MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

2347

DESCRIPTION

2001 SENATE AGRICULTURE

SB 2347

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2347

Senate Agriculture Committee

☐ Conference Committee

Hearing Date February 1, 2001

Tape Number	Side A	Side B	Meter #
1	X		36.5 - End
		X	32.8 - 35.3
		X	50.4 - End
Committee Clerk Signature			

Minutes:

SENATOR ERBELE; Sponsor, introduced the bill to the committee.

SENATOR SOLBERG; Sponsor, testified in support of this bill. Passed out information relating to this bill.

LARRY SCHULER; State Veterinarian, testified in support of this bill. See attached testimony.

SENATOR KROEPLIN; Is there a specific dollar amount that you can use in a biennium?

LARRY SCHULER; That is a very random number.

JULIE ELLINGSON; ND Stockman's Association, testified in support of this bill.

The hearing was closed.

Discussion was held.

SENATOR ERBELE; With what is happening out there and new diseases, I think this is broad enough.

SENATOR KLEIN moved for a DO PASS on this bill.

SENATOR NICHOLS seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR ERBELE will carry the bill.

FISCAL NOTE

Requested by Legislative Council
01/24/2001

Bill/Resolution No.: SB 2347

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	
Appropriations	$0	$0	$0	$0	$0	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Indemnity for diseased animals paid by the state over the last five years has been approximately $100,000. The cost to the state has ranged from $3,000 for a disease outbreak in sheep in 1998 to almost $70,000 for the bovine tuberculosis outbreak in 1999. We have interpreted the current statute broadly and the Emergency Commission has concurred and provided indemnity payments. This bill clarifies the process, but should not result in additional expenditures beyond the current law. The monies have been provided by the Emergency Commission, because no other funds are appropriated for indemnity purposes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Jeff Weispfenning	**Agency:**	Agriculture
Phone Number:	328-4758	**Date Prepared:**	01/29/2001

Date: 2-1-01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Agriculture Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By SEN. KLEIN Seconded By SEN NICHOLS

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment SEN. ERBELE

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2347: Agriculture Committee (Sen. Wanzek, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2347 was placed on the Eleventh order on the calendar.

2001 HOUSE AGRICULTURE

SB 2347

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2347

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--8--01

Tape Number	Side A	Side B	Meter #
TWO	A		2070 TO 3878

Committee Clerk Signature Edward O. Ellison

Minutes:

VICE CHAIRMAN JOHNSON: Committee Members we will open the hearing on SB 2347

SENATOR SOLBERG: DIST. SEVEN: Bill relates to appraisals and condemnation of animals having brucellosis or bovine TB. We had a situation in Morton County two years ago. The outbreak of TB over there is how things moved along and things have to be put in place for an appraisal and indemnity of livestock or the situation like this. We had a couple of bad deals and I am not sure how close anyone tracked them over there but some of the appraisals that I have been in the livestock business for over 35 years and I have done a few appraisals and I know how they work. You can gain or lose employees or customers by appraisals. I think this is a good bill and I hope it dose pass.

REPRESENTATIVE BERG: We are dealing with payments to the producer.

SENATOR SOLBERG: Disease to heard or herds. There is a contingency fund. We have something like $600,000.00 dollars which is certainly not going to be enough to cover whatever.

but it has borrowing power to go into the Bank of ND if something like this would happen. Indemnity mechanism in place to take care of it.

REPRESENTATIVE BERG: Really what we want to do here is put in statue the process that follows so people know exactly the steps we are going through. It is kind of more rather then kind of scrambling around like we did two years ago. We have the process.

SENATOR SOLBERG: You are exactly right.

REPRESENTATIVE LLOYD: You have limited it to brucellosis or bovine TB, so what about the others?

SENATOR SOLBERG: We talked about that a little bit. Maybe something has to be added. It also says something in there about other. Help me out Dr Keller.

DR. KELLER: I don't think it is suppose to be limited. That was not the intent. I read that It is suppose to be any disaster or emergency's. We will take a look at that Rep. Lloyd. Representative Lloyd, I think that is just in the title of the Bill. That is just how some interprets the Bill. That is not part of statue. That is probable why there is confusion.

CHAIRMAN NICHOLAS: Any other questions of Sen. Solberg?

