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Agriculture Committee January 25, 2022  
Rough Draft

**HALLORAN:** Well, good afternoon. Let's-- let's get started if we can get through the Starbucks coffee line here. Welcome to the Agriculture Committee. I'm Senator Steve Halloran and I'm from Hastings, Nebraska, and represent the 3rd Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs when you are ready to testify. These are the first two chairs either side of the first row. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print-- please print and it will be important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to the page or the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there's a separate white sheet on the table that you can sign for that purpose. This will be a part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will be distributed to those in the committee. If you do not have enough copies, the page will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone, tell us your name and please spell your first and last name to ensure we get an accurate record. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates that your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, local or otherwise, are allowed at a public hearing. Committee members with us today will introduce themselves starting at my far left.

**GRAGERT:** Thank you. Good afternoon. Tim Gragert, LD40, in northeast Nebraska.

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**BRANDT:** Tom Brandt, Legislative District 32, Fillmore, Thayer, Jefferson, Saline and southwestern Lancaster County.

**B. HANSEN:** Senator Ben Hansen, District 16, which is Washington, Burt, Cuming, and now parts of Stanton County.

**HALLORAN:** Thank you, members. To my left is committee research analyst, Rick Leonard, and to my right is committee clerk, Rod Krogh. Pages for the committee today are Rolf Kloch. He is a junior at Nebraska Wesleyan University with a major in political science, and Bobby Busk. He is a sophomore at UNL with a major in political science. With that, we will start with our first bill for the day, LB848, and I'm going to turn this over to Senator Brandt, Vice Chair Brandt.

**BRANDT:** Thank you, Senator Halloran. You're welcome to introduce the bill. If you'd like to stay seated there in this room, OK.

**HALLORAN:** Thank you, Senator Brandt, and members of the committee, I'm Senator Steve Halloran, H-a-l-l-o-r-a-n, representing Legislative District. 33. I have introduced, or I have introduced LB88-- I got to get on the right one, excuse me. I'm introducing both of them. Excuse me, may I go back to my Chair? It's in my-- it's in my binder. I apologize. Stand at ease.

**BRANDT:** We'll stay. If you wanted to, you could do the other bill first.

**HALLORAN:** No, the introduction-- both of them on.

**BRANDT:** Oh, they're both on. All right.

**HALLORAN:** OK, my apologies. Due to some mislabeling on my reports here identifying the bill I had it in front of me, after all.

**BRANDT:** So you are cleared to go, Senator Halloran.

**HALLORAN:** Thank you. Thank you, Vice Chair Brandt. I'll start all over. Thank you, Senator Brandt and members of the committee, I'm Senator Steve Halloran, H-a-l-l-o-r-a-n, representing Legislative District 33. I have introduced LB848 on behalf of the Department of Agriculture. LB848 is brought in consultation with our state's livestock organizations as a means to be diligent in our effort to be prepared in the event of a significant event that leads to a large scale livestock mortalities. The COVID-19 pandemic emergency resulted in

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recurring episodes of closures and diminished processing capacity of livestock processors. This disruption in the meat processing chain, in turn imposes an economic impact on producers, the livestock industry and public and private animal health community, including cost to deal with animals that had to be disposed of through euthanasia-- euthanization--excuse me. While Nebraska was fortunate to avoid the level of unavoidable depopulations that other states experienced, witnesses to follow me will likely quantify the level that occurred in the state-- in the state thus far and the potential liability in the future. The potential for additional processing sector disruptions as the pandemic continues, represents-- represents a novel and ongoing catastrophic livestock mortality risk and [INAUDIBLE] a need to ensure planning, capacity and preparedness to respond appropriately. A companion bill-- a companion to this bill, LB970, is pending before the Appropriations Committee, designate federal ARPA funds for the purposes of this bill. LB848 would insert an express authority for the department to assist preparations and executions of local mortality disposal plans and inserts an express option of disposal in the event of an emergency and might-- that might entail a large scale, coordinated effort to deal with a large number of livestock losses. Additionally, the bill expands permission for a livestock disposal to include transport to a disposal location designated by a local emergency authority. While LB848 will continue current preferences the livestock mortalities be disposed of on the property where the deaths occur, transport to other disposal sites during the emergency can occur with the department's permission. This revision is to eliminate any potential conflicts of the act with emergency plan execution. I've handed out an amendment, AM-- I will hand out an amendment, AM1626. The amendment would eliminate any implications that the department assistance is limited aiding local planning and expenditures, but can exclude-- include, rather, expenditures for related state level efforts. The amendment also fixes a drafting error on page 5. The authority to transport animals to a designated disposal site was intended to be an option exercised only with written permission of the department of subdivision 1(g), not a general permission at its own subdivision. I will entertain any questions that you have. Thank you for your consideration.

**BRANDT:** Does the committee have any questions of Senator Halloran? And you'll stick around to close?

**HALLORAN:** I will.

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**BRANDT:** OK, thank you. At this time, we'll take proponents on LB848.  
Good afternoon.

**AL JUHNKE:** Good afternoon, Mr. Chairman, and members of the committee. My name is Al Juhnke, A-l J-u-h-n-k-e. I'm the executive director of the Nebraska Pork Producers Association. And I'm here also in my capacity to testify on behalf of the Nebraska Soybean Association, the Wheat Growers Association, State Dairy Association, Nebraska Farm Bureau, Nebraska Corn Growers Association and the Nebraska Cattlemen. Our ag leaders group meets, and we're trying to save you a little time by sending one, two or three people instead of seven. So hopefully you appreciate that. We thank Senator Halloran for introducing this bill. Preparedness for disaster or foreign animal disease is a big deal, and I think you people on the Ag Committee know that, but we have to translate that to our-- our-- our other people that are not on the Ag Committee. Successful planning for any of these events is, you plan for when it happens. You don't plan for if it happens. You assume it's going to happen and you plan that way. Senator Halloran mentioned COVID. In the pork industry, we had a firsthand example a couple of years ago with COVID when it hit and with our plants either shuttering for days or slowing down to 50 or 60 percent capacity, we all of a sudden found ourselves with an excess of animals on our farms. For those of you that don't know pork production, pigs keep growing. They're-- they're bred to do that. They're-- they're bred to grow, be healthy and strong and make good meat but they also keep growing, and our plants can only take up to a certain size pig because of the way the shackles are set up and the lengths of-- of the Geneva when they go through the plant, after a certain point in time, our plants can take them. And so knock on wood, in Nebraska, we estimate we had to euthanize under 10,000 hogs in that year compared to Iowa, Minnesota, other states where hundreds of thousands of animals, good food animals had to be put down. Now, that wasn't a foreign animal disease. We're also busy preparing for African swine fever, common swine fever, God forbid, foot and mouth disease would hit, which is a disease of both cattle and hogs and it's aerosol and it's airborne. And honestly, we need to know what we're going to do if our cattle and hog populations are all affected at the same time, and we have to have a massive way to euthanize and/or dispose of those animals. So what do we do? We're going to take advantage of what is certainly an issue that COVID brought on and prepare for the next COVID, but also take the opportunity to prepare for foreign animal diseases. So, Senator Halloran's bill gives the department that ability. If funding is available, we'll be over in the Appropriations Committee whenever they

schedule that hearing and do similar testimony for them for the appropriation. Again, this money can be used-- we've got about five years to do it, so it's a nice timeframe for this type of thing. And so we'll work with the department. I handed out a sheet. This shows some examples. This is not all inclusive. People go, oh, what would you use that money for? Literally millions of dollars. I think the request is going to be \$7 million from them. These are just some of the things that we would use. So we want to make sure that we have equipment, that we have sites, that we have training, that we're prepared for composting or burial, that we have equipment in place, that we know where that equipment should be. It's not all going to be located in Lincoln or Omaha or any-- it's going to be strategically placed and on and on and on. So this is some examples. There's many more we haven't thought about, but we will be sitting down with the department, maybe members of this committee. Certainly, our farmers and producer groups. And we're going to continue working over the next few years to make sure we're prepared for when a foreign animal disease or the next COVID or the next disaster-- natural disaster, which I'm sure the Cattlemen coming behind me can talk about, the thousand year flood that also had animal problems at that time. So with that, I'll end my testimony and I'm happy to respond to any questions you may have.

