse or neglect is sure to dig deep into the human soul. If you add in the animal rights propaganda push, it abuses the truth and promotes lies about the professional pet industry. We are the targeted fall guy or the easy entry into the animal industry. Agriculture is the heart of the Nebraska economy. Opening the door for this type of unsound, unproven legislation in the state of Nebraska is a mistake. We, the taxpaying, law-abiding pet breeders of this state ask you today to vote no to LB677, and tell the HSUS we don't want their tactics here in our state. I am also going to say, when Senator Haar introduced the bill, and Mr. Downey did get up here and talk about negotiations. At this point, we do not believe there is anything, not one single item in LB677 that our organizations will agree to work with. This goes over and beyond the USDA researched and scrutinized guidelines that they have set for the commercial pet breeding industry. I'm going to...and if...Senator Carlson, if you need to stop me at any time, feel free. But I was just going to answer some of the questions that came up that they weren't able to provide the answer for. We talked about...Senator Council asked about the loss of income. I don't know how many of you realize that I sell pets over the Internet, and I sell them in Panama, Canada, and all throughout the U.S., except for Mexico...I've never sold one to Mexico. And I actually pay sales tax on those puppies. Any...well, any of my people which I have had drive from California, Maine, and even into Manitoba, have driven to Nebraska, have stayed at the bed and breakfast down the road from me, and supported my local economy. There's some money. Now, they also paid sales tax on that puppy. I have remitted it. So we are looking at a great deal of capital loss. We are also looking at a community such as Atkinson. We have many, many wonderful breeders from Holt County here. I am betting, if you would take the records from that county and you see, for one, just for example, Nebraskaland Pets; they employ people. That money is staying in the economy. Those people are not moving to the larger cities. Two, they are paying sales tax on that dog food. That is one reason that large, commercial kennels are not going to flock here to Nebraska, because we do have a pet food tax here when many states don't. We buy a lot of dog food, so it adds up very fast. We are also looking at, besides recycling the funds within the community, we're looking at bringing money in from other communities such as Omaha, Lincoln, out-of-state money. We're bringing that back into our local communities. And as far as additional capital loss, as we cut our dogs back to 75, now we've got 50 runs. To try to resell the materials that that breeder has put into that kennel at the cost they put into it, is just...it's not feasibly possible, not in this economy, and not the way the puppy sales have dropped off just due to the economy. A puppy is...when it's well researched and well-thought out, it is an expensive purchase for a middle-class family, just using my particular family as an example. To have those particular materials and try to resell them is going to be a tremendous loss, not to

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mention the loss in some of these smaller communities. [LB677]

SENATOR CARLSON: Ms. Lambrecht, I'm going to stop you here. [LB677]

AMY LAMBRECHT: Okay. [LB677]

SENATOR CARLSON: Because you made some good points in what you've said, I'd like to give the committee a chance to ask some questions, and then some other people to testify as well. [LB677]

AMY LAMBRECHT: Okay. [LB677]

SENATOR CARLSON: Senator Wallman. [LB677]

SENATOR WALLMAN: Thank you, Chairman Carlson. Thank you for coming. I can see you have a passion for this, and it is...I'm glad you have your business in Nebraska. And do you think, you know, the Kennel Association and USDA, and that we have enough guidelines the way we have it now? [LB677]

AMY LAMBRECHT: Thank you, Senator Wallman. I actually do agree. Besides the state regulations which in previous testimony said if they hadn't been inspected in five to six years, that was actually a good thing, because they were only on complaint-driven until two years ago. The Nebraska dog breeders work so close, and the United Pet Professionals with Dr. Boucher, and on the other side of the coin, they work with Judy Varner and her humane society as well. We've got an awesome working relationship there. I do believe the standards both for the Nebraska, the USDA, and then there's also the veterinary standards that we are required to have the veterinary care form on hand, as well as the standards promoted and enforced by the American Kennel Club. [LB677]

SENATOR WALLMAN: Thank you. [LB677]

AMY LAMBRECHT: Um-hum. [LB677]

SENATOR CARLSON: Senator Price. [LB677]

SENATOR PRICE: Senator Carlson, thank you. Ms. Lambrecht, I'd like to ask you, in running a kennel operation, who would you suspect in looking at the legislation on page 4, lines 12 through 14, 22 and 23 where they call out that we're going to have to have measured levels of ammonia, humidity, the various variables climatically speaking. Do you know who you would take your equipment to, to have it calibrated, tested, validated? What the part per million of ammonia would be here in Nebraska and/or in your local community? [LB677]

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AMY LAMBRECHT: Thank you, Senator Price. Actually, I do believe that that is another loophole created by the HSUS to slowly put us out of business. Of course, your humidifiers, most of us who raise puppies in a kennel situation have to keep a certain degree of humidity with the puppies. We would probably be bound by our local businesses to take that in, and it is not something...there are ventilation systems and humidifiers on the market, nebulizers, things like that. But as far as there being a governing body like the Weights and Measurements Committee, there really is none that I am aware of, that would come around and calibrate. I do believe that's another ploy by the HSUS. [LB677]

SENATOR PRICE: So ploys and whatever aside, you wouldn't know where to go to have it calibrated, validated, or otherwise within your local community. [LB677]

AMY LAMBRECHT: No. [LB677]

SENATOR PRICE: Thank you. [LB677]

SENATOR CARLSON: Okay. Any other questions? [LB677]

SENATOR COUNCIL: I just have a general question. [LB677]

SENATOR CARLSON: Yes. Senator Council. [LB677]

SENATOR COUNCIL: Ms. Lambrecht, is there any question I asked that you haven't answered that you wish to answer? (Laughter) [LB677]

AMY LAMBRECHT: I took a lot of notes. I hate to say this because I really like to talk, Senator Council, but I don't see it in here (laugh). [LB677]

SENATOR CARLSON: Okay, thank you for your testimony. [LB677]

AMY LAMBRECHT: Thank you. [LB677]

JUDY VARNER: (Exhibit 7) First of all, I would like to apologize for my phone. I stepped out to use the restroom, and I thought I had left it in my office, and Mark had to dig through my purse. So I apologize profusely. It's now turned off. I think actually, he killed it (laughter). My name is Judy Varner, president and CEO of the Nebraska Humane Society. I want to thank you for allowing me to testify. The Nebraska Humane Society is proud to be part of the community that is Nebraska. We strive to work with various groups within our state to find solutions to common issues. To this end, we have an excellent working relationship with the Nebraska Cattlemen's Association, the Nebraska Pork Producers, the Farm Bureau, the Nebraska Department of Agriculture, and the Nebraska Kennel Club, among others. While we know we will never agree on

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everything, we are pleased to be working with representatives from the three commercial dog breeder associations in our state to find a way to make Nebraska breeders the best in the country while continuing to shut down puppy mills. I'm going to summarize this, because you're going to hear a lot. In your packet are the statistics you were asking about earlier, the back page has the statistics--statistical review of the activities, the Commercial Dog and Cat Inspection Act. I feel that we need to give our inspectors who really have been in existence for two years, that program is only two years old. We need to give them time to sort through things. They can inspect and regulate and find kennels that aren't meeting the requirements. I don't think we need to add more requirements at this time. Many of the issues raised in this bill are already addressed and are existing law. Could the law be improved? Perhaps, but I feel that we need to give our inspection program time to test what is working, and what is not before we change the requirements. It is important to ask our inspectors what need to be changed. Continuing to work with breeders to make changes would be a better course of action. If agreement cannot be reached in discussions, then let the Legislature decide. If anyone has any questions, we were the ones that took the 174 dogs out of the kennel in Lexington. [LB677]

SENATOR CARLSON: Thank you. Senator Price. [LB677]

SENATOR PRICE: Senator Carlson, thank you. Mrs. Varner, I would like to ask you the very same question seeing as how you all work with the Nebraska Humane Society. Do you know where your equipment, if you had such equipment, would be calibrated, tested, and validated? [LB677]

JUDY VARNER: For ammonia? [LB677]

SENATOR PRICE: Ammonia, humidity, temperature. [LB677]

JUDY VARNER: We test for humidity. We test for humidity and temperature. Our kennels...and I will say they're state-of-the-art, you need to come for a tour, can house 200 dogs. And we are very conscious because we're trying to reduce the stress level, because that makes dogs sick so we're very conscious of the humidity level, the noise level, and the temperature. [LB677]

SENATOR PRICE: But are those...is that equipment calibrated? Is it tested and validated to make sure that those parameters are still valid? [LB677]

JUDY VARNER: I don't want to get into technicalities, but based on what we pay the HVAC company, I would certainly hope so (laughter). [LB677]

SENATOR PRICE: All right, thank you. Great answer (laughter). [LB677]

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SENATOR CARLSON: Okay, other questions? Senator Council. [LB677]

SENATOR COUNCIL: Thank you, Ms. Varner, for appearing and testifying. I've heard today a lot of discussions about or at least a lot of comments about some effort to shut down large breeding operations. I'm just going to ask you. What is the motivation behind that? I mean, what is...I mean, I appreciate and understand and will take whatever steps necessary to correct and prevent animals from being abused, neglected, and receiving improper treatment, but I've heard from a number of testimony this afternoon, if not directly, indirectly, some suggestion that there is a desire to eliminate breeding or large breed...is it large breeders, the number of puppies, is it market-driven? Is there some issue about the number of puppies in a particular breed? I'm just trying to get a feel for what... [LB677]