REPRESENTATIVE ERBELE: It is a pleasure to be here this morning. What I would add to Sen Solbergs comments here and others. As it stood before, it was only beef cattle and dairy animals. Brucellosis or Tubereulosis. were all that was eligible for the program. This definition expands it to all farm animals. It is not disease specific anymore.either. WE have opened this up to all diseases of animals. It the state needs to come in and destroy the heard that there is indemnity available. That's is my addition to the Bill in nut shell.

DR SUSAN J KELLER, DVM DEPUTY STATE VETERINARIAN. Please see attached testimony of DR. Keller. Before you have questions I want to pass this out. The writers of the Bill got a copy of this from our attorney by E-Mail I think it would be important for members of this committee be concerned. Concerned with the language of that Bill. If you want to pass it around. Here is a proposed amendment that I think everybody would be in agreement with. in light of everything that is going on with diseases such as foot and mouth disease or any other disease that would come into this country which would basically demand immediate action. TB dose not spread quickly. It is contagious and it is a disaster to the state but it would not be any where near where you would have to act immediately with some of the other diseases that may effect all species of other animals.

CHAIRMAN NICHOLAS: Representative Froelich.

REPRESENTATIVE FROELICH: Page 3 line 24 it says this animal belongs to the US, TOTHIS STATE, OR TO ANY POLITICAL SUBDIVISION OF THIS STATE. How would that effect the[[could not make out froelich's question]]

DR. KELLER: I think if you had a concern like that but obviously we want this to apply to them. I guess that is the only comment I could make. We don't want any animal in the state not to follow this indemnity. Even people that are not in compliance, I think that is something that was brought to our attention the other day with some discussion that if someone is not in compliance sometimes you are still going to want to be out there to indemnify them because you don't want them [[something]] there quarantine situation. Where the disease still may continue to sped.

FROELICH: One other question. The animal that is going to be killed has been in the state less then 6 months. If I go down to Kansas and buy a couple of bull . Even though I have all the tests done and everything and 2 to 3 months later I have TB OR food and mouth, then I would not get indeminity right?

DR KELLER: That is my understanding. The way the language is now.

I apologize. Maybe that is a glitch that should be addressed.

REPRESENTATIVE ONSTAD. T.B. OUTBREAK. Two years ago. One of the questions was compensation and inadequacies. Dose this address some of those concerns? As to producers being reimbursed adequately.

DR KELLER: The had out dose address that. It is towards the bottom. It covers labor and equipment. The cost of the VET AND VACCINES. My opinion is yes we would want to help indemnify some of the expenses. that would be of cost to the producers.

REPRESENTATIVE LEMIEUX: I have some bee keepers in my district. Does this address the mites that were attracting the bees. a few years ago.

DR KELLER: I don't know. Maybe there is a provision.

REPRESENTATIVE BERG: We had this problem with an elk heard. It was an ongoing thing. Each session we would appropriate one hundred or two hundred thousand to buy out this elk heard that was quarantined. I don't think we ever passed anything did we. to pay that.

DE KELLER: What happened there; there was no legal way to go in and put those animals down. There was no provision there. I think Sen Solbergs biggest concern was that we didn't have an appraisal system in statue. This Bill allows for some languages that if an owner dose not like our appraisal he can have his own appraiser. If the state dose not agree, they can have

another appraiser come in. I think with exotic animals industries. These animals whenever they are in the breeding phase of the industry. They may be worth 20 to 30 thousand and later on they are not so we have a desrepeney there. That situation is gone now with these animals. That has been taken care of. Some were sent to a research center.

WADE MOSER: The NORTH DAKOTA STOCKMAN'S ASSOCIATION:

We do support the Bill. We realize with the Elk problem when it arose that there was a problem getting a quick appraisal and making sure that the animals were removed from the rest of the state. I might say so that the rest of the industry were not infected. I think this Bill really helps in that way so that we can act quickly, fairly and that everybody is handled in a way that benefits everyone, not only the person that has the disease but the surrounding neighbors and the potential effect that they may have. The system is in place. Section 8 states that the owners now that if they create their own problems, they are not going to be convert under this. Something that is beyond there control if they have followed all of the health laws of the state and still ended up with a reek then they will be covered. I do hope that you do delay on the Bill because I do have a little bit of a concern on the 2nd paragraph. The authority to conduct tests and eradication. I am not sure how far reaching that will go.