**BRANDT:** Are there questions from the committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chairman Brandt. And thank you, Mr. Juhnke, for being here and for your testimony for all of these groups. I appreciate the efficiency. So you made a reference to obviously this is going to help as well as the appropriations bill, but they are not dependent upon each other. This would still help even if we don't get the 7 million that you're talking about, if that doesn't get appropriated to this, right?

**AL JUHNKE:** Well, on this-- Mr. Chair, and Senator Cavanaugh, they still have the ability to do it, but without the money it would-- it would be very difficult. I mean, God bless our Department of Agriculture. They live on a very tight budget, as you know. A lot of it is feed driven what they take in. There's not a lot of General Fund money that goes there. And so without that-- for example, let's just look at one thing here. A nitrogen foaming machine. That's a delivery system for nitrogen foam into the back of a dump trailer. In fact, they just did a cold-weather test in Minnesota. It was 11 below zero in Lamberton, Minnesota, last week, and so they tested it there. It works. It can be used for both cattle and hogs. Minimum price for one

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of those units is \$500,000. So let's say you want three or four of them to position around the state, which we might, but again, without those funds available, we would probably have to come and ask for a General Fund appropriation next year and a budget year or something else, but certainly the language is in place. That's a great start. And-- but we're going to-- we're going to knock real hard on the desks over at Appropriation and-- and try and let them understand the critical issue that this is. This was one of our top issues with this group of agriculture people because not only livestock people, but all the grain people who feed the livestock, a disaster like this is going to affect all of us. And the quicker we can clean our barns, dispose of the animals, get back into business is what's going to be key here.

**J. CAVANAUGH:** To be clear, I'm not saying we-- we just don't make that decision here.

**AL JUHNKE:** Right.

**J. CAVANAUGH:** I'm just asking you in the-- you know, in the isolation, if Appropriations chooses not to advance that bill or whatever happens that obviously it be fair. This bill on its own still has merit is my question.

**AL JUHNKE:** Mr. Chair, and Senator Cavanaugh, that is correct.

**J. CAVANAUGH:** Thank you.

**BRANDT:** Other questions from the committee? Senator Hansen.

**B. HANSEN:** Thank you. I saw on your first bullet point, our state doesn't still work on what they feel is the best, most efficient manner of euthanization. That probably will determine on maybe the type of catastrophe that happens, right? And then they would determine at that time, whether it's electrocution or---

**AL JUHNKE:** Right.

**B. HANSEN:** --or the bolt guns and--

**AL JUHNKE:** Right. Mr. Chair, and Senator Hansen, that is correct. We-- we're still working with our state vet group. Like I say, nitrogen is a good one, but we also have electrocution trailers we're-- we're working on in the state right now, hands free, walk up. In our case, walk a pig in one end and it comes out the other end euthanized. And so there's that. There's captive bolts that a lot of people use.

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There's ventilation shut down environs that was used the last few years where you just shut off the ventilator. These are all approved, by the way, and they have to be approved by veterinarians. In our-- in our case, the National Swine Veterinarian Association approves all humane ways of euthanizing animals, and so it would be one of those, but we're still going through the list and trying to discover what would be most efficient and easiest. And again, remember, a lot of this will be handled by our emergency management folks. So what can they be trained in? How can they assist and how will they be a part of this too? And then they will be a part of the next number of years in training and doing this also because there will be an emergency declared. Say, African swine fever or foot and mouth hits, USDA would declare an emergency. So if their vets come into play, as well as all our emergency management folks in Nebraska basically take the reins at that time, like they did with avian influenza a few years ago, and they are the ones that will direct how we go about cleaning out our barns, euthanizing animals, getting back to business in a normal way.

**B. HANSEN:** Yeah, I think that's kind of one of more unfortunate and unseen and misunderstood, I guess, aspects. I know Iowa-- Iowa ran into this when they had to euthanize a whole bunch of hogs last time.

**AL JUHNKE:** Right.

**B. HANSEN:** And I don't understand really how that works and you know how we dispose of these kind of things to make sense. I think it's the African swine fever that we got through China, wasn't it? That's what really got them to-- sometimes were worried about.

**AL JUHNKE:** Yeah.

**B. HANSEN:** Now, pertaining to lately what happened last year or two years ago when we had to dispose of a whole bunch of hogs, this bill probably won't address the ability for some of those farmers to get some of that and be able to sell those animals to people sooner or anything like that. Just more about the disposal part of it.

**AL JUHNKE:** Right. Mr. Chair, and Senator Hansen, in the case of African swine fever, there is-- the meat is not banned for consumption by humans. It doesn't affect humans. But at the same time, it will not go to-- one of the problems we had in China. He mentioned China. When African swine fever hit there and they didn't have the regulations we probably have here, well, I know that we have here in United States, farmers once they knew it was in their neighborhood or they knew where

it was in one of their barns and not the other, quickly started moving pigs around the country and selling them. And they were moving the disease with it everywhere. So our key is not to move animals off the site. To dispose of them there, if we can, to euthanize them right there, if we can, etcetera, etcetera, because you just shouldn't be moving sick animals. That's the other thing we're working on with our state vets. How will they permit movements? Will they even permit movement down a road if you have a truckload of cattle or hogs that are diseased? And like I say, in the case of foot and mouth spreading it by aerosol, you've got to figure out what you're going to do. And we certainly are doing that. We are sitting down and we are doing that. But what we found out in COVID and I don't say this lightly, at the end of the day, when my farmers were calling me and others, what are we going to do? How are we going to euthanize, who's going to help us? At that point, my answer at the end of those day is you're kind of on your own right now. We don't want them to kind of be on their own. We want to provide some good guidance and hopefully have some good method-- methodology and trained people in place to assist them when this happens. And again, we haven't had foot-- foot and mouth has been around for 100 years in the world, but we haven't gotten it here. African swine fever has been around for a number of years. So prevention is the key, but we're still planning for when it gets here.

**B. HANSEN:** Thank you.

**BRANDT:** Other questions? I guess I have a few. You mentioned in your testimony Nebraska had to euthanize 10,000 hogs. What kind of value did you put on that?

**AL JUHNKE:** Well, Mr. Chair, we never calculated the value because we didn't know the exact size of them. You know, are they 300-pound pigs that are ready to go to finishing, or are they, you know, just out of the nursery? Or were they in between somewhere? The way we got that number, the only assistance our farmers got was from the NRCS, Federal national NRCS. They provided some emergency funds to farmers who applied to help dispose of the animals, so to bury them, to rent equipment, to do what they had to do. Checking with them, they provided me the number of estimated just under 10,000 pigs, but we never were able to get a value. We didn't know the sizes or anything like that.