JUDY VARNER: That's an excellent question, and you notice that I did comment on that. In talking with Amy and the other folks, the other leadership of the breeders, I think we're all in agreement we don't want mega kennels in Nebraska. And we are going to be very appealing to mega kennels as more and more states begin to restrict numbers of dogs, and that's for a couple of reasons. Number one, it's...I think that from the breeders' perspective, if some breeder comes into the state that's got a thousand breeding animals, I think it's going to have a very negative impact on their business, on the breeders that are here that are doing a good job. I think that's one important fact that the breeders are looking at. I think the other issue is, should a kennel get that big and slip through the cracks, rescuing those dogs would be a nightmare. It drained us horrifically of our resources with those 170-something dogs. So I think that that's a real concern. Having said that, the majority of kennels that are shut down are under 25, and one of the things that's been suggested, I think, by Casey, is perhaps we...and this is why I think discussion among groups makes a lot of sense, is maybe we tie this to the number of inspections they have. But we always have to be very conscious of any cost to the state, so it has to be able to pay for itself. Maybe we charge a horrific amount of money if somebody wants to come in here with more than say, 300 breeding dogs or 500 breeding dogs. I think there are a lot of opportunities and options available to us that I think we can arrive at if we sit down at the table together and discuss it. [LB677]

SENATOR COUNCIL: Thank you. [LB677]

SENATOR CARLSON: Any other questions? [LB677]

JUDY VARNER: Thank you. Oh,... [LB677]

SENATOR CARLSON: Now, would you maybe make some comments about you've heard some other testimonies about infractions in the state of Nebraska. Would you want to comment on the accuracy of that? [LB677]

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JUDY VARNER: Are you talking of violations? I have complete and total trust in Dr. Boucher and his team. If he says there are infractions, he's going to make sure they're going to get fixed. He operates within the law. I think he's passionate about the animals. I think he will do everything he can within the law. [LB677]

SENATOR CARLSON: Okay. Thank you. [LB677]

JUDY VARNER: Um-hum. [LB677]

SENATOR CARLSON: Any other questions? Thank you for your testimony. [LB677]

CLEM DISTERHAUPT: My name is Clem Disterhaupt spelled C-l-e-m D-i-s-t-e-r-h-a-u-p-t, from Stuart, Nebraska. I noticed that some of the language in the first few pages are simply repetition of current law in LB677. On page 4, line 6, limits numbers to 75 on older dogs over the age of four months. This number would severely damage many breeders in Nebraska and would cause many to severely downsize and, in many cases, would put many breeders out of business. Therefore, the 75 limit number is unreasonable and must not be implemented. Page 6, lines 1 through 13 is simply not practical. For example, many veterinarians don't even agree with the breeding age this law proposes. Veterinarians do not have time to be checking every dog, every year for breeding, and it simply isn't affordable or feasible. In many cases, even our veterinarians agree that the breeder understands quality of their dogs, and in many cases knows breeding traits on their own breeds rather than anyone else. Page 7, line 14, states primary enclosure shall not be placed higher than 12 inches above the floor. This makes no common sense. Can you imagine trying to clean under a pen that is 12 inches off the floor? It either needs to be on the floor or up high enough so you can clean under it. Also, many kennels have stacked pens, and as long as there's a cleaning tray between them, and there is, there isn't anything wrong with that. They can't pass droppings from one pen to the next, and we already have laws to provide for that. As far as the tail docking issue is concerned, I'm going to tell you just a real quick story here to tell you why breeders need to dock their tails. When I was brokering some years ago, a guy stopped in town. He had cocker spaniels, bring them out to sell to me. He stopped at the vet clinic, had the tails done. The tails come and one was three-quarters of an inch long; one was an inch-and-a-half long; one was 2 inches long; one was crooked. Well, to make a long story short, had to do it all over again. Breeders know how to dock their tails, and they usually do it on the fourth day, and it's very little pain, if any. I mean, it's...you put a little blood stop on it, and that's the end of it. So, I think...and then to haul a four-day-old puppy away from its mother to the veterinarian for hours and then back and risk disease at the vet clinic where everybody has been in there with disease, makes no sense to me. There is no question that there are a number of common sense things in this bill, but we already have those provisions in place with current state laws, and there's no use in repetition. Therefore, this bill, overall, is not feasible, and I ask you to vote against LB677. Thank you. [LB677]

SENATOR CARLSON: Okay, thank you. Any questions? Thank you for your testimony. [LB677]

CLEM DISTERHAUPT: Um-hum. [LB677]

KEVIN PETERSON: Senator Carlson and members of the Agriculture Committee, good afternoon. I am Kevin Peterson, K-e-v-i-n P-e-t-e-r-s-o-n. My family and I are crop and livestock producers near Osceola in Polk County. I currently serve on the Nebraska Farm Bureau Federation board of directors, and I am here today on behalf of Nebraska Farm Bureau in opposition of LB677. I appear before you today on behalf of our members who are dog breeders, but also are members who raise livestock. Our concerns with LB677 are twofold. First, it places the Legislature into micromanagement of dog and cat breeding facilities. It presumes that the Legislature's collective judgment on the proper care and raising of animals is better than the judgments of producers. In our own judgment, nobody is in a better position to judge the proper care and needs of the animals than producers themselves. The proper care of animals changes constantly depending on the animals' needs. LB677 leaves little flexibility for dog and cat breeders to adjust to changing needs. Nebraska Farm Bureau is also concerned, frankly, that the adoption of LB677 would lead us down the pathway of similar legislation being proposed for the raising of livestock. One of the supporters you heard from just a little while ago was the Humane Society of the United States. Over the last several years, this group has been engaged in a movement to border the line between protections for pets and food animals as a tactic to forward an agenda to eliminate meat production and consumption in this country. They're a large, well-funded, national animal rights organization that's worked in Florida, Arizona, and recently California through a ballot initiative to ban mainstream veterinary-approved farm animal husbandry practices in the name of animal protections and animal care. That agenda poses a real threat to farmers and their ability to raise food. We are very concerned this bill is another step to try to border the line and advance that agenda. I am proud to be a livestock producer in the state of Nebraska. Myself and other livestock producers in Nebraska are committed to providing food, water, and the care necessary to protect the health and welfare of our animals. That's why for more than 20 years, pork, poultry, and beef producers have participated in veterinarian-approved, species-specific programs to address animal management and care like the beef and pork quality assurance programs. We have not and will not tolerate persons who willfully mistreat animals. I point this out because I cannot believe that dog and cat breeders, on the whole, are any different. I am confident they take the care and protections of their animals very seriously. Sure, there are a few bad actors; every industry has them. But LB677 is not the proper means to address the few bad apples. For these reasons, we urge the committee to indefinitely postpone LB677. Thank you so much for your time today, and I'd be happy to answer any questions that the committee might have. [LB677]

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SENATOR CARLSON: Okay, thank you for your testimony. Any questions? Thank you. Next testifier? [LB677]

PETE McClymont: (Exhibit 8) Chairman Carlson, members of the committee, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm here as vice president of Legislative Affairs for Nebraska Cattlemen, and we are here in opposition to LB677 based on some specific language in the bill that potentially relates to Nebraska beef industry. To start off, what I've just handed out here for you as a committee to look at as the basis that we practice what we preach is our beef quality assurance program. We have led the country in this effort. It's a volunteer producer designed and implemented certification process for the care we give to our animals. Fifteen states in the country have modeled their state programs after our association's efforts. Our BQA program...this publication is in its fifth version since our original publication in '98. In 2001, recognizing that we have a growing number of Hispanic workers in the beef industry in Nebraska and across the state, we published this publication in Spanish to make sure that everybody that gives care to our animals in beef operations understands the importance of beef quality assurance. In 2004, there was a national care in cattle handling guidelines that were adopted by the beef industry with the focus given to our beef animals on how consumers expect these animals to be treated before reaching their plate. This national program, again, was modeled after Nebraska Cattlemen's BQA program. Two other programs that we have developed that are in the scope of beef quality assurance are transportation quality assurance for the ladies and gentlemen of our state that haul our animals whether it be from ranch to a feedlot to a feedlot to a packinghouse, so that is utilized by the Nebraska Trucking Association with their membership and their seminars that they put on. Also, where livestock auction markets are a vital part of where we market our beef animals. We've developed a program for the livestock markets; it's on a DVD. The North Platte livestock auction market utilizes this program and routinely has BQA sales for these animals that are handled in this manner. We are extremely proud; the first ever national recipient of the BQA producer of the year was just awarded to Ann Burkholder from Cozad in Phoenix last week at the National Cattlemen's Beef Association annual meeting. She's a very unique individual. She testified last year on a couple of bills before the Judiciary Committee. She grew up in Vero Beach, Florida. She went to Dartmouth. She met her husband. She now runs the feedlot in Cozad, and so we are very proud of Ann and her efforts. So the great thing about our program, and it's not just for NC members; it's for anybody that wishes to be beef quality certified in their process. So we...obviously, everybody's here for one reason. We all love animals, and we care for them, and so if everybody in our state cared for them the way people here that are in attendance, you wouldn't have this bill before you. But nonetheless, we are here for those exceptions. On a personal note, prior to my employment with the Cattlemen, I ran our family's feedyard, and it was a routine process every two years for our employees to be certified. So, again, that's some background on what we do in the care of our animals. With that, I would like to go to the bill, page 4, on the language 75 unaltered dogs. I would offer this up for the