CHAIRMAN NICHOLAS: Any one else offering support of this Bill. Any opposition to this Bill. O.K. THE COMMITTEE WILL CLOSE THE HEARING ON SB 2347.

1A: 3878

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2347 A

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--08--01

Tape Number	Side A	Side B	Meter #
TWO	A		4456 TO 4580
Committee Clerk Signature	Edward D		Ellison

Minutes:

CHAIRMAN NICHOLAS: Committee Members, I am going to reopen on SB 2347. I am going to appoint a sub-committee on 2347. I have some concerns about that Bill. I am going to ask Representative Johnson, Representative Pietsch and Representative Onstad. Would you be on the sub-committee. I have some material here from the Attorney Generals Office. I would like this little extra, checking into the Bill and you are certainly welcome to participate Dr. Keller. Committee, we are adjourned.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2347

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--16--01

	Side A	Side B	Meter #
Number ONE	A		1846 TO 2500
Committee Clerk Signature			

Minutes:

CHAIRMAN NICHOLAS: WE WILL OPEN ON SB 2347. PLEASE HAND THE AMENDMENTS OUT. O.K. REPRESENTATIVE JOHNSON.

REPRESENTATIVE JOHNSON: This is a Bill that Sen. Solberg brought in

VICE CHARIMAN JOHNSON: Most of the thing done here are on page three. We have talked to Wade.

WADE MOSER: I think the important thing you have to keep in mind. You have such disease like foot and mouth. You can't mess around. You have to get rid of them. If you want to dispute the appraisal do it up front with video cameras and make sure you have evidence available. So you won't have the rug pulled out from under you. Have good data to go back on. As soon as an appraiser tells you the value of your cattle you will make, you are going to make a determination as soon as you are told the value of your cattle.

CHAIRMAN NICHOLAS: The chair will entertain a motion on 2347 as amended.

Representative Johnson made a do pass as amended and Rep. Pietsch seconded. Any further discussion? O.K. the clerk will take the roll on 2347.

THERE WERE """"13 YES""""0 NO""""2 ABSENT""""". VICE CHAIRMAN JOHNSON WILL CARRY THE BILL. WE WILL CLOSE THE HEARING ON 2347

VR
3/16/01

10603.0201
Title.0300

Adopted by the Agriculture Committee
March 16, 2001

HOUSE AMENDMENTS TO SB 2347 HSE. AGR. 3-16-01

Page 2, after line 6, insert:

"1."

Page 2, after line 10, insert:

"2. If an emergency is declared by the governor, the board shall conduct any appraisal required by this section within twenty-four hours and may destroy the animal as soon thereafter as practicable. The owner may not protest the appraisal. The owner may consent in writing to an earlier destruction of the animal."

Page 2, line 14, replace "If" with "Except as provided in section 3, if"

Page 3, line 13, after "check" insert "jointly" and after "owner" insert "and any lienholders"

Page 3, line 17, replace "appropriated" with "approved by the emergency commission" and replace "by the legislative assembly and the state" with an underscored period

Page 3, remove lines 18 and 19

Page 3, line 23, replace "payment" with "the board" and replace "be made" with "authorize payment"

Renumber accordingly

3-16-01

Date:
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2347

House AGRICULTURE Committee

☐ Subcommittee on

or

☐ Conference Committee JOHNSON

Legislative Council Amendment Number AS AMEND

Action Taken DO PASS

Motion Made By JOHNSON Seconded By PIETSCH

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman	✓		Rod Froelich	✓	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux		
Rick Berg			Philip Mueller	✓	
Michael Brandenburg			Kenton Onstad	✓	
Joyce Kingsbury	✓		Sally M. Slandvig	✓	
Myron Koppang	✓		Dennis J. Renner	✓	
Edward H. Lloyd	✓		Dwight Wrangham	✓	
Bill Pietsch	✓				

Total (Yes) 13 No

Absent 2

Floor Assignment JOHNSON

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2347: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2347 was placed on the Sixth order on the calendar.

Page 2, after line 6, insert:

"1."