**BRANDT:** And then, I guess I also have a follow-up question. I know we're dealing here with grinding and disposal or burying of-- of animals. But you had mentioned on some of these diseases, the meat--



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and COVID is a perfect example, there is nothing wrong with the animals. Would there be a possibility that the state could write a statute? I hate to say this, mandating that packers kill these animals or-- or incentivizing lockers or packers if they're in a position to kill these animals. Obviously, if we have COVID and they're in the workforce, they can't do it, but if it's another disease?

**AL JUHNKE:** Mr. Chair, on diseases, it's going to be very difficult because you can't move them, our packers don't want them in their plants because of biosecurity. Next truck comes in and it was on this truck, and now you're bringing in all and around the countryside, so you know, you might have a zone of six miles that-- that needs permitting, but all of a sudden now you've got 2 or 3 or 10 or 100 of those zones because you've moved it around yourself. So the other thing is a public perception. We-- we want the public to know-- let's say African swine fever hits, our first message out is pork is safe. The pork in your store is safe. Don't quit eating it. But we know that's going to happen anyway, in part. People, when they see there's disease, whether it's avian-- we saw with avian influenza a couple of years ago, people just quit eating poultry because they didn't know. They didn't understand that their poultry that's in the store didn't come from a diseased farmer. It was healthy. Why take a chance, I can buy pork. We asked them to buy pork at that time, but it's just very difficult in a disease situation. Now, in a COVID situation, had we been prepared like you're trying to prepare us with those small to medium plants, we would have been able to move a lot of those pigs that could not go to the packer into those small to medium processors. Ideally, that is food that was wasted. And in this day and age, in this world, in this country, we don't want to waste good food.

**BRANDT:** And then, I-- along that same line because I used to raise hogs, how I got rid of some excess hogs was telling the deer hunters, this is easier to do than a deer, you're going to get a lot more meat. I know a lot of other farmers followed that same approach. I don't know what state laws we were violating by having people come on to my place and-- but I think if they were processing their own animals, I think they were-- they were clear. So I don't know if part of this would be to give some allowances, emergency allowances, possibly for custom slaughter.

**AL JUHNKE:** You know, Mr. Chair, custom slaughter is good. The other thing we do and this bill could be used to prepare for that day too. I know there's some will make sure they're Nebraska centric. You know, how do you harvest a pig like you do a deer? How would you, you know,

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clean and piecemeal a deer? Here's how you do it with a pig. Every-- again, you're right, every deer hunter, including me who have hung a lot of deer with my friends in the garage and cut them up ourselves, that can be done with the pigs too. So, yes, the answer is yes. And we do need to get more information out on how you can do that. I-- you know, I believe it's legal now for you to kill the animal on your farm and send it home with someone. I believe, but those are all the things we need to double-check.

**BRANDT:** All right. Thank you.

**AL JUHNKE:** Yep.

**BRANDT:** Next proponent. Good afternoon.

**JOHN HANSEN:** Good afternoon, Vice Chairman Brandt and Chairman Halloran, members of the Committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I'm here before you today as the president of Nebraska Farmers Union. And I would thank Senator Halloran for bringing this bill forward and would associate my general views on this bill in a similar fashion with my friend, Al Juhnke, and say that two years ago next May, as my tour of duty goes as president of Farmers Union, which is 32 years, was the toughest set of meetings I've ever done, where within a week to 10 days of the system slowing down, we were in immediate trouble and we were obviously not prepared for-- for the terrible choices that we had, which is how do we deal with the enormity of this problem and how do we do this humanely? How do we do with these-- how do we deal with the animals? How do we salvage as much as we can for human consumption? All of those-- those things, and so our foundation worked with the pork producers and others to at least peel off part of what you could, which is a very small amount that the only unused USDA inspected facilities that we had in the state turned out to be on East Campus here in Lincoln. And so we were able to get some of those in and process so that we could donate that-- those-- those products to people in need and people who needed food. So there was, you know, those things, but it was such a small percentage compared to what the need was and the enormity of it that for anybody who sat through that process, you had to say to yourself, you know, what do we need to do to be better prepared next time? So, I'm very supportive of this bill. The other issue that dealt with that was extremely distressing, where we really weren't prepared either to deal with a situation of that magnitude was the-- was the 2019 flood. And we had some of our folks that we worked with and some of the members we had who had-- who were not in the cattle business

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were suddenly in the cattle business when-- when a lot of dead animals came down the river and ended up in their-- in their pastures, in their trees. It was just-- it was awful. So even though it wasn't their livestock, it was their problem because it was on their property. And so everything went downstream from anhydrous ammonia tanks to dead cattle to all kinds of things. And so, you know, being able to get the-- find the equipment that was suitable to be able to get in to the sandbars and be able to get the dead livestock out, you know, it was-- it was fortunate that USDA was as flexible as they were in order to be able to make the additional funding and flexibility available for those kinds of lawful situations. So my take away is that an ounce of prevention is worth many pounds of cure. And so we'll be-- also in support of the funding efforts for this, but at a minimum, we ought to at least create the structure, so if we do get additional funding one way or the other, hopefully through ARPA, that we-- we have laid the groundwork for what could happen and we appropriate-- how we appropriately respond next time. And so as we've talked about this issue, some of my members have said, well, why don't we just increase the amount of-- of rendering that we do for dead stock? And the problem is that our state does not have hardly enough rendering capacity now to deal with what we have much less these kinds of-- kind of snowdrifts of additional capacity, we just don't have the ability to be able to do that. So with that, I would end my comments and be glad to answer any questions if you have any.

**BRANDT:** Questions? Committee questions? I guess I've got one. And on the rendering, do you know what the current state of rendering in Nebraska is? Are you familiar with that?

**JOHN HANSEN:** Well, I-- I haven't dealt with it in the last year, but it's not good.

**BRANDT:** OK. All right. Thank you.

**JOHN HANSEN:** We struggle with dead stock in what we do.

**BRANDT:** All right.

**JOHN HANSEN:** Thank you.

**BRANDT:** Excuse me. Next proponent. Welcome.

**JARED WALAHOSKI:** Hello. Good afternoon, Chairman Halloran, and members of the Ag Committee. My name is Jared Walahoski, J-a-r-e-d W-a-l-a-h-o-s-k-i. I serve as the Chairman of the Animal Health and

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Nutrition Committee for Nebraska Cattlemen. I'm also licensed for a large animal veterinarian at Overton Veterinary Services, Overton, Nebraska. I'm here today representing the members of the Nebraska Cattlemen. Thank you for your opportunity to testify on LB848, which we strongly support. LB848 gives the express authority for the Department of Agriculture under the Animal Health and Disease Control Act to expand planning for and response to potential emergency catastrophic livestock mortality events. The bill addresses a serious need for Nebraska's livestock sector. According to the 2021 National Ag Statistics Service, Nebraska has over 50 million head of beef and dairy cows, cattle on feed, yearlings on grass, sheep and hogs. These numbers do not include bison and poultry. Developing comprehensive plans to handle catastrophic livestock mortality events caused by weather or disease is vital to the safety and well-being of unaffected livestock and the citizens of the state. It's already been discussed, but the effects of the bond cyclone, the floods and that catastrophic mortality event created unfortunate awareness of our inability to handle those types of losses. So this bill again would help address some of those concerns. To further emphasize the importance of this bill, many livestock owners are also actively working on plans to best prepare themselves for a disease, natural disaster or other emergency event, resulting in catastrophic livestock mortality or euthanasia by developing and implementing the secure beef supply plans. These plans will aid individual farm or ranch owners in maintaining business continuity for the beef industry, as well as to prepare them to work to collaborate with regulatory officials in the event of an outbreak. Today, many areas of the state are ill-prepared to deal with sizable livestock mortality events requiring equipment, supplies, necessary training and programming for processing and disposal of livestock carcasses after a mortality event, and locating them strategically in livestock dense areas throughout the state will benefit county emergency managers in responding to those types of events. Guidance and assistance from the Department of Agriculture will go a long way in motivating local managers to develop these plans and prepare for livestock mortality events, which we all hope will never be needed, but, as has been echoed, are somewhat likely to occur. Members of the Nebraska Cattlemen encourage you to support LB848 and move it forward. This is long overdue in their opinion, and I'd be glad to answer any questions.