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committee for your consideration. Is it really what the state...what we want to do is to put in statute size of operations? I would ask, Senator Carlson, do you...in your business, do you...can you only handle so many clients? The same would be for Senator Dierks in his operation as a veterinarian. Can we tell him how many clients he can have? The same with Senator Council as an attorney, can she only have X amount of clients? So I would say, that to me, is a dangerous path to go down because just because you're big doesn't necessarily mean you're a poor caregiver. So on to page 5. It says on line 14, the cage shall be at least three times the length of the longest dog measured from tip of the nose to the base of the tail. I give reference to last year on day ten of the session, LB1148 was introduced by DiAnna Schimek. Senator Schimek is probably one of the nicest, most respected ladies this body has ever had. She introduced this bill. On day 12, the bill was pulled. It was in reference to the size of sow gestation crates. In reference to this language here on the size of a cage, she told me on day 12, I asked her to come out. We spoke, and she said that was the worst bill that she had ever been a part of. And she said, I'm not afraid of any fight, but on the other hand, I didn't do my homework, and I didn't see what this bill was all about. And so I would say this language in the bill goes along the same lines of what you talk about in terms of size from hog operations to dogs and cats. I go to page 6. We start talking about as some previous testifiers have talked about, getting into some specifics of how animals are cared for and the expectations, you know, of those animal owners in terms of veterinarians and other things. And so I guess, do we as a state want to go and mandate specific practices? Because if you do that, that's where we as an association have concern is, for example, in a feedlot. One operation might feed their cattle twice a day, and another might feed them three times a day. It's just specific on how somebody does it, so when we go into specifics of how we give care, I guess we as an association get a little bit concerned about that. So as reference of how we feel like we've tried to work with people, LB83 was heard in Judiciary a couple of weeks ago. Senator McGill introduced it. It was a very well-intentioned bill. What it did was it expanded the scope of a protection order. If a woman is beaten by a man, it is fair to think that that same man might do the same to a pet. And so, the order...if this bill were to be passed, would expand that judge's authority to have that animal removed so that the person abusing the woman and potentially the pets is taken care of. So very good bill. We worked with Senator McGill and appreciate her inclusion of the Farm Bureau and the Cattlemen to define the word, "domestic animals." And so she was agreeable. We came up to that. I give evidence as how we've tried to work with people. Last year as I referenced, Senator Cornett had two bills. One was a nontraditional rodeo, and another was penalties and cruelties to animals. That's where we as an association had the good fortune to meet and work with the Nebraska Humane Society, and Judy Varner and Mark Langan who are here today. And I would urge you as a committee, if you really want to see a first-class operation in how care is given, I would say it's well worth your time to go to Omaha and see what they do. So the point of all that is that we worked on language on those two bills, and they were both passed. But we made sure that we gave reference to commercial livestock production, so there wouldn't be any gray area

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that could potentially come over into production livestock agriculture. I think Senator Haar is trying to do a very good thing here. He's very well-intentioned in LB677 in the pursuit of well-being of dogs and cats. I guess in statute, I would like to close and say, where do we start and stop on some of the specifics that LB677 does? And I guess that's where our concern comes up, that as an association that represents beef cattle operations that it might come and encroach upon what we do. So we saw it last year in LB1148 as the beginning of the U.S. Humane Society coming in to start their attempt to expand their scope in states like Nebraska. And so, I guess in closing, I would just like to say whether it's dogs or cats or cattle or hogs, LB677, if passed, would encroach upon the caregivers of our livestock in this state. So with that, Mr. Chairman, I'd be happy to answer any questions. [LB677]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Mr. McClymont? Okay, thank you. [LB677]

PETE McClymont: Thanks. [LB677]

SENATOR CARLSON: Any other testifiers against? Any in a neutral position? Okay, seeing...and we do have...we have two letters that need to be entered into the testimony from the American Kennel Club opposing LB677 signed by Phil Guidry. And then from the Pet Industry Joint Advisory Council, and this is in opposition to the bill. And then I will refer also to Paul Nichols' letter from a previous bill. (Exhibits 9 and 10) He also indicated in his letter opposing LB677. Senator Haar, would you like to close? Okay, he declines closing, and with that, we conclude testimony and the hearing on LB677. With that, we should be ready to open the hearing on LB241. And Senator Pahls walks in as we call for him. Senator Pahls, you're welcome to open on LB241. [LB677 LB241]

SENATOR PAHLS: (Exhibit 1) Thank you. Now, if I start talking insurance because I spent the last two and a half hours talking about underinsured motorists and all that, so if that creeps in here it's all by accident. My name is Rich Pahls, P-a-h-l-s. I represent District 31 which actually is Millard of Omaha. And I thank you for allowing me to testify in front of your committee, Senator Carlson. You know, from this point of view, this is a sharp looking committee. (Laughter) Well, let me begin. I know, I forgot, this has been a long day for you and you have...(laugh) so I'll get to the point. LB241 strengthens the State Ag Department's authority to enforce the provision of the Commercial Dog and Cat Operator Inspection Act. I introduced this bill on behalf of the Nebraska Humane Society. They have representatives here today to explain the bill. The veterinarian in charge of this program at the Ag Department is also here to answer questions, so as you can tell we have some authorities who can really give you good answers to your questions. Here's what the bill does. Under current law the department has authority to inspect the premises of any licensee, but the law does not have a definition for premises. This bill, this bill spells out, that includes all the buildings and pens where the animals are housed. If it is a private residence, it includes only that part of the residence

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where the animals are housed. We also give the department the authority to inspect the records. Number two, we give the department more authority when its inspectors find serious violations of the law. Under the bill we create what is called a stop-movement order. A stop-movement order gives the department authority to require the licensees to take immediate steps to address the violation. The definition for a commercial breeder has changed. The new definition requires licensees of any person who engages in one or more of the following activities: selling or transferring 31 or more dogs or cats in a year; harboring four or more dogs or cats for breeding purposes in a year; producing a total of four or more litters within a year; or exchanging or leasing dogs or cats for later retail sale or broker trading. Section (b) of this bill places a cap of 250 on the total number of unaltered dogs or cats over a year old that any commercial breeder may own. Now I do understand the provision of this bill has created some concern among the current breeders, and I have agreed to strike it if the committee so agrees. That's where I'm referring to the number 250. Number five, new requirements are added for any commercial breeder, dealer, boarding kennel, animal control facility or animal shelter. If the facility is not located at the owners residence, the name and address shall be posted on the premises. Each licensee shall make the premises available for inspection during normal business hours. Each dealer or pet shop owner shall maintain the written veterinary care plan in conjunction with an attending veterinarian. Each animal control facility, animal shelter, or boarding kennel shall maintain a written emergency veterinarian care plan. These are the major provisions of the bill. As I said earlier, we do have several experts following me so they probably would give you, answer your questions, but I will attempt to answer any that you have. [LB241]

SENATOR CARLSON: Any questions of Senator Pahls? Just to clarify something, you are bringing this at the request of the Nebraska Humane Society? [LB241]

SENATOR PAHLS: Yes. Yes. [LB241]

SENATOR CARLSON: Okay. Thank you. Senator Council. [LB241]

SENATOR COUNCIL: And maybe it's a better question left to the Humane Society people. But I'm looking at the commercial breeder definition, Senator Pahls, and I know there's been some questions that arose during testimony on a previous bill. And Senator Dierks made reference to the belief that the original legislation in terms of the number of dogs or cats harbored for breeding purposes is four. Is it four females or four...just four dogs? [LB241]

SENATOR PAHLS: Since that definition was developed by the Humane Society, it would probably be better to ask them that. I'm not trying to avoid it, but...that's a good question. I had not thought of that. [LB241]

SENATOR COUNCIL: But I mean I was not aware of it until Senator Dierks mentioned

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it. (Laughter) [LB241]

SENATOR PAHLS: Well, you know when you have a good veterinarian around. [LB241]

SENATOR COUNCIL: And then this question too may be better asked for the Humane Society, I mean...that any person who sells, so if I sell my beloved "Boo Boo" to someone who then sells him to somebody else, does that make me a commercial breeder? [LB241]

SENATOR PAHLS: No, I think there's a number of dogs. [LB241]

SENATOR COUNCIL: But it just says, anybody who sells, exchanges or leases dogs or cats for later retail sale or broker trading. [LB241]

SENATOR PAHLS: Or, yeah, it says down. Okay. [LB241]

SENATOR COUNCIL: Yeah, but that's what I'm saying, if I sell my dog to someone who sells my dog, I'm a commercial breeder, I mean as I read this language. I mean that's a concern for me. [LB241]

SENATOR PAHLS: And I agree. I think if that's an issue, because we need to clean those up if it sits the floor, you know...so I... [LB241]

SENATOR COUNCIL: Thank you. [LB241]

SENATOR PAHLS: Thank you. [LB241]

SENATOR CARLSON: Thank you, Senator Pahls, for your testimony, and are you going to stay and close? [LB241]

SENATOR PAHLS: I've already had Exec Session. [LB241]

SENATOR CARLSON: Well, good for you. (Laughter) [LB241]

SENATOR PAHLS: Don't rub it in. [LB241]

SENATOR CARLSON: Okay. How many people do we have that are testifying as proponents for the bill? Okay. How many do we have testifying in opposition to the bill? Okay. All right. Okay. Let's start with our proponents. [LB241]

JUDY VARNER: (Exhibit 2) My name is Judy Varner, president and CEO of the Nebraska Humane Society. I would like to start by saying that Senator Pahls has asked "The" Dr. Boucher to be here to answer any questions you have. So I would hope that