Page 2, after line 10, insert:

"2. If an emergency is declared by the governor, the board shall conduct any appraisal required by this section within twenty-four hours and may destroy the animal as soon thereafter as practicable. The owner may not protest the appraisal. The owner may consent in writing to an earlier destruction of the animal."

Page 2, line 14, replace "If" with "Except as provided in section 3, if"

Page 3, line 13, after "check" insert "jointly" and after "owner" insert "and any lienholders"

Page 3, line 17, replace "appropriated" with "approved by the emergency commission" and replace "by the legislative assembly and the state" with an underscored period

Page 3, remove lines 18 and 19

Page 3, line 23, replace "payment" with "the board" and replace "be made" with "authorize payment"

Renumber accordingly

2001 SENATE AGRICULTURE

CONFERENCE COMMITTEE

SB 2347

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2347

Senate Agriculture Committee

Conference Committee

Hearing Date April 12, 2001

Tape Number		Side A	Side B	Meter #
April 12	1	X		14.9- End
			X	0.0-3.7
April 16	1	X		0.0 - 8.5
Committee Clerk Signature		Lacy J. Haberman		

Minutes:

SENATOR KLEIN opened the conference committee on SB 2347. Senators in attendance were SENATORS KLEIN, WANZEK AND NICHOLS and REPRESENTATIVES RENNER, KOPPANG AND FROHLICH.

SENATOR KLEIN: I guess we're looking for a small explanation or a large explanation on the amendments from what you guys put up on SB2347. I believe isn't the emergency declaration. Representative Frohlich would you like to.

REP. FROHLICH: Don't you think it would be appropriate to have Dr. Schuler?

SENATOR KLEIN: At this point for informational purposes we could sure have him stand anywhere, at the podium is good.

LARRY SCHULER: I am not sure of the protocol at a conference committee.

SENATOR KLEIN: Well, Dr. Schuler, I think we're just going to run kind of loosely here, although we'll try to maintain a little order.

LARRY SCHULER: The amendment that was added was in effort to make it so that if we had an emergency disease outbreak such as foot and mouth disease, that is highly contagious, it wouldn't be possible for a owner to slow down the process of destroying the animals so that we could shorten the amount of time that you could have virus being shed by the animals, so. In a foot and mouth disease outbreak it is important to act a swiftly as possibly and not delay with the destruction of the animal and the disposal of the animals. So this was an effort to prevent any delays in the statute that would add to the spread of a foot and mouth disease outbreak for example. It is not the intent

to deprive the owner of the ability to protest the appraisal, its more of an attempt to make sure that we don't delay the process of destruction and disposal of the animals.

SENATOR KLEIN: So we are allowing a 24 hour protest period with the amendment? Is that how I read that? If the owner of the contingent does not file a protest within the 24 hours then we can move forward?

LARRY SCHULER: Actually the way I read the amendment if there is an emergency, the board has 24 hours to appraise the animals and then thereafter dispose of them as soon as practicable. So there is not a time period that the owner would have to protest.

SENATOR KLEIN: Okay.

SENATOR NICHOLS: With regard to this, lets' say that this might be a cattle herd and might be a registered herd. Something that would be a little different that commercial. Is it going to be a, what would be the process for that in order to get an appraisal that might work for it?

LARRY SCHULER: The way the amendment reads is he would not have an option to protest that. I guess I wouldn't mind Rep. Frohlich's just showed me a amendment that he had drawn out and it says the owner may protest the appraisal but the protest may not delay the destruction of

the animal and that would be something that would work as well. I also had drafted one very similar to what Rep. Frohlich had, something like that would work, it would accomplish the same thing. So the owner would still be able to protest but wouldn't be able to prevent the destruction of the animals. We can work the details later.

SENATOR NICHOLS: I think in a case like that it would be critical to be able to act quickly and at the same time protect the owner, at least his ability to protest the appraisal. So, if we can work that out I would like it would be.

SENATOR WANZEK: I guess as the Chairman of the Senate Ag, yeah, its probably one of the reasons why I did not concur is not because I don't understand that there needs to be immediate action taken by the authorities. I mean nobody wants to see the spread of the disease but on, I guess its just bothering me a little bit that the owner really doesn't seem to have any due process once that determination is made as far as some issues. Maybe the issue of letting him still control the herd is one thing, but give him a chance to feel maybe the appraisal. I don't see where that could still be done can it not even after the animals are destroyed?