**BRANDT:** All right, thank you. Questions? I've got a few, Doctor.

**JARED WALAHOSKI:** Shoot.

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**BRANDT:** You're a practicing veterinarian.

**JARED WALAHOSKI:** Mm-Hmm.

**BRANDT:** Outstate, Nebraska. Your professional opinion, is the state of Nebraska prepared for a foreign animal disease like hoof and mouth and what would the scenario be in your area?

**JARED WALAHOSKI:** Absolutely not. The-- the logistics of dealing with that type of an event versus our counterparts in the swine industry, euthanasia of mass numbers of livestock, cattle, fat cattle, we're talking 1,500 pound animals, every single one. One, how do you accomplish that safely? And two, what do you do with them after the fact? And we really don't have a good plan for that.

**BRANDT:** Do we even have a bad plan?

**JARED WALAHOSKI:** It's been discussed, but there's no good analogies as to how you do that, especially in our area. You know, we're located along the Interstate. Platte Valley water tables are an issue, so burial of any kind is pretty much not an option, you know, especially following 2019, when the water table was 18 inches to the surface. You can't even hardly scratch the surface without worrying about groundwater contamination.

**BRANDT:** So if you were a-- I run a small feedlot, so, you know, independent cattlemen and we had a national catastrophe. Who would be the lead agency to come around and give me some guidance? Is that my local veterinarian? Is it the Nebraska Department of Agriculture, USDA? Who's going to come tell Tom Brandt what my procedure and guidance in what I'm supposed to do?

**JARED WALAHOSKI:** Starts at the local level. You know, the USDA and Nebraska Department of Ag have some resources. I reference the Secure Beef Supply Plans. We spent a lot of time working on those in our area last summer. There was some funding. We had interns coming around and trying to help producers develop those plans. But those are really designed to try to isolate individual operations, not deal with the losses, not deal with the disposals. You know, it brings to light some of the things that we would be short on, you know. In the event that you get a foot and mouth disease, all the vehicles that would go on or off of every feedlot, every livestock operation have to be disinfected. One, how do we do that, and two, where does that disinfectant come from? It'd be very similar to hand sanitizer with

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regard to COVID. There's probably a relatively small supply, and when everybody wants it at once, it's not there.

**BRANDT:** So then I guess, who is the lead agency that would restrict movement of livestock in the state? Does the Nebraska Department of Agriculture issue an order, the USDA, who has control to stop movement of livestock in the case of African swine fever, hoof and mouth, any of these contagious diseases?

**JARED WALAHOSKI:** Those orders, initially, I believe, would come from the state veterinarian's office. But then those could be superseded by federal authorities after the fact.

**BRANDT:** OK. Any other questions? Senator Hansen.

**B. HANSEN:** I wasn't going to ask anything, but he made me think now. I'll try to ask a redeeming, more enlightening question. How well prepared are we from preventing a mass casualty event like in animal industry? I know with the USDA we're a lot different than other-- other countries. You mentioned we're a whole lot different than China. Do you think overall we're pretty well-- at least in your opinion, we're well-- well-prepared to prevent something like that?

**JARED WALAHOSKI:** I would say not necessarily.

**B. HANSEN:** OK, that doesn't help me.

**JARED WALAHOSKI:** There's-- there's really not a lot of, you know, we talk about the scenarios and the what ifs. You know, it would be relatively easy to introduce some of those agents into the population without anybody knowing until they're here. And then as we discussed, the aerosol nature of most of those pathogens, they spread pretty rapidly. If you follow it all, the commerce, you know, trucking industry and where those trucks go, how fast they move from one end of the country to the other, not just the state, you know, in a matter of three to five days, it's-- it's not just a local issue, it's a national issue.

**B. HANSEN:** This is maybe somehow, maybe we don't think about. I never thought about it too much. You know, dramatic experience.

**JARED WALAHOSKI:** You don't really want to, but you need to.

**B. HANSEN:** Yeah. OK. All right, well, appreciate your honesty. Thank you.

**JARED WALAHOSKI:** Sure.

**BRANDT:** Senator Gragert.

**GRAGERT:** Thank you, Vice Chair. Thank you for your testimony. I'm just wondering, I'm going to follow up on an earlier question that Senator Cavanaugh had on the money wasn't received, and is there a chance for the plan to be worked on to go through with. And my follow-up question to that is, could this be done in phases, like phase one prevention? What can we do more that to prevent, first of all, and then what do we do after that doesn't work? So in other words, can it be done in phases?

**JARED WALAHOSKI:** I think it can be done in phases. The question is how many phases and how far down the road do you want to be when it actually happens?

**GRAGERT:** Well, my-- my take is, is I guess. how many catastrophic events are we going to wait for before we decide we need a plan, you know?

**JARED WALAHOSKI:** Sure.

**GRAGERT:** So are we going to have to live through that before we get a plan? Or why aren't we working on a plan? You know, maybe from this day forward, we can go back and say, well, we should have.

**JARED WALAHOSKI:** That's true.

**GRAGERT:** Well, that's water under the bridge. What do we do from this day, and granted, the money is very, very valuable. And what if it doesn't work, if it doesn't come through, is there a plan to in your mind--

**JARED WALAHOSKI:** In the cattle side of things the Secure Beef Plan is probably where we've started in looking at what we would happen-- what would happen if an event like that occurred on an individual operation level. Not necessarily to the level of how do we keep it from coming in? You know, more so, more reactionary, I guess. But those plans are in place and in a fair number of operations. But back to kind of the focus of the bill with the equipment that we need, some of that training, even personal protective equipment for the people that are operating in those units and making sure everyone there is safely trained. I think those are the things kind of as the next phase of what do we do, because it's already been saying it's not a matter of

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if, but when. And right now, if when is tomorrow, then we are grossly ill-equipped to handle it.

**GRAGERT:** Thank you.

**JARED WALAHOSKI:** Sure.

**BRANDT:** I see no other questions. Thank you. Fantastic testimony.

**JARED WALAHOSKI:** Thank you very much.

**BRANDT:** Next proponent? Seeing none, opponents? Seeing none, those testifying in the neutral capacity? Seeing none, Senator Halloran, here to close.

**HALLORAN:** Thank you. Thank you, Vice Chair Brandt. I think this is-- oh, first I need to say, I need to clarify for the record that I misspoke in my introduction. I did not introduce this LB848 at the request of the Department of Agriculture. I did it personally in conjunction with consultation with our state livestock organizations. So we want to make that clarification on the record. To me, it's-- it's not a question of if a natural disaster will occur or some disease will-- livestock disease will occur that will cause high mortality. It's a question of when it will happen. So I think anything we can do to be better prepared than we currently are is-- is a must. With that, I'll close. Do you have any questions?

**BRANDT:** Are there any questions? Oh, there are no official position comments submitted or letters submitted for this bill. And with that, we will open the hearing for LB889.