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you might, I don't know the rules, but you might bring him up because he can answer every question you've got about this and a lot of other things having to do with commercial...including your questions. (Laugh) I could try, but he's the expert. Thank you, Senator Carlson, and other members of the Ag Committee for considering this very important piece of legislation. And this is very important. This is going to directly save lives of dogs, directly save lives of dogs. Special thanks to Senator Pahls for sponsoring LB241. What you have before you are pictures of puppy mills in Nebraska. The conditions were horrible. Dogs were sick and dying. These breeders are no longer in business. None were licensed, and the breeders agreed to voluntarily surrender their dogs. In the past two years, the department in conjunction with Nebraska Humane Society and rescue groups across the state, has worked with nine breeders operating kennels in deplorable conditions to assist them in voluntarily surrendering their dogs or to downsize to meet the standards of the act. If the inspectors do not have the authority to inspect these facilities for compliance with the act and to check the welfare of dogs, these types of conditions will continue to exist. And I can assure you, they're going on right now as we sit here today. Omissions in the current law impede the inspectors in their efforts to enforce the law. When they hear of someone breeding dogs, they frequently experience opposition to gaining access for inspection purposes onto the premises to ascertain compliance with the current law. The complaints usually come from someone who has seen the dogs and feels there is a violation. The dogs can be heard barking, but the owner refuses to allow the department personnel onto the premises. In these instances, the department does not have enough evidence to get a search warrant. Under the current law, the department is unable to inspect the premises to even see if this person falls under the definition of a commercial breeder in order to hold them to the same standards as all other licensed breeders. The proposed law will allow the department to access premises for the purpose of determining if the individual meets the criteria as a commercial breeder under the law. And, Senator Council, you would not. [LB241]

SENATOR COUNCIL: Thank you. [LB241]

JUDY VARNER: You're welcome. The Department of Agriculture also has a problem with people saying they are not a commercial kennel because they give their dogs away. This is true. People say that. Right now, while this is laughable, currently they do not fall under the definition. LB241 has extended the definition so that any transfer of a dog is covered, including giving the animals away. The stop-movement portion of this bill is designed to temporarily prevent the sale or purchase of dogs or cats until the violator can bring his or her facility to a level equal to the minimum standards of the act and regulations. Under the stop-movement order the breeder cannot sell any puppies prior to release of the order, unless proof is provided that there is an actual buyer. Animals cannot be put to sleep or disposed of in anyway until the facility is released by the Department of Ag. This keeps the burden on the breeder to come into compliance as quickly as possible. It is critically important for you to know that the three Nebraska

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professional organizations of breeders all support this portion of the bill. The good breeders want the puppy mills put out of business as badly as any humane society or any other reasonable person. Lastly, LB241 puts a limit of 250 breeding dogs to be held by any commercial breeder. This is not supported by two of the three groups. We are all in agreement that none of us want a mega commercial breeder in Nebraska. The challenge comes now in how to ensure that does not happen. The number of 250 was merely suggested as that was at the time the size of the largest kennel in the state. I have been working closely with the Department of Agriculture on this vitally important piece of legislation. Again, other than the number limit, all three breeders' organizations support LB241. One of the breeders' organizations does, in fact, support the number limit. We all want puppy mills to be put out of business. Look at the pictures in front of you. Please do not let this horrible cruelty continue. Please help the animals being held in these puppy mills by passing LB241 out of committee and on to the full Legislature. On behalf of the dogs waiting, thank you. And I would like to say that Fiona and her puppies all have wonderful, forever, homes, the last picture that I gave you. [LB241]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? Senator Price. [LB241]

SENATOR PRICE: Senator Carlson, thank you. Ms. Varner, I would like to ask, is this going to be a limitation on an owner or a licensed facility? [LB241]

JUDY VARNER: If the limitation of 250 dogs stays, it would be on an owner but if they aren't licensed or under the auspices of the Department of Ag, then there would be no...you know, we outlaw guns but people still have them. So the law would say, you can't have more than 250 but there could still be people that would have them but they would be operating outside the law. [LB241]

SENATOR PRICE: My question more directly is the fact that if I have a business and I have 249, if the limit is 250, and then I open another business, you know, a quarter of a mile away or a half mile away and I put in another 249, you can see where someone would say, I'm only in this one business. So we're not to an owner, we're to a business or we're to a business and we're not to an owner. What are we trying to address? [LB241]

JUDY VARNER: I think because I remember having that discussion and I think the sense was that it would be to the owner. [LB241]

SENATOR PRICE: To the owner. [LB241]

JUDY VARNER: But that's a valid question. And frankly, as I said in my earlier testimony on the previous bill the primary reason I put this in was to begin the discussion. The discussion has been begun and we're coming up with a lot of options

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and a lot of alternatives that I think, given an opportunity to continue the discussion, we can work that out. [LB241]

SENATOR PRICE: Thank you. [LB241]

SENATOR CARLSON: Senator Council. [LB241]

SENATOR COUNCIL: No question, just a request. Your copy of the testimony, could you give that to the clerk. We're one short. [LB241]

JUDY VARNER: Oh, I'm sorry. Yes. It has a few scribbles, but... [LB241]

SENATOR COUNCIL: Oh, you give me yours and I'll give her mine. Just your...I'll take yours and then this can be the clerk's copy. Thank you. [LB241]

SENATOR CARLSON: Any other questions? Okay. Thank you for your testimony. [LB241]

JUDY VARNER: Thank you. [LB241]

SENATOR CARLSON: Next testifier. [LB241]

CLEM DISTERHAUPT: (Exhibit 3) I have some handouts here. Do we have somebody here that can hand these out for me? Okay. My name is Clem Disterhaupt, C-I-e-m D-i-s-t-e-r-h-a-u-p-t, from Stuart, Nebraska. I'm currently president of the Nebraska Professional Pet Breeders Association and I represent their views here today. We held a meeting and voted to support LB241. Not all breeders will support LB241 in its entirety. Quite frankly, there was a time when I wouldn't have either. However, I've been involved in experiences in the last few years that have caused me to take a serious look at either a number limit or a sufficient alternative. There are a number of reasons why our groups support LB241 in its entirety. I visited the area in Minnesota as I work closely with breeders in different states. I visited Minnesota six times within the last year. And I particularly visited the county in which they're having problems with large kennels. Morrison County is one of the counties and I gave you some handouts that show you all the other places. I urge you to seriously look at what can happen with true puppy mills. The case in Minnesota, man and wife, had a large kennel and the county thought they were getting too big. They had 800 dogs. So what did they do? They got a divorce. Now they each got 800 dogs in the same county. Well, they're making a terrible reputation for the dog breeders within the state. It's on the news. It's on the internet. It's in the local newspapers. They've got PETA in there. They've got different groups coming in there, billboards up on the highway. This is...I saw one a couple of years ago, big billboard that said, this is puppy mill county. That hurts the reputation not only them, but it also hurts the reputation of the good breeders. We need to prevent this problem from happening in

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Nebraska because believe me, sooner or later, it will. I'm not against good breeders and I've been to some of these places in Nebraska and two of them are bigger ones, and they are immaculate. And I praise those people. But that doesn't mean that we won't see the ones that I've just spoken about and that I've given you handouts on in Minnesota and Pennsylvania and Kansas and Missouri and the list goes on and on and on. Other surrounding states are introducing bills with numbers. And as the one gentleman pointed out, a couple of them already passed. If those pass and eventually some will close to neighboring Nebraska, we will become a haven for those large so-called puppy mills because we have no limits or we have no alternatives. The numbers of LB241, which is 250 and grandfathers in the two that are larger, don't affect or hurt any current breeder. This, in our opinion, is fair and generous and will prevent the Minnesota's, the Pennsylvania's and the others from taking place here. We have a great opportunity to prevent this problem rather than trying to resolve it after a later date and may end up putting breeders out of business later who have already expanded or moved into our state. That's my concern. If you can't make a good living with 250 dogs or less, there's a management problem. And I can tell you that from experience. I've been around the breeding business for 40 years and we had 165 dogs at one point and we made less money then than we do now with 50. And the main reason for that is simply because you can do a better job with a lower number. And that makes sense to any animal industry. Some argue that the only reason they pose numbers is that it may point out, it may point and apply to other livestock. We must never think of dogs as livestock. They are raised differently. They are raised for a different purpose. They're raised for family pets and much livestock is raised for food and other resources. There's no comparison and I would never support limits on other livestock. For some breeders it may be possible to clean, feed, groom their dogs, vaccinate, and keep their buildings repaired but there's simply not enough time to give every puppy individual socialization that they need in large facilities. And yes, you can hire more help. But where are you going to get that experienced help that really is good enough to do that. Train them? You can train them but it takes time to do that and requires large resources to train a person and it's a long time before they're trained well enough they can do this. I've been through auctions, like dog auctions where people were selling out, and I've been through operations when I used to sell dog food, and I've visited large facilities all over the Midwest in the last 40 years and all I can say, there's some excellent facilities and I just pointed that out. Unfortunately, there are many that are not, especially once they get over several hundred dogs. It's common knowledge that the larger the facility the more disease, the more the death loss. If we do not accept a number limit, then we must, then we must work together to find a reasonable alternative because if we do neither, we will fail and we will see those large facilities. And we will see puppy mills as you think of puppy mills or as I think of puppy mills. And the lady Senator here has a very good point that I'll do anything I can to prevent those true puppy mills. What is a puppy mill somebody asks. We all have different definitions of that. It's not just commercial breeders. Commercial breeders are some of the best breeders in the United States and I can tell you that I've visited all kinds of breeders and there are some very