LARRY SCHULER: That would be yes what we would like to try and accomplish. If we can document what's there, we can document the classes of livestock and after everything is done, then we can negotiate as far as what the actual value of the animals are.

SENATOR WANZEK: You said that Rep. Frohlich had some amendments or some ideas to that affect?

REPRESENTATIVE FROHLICH: Can I clarify something? In the title of the bill, were talking about the condemnation appraisals of animals having brucellosis and bovine tuberculosis. And then down on Line 17, it says whenever an animal has been judged by the board of having the disease, now is that where were taking in and putting miles on the other diseases?

LARRY SCHULER: Actually, its relating to indemnity for diseased animals and then its repealing the sections that relate to the animals with brucellosis and TB. That is one of the problems we had with the statute and one of the reasons that this bill came forward is that the indemnity as it is written in the statute right now only applies to cattle with brucellosis and tuberculosis. So, the purpose here was to expand it to include other species as well as other diseases. That's the reason for this bill coming forward.

REPRESENTATIVE FROHLICH: I have some amendments that I'm not sure when we drafted them this morning that they are in the right place with all the amendments and stuff and I guess we can put them in the right place. It goes to page 2 and after the Line 10, it says, the owner may not protest the appraisal. With the new amendment it says, the owner may protest the appraisal, however, any protest may not delay the destruction of the animals. That means we could go ahead, if there was an emergency and the governor declared an emergency, he could protest the appraisal, but if we need to get these animals destroyed we could go ahead and do it.

LARRY SCHULER: I had drafted something fairly similar but its not in the proper form, but it says the same thing generally.

SENATOR KLEIN: Well it would seem that the direction the committee wants to take here is that we want to make sure that the owner has an opportunity to protest the appraisal, but move quickly to destruction of the animals if necessary. So I am certainly open to suggestions as to the best verbiage is to accomplish where were going here.

SENATOR NICHOLS: If we, one page, the amendment that was made that states on page 2, that states that the owner may not protest the appraisal, if we would remove that and instead insert this language that Dr. Schuler has provided which is very similar to Rep. Frohlich's. I would think that would do what we want to do.

REPRESENTATIVE. RENNER: Dr. Schuler's amendments is this would only be during a disaster or a emergency is declared by the governor. Well if there is a livestock disease problem, will that be a disaster or and emergency as declared by the governor?

SENATOR KLEIN: Well, Rep. Renner, my thought is that certainly if a disaster would be the outbreak of foot and mouth, and he would, I think this would be a national declaration, but.

LARRY SCHULER: There are situations where it wouldn't be an emergency. (Ex) Not always an emergency situation where we need to.

REPRESENTATIVE FROHLICH: Dr. Schuler, was that declared by the Governor then? At that time?

LARRY SCHULER: No it was not.

REPRESENTATIVE FROHLICH: Under your amendment, its says " as declared by the governor". So he would have to in order for the law to follow the letter of the law, he would have to declare it in order for the law to take effect.

LARRY SCHULER: We wouldn't necessary need to desurp the rights of a producer to protest an appraisal unless there was an extreme emergency, declared by the governor. So its not necessary for that we always have the option of destroying the animals before the owner has the right to protest. It would be in extreme emergency cases where we would have to do that.

SENATOR KLEIN: Dr. Schuler, what we're doing here is the, we're working on the fact that if the governor declares an emergency, we certainly have a problem. And unless the governor declares that we have a big problem, we're not going out there and confiscating animals and putting them down just.

LARRY SCHULER: That's right, Mr. Chairman. Our goal is not to take away anybody's rights. It's only going to be in extreme cases of emergency that we want to destroy the animals before we go through the appraisal and the rights to reject appraisals and so on.

SENATOR KLEIN: It doesn't seem as everyone has reached a comfort level yet. Well maybe we could, if the committee would like these amendments drafted in form and style and placed exactly where they would go in here and these amendments are a part of the engrossed bill that the House put on. These would adjust those amendment in the second area of Line 10 on Page 2, correct?

SENATOR WANZEK: Maybe it wouldn't be a bad idea for Intern to help us in and maybe meet one more time to get the wording right. I don't think we want to misspeak on this one. I think we all, I gather everybody understands the intent or what we want, and like you said if we clarify a couple of areas, noboby wants to prohibit the authorities from taking action when there is an emergency situation, but we still want to leave some rights for the producer in the appraisal. I think maybe we should let the attorneys at the counsel and the Intern help get that right.