**HALLORAN:** Thank you, Senator Brandt, and members of the committee. I'm Senator Steve Halloran, H-a-l-l-o-r-a-n, representing Legislative District 33. I've introduced LB889 on behalf of the Department of Agriculture. As you recall, with the 2018 farm bill, Congress removed hemp from the regulation under the Federal Controlled Substances Act, but provided for the general commercial production and regulation of hemp under a new hemp subtitle of the Agriculture Marketing Act. Congress allowed states and tribes to assume primary regulatory oversight over hemp production, provided such regulation is according to a state plan, consistent with minimal requirements for state hemp programs as specified in the farm bill and as further defined by USDA regulations. USDA published an interim rule on October 31 of 2019. For your reference, I have asked the staff to include a document that describes the significant changes in the final rule in the briefing



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items in your committee books. Based on comments, USDA received a regular-- regulatory experience. USDA published a final rule on January 19, 2021. LB889 would make a series of revisions to the Nebraska Hemp Farming Act to bring the act into alignment with USDA final rule implementing the 2018 farm bill provisions allowing hemp cultivation. There are a handful of changes to minimal specifications for state plans contained in the final that merits some adjustments to the Hemp Farming Act. The revisions will tend to reduce some uncertainties and compliance difficulties for growers and perhaps marginally reduce implementing cost and burdens for the department. Some of the more prominent clarifications made in the final rule include the following: The USDA expanded the harvest window for hemp after official sampling is completed from 15 days to 30 days. The final rule incorporates alternatives for destruction of noncompliant hemp that were not included in the interim rule, but allowed by guidance documents published by the USDA for use in 2021 growing season. This will allow hemp to be disced under, burned or on other sites-- or on other site destruction under observation by the Department of Law Enforcement. The final rule allows for mitigation of noncompliant hemp if feasible and allowed on a case-by-case basis by the Department of Agriculture. The mitigation option would require retesting to confirm that the final harvesting hemp does not exceed the acceptable THC level. The THC threshold at which noncompliant hemp is considered a negligent violation is increased from 0.5 percent to 1 percent. Please note, the negligence threshold does not increase the THC concentration of hemp that may be harvested and marketed. Any hemp above 0.3 percent THC will continue to be considered marijuana and still required to be destroyed or mitigated. A violation deemed negligent requires additional regulatory oversight by the department to require steps to assure the producer goes only compliant. The final rule gives the states greater flexibility to allow alternative testing protocol for certain categories of hemp production that present less risk of exceeding the acceptable THC limit. For example, varieties of hemp grown exclusively for fiber or seed tend to be relatively low on THC. Beyond revisions directly relating to the final rule, the bill also makes some adjustments to facilitate administration of the act, including clarifying some recordkeeping and notification requirements and removes a delinquent fee. The bill also allows the department to adjust program requirements through amendments to the state plan to enable the department to more timely respond to changes in federal program requirements. I will gladly defer to the director-- to Director Wellman, who will follow me to go into any more necessary detail about these changes. Finally, the bill would change-- would

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change from quarterly to annually the minimal prescribed meetings for the Hemp Commission. This acknowledges that the checkoff program supporting the programs of the Hemp Commission is likely to be far less than anticipated with the hemp checkoff as enacted. I'm hopeful that this change can stimulate some discussions among the industry regarding the role and mission and even the feasibility of the Hemp Commission under the foreseeable size of the hemp industry in Nebraska. With that, I will entertain any questions, but I would encourage you to hold those questions for Director Wellman.

**BRANDT:** Are there any questions for Senator Halloran? You'll stick around to close?

**HALLORAN:** I will.

**BRANDT:** OK, thank you. At this time, we'll ask for proponents of LB889. Welcome.

**STEVE WELLMAN:** Good afternoon. Vice Chairman Brandt, and members of the Ag Committee, I'm Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n. I'm the director of the Nebraska Department of Agriculture here to testify in support of LB889, and special thanks to Senator Halloran for introducing the bill, and he really did a great job of describing the key aspects of it. So I'll try not to repeat very much of that, but I just want to point out a few things that we seem-- deem as-- as important to the updating and making necessary changes to the Nebraska statute so the hemp program can continue here in our state and meet the-- what's required by USDA. So the proposed changes that align with USDA regulations are updates of the statutory definitions to reference the Code of Federal Regulations 990, CFR 990, as it existed on January 1 of 2022. It allows NDA discretion for remediation and retesting of noncompliant material, increases the negligent threshold to 1 percent THC, and it increases the harvest window from 15 days to 30 days. And that's the time from when the Nebraska Department of Agriculture submits-- takes a sample, then they have, now would have 30 days to harvest that product, that crop. Other changes brought within LB889 pertain to changes that NDA would like to see to help us and administer the program and give some relief to the growers. First of all, remove delinquent licensing fees and instead allows for licensing fee as part of the application. And this would eliminate late fees and that type of thing that growers have paid in the past, and it would really improve our efficiency on handling those. So we get the applications and the licensing at the same time, hopefully, reducing the amount of changes we have to have later. Requires hemp cultivators

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to provide at least a seven days notice when requesting a pre-harvest inspection. This allows our staff to efficiently manage requests of free harvest inspections and ensures that the inspections are-- are completed on time. Really, this is just more for scheduling and being aware that for scheduling our workload for the inspections we can be there when the grower needs us to be there. If they could give us seven days advance notice, that would help us immensely to do that and reduce some of the travel that we've had in the past. So we do not see any fiscal impact make LB889. The bill contains administrative changes and realigns the Nebraska statute with current federal regulations, so the department will continue to work with the Legislature and the industry to oversee Nebraska hemp producers and the Hemp Farming Act. And with that, I would offer to take any questions.

**BRANDT:** OK. Are there questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chairman Brandt, and thank you, Director Wellman, for being here. Just curiosity, how is the hemp industry doing in Nebraska? Is it getting up and running? Is there a number--

**STEVE WELLMAN:** So, I guess the-- there's been some struggles, quite honestly. We've seen the numbers of applicants and the numbers of acres planted reduced year after year. So if we look back, 2019 was-- was a year strictly for research production. 2020 was the first year of commercial industrial hemp production. And you have some numbers from 2020. We had 84 cultivator licenses. We had 18 processors and 11 brokers licensed, so 84 cultivators, 18 processors, 11 brokers. That was in 2020. 2021, we had 62 cultivator licenses, 18-- 18 processors and 4 brokers. And so far for 2022, we have 17 cultivators, 4 processors and 1 broker licensed at this point.

**J. CAVANAUGH:** And do you think that these changes-- I mean, obviously they was trying to comply to get in line with federal law, but do you think that these changes will reverse that trend and help more people participate?

**STEVE WELLMAN:** I think it will help those that are participating already. And if somebody is interested, I don't necessarily perceive that these changes in statute will-- will drive more producers to be in the industry. Economics will drive it out.

**J. CAVANAUGH:** And when you say brokers, that's somebody that's going to sell those--

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**STEVE WELLMAN:** Yeah, they're in the business of-- they're not growing it, they're not actually processing that they're helping move the product.

**J. CAVANAUGH:** It's not that this hearing's about this, but there's these storefronts that kind of popping up around, at least in my district. They're selling, I don't know, the cannabinoid type of things that are derived from hemp. Is that in any way related to this production or are they perhaps somewhere else, or--

**STEVE WELLMAN:** The role of the Department of Agriculture ends when the product is tested and passes the test, and then it's harvested. We don't follow it any farther than that for regulation. If it fails a test, we-- we work with the producer to dispose of it and then that's the end of our regulatory responsibilities.