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reputable commercial breeders. I teach seminars all over the Midwest and I can tell you that when I stand up to speak on a seminar, regardless of what the subject is, 99 percent of those people are commercial breeders. Where's the rest of these so-called good breeders at? And I'm not saying there isn't any. I'm just saying we have a lot of good commercial breeders. Today, I'm taking a common sense approach to this. I'm not for low numbers that would...like the 75 one that would pose a threat to breeders but I'm not for the ones that would create multiple problems with large puppy mills. And just because you're a large facility doesn't mean you're a puppy mill. We just have to find a way to be able to determine the difference and to prevent those. I remember working with Senator Dierks many years ago on the first state licensing bill, many years ago. Makes him and me both look old. And I can tell you that one of the reasons that we worked on that bill was because Kansas passed a similar bill, state licensing bill. What happened? We were a free-for-all. We didn't have such a bill so the Kansas people that were close to the Nebraska border started moving across the border. I know of two such cases at the time. This is what's going to happen with us if we don't either do a limit or do some alternative. And I'm willing to work with breeders and the humane society and senators in trying to get something that's compromised so we can prevent those problems, because if we don't we will have to face those later. It's sad that Nebraska is always referred to as a puppy mill state because yes, many counties, including Holt County and I'm sure others have some of the best facilities I've ever seen. But a reasonable step to reverse that public opinion is to establish either a reasonable limit that is proposed of 250 and grandfathering the two in that are over, or some reasonable alternative. And LB241 does that. I once raised 165 dogs as I told you and had three employees and good employees, good hardworking employees, and I had a son in high school who cleaned and worked, and yeah, we could do a lot of those things right, but you can't socialize that many puppies. It's just not possible. Senators, before you vote, I ask you to simply take a few minutes to read the handouts I've given you and then ask yourself, carefully, is this what we want in the state of Nebraska or should we be taking some sort of prevention. Thank you very much. [LB241]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? Senator Price. [LB241]

SENATOR PRICE: Senator Carlson, thank you. Sir, real quick, do you know what the optimum number of puppies or cats to worker is? [LB241]

CLEM DISTERHAUPT: I don't know the number of puppies actually, but what I can tell you is that 20, I might be close to 30 years ago, I once knew a gentleman who had a large, nice facility at St. Paul, Nebraska, and they did a study, because these same questions come up. And they did a study at that time to try to decide that. And his name is Mark Stutzman, and he did a study on that thing and the figure was some place between 50 and 100 and we all know that that depends on the ambition of the individual person, whether he's young and ambitious or whether he's old like me and don't handle

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that quite so well anymore. So someplace between 50 and 100 adult dogs, not puppies. And there's a little misconception, while we're on this subject here about with 100 dogs you have all these puppies. No good breeder and I don't there's anybody in this room that breeds every dog every time. We rest our dogs because that's the way you're going to get the highest litters. So they say there's a 25 percent breeding rate. In other words, if you've got 100 dogs, only...the most that would have puppies at one time generally would be a fourth of those, which would be 25. So it isn't like all 100 of them got puppies at the same time is what I'm trying to say. So...but even 25 dogs out of 100 and if they each average 3, that's 75 puppies to socialize all at the same time. That's a lot. And that's on a small facility, okay. [LB241]

SENATOR PRICE: Would...and I apologize if this has already been addressed, are puppies included in the total number of dogs? [LB241]

CLEM DISTERHAUPT: No, they are not. This is only strictly adult dogs. In fact, it don't even include dogs that you're keeping back for breeding. It gives you a chance...that was one of my suggestions when that bill came up, let's be able to have...I think the age is six months. We have to be able to raise those dogs and replace the old ones and that gives us an opportunity to do that. Okay. So even the ones six months or under, I believe that is the way the language is read, do not count in that 250 dog limit. [LB241]

SENATOR PRICE: And to follow up with that, you'd made a statement in your testimony that hiring more people, based on the quality of people and the training program that you had, but it didn't seem to have an effect? [LB241]

CLEM DISTERHAUPT: Yes, it will have an effect. But what I'm saying is, okay, so I'm short a person now, I'm going to keep back 25 more dogs. I'm going to give you an example here. I can't just go out and find a person, a graduate person, or a person willing to work, I've got to train that person first. So what's going to happen to these dogs until that person is trained, that's what I'm saying. It takes a lot of time to really...there's so much to know about the individual dogs, vaccinations, and is this puppy sick, does it have diarrhea. I mean the list goes on and on and on and you really have to have some experienced help to be able to handle those things. [LB241]

SENATOR PRICE: All right. Thank you. [LB241]

SENATOR CARLSON: Any other questions? Okay. Thank you for your testimony. [LB241]

CLEM DISTERHAUPT: Thank you. [LB241]

SENATOR CARLSON: Any other proponent? If there is anyone else that would testify as a proponent, please come up and get yourself in the on-deck position. [LB241]

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ROBERT DOWNEY: Robert Downey, executive director, Capital Humane Society, D-o-w-n-e-y. I'm here to testify in favor of LB241. You've probably heard just about everything that I could say but I will you this, I believe Dr. Boucher and his inspectors run an excellent program here in this state. They do a wonderful job. They run their program not from the standpoint of view they're trying to put people out of business, they're trying to bring people into compliance with the requirements of the program. This bill was designed to give them some additional tools to clean up some definitions that will enable them to do a better job in doing so, and would urge you to support this bill. [LB241]

SENATOR CARLSON: Okay. Thank you. Any questions? Senator Council. [LB241]

SENATOR COUNCIL: Yes. Mr. Downey, since you also testified in favor of LB677, between the two bills, and I don't want to appear unfair, but between the two bills, since you testified in favor of both, which in your opinion is the better of the two bills, LB677 or LB241? [LB241]

ROBERT DOWNEY: Well, I think they address different issues really. I think the common issue in the two bills is the limit and I would still support a lower limit versus the 250, but I would say 250 is better than none. [LB241]

SENATOR COUNCIL: Thank you. [LB241]

ROBERT DOWNEY: You're welcome. [LB241]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. [LB241]

ROBERT DOWNEY: You're welcome. [LB241]

SENATOR CARLSON: Any other proponent? All right. How many opponents do we have? All right, please come up and testify. [LB241]

KEVIN PETERSON: Senator Carlson, and members of the Agriculture Committee, once again, I'm Kevin Peterson, K-e-v-i-n P-e-t-e-r-s-o-n. My family and I are crop and livestock producers near Osceola in Polk County, and I currently serve on the Nebraska Farm Bureau Federation board of directors. I'm here today on behalf of Nebraska Farm Bureau in opposition to LB241. Nebraska Farm Bureau is opposed to LB241 simply because it would cap the size of commercial breeders at no more than 250 dogs or cats. The proper care to protect the health and welfare of dogs and cats or any animal is dependent on proper management more than anything else, and operation size does not dictate good management. Good management or poor management can occur at

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any size. Thus, we fail to see how limiting the size of a commercial breeders operation will assure the proper care for the animals. And like the previous bill, we are concerned a size restriction on commercial breeders of dogs and cats could start us down the slippery slope of similar restrictions on the size of livestock operations. Thank you, again, for providing the opportunity to comment and I would be happy to answer any questions that the committee might have. [LB241]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Mr. Peterson, I would ask you, is there any number that could be put into LB241 that would make it...and you probably can't answer that today, that would make it acceptable? [LB241]

KEVIN PETERSON: You would probably be right that I couldn't answer that today. That would be something that our staff and our board would have to sit down and hash out. Just from my own experience, I run a 4,800 head, wean to finish swine facility and I do that primarily by myself and I know of facilities who have two or three employees managing the same amount of pigs. And I can tell you for certain, in opposition to what the gentleman before me said, that he led you to believe that the smaller the number of animals the better the job is done. And I can certainly assure you that and the people that I feed pigs for will assure you that the people who have more employees don't do any better job than myself who has one employee, myself taking care of those animals. [LB241]

SENATOR CARLSON: Okay. One of the things brought out was the threat, you might say, of states around us closing down their legislation on numbers and, or the nonregistered, noncertified breeders and they end up bringing their thousands over here. Now that sounds logical to me that that's a threat. How do we address that? [LB241]

KEVIN PETERSON: How do we address that? I think a regulatory system where you would inspect those facilities whether it be with 25 dogs or 250 dogs or 500 dogs or whatever number, whatever number you would assign that to. I mean, the owner should be on the inspection of the facilities not the number of animals in the facilities. If a facility is well run at 250 dogs, a facility can be well run with a few more. It can have poor management at a less number of dogs. The...in my opinion, and in the opinion of our board and our membership, that should be on the hands of the regulatory, any inspections. [LB241]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony. Next testifier. Are you in opposition? [LB241]

PAUL NICHOLS: (Exhibit 4) Yes. Okay. My name is Paul Nichols, P-a-u-l N-i-c-h-o-l-s, and I had passed out a letter earlier that said that I oppose and also that I was in neutral position. I oppose the bill as it is written and the reason I oppose it, we've been talking

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about it. I haven't wanted to admit it because of the attention it draws to me, but I am one of the people that you are grandfathering in. But you don't understand. It's all in...it's a family deal. I have a son and his wife that's involved in it. He's 35 years old. My wife's involved in it and then they have two kids that are involved in it, who are teenagers. And not only that, I have six other families that are involved in it. I have a veterinarian that comes every week. I mean, he's on-site every week and he was there today. That's just standard protocol. And we're...I just don't think we need to limit to 250. And the reason I don't believe we need to limit it is, we've been talking about how are we going to control it. We're controlling it. We've got a good program coming in and it's working. It's been the last two years, inspection. That's what this whole thing is about. Let the inspection take care of it. Before a kennel can sell any dogs they have to be inspected. You know, they're out of the law. And if they're out of the law, there's grounds to shut them down, ground to close them down. And that's what they'd be if they're not inspected. If a 1,000 dog kennel came into the state, they have to be inspected by USDA and the state. And let them do their job and we can address this five years down the road, but if we have to address this five years down the road then our state and our federal inspection system isn't working. What we've already worked so hard to do, isn't working. And I believe it's working. I talk with them. I have a good relationship with inspectors and I do believe that our system that we have is working. I don't think we need a limit on numbers. It scares me because I'm also a farmer. I run cattle, just run swine. You know, where are we going to stop? How can we say that you can only have so many clients or so much potential? We have the system in there to control the quality and everything else. And one thing about LB241, it will allow the state to put them in holding, and I would support LB241 if you took the limit out. But the way it reads, I do not support it. Take and strike 8, I wouldn't have a problem with it. It's just the limit. Thank you. [LB241]