**J. CAVANAUGH:** Thank you.

**BRANDT:** OK. Senator Gragert.

**GRAGERT:** Thanks, Chair, and thanks for your testimony.

**STEVE WELLMAN:** Sure.

**GRAGERT:** I was wondering, you're going to-- this would increase the negligence threshold from a 0.5 to 1. Does that have any correlation with increasing the harvest window then from 15 days to 30? Like, if you go out there, you test it or you give permission, can that-- can that fall into the below 3 percent, above 3 percent within that 30 days before they get it harvested? Now it becomes-- it goes from hemp to marijuana. Is that what I understood?

**STEVE WELLMAN:** So, so maybe I'll just step back just a second. So for industrial hemp, if we-- if we pull the sample, have it tested, industrial hemp has to be below 0.3 percent THC to be industrial hemp. If it's over 0.3, then it is now subject to destruction. The-- the 1 percent level for negligence is-- is-- deals with the grower being potentially negligent in producing a crop that's supposed to be industrial hemp, but tests too high. So really, two different things. Excuse me. We have a 0.3 THC level, which makes it-- if it's below that, or at 0.3 or lower, it's industrial hemp. It's above that, it's a crop that needs to be destroyed. At least up to this point, we do have some option with remediation now. That's part of this bill that may-- that may alleviate some of that issue. But the 1 percent threshold is merely for a penalty structure of being negligent in

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growing the crop. It was 0.5 percent, or currently is 0.5 percent. And with USDA requirements they want to move it to 1.0. And on the harvest window-- well, I'm not an agronomist, I'm not growing hemp, I don't know the crop that well. Normal-- reg now it's 15 days, so the state has to be their plain sample and having it tested. It has to be harvested within 15 days of when we pull that sample. So if we take a sample and it's 0.3, and it passes, so they have 15 days to harvest it. You know, it can change from when we pull the sample, the one that's harvested, right? So now the 30-day window, if we're there and we pull the sample on it, it's tested and it's 0.3 percent THC and they wait 30 days to harvest it, not sure what the THC level might be at that point in time. But again, once it's passed our test, as long as it gets harvested within that 30-day window, our role is done.

**GRAGERT:** So, you give the '19, '20 and ' 21-- 2021 and '22 numbers, how many-- how many-- what's the max? Are there max number that you're going to allow as far as--

**STEVE WELLMAN:** No.

**GRAGERT:** So there can be as many in Nebraska of cultivators okay.

**STEVE WELLMAN:** To my exp-- to my knowledge, everybody that's given us a complete application and qualifies has got a license in 2021.

**GRAGERT:** So you have the staff to get around to these people in time for-- I don't know, what is-- how do you determine the initial going out there and testing and starting the 30 days? Does the farmer do that?

**STEVE WELLMAN:** They request it.

**GRAGERT:** Their produce--

**STEVE WELLMAN:** The grower will notify us and that's part of this notification of seven days prior. The grower notifies us that they want their crop tested or sampled. So we'll work with them, set up the date for our team to go out, pull the sample. We'll submit it to the laboratory. That's under contract with the Department of Agriculture to do the testing. We'll get the test normally within 48 hours and then the grower knows whether they've passed or failed.

**GRAGERT:** OK, and then they've got 30 days. So it doesn't matter what THC content after-- if it increases above, you're not even going to

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know that then because you've already given permission for the 30 days, right?

**STEVE WELLMAN:** Right. Once we test it and it passes, they have the 30-day window to harvest.

**GRAGERT:** All right. Thank you.

**BRANDT:** Any other questions? One quick question, Director. While the number has gone down, do you know what our total acres--

**STEVE WELLMAN:** I do.

**BRANDT:** --in hemp production was the last year or two?

**STEVE WELLMAN:** So we have two different statistics. We have the indoor in square footage, and we have outdoor production in acres. So in 2020, and then of this indoor and outdoor, we have three different categories. We have a licensed amount, which is what somebody applies for for the license. For example, in 2020, that's outdoor acres is 1,900 acres was licensed. They actually planted 339 acres and they harvested 224. And that's the outdoor. And all this information is on NDA's website for public viewing as an annual summary of the program. And for example, in 2021, if we look at-- I'll just stay with outdoors since that's the example--

**BRANDT:** That's fine.

**STEVE WELLMAN:** --I gave the first time, 886 acres were licensed. Planted was 245 and harvested was 225. So you'll notice if you compare the planted compare to harvested, we harvested a higher percentage, or the growers harvested a higher percentage of what they planted in 2021 as compared to 2020. And part of that was because of the failure rate, and we had like a 15 percent failure rate in 2020 and we had a 5 percent failure rate-- I'm talking about the THC levels when they were sampled and tested. So the failure rate of being over the 0.3 percent was lower last year than it was in the prior year.

**BRANDT:** OK. I see no other questions. Thank you, Director.

**STEVE WELLMAN:** Sure. Thank you.

**BRANDT:** Other proponents? Welcome to your Ag Committee.

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**ANDREW BISH:** Yes, my name is Andrew Bish, A-n-d-r-e-w B-i-s-h. Would you like me to wait until he's--

**BRANDT:** Go ahead.

**ANDREW BISH:** OK. Senator Halloran, and members of the Legislative Agricultural Committee, thank you for your time today. I'd like to start by thanking Senator Halloran for introducing the bill that would allow for alignment with the current USDA rules and regulations, as well as Mr. Wellman. I appreciate that help. I support this bill because it's better than the alternatives, but it's not as good-- it's not as beneficial to Nebraska producers as it could be. I encourage this committee to consider today thinking about hemp as it-- as it is not an intoxicant. It's food, it's fuel, it's clothing. It's building materials, it's medicine in some situations, it's a supplement in others. What it's not, is marijuana. Since 2014, when hemp research began, there have not been any stories of consequences suggest growing hemp leads to growing illegal marijuana. The evidence supports the opposite. And as we consider this bill, we should frame our mind around hemp being equal to corn or soybeans, both which can be processed into intoxicants versus discussing hemp, as is-- as if it is equal to marijuana, which by definition of law, it is not. I'll comment on some specifics of the bill itself. Fees, I applaud the Legislature for choosing not to raise the fee structure. However, we need to find solutions to bring down the barrier entry to a farmer. If you have a 40-acre field, for instance, the fee is an additional \$15 per acre. With rising input costs continuing to be levied on the producers, reducing or eliminating fees to producers will help encourage the growth of the marketplace in Nebraska. Remediation The update-- this update is crucial to the success of the industry in Nebraska, and I'm happy to see this made into the-- made it into the bill. Farmers need to trust that there are solutions to crops that don't grow as expected versus heavy-handed consequences, which I think this bill helps to provide. I want to point out that extraction, separation and deportation are ways of remediation and should be options for Nebraska producers in addition to the others already listed. Handling. Handling of hemp is not illegal, nor does it require a license. This bill routinely discussed this that people cannot handle hemp, which they can. While this can be resolved, but definitionally there doesn't-- there does need to be some sort of adjustment made to make it clear that people in possession of hemp are not doing so legally. Research should be exempted or discounted. We need to allow university institutions to be able to conduct research without fees. 30 days. The USDA does not declare what a day is in its

30-day guidance in the final. States like Texas have defined it as business days and so should Nebraska. There is zero downside, but there is upside to the farmer in terms of reduced harvest pressure. Can you imagine, if we required corn farmers to have their harvest in in 30 days? I know many that can. Many that try and many that cannot achieve that target. Weather conditions are typically the reason. Producers should not be punished for weather, more so than they already are, with the possibility of reduced yields. Allowing for 30 business days is one other way Nebraska can truly be fair to its producers. It is also worth considering exempting grain and fiber producers from testing and from a 30-day timeline, as the product they produce does not naturally contain-- contain cannabinoids, which are the main purposes of testing and harvest timelines. While there are some definite positives regarding this bill, there are also a number of areas that the department and this committee could do more to help Nebraska producers have success with the hemp-- with hemp and to grow the industry. In fact, it is the obligation of the Department of Agriculture to ensure industry growth, and I personally am not seeing any progressive thinking regarding how the department views hemp in regards to its agricultural philosophy. Nebraska can truly be a leader in hemp industry, producing more grain and fiber than any other state, which would be a true benefit for producers in Nebraska and the state as a whole. In order to achieve this, we must consider treating hemp as an agri-- an actual agricultural commodity and focus on what can-- we can do in this state to expand our ability to market the product. A simple and positive addition to this bill would be to allow for the feeding of hemp seed and/or cake to nonproduction animals. This would immediately open the door to additional business opportunities for Nebraskans with no downside. I provided documents regarding hemp as an animal feed, and I implore each of you to review this information and make a serious consideration for making Nebraska the agricultural leader this country needs right now. With a nationwide feed storage-- shortage rather, this is a viable and intelligent solution we can put into place immediately. Thank you.

**BRANDT:** All right, thank you. Let's see if there's questions from the committee. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chairman Brandt, and thank you, Mr. Bish, for being here and talking about this. So generally you're supportive of this bill. You'd like to see us do more. In what ways could we, other than the changes you kind of list here, within and obviously would be constrained by federal law, right? So what other things-- can we allow it for animal use under federal law?



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**ANDREW BISH:** So we've seen other states enact bills and allow for feeding of animals or-- sorry, feeding of hemp to animals such as Montana. I actually serve as a board member of the Hemp Feed Coalition and have an application into the FDA currently for feeding hemp seed to chickens, which will likely get approved this year. Ultimately, the FDA rules on feed and animal feed ingredients. It is legal, however, to feed hemp to animals as treats and then allow those animals to enter the stream of production. So it's really just about a feed ingredient for-- that makes a difference here. It is complicated to have states issue guidance on their own without the federal government, but that is what's happening in general throughout the United States, as more and more states are-- are moving to this process. We'll see Oregon legalize it next year. Tennessee has already legalized feeding of hemp to animals, as well as some other states.

**J. CAVANAUGH:** And so you think-- so you've heard the numbers and I'm sure you're familiar with in terms of the kind of declining number of producers and acreage being produced. Do you think that adopting or allowing it to have-- to be fed to animals in Nebraska would contribute to reversing that decline in production then?

**ANDREW BISH:** Yeah, absolutely. And I can give you an example. The state of Montana has a company called IND, a gentleman named Ken Elliott. He owns a house here in Omaha, and he spent a lot of time in his life in Omaha. He grows about 12,000 acres a year grain and fiber. He does not do it in the state of Nebraska because of the unfriendly policies that we've had in the past. If we were-- he's actually opening an animal food processing plant this month and if we were to allow this type of production, you would see those facilities start to open in Nebraska rather quickly.

**J. CAVANAUGH:** And I'm sorry, but misuse it-- so FDA has OK'd it for feeding as a treat?

**ANDREW BISH:** No, because it's not a-- a feed ingredient, then the FDA doesn't have jurisdiction over-- over it. Treats aren't considered feed ingredients.

**J. CAVANAUGH:** Thank you.

**BRANDT:** Other questions? Senator Gragert.

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**GRAGERT:** Thank you for your testimony. I'm going to go to fees. On your example to 40-acre field, now is it-- you're getting charged \$15 an acre fee for each-- each one of those acres?

**ANDREW BISH:** If you look at the current fee structure, if you had one plot on a 40-acre field at \$600, that's 15--\$15 an acre. But if you had a smaller field, it'd be a higher per acre fee. So it's not a per acre fee, it's a per lot fee.

**GRAGERT:** So how does that affect the-- your-- your gross income, net income of-- how much-- how much money can you make on a plot? What's the-- what's the normal size of a plot?

**ANDREW BISH:** Well, yeah, great question. It depends on what you're growing. If you're going to grow for grain or fiber or stock material, you're going to grow plots like corn and soybeans. You're going to 40, 80, 120-acre plots is typically the way-- what you're going to have. If you're doing CBD hemp, for instance, you're probably a lot smaller acreage so that that person is going to pay more on a per acre basis than you would see a grain or fiber farmer. But now I guess my point is that we don't have all these barriers of entry to some of the other commodities, and it's one more hurdle that the producer has to cross over to be allowed to-- to produce hemp.

**GRAGERT:** Do you have any idea what these fees are used for?

**ANDREW BISH:** Yes, I do understand what they're used for.

**GRAGERT:** Could you tell me what they're used for?

**ANDREW BISH:** Well, yes, most of it is to pay for travel. The gentleman that services department and it goes into the direct staffing, going out and doing the testing, those types of measures.

**GRAGERT:** Thank you.

**BRANDT:** Any other-- any other questions? Oh, Mr. Bish, can you provide two more copies of your testimony?

**ANDREW BISH:** Yes.

**BRANDT:** All right. Thank you.

**ANDREW BISH:** Anything else?

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**BRANDT:** Nope, I think that's all they're asking for.

**ANDREW BISH:** OK.

**BRANDT:** And then we'll go to the next proponent. Good afternoon again.

**JOHN HANSEN:** Good afternoon, Mr. Vice Chairman, Mr. Chairman, members of the committee. Again, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n and I'm still the president of Nebraska Farmers Union and also their lobbyist. We are in support of this bill. We thank the Nebraska Department of Ag for bringing it. We thank Senator Halloran for sponsoring it, and we think that it's a good idea when there are changes made at the federal level to have our state regulatory system harmonize with those changes. And so that's what I believe this-- this bill does. And so they're, to our way of thinking, all positive things to be done. They're all necessary and appropriate improvements and so they're making our state system more clearly mirror what's going on in Washington. And so when I look at these numbers, it is consistent with the experience, though, that we see in terms of the phone calls we get, our members experience, our phone calls to the office. And so based on that, our members at our last state convention did pass a special order of business focusing on the need for the state of Nebraska in a more kind of holistic and creative way to really focus on what we can do as the state to address what we see as a-- a really basic chicken and egg problem relative to this growing and emerging industry, which is the need for more processing capacity. And so when we're hauling our product to other states to get processed, that's not-- that's not good for Nebraska's business, that's not good for our domestic economy. And so when you look in the reduction in numbers, we had some-- a fair number of our members who were involved in the first and second go around. And one of my members opined that they're in agriculture, there was an abundance of ways to spend an awful lot of time and an awful lot of money and barely break even, and that it was just simply easier to do that in some of the other areas than the more labor intensive approach that was involved in his industrial hemp production. And so I think that we're really kind of poised at a place where our state, if we were to look at the Nebraska Department of Ag, look at a bunch of the stakeholders, certainly Mr. Bish and others, there's a lot of folks, a lot of passion in our state to try to find a way forward. Looking at the Nebraska Department of Economic Development, if you look at all of the different players that I think have a vested interest in trying to find a way for Nebraska production agriculture to profitably grow a new crop that benefits-- our soils benefits our state creates a good

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rotation that maybe we need to involve the Ag Committee and maybe we ought to look at trying to find a way to bring the stakeholders together to see what kinds of ideas we might come up with it-- come up with, and what kind of focus we might have on trying to help better build and recruit processing capacity. And so from our perspective, from the very beginning, we said that if we don't find a way to bring processing to our state, that production won't last long. And that seems to us to be what has happened. So we think this new crop has a lot of upside potential and we'd like to throw that out as it's just a suggestion or an idea that our state needs to put together a more focused and concentrated effort in order to bring more processing capacity for this product. And if we get that done, then maybe we could go back to working on one of my favorite projects, which would be trying to recruit more milk processors to our state as well. And with that, I would end my comments and be glad to answer any questions.