SENATOR CARLSON: Thank you for your testimony. Questions of Mr. Nichols? Okay. Thank you. And next testifier in opposition. Any others in opposition? Okay. You can come forward, sir. You've been waiting... [LB241]

ART ARMBRUST: Senator Carlson, I'm Art Armbrust, from Gretna, Nebraska. [LB241]

SENATOR CARLSON: Could you spell your name, please? [LB241]

ART ARMBRUST: A-r-m-b-r-u-s-t. We... [LB241]

SENATOR CARLSON: Did you fill out a sheet? [LB241]

ART ARMBRUST: No, I didn't. I didn't know I was supposed to. I guess I came in a little late, so. But I can fill one out for you. [LB241]

SENATOR CARLSON: You can do it after your testimony. [LB241]

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ART ARMBRUST: Okay. Well, we have a kennel operation near Gretna, Nebraska, and I'm the president of the Nebraska Field Trial Association and also belong to the Nebraska Sportsmen's Council and I'm here on behalf of sportsmen and dog breeders that we raise and train dogs for hunting and for competition and we try to raise quality dogs. And I think we have a good system in place right now for inspection and I've had the inspectors come out several times. We've been in business for 35 years, I guess, or 36 this year. And so I think this new bill is probably overkill. We've got a good system working now. And I guess the thing that I don't like about this is, you're a commercial breeder if you harbor four or more dogs for breeding. That, as Joe Herrod brought out earlier, that kind of cuts out the sports people that have a few dogs. And we just have a small operation and I'm not opposed to the 250 limit, that's a...I could never raise that many dogs. But I think that the bill maybe needs to be rewritten or just go with what we have right now. And our association sponsors a lot of activities out here at Branched Oak Lake and we bring in a lot of people from all over the U.S. and Canada for sporting events for field trials. And probably have 20 different ones throughout the year and many of our members are small breeders and this is going to hurt them if they have to go under the same regulations as a puppy mill. I don't think that having four dogs or more makes you a puppy mill or a commercial breeder and that's...I think this needs to be rewritten where it's more acceptable for the average guy that breeds a few dogs. I guess that's the main thing I wanted to say. Do you have any questions or... [LB241]

SENATOR CARLSON: Thank you for your testimony. Any questions? Yes, Senator Karpisek. [LB241]

SENATOR KARPISEK: Thank you, Senator Carlson. Thank you, sir. How many...four, you don't think is enough for a sportsman. Is five, six, ten? [LB241]

ART ARMBRUST: Oh, I would say... [LB241]

SENATOR KARPISEK: Two hundred fifty. [LB241]

ART ARMBRUST: ...30 or more probably. You know, some guys have... [LB241]

SENATOR KARPISEK: Thirty or more, really. [LB241]

ART ARMBRUST: You know, some guys have 30 dogs. I think it even says here if you sell less than 30 dogs, why... [LB241]

SENATOR KARPISEK: Well, that's selling, not what you have though. [LB241]

ART ARMBRUST: Yeah, but it takes a number of dogs. Like someone brought out earlier to raise the right dog you don't breed them all every year. Maybe once a year some of them and you try to breed the best ones you can. [LB241]

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SENATOR KARPISEK: But don't you think then you'd fall under a breeder? What do you do with the dogs that you.... [LB241]

ART ARMBRUST: Well, I am...yeah, I do, I pay the \$200 a year or whatever it is. And I undergo the inspections but I don't think we need more inspections and more regulations. We've got enough now. [LB241]

SENATOR KARPISEK: Okay. Thank you. [LB241]

SENATOR CARLSON: Senator Price. [LB241]

SENATOR PRICE: Thank you, Senator Carlson. [LB241]

SENATOR CARLSON: Just a minute, sir. We're not quite through. [LB241]

ART ARMBRUST: Okay. All right. (Laugh) Sorry. [LB241]

SENATOR PRICE: Sir, I have one more question for you as a sportsman. How many dogs go out with a hunter, I mean, three or four. If you got waterfowl hunting and he takes his dogs out, in your experience how many dogs does a hunter take out with him, give or take? [LB241]

ART ARMBRUST: Well, we usually take three or four dogs. I don't do much waterfowl hunting. We're strictly upland game. And normally, you know, when we'd go hunting I might have some of my friends, they would have three or four dogs and I'd have three or four dogs and you trade them off. And we do a lot of training while we hunt and things like that, so. It's a...you need to have a few more dogs to, you know, have the right combination sometimes for breeding, so. [LB241]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. [LB241]

ART ARMBRUST: Okay. Thank you. [LB241]

SENATOR CARLSON: And...yeah, please fill out that sheet and turn it in to the clerk. [LB241]

PENNY FATTIG: I'm Penny Fattig from Gothenburg, Nebraska. I did not plan on testifying but I've heard several things that have made me think of things... [LB241]

SENATOR CARLSON: Would you spell your name? [LB241]

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PENNY FATTIG: I'm sorry, P-e-n-n-y F, as in fish, a-t-t-i-g. I'll call myself neutral on this because I'm not for sure really how I feel. We are not anywhere near the 250 number and don't ever plan on getting that large, but the statistics that we've heard today kind of should speak for themselves. Mr. Disterhaupt mentioned the several kennels that are over that in the state comply perfectly with regulations that are out there. And Ms. Varner, I think is her name, suggested that most of the kennels that have been shut down are 25 and under. So you know, that kind of tells you that it isn't necessarily the size of the kennel that suggests that whether they're good or bad. It's how they're taken care of, the facility they have, how many people are there to take care of them, socialize them, and so forth. Several families, you know, they're going to be very interested in those dogs. They want...they're in the business to make money so you don't get a reputation for selling unsocialized puppies. You'd figure out a way and so I'd just leave it at that that my position is neutral, but the statistics kind of speak for themselves. And I would just like to share a little personal interest story. I don't want to take up too much time but this kind of speaks to the argument that we have too many dogs and we're breeding too many dogs as an argument against breeders or the bad ones, I guess I'm learning today, are the puppy mills. That's the way it should be anyway. We breed small dogs, nonshedding dogs, and we heard about a young lady that was suffering from adrenal cancer, I believe it was. And she had e-mailed us. They had bought a dog earlier from us and she was feeling us out on if we had any puppies for sale. And...but she didn't want to bother her mother with being bothered or with the expense of buying a puppy and having to take care of that puppy while she was sick and had so many problems. So we got our heads together, my husband and I, and decided to donate a puppy to her. A little tiny puppy that she could have in bed with her that would not shed or, you know, be a mess for the mom to take care of. This girl continued to write to us and told us how much she appreciated this puppy and how therapeutic it was for her with her disease. Obviously, when you're dying with cancer you need something, a diversion to think about other than your illness. And then she died and her mother suggested that we take the puppy back. I suppose she felt kind of guilty thinking that it was the girl's puppy and not hers. Well, we really meant the puppy for her too as much as the little girl because when you have a dying daughter you're not too happy and we thought the puppy might be therapy for her as well after the daughter was gone. So we wanted her...or gave her the option to keep the puppy or give the puppy to one of her daughter's friend. And she's finally decided to keep the puppy and she's been writing back and forth to us how therapeutic this puppy has been for her too and she said it literally saved her life. She's actually writing a book about it now. And this is just...I don't want to toot my own horn, this was a puppy that had a little kink in its tail, which made it not comply with breed standards. And we couldn't have gotten top dollar for it anyway, but we could have gotten something for it as pets. People that want pets they aren't that picky whether it conforms perfectly to breed standards. But anyway, this is just an argument why we need, you know...we're all for the adoptions from the rescues and the Humane Society. We have shelters. In fact we donate, but there's also a need for specialty breeds. And as far as the numbers being too many and that's the reason the

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shelters are full, I don't believe that. I believe that's because of irresponsibility. We cannot legislate responsibility in people. And just like a car salesman cannot control what a person does with the car that they drive off their lot. That has to be up to the individual. So this kind of veering off a little with the LB241 or whatever it is. I'm not good with numbers, but just a couple of points I wanted to make that... [LB241]

SENATOR CARLSON: Okay. All right. Thank you. [LB241]

PENNY FATTIG: Any questions? [LB241]

SENATOR CARLSON: Any questions? Okay. Thank you for your testimony. Anyone else testifying in a neutral position? [LB241]

PATTI PODLISKA: Kind of. [LB241]

SENATOR CARLSON: Okay, kind of neutral. Okay. [LB241]

PATTI PODLISKA: I am Patti Podliska, it's P-a-t-t-i P-o-d-l-i-s-k-a, and my opposition is to the number and the clarification of how many dogs is it, how many bitches or how many unaltered animals. Now the number, we go to 250. Okay, somebody doesn't like that number, they're going to go back down to the 75. Well, is this the same on with like horses. Are horses companions? Are they livestock? If they're companions, you're only allowed so many horses because you only have so many stalls to put these horses in. And the same way with dogs. You've got to have the proper place for these animals. Well, are horses livestock or are they companions? Now is this bull my best friend because I pet him. I go out to talk to him every day and he's services all these cows. Are you going to have places for these cows? There shouldn't be a number on how many we can have. Right, you think that's funny too, but it is, yeah. (Laughter) Well, there's a number. How many can you have? How many can you properly take care of? Out on some of these ranches, they're huge. You can have a lot of cattle out there and a lot of them do. And they have sanctioning places. They have trees for them to get under, AAI. They take very good care of these animals. And the laws that we already have in place seem to be taking care of these animals that we have. For the number of dogs in the license, that gets very confusing to me to make you a commercial breeder. Is it four unaltered dogs or it is four bitches? Because dogs are males and bitches are females. So how many, how many can you have? I'd like that clarified, especially for myself because I've had two unaltered females and I've had two unaltered males that I've been breeding, am I a commercial breeder? Now hearing different people talk, this is the reason I wanted to get up here. Hearing different people talk, I wouldn't be a commercial breeder because I just have two females, but I have four unaltered dogs. And we are also into this sports part because I represent the Jack Russell Terrier Club of America. Our Jack Russells are sport dogs. They are bred to hunt fox and when you have so many dogs and stuff in...that you're breeding, if one dog gets hurt, you have to have