**BRANDT:** All right. Questions for Mr. Hansen? So I've got a quick one on processing. Do you have any specific ideas on that?

**JOHN HANSEN:** I do have ideas, and since I've signed an NDA, I'm really not very much at a-- at a-- in a position where I want to talk about it publicly.

**BRANDT:** Fair enough. Thank you.

**JOHN HANSEN:** You bet. Thank you.

**BRANDT:** Next proponent. Seeing none, opponents? Seeing none, neutral capacity? Welcome.

**GREGORY LAUBY:** Thank you, Vice Chair Brandt, members of the committee. My name is Gregory C. Lauby, G-r-e-g-o-r-y, C, as in Christian, L-a-u-b-y, and I'm here as a representative of SR et tu, a limited liability company here in Nebraska. I'm testifying in the neutral on LB889 because I really don't want to oppose it. I think it constitutes several solid improvements over the existing Nebraska Act, but it does remind us somewhat of an Admiral in the Nebraska Navy award, aside from the honor, it means so little compared to what a Commission in the United States Navy would mean. We are-- just a quibble about the drafting. We were a little troubled about the use of provisions in the Code of Federal Regulations and the Federal Agricultural Act of 2018 to define certain terms and insert provisions within the Nebraska Act under the present draft. While that probably avoids a challenge on the

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grounds of vagueness, stating them within the statute itself was just compliance for those considering entering into hemp enterprises in Nebraska, and also better allows them to evaluate the risk if they did not have to try and research into federal statute. The real difficulties we see that are reflected by the declining licenses being applied for in issues are the barriers of high fees. If-- if we understand the act, if you're a cultivator trying to raise and experiment with different varieties on different locations within your farm and you want to have a small processing operation established on the farm, you're licensing fees begin to run into thousands of dollars. And given the high cost of seed, the fact that real estate taxes are ongoing while you're involved in this experiment, the vagaries of weather and market, those are risks that most cultivators just don't feel that they can take. And some of those that have, have lost enough money that they're not going to repeat the experiment under present conditions. Another problem is the expiration of all licenses by December 31st of each year. And while the practice may be to remove-- renew if an application is made, there is no assurance of that renewal, especially not to lenders who may be considering an application for a major construction of a processing plant that in itself could take over a year to complete. So we really believe that somehow an extension of the license period needs to be accomplished. And finally, the transportation restrictions that now exist make it difficult to be assured that you're going to get your hemp plant or market-- your hemp product to market or to a processing plant. And so we think those are unnecessary just as those kinds of restrictions would be unnecessary for corn or soybeans or alfalfa. We think Nebraska is poised by soil, climate, available equipment, a skilled labor force and an economic need to be a national leader, much as they are in the field of northern beans and popcorn over the years, but there needs to be some removal of some of the restrictions that now exist. And it's our belief that the products-- you've seen, the explosion of the retail outlets on CBD and other molecules from the hemp plant, but we think the real future is some of the other products that Mr. Bish referred to. Livestock feed will certainly be one of them. On the back of the T-shirt there are listed some other common items that can be made based on hemp. And we think that's probably where the real future in hemp is going to be on a field or an alternative crop basis, and we'd like to see Nebraska become into that. And in that regard, we would encourage some kind of grant formulation to stimulate the growth processing similar to the way ethanol plants were encouraged at the state level. If there are no questions, I certainly thank you for your attention.

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**BRANDT:** Senator Gragert.

**GRAGERT:** Thank you, Vice Chair, and thank you for your testimony. How is-- I'm interested in the-- is it an annual permit you said?

**GREGORY LAUBY:** Yes, that's my understanding. You can apply any time during the year, but your permit or license expires December 31 each year.

**GRAGERT:** So how does that fit in with-- oh, so you can apply any time of the year? But how would that fit in with the-- the buying of seed for the next, and the other inputs, as far as-- you don't know if you're going to have a permit from December 31 on to it in the next year?

**GREGORY LAUBY:** Well, I think that's one of the problems that I see at least in the current structure is that, as you may know, farmers traditionally do buy many of their inputs before the conclusion of the calendar year. But it isn't until that permit is officially removed by the Department of Agriculture whether they know. They're actually going to have the legal right to go ahead and cultivate the following year.

**GRAGERT:** Thank you.

**BRANDT:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you for your testimony. So first off, do you have any problems with this bill or is it just doesn't go far enough?

**GREGORY LAUBY:** You know, I think-- I think all of the changes are going to be improvements in the bill.

**J. CAVANAUGH:** And so I'm going to look at-- I think what you're talking about is on page 9 going over on to page 10 where it talks about the annual initial process or handler broker license application may be submitted any time and issued by the department expires on December 31 in the calendar year in which it was issued. Do you know whether or not that is something that is required under the federal law or we have the ability to say it's issued a permit for a 5-year time subject to renewal or some other structure like that?

**GREGORY LAUBY:** No, I don't know exactly how the federal rule is, even though if it required an expiration, I would think there would be some way of putting language in our state statute that said, it may only

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be-- or renewal permit may only be rejected on certain grounds, some way of working around it if it is a required expiration of the federal term. And perhaps someone else might know the answer to your question directly.

**J. CAVANAUGH:** But, I guess from this bill's perspective, your complaint is most-- is really just when you think that we should be taking more proactive steps than we are currently undertaking and-- but this bill doesn't set us back in any way, we're just not doing enough things.

**GREGORY LAUBY:** Yes, I think that's right. The only small quibble we would have would be with the drafting of just inserting a reference to the Code of Federal Regulation instead of spelling out exactly what language is required.

**J. CAVANAUGH:** Thank you.

**GREGORY LAUBY:** You bet.

**BRANDT:** Well, I see no other questions. Thank you.

**GREGORY LAUBY:** Thank you.

**BRANDT:** Anybody else in the neutral? Senator Halloran, you're welcome to close.

**HALLORAN:** Thank you, Vice Chair Brandt, and thanks for all of the testimony today. It was very enlightening, very, very helpful and very informative. I would just like to make a comment, a quick point of clarification that's going to be obvious. The states-- this is an example of what the states have some limit in what they could do based upon federal regulations. In the USDA interim, did the interim rule in October 2019, and subsequently they've done a final rule which the department has based these-- these-- these changes-- proposed changes based upon their final rule. Uh, it's hard for us to go above and beyond. It's pretty difficult, pretty challenging. Probably illegal for us to go above and beyond USDA final rule. So I would-- I think these are good changes. Is it perfect? Does it go far enough? Maybe not. Probably not for some people. I understand that, but it's a work in progress. So I would encourage the committee to support LB889.

**BRANDT:** Any questions for Senator Halloran? And at this time, I would say there is no official position comments or letters submitted online

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or mailed to us on this bill, and we are closing the hearing on LB889.  
Thank you, everybody, for coming through the construction zones today.