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another dog come out and take place of that in order to keep going on with the hunt. I've been raised with Brittanys. We've always had three to four Brittanys out at one time in order to cover the field correctly. How many dogs does, you know, do you need to be a commercial breeder? That is what I would like clarified for me. [LB241]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? Okay. Senator Karpisek. [LB241]

SENATOR KARPISEK: Thank you, Senator Carlson. I have to apologize, I'm getting a little punchy as everyone is probably is. And Senator Wallman usually sits on my side the last two years so I can't see him and I'm going to tell on him, he thought that was a little funny too. [LB241]

PATTI PODLISKA: Yeah, I seen him over here laughing. (Laughter) But you know, I... [LB241]

SENATOR KARPISEK: But I think you were exactly right on saying what does this mean and I'm sure in committee that we will talk about that and I'm sure that that's going to be a question that we will probably, not probably, but that we will address and I'm sure we're not going to stay in Exec yet tonight anymore. If so, Senator Carlson, I'm gone. (Laughter) But anyway, you are exactly right. I apologize for being a little punchy. [LB241]

PATTI PODLISKA: No, and I totally understand. My mom is a person that with her horses, every horse has to have a stall in the barn. When it thunders, it lightnings, they're inside. They're her pets. But on a ranch, it's totally different. They are a tool, and that's the same way with some dogs with hunting. They are a tool because you need that animal to go out and find the pheasants and find the quail. We need our Jacks to go out and find the fox or find the coons and tell us exactly where they are. [LB241]

SENATOR KARPISEK: Thank you. [LB241]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. [LB241]

PATTI PODLISKA: Thank you. [LB241]

AMY LAMBRECHT: (Exhibit 5) My name is Amy Lambrecht, A-m-y L-a-m-b-r-e-c-h-t. And first of all I would like to say thank you to Judy Varner and Senator Pahls's office for introducing the amendment to remove Section 8. My name is Amy Lambrecht. I am a state licensed breeder, an active member of the Nebraska Dog Breeders Association, a board member of the National Alliance of Pet Owners, and a past president of the Northeast Nebraska Humane Society Board of Directors. Today, I'm representing the

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NDBA. The NDBA and the United Pet Professionals, the largest pet industry groups in Nebraska, work hand in hand with the Bureau of Animal Industry. The statistics that we present today clearly represent the dedication and commitment that the breeders have in adhering to and exceeding state regulations for our industry. We are here to oppose LB241 in its current form and offer neutral testimony if Section 8 is removed. And I do have a few handouts here as well. When we visited with many of you last week, we presented that 9 of Nebraska's 417 kennels or catteries had been closed down or forced to downsize, and I believe that was reiterated in Judy Varner's testimony as well. This number was roughly equivalent to 2 percent meaning an outstanding 98 percent of Nebraska's state licensed pet breeders are meeting or exceeding the current regulations. And posing limits will not force ethics into those who are within that 2 percent cutting them down to 75 dogs, forcing one of the kennel operators to go take a job in town, will not improve the kennel ethics and in more cases will actually...will dedicate less time to that kennel or cattery. What we didn't know at that time that I approached you with the numbers were the percentages of each particular group and how many noncompliant items there were. And this is in the presentation that I'm...they're passing out now. Since then we have been provided with the statistics to show that quantity does not reflect in our animals' quality of care. Moreover, the report shows that the inspectors are finding the problems, reinspecting, and that all of the noncompliant items in the report have been corrected. This inspection program has only been in existence for about two years and in that two years we're finding the breeders and the inspection service cooperating to exceed and enforce industry standards. Ninety-eight percent of breeders being compliant, that says a great deal about Nebraska's pet industry in statistically proven research. The statistics also show that the larger kennels do not pose a problem in our state. The large scale breeders boast some of the lowest percentages of noncompliant items. And you can see that in the report from Dr. Boucher's office. I think we actually show with those reports that size is not the lone factor in determining which kennels will be or are substandard kennels. The NDBA and the UPPA do support the introduction and enforcement of the stop-movement order and feel this policy will benefit both the breeders and the proponents of this bill. An imposed limit in the current regulations will not stop substandard kennels from seeking refuge in other states, including Nebraska. The current state laws, mandatory prelicensing and inspection service, taxes on pet foods, requirement of a county zoning board or commissioner board before building are among many logistical and geographical challenges in our state, and they will keep out the large kennels. In closing, the statistics provided by the Bureau of Animal Industry clearly show that there is no need for a cap or Section 8 in the Commercial Dog and Cat Operation Act. The introduction of the stop-movement order is acceptable in the progress of the professional pet industry in Nebraska. [LB241]

SENATOR CARLSON: Okay. Thank you. Any questions? Senator Wallman. [LB241]

SENATOR WALLMAN: Thank you, Senator Carlson. Again, thanks for coming. Do

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you...are our state employees or veterinarians treating the dog breeders okay? [LB241]

AMY LAMBRECHT: Thank you, Senator Wallman. Actually, they are. They are going over and beyond their call of duty. For instance, when my inspector was out, mentioned a kennel, they could sure use the peer pressure of an organization to help get them started, and with them showing that extra bit of concern, I do really feel we...that they are doing far above the job that they need to, that they've been hired to do. [LB241]

SENATOR WALLMAN: Yeah. Well, that's good to hear. Thank you. [LB241]

SENATOR CARLSON: Okay. Senator Council. [LB241]

SENATOR COUNCIL: I have a question for Mrs. Lambrecht, but I also have a comment. I did not mean to be rude to you and I hope I didn't give the impression of being rude by standing up, but I had an encounter with a patch of ice and the ice won. (Laughter) And I've been sitting on the part that the ice won too long. (Laughter) I'm trying to be clear. The statement you passed out says opposition, but you're testimony is you'd be neutral without Section 8. [LB241]

AMY LAMBRECHT: That is correct. [LB241]

SENATOR COUNCIL: Okay. And without Section 8 what would switch you from neutral to proponent, if anything? [LB241]

AMY LAMBRECHT: Actually, I would be a proponent if you took Section 8 out, I would be a proponent in full, yes. [LB241]

SENATOR COUNCIL: So okay, so it wouldn't be neutral, you would be a proponent. [LB241]

AMY LAMBRECHT: Correct, as long as... [LB241]

SENATOR COUNCIL: That's what I wanted, that's what I wanted. Thank you. [LB241]

AMY LAMBRECHT: Yep. Yep. [LB241]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. [LB241]

AMY LAMBRECHT: Thank you. [LB241]

SENATOR CARLSON: Any other testifiers? Senator Pahls. We have...okay. [LB241]

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LORRAINE REXROAT: I'm Lorraine Rexroat and basically I just...from what I understand I can put in the things, I can talk later or write a letter later. [LB241]

SENATOR CARLSON: Uh-huh. [LB241]

LORRAINE REXROAT: Okay. Because there are some issues I would like to discuss with the other pet stores in our area, because it's not just a number of law. The pet stores do follow USDA regulations and we are inspected more than once a year by the state inspector. If he's in Omaha he usually stops at the pet stores so I just want to keep that and put my name in for a letter late. [LB241]

SENATOR CARLSON: You've entered your name and position, so you're in the record. [LB241]

LORRAINE REXROAT: Thank you. [LB241]

SENATOR CARLSON: Thank you. Anyone else? Okay, Senator Pahls. [LB241]

SENATOR PAHLS: Thank you again, and I have been listening to the experts, and I do think that we can come to an agreement on this by listening to what has been proposed and also having Nebraska Humane Society help us. Thank you. [LB241]

SENATOR CARLSON: Okay. Any questions of Senator Pahls? Thank you. With that we close the hearing on LB241, and we open the hearing on LB389. Okay, Mr. Leonard, proceed. [LB241 LB389]

RICK LEONARD: Thank you, Chairman Carlson and members of the Agriculture Committee. I am Rick Leonard, the research analyst for the Agriculture Committee. That's R-i-c-k... [LB389]

SENATOR CARLSON: Okay, okay. We'd like to clear, if you're not staying for this last hearing, we're having difficulty here. Okay. [LB389]

RICK LEONARD: (Exhibits 1 and 2) Thank you, I'll start again. My name is Rick Leonard, R-i-c-k L-e-o-n-a-r-d, research analyst for the Agriculture Committee. I'm introducing this bill on behalf of Senator Carlson, primary introducer. LB389 essentially accomplishes two things. First, it removes legislative confirmation...in its current form removes...does two things, removes legislative confirmation appointments to the Climate Assessment Response Committee. Secondly, it revises language that the Governor may appoint the chairs of the Agriculture Committee and the Natural Resources Committee to simply making these ex officio but nonvoting members. Nebraska's Climate Assessment Response Committee was established by the enactment of LB274 in 1991. The duties of the committee are set forth in Section

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2-4902. I won't go into the duties, they are primarily information gathering and have a planning role in terms of drought planning and response. One purpose of the bill is to address a question of legislative representation on this administrative entity. In the awkward situation the members of the Legislature serving by a gubernatorial appointment, Article II, Section 1 of the Nebraska Constitution reads: "The powers of government of the state are divided into three distinct departments: the legislative, executive, and judicial. And no person or collection of persons being in one of these departments shall exercise any power properly belonging to either of the others." This section, of course, embodies the separation of powers concept which is a central theme of our system of government. The separation issue has two aspects, and an individual one. There's considerable case law exploring the issue of whether one branch of government carries out functions or intrudes upon the functions or activities that are properly reserved to the other. The second question involves whether individuals that may be members of one branch of government may hold positions or participate in activities of another. The best guidance we have on that subject is, of course, Spire v. Conway, decided in 1991. And that case held that former Senator Conway was a member of the executive branch by virtue of being employed as a professor at Wayne State College, and therefore it was a violation of Article II, Section 1 for him to also exercise legislative powers. However, on the question of what constitutes exercising the powers properly belonging to one branch is somewhat vague and uncertain. It is not uncertain...not...it would be uncertain whether a member of the Legislature serving on the Climate Assessment Response Committee would be in violation of Article II, Section 1. This bill therefore inserts caution by providing that designated members of the Legislature may be ex officio members, but intends that their participation...the two designated members of the Legislature are ex officio but intends that that participation be limited to monitoring, essentially for being kept in the information loop, but the legislative members would not be exercising any power to carry out any administrative function that the Climate Assessment Response Committee might carry out. We dealt with a similar issue with legislation before this committee last week in LB231. LB231 changed representation on the Rural Development Commission and clarified that a member of the Legislature serving on that commission would be a nonvoting member. The other issue addressed in this bill is whether the Governor's appointments to the committee should be confirmed by the Legislature. The Legislature undoubtedly has the prerogative to exercise oversight through the confirmation of appointments to boards and commissions. There are, of course, numerous examples where the Legislature exercises this right and numerous examples where we do not. I handed out a list of boards and commissions that was compiled by the Government Committee. Those with a star by them are the ones where they have gubernatorial appointments that...where the Legislature exercises its prerogative to confirm the legislation. There is no hard and fast rule when the legislative confirmation is appropriate. Generally, the more ministerial and purely advisory functions the body carries out the less the Legislature has found it important to exercise its confirmation authority. Entities...additionally, entities that do not exercise regulatory functions, carry out enforcement activities, or collect and expend

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fees have been less likely to have their authorizing statutes require a confirmation of their members. Climate Assessment Response Committee is not a regulator entity. It does not deliver governmental services nor collect or expend fees for charges. Its role is primarily one of climate and weather monitoring and data collection and dissemination to inform responses by other entities of adverse weather events. It does provide a form for planning, coordinate, response protocol to climatic events. Half of the appointments our agency representatives that in practice have essentially...been essentially selected by the Governor more or less as an ex officio appointment to the members, certain members of the executive branch, for instance the Department of Natural Resources, Department of Agriculture, generally it's the head of that agency or the deputy director of Agriculture has been traditionally kind of almost ex officio. That's one of the duties you have. However, there are some members who are not members of the executive, such as livestock producers and the crop producers. And there are conservation survey division and university representatives as examples. One possible alternative is to retain legislative confirmation of nonagency members designated by the statute. These confirmation hearings have been this committee's primary point of contact and oversight over the Climate Assessment Response Committee. These appointment hearings have provided an opportunity to receive updates on the CARC, Climate Assessment Responses Committee's activities and information about climate and drought conditions and the resource needs to be adequately prepared for disaster and to adequately monitor. This flow of information is actually somewhat enhanced by the bill, would be formalized and strengthened through the ex officio participation by the chairs of the Ag and Natural Resources Committee. Additionally, if the committee would wish to retain oversight without the necessity of confirmation we may wish to amend the law to require CARC to provide an annual report before the committee to inform us of its activities. That is my opening, if you have any questions. [LB389]

SENATOR CARLSON: Any questions? Okay. Senator Council. [LB389]

SENATOR COUNCIL: Mr. Leonard, I'm looking at the letter from the Department of Agriculture director. And he says that by eliminating the confirmation requirement it makes the organization of this committee less cumbersome to the Governor's Office, the committee members and the Legislature. I mean, how does it make it...or do you know or can you comment as to what makes it less cumbersome? [LB389]

RICH LEONARD: Well, I think, you might ask the Governor. And he'll say anytime there's an appointment that I have to send to the Legislature they are somewhat cumbersome because there is some uncertainty of that person serving, ability to serve. Sometimes we provide for per diems and whatnot. Is that person fully qualified to participate, enter into decision until their confirmation? Part of the reason, I think, that sometimes this is cumbersome, for instance, we have, in what I handed out to you there were some agencies, the Natural Resources...Department of Natural Resources, every time we have an administrative change we have a new division head. Sometimes...we

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had Ann Bleed, who resigned and her position was taken over. The issue comes up, I guess, how is that...is that person fully qualified to serve until the Legislature has met. That can be somewhat awkward, as well as, I think, there are a couple of positions that are basically the Governor's personal representative--the Policy Research Office representative. To a certain extent it would be much less awkward for the Governor, I guess, if that individual could just be designated by the Governor to serve. [LB389]

SENATOR COUNCIL: Okay then my second question is, there's no limit in the current legislation on the number of individuals who can serve on this committee. [LB389]

RICH LEONARD: Right, there are some that are designated that have to be, but there's also a lot of discretionary authority for the Governor to add other people as he deems fit. And there will be...I don't have a list of who's serving now, but I think there's a few that have been invited as the statute allows. [LB389]

SENATOR COUNCIL: Okay. And then my final question goes to the difference between ministerial and policy or whatever term we want to use on it. As I read item number 1 of the tasks of this committee, I have a little concern, particularly since we're talking about water availability and the issues affecting availability of water, you know. I can appreciate that the defined...to define drought and other climate related events is a ministerial one...function. I'm looking at page 3 and 6 of the...but I'm concerned about, develop appropriate triggers for activating mitigation and response programs and actions. That, you know, appears to me to go a little beyond. I mean that's...if they develop the triggers, then that then puts into motion the operations of other governmental agencies, doesn't it? [LB389]

RICH LEONARD: Yeah, potentially yeah. And again, I don't want to say and I hope I didn't mislead you, just say I think this body carries no policymaking function. We do have...I'd say in terms of relative to other bodies that we do...that do set...that can pass regulations that can...so I would say I agree with you. That I would say that is a policymaking function. So I didn't want to mislead to say that they don't carry out, I would say their primary duties that they do are, and probably day to day and what they do is the collection of information. They do work, they do somewhat provide a forum for entities that might have some relationship to merchant management, Department of Ag, others that may have some relationship of having some duties or responsibilities or aid or assistance they can provide that...I lost my train of thought. But I would agree that to a certain extent that is. But there are examples of cases where entities that probably maybe do carry on even more direct and intense policymaking functions that don't have legislative confirmation. [LB389]

SENATOR CARLSON: Okay. Senator Price. [LB389]

SENATOR PRICE: Senator Carlson, thank you. So to shorten that up a little bit, we

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could say it's a clearing house where a bunch of people who have entry points to taking action, because I read the list of people, when we talk climatology and natural resources, geologic, Bureau of Reclamation, all these people go and do something, we have a clearing house of people who meet and talk about these events. [LB389]

RICH LEONARD: Correct. [LB389]

SENATOR PRICE: Okay. Now to get to my other question, and that would be...it says here, to remove the requirement of legislation confirmation as a qualification of appointment. Are there any other qualifications that you know of that people go through? [LB389]

RICH LEONARD: That's maybe being very technical. But no, the qualifications would be as designed in the statute, that basically if you look at this... [LB389]

SENATOR PRICE: Are we the only ones doing the qualification is what I'm saying. [LB389]

RICK LEONARD: Well, in other words, it's a qualification that the Legislature appoint or confirm that appointment. [LB389]

SENATOR PRICE: Okay. [LB389]

RICK LEONARD: As opposed to a number of entities are just like ex officio, the statute just assigns the Director of Agriculture to a committee. [LB389]

SENATOR PRICE: Okay. [LB389]

RICK LEONARD: It is not a required qualification in that case that the Legislature...that's maybe being a little bit overly fancy talk. (Laugh) [LB389]

SENATOR PRICE: Okay. [LB389]

RICK LEONARD: The qualifications, there's nothing spelled out other than they meet the requirement of being a representative of this agency...a representative of that agency. [LB389]

SENATOR PRICE: There we go. Okay, thank you. [LB389]

SENATOR CARLSON: Any other questions? Why don't you just hold your position. Do we have any testifiers? Okay. No? In support. Well, okay. Let's let Mr. McClymont come up and officially enter the... [LB389]

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PETE McCLYMONT: Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t, vice president of Legislative Affairs for the Cattlemen. Our board, our Natural Resource Committee specifically read this bill and supported it on the basis of getting more experts involved. And so seeing how it's 5:35, I will conclude my testimony. [LB389]

SENATOR CARLSON: Okay. Any questions? All right. Thank you. [LB389]

PETE McCLYMONT: Thank you. [LB389]

SENATOR CARLSON: Any other testifiers? Okay. You want to close? I'm going to make a comment here to enter this...it's okay to enter it into the record. I appreciate Senator Council bringing up the question and I know that Senator Price is interested in climate and so forth. And as I look down some of this, we may want to think a little bit about whether we do this or not. So we'll discuss this in an Executive Session and give this some thought. With that, we'll close that hearing. And we will not have an Executive Session. Thank you. [LB389]

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Disposition of Bills:

LB241 - Placed on General File with amendments.  
LB389 - Placed on General File with amendments.  
LB588 - Placed on General File with amendments.  
LB677 - Indefinitely postponed.

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Chairperson

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Committee Clerk