REPRESENTATIVE RENNER: This would be for, I am going to direct this to the House members here. Just looking through the packet, I have two sets of proposed amendments here. When we heard this in the House, at that proposed amendments to SB2347 there is no numbers on them, I don't know where they came from, and then we have the amendments that were adopted by the Ag Committee #0201, but if you look at this proposed amendments that maybe that language in there is something we're looking for? I don't know where those came from. It gives that owner some appeal rights I think on the appraisal.

SENATOR KLEIN: So Rep. Renner your thinking that #0201, after line 10, that paragraph is enough?

REP. RENNER: This has got, there is some difference here. Yea, this.

SENATOR KLEIN: The one that I think Rep. Renner is talking about, it basically states that if an emergency is declared by the governor, the board should conduct any appraisal required by the section within 24 hours or as soon as thereafter possible if the owner of the condemned animals does not file a protest within 24 hours after the appraisal is conducted. The owner waives the rights to protest this appraisal. That is a little different than the one that we seen. I don't know where these came, somebody must've submitted them and in either the committee adopted them.

REP. FROHLICH: I believe the whole problem we're having with this whole thing is the right, it says in there, that the owner may not protest the appraisal, is there somehow to strike that verbiage. Whether we adopt this amendment or Dr. Schuler's or the one I had prepared. The whole hang-up is around that the owner may not protest the appraisal.

SENATOR KLEIN: How long do we want to give them to protest the appraisal?

REP. FROHLICH: I guess that's a variable deal. You see, when you say 24 hours, now is written protest, verbal protest. If I call up Dr. Schuler and say that I want to protest your appraisal, is that sufficient. Do I have to send a registered letter? That all takes time. It might take three or four days to get there.

SENATOR KLEIN: How do you envision this all happening?

LARRY SCHULER: I guess our goal is not to be delay the process any, so certainly it would be beneficial to give them a time period to protest the appraisals, but I would hope that it wouldn't slow the process of destroying the animals and destroying the source of the infection. So the goal is to allow them to protest the appraisal while at the same time allowing us to go forward without delaying of process that needs to be done. I guess that is our main objective. You know you could give them seven days to protest the appraisal as long as we could go ahead and destroy the

animals immediately that is the important thing. REP. KOPPANG: I personally feel we should have a time line in there though, because then we could adjust that time when you control test them. I am not saying that, I don't have any feelings or whether it should be seven days or six days, but there should be a time line in there when your allowing them to protest because the farther out it strikes out the tougher it would be I would feel to identify it clearly.

SENATOR WANZEK: There is apparently in the bill there is a format for protesting appraisals. The protest procedure is when the animal is deemed to be diseased and it needs to be destroyed. Why do we even have to change that problem. Why can't that be consistent with even when the governor declares an declaration. The only thing we want to be sure of is if the governor declares a declaration that we have the ability to get in and quarantine and dispose of the herd quickly so it doesn't spread. I would think that within 24 hours we could get in there and we could assess the animals and do an evaluation or appraisal and I mean the owner would have time to look at them and get imprint. You can always dispute the appraisal even after the animals are gone. I would think the state is consistent we should stay with the same format that is followed as far as the protest goes. But there is a difference in the way the animals are disposed of in the governors emergency declaration. I guess what, then I look back at Dr. Schuler's amendments and I think if you remove the words from the House amendment the "owner may not protest the appraisal", you just took those words out and you add Dr. Schulers' to that subsection 2, we're providing for a case when a governor declares a declaration of emergency. And we say nothing about their not being an opportunity to protest the appraisal then I think we are just follow in line with the rest of the bill.

REP. RENNER: I think in discussing this I am not so sure we are getting the House inadverantedly we adopted. There was a subcommittee on this, I don't know who it was. I think

they put the wrong amendments on it. We adopted the wrong amendments. Okay, see these are the ones that were supposed to be adopted, which is this, and they are a little bit more restrictive than the other ones. (#37.9-38.3) I think the wrong amendments were put on this bill by mistake. These are the amendments that should be on it. If the amendments are currently looking at are wrong we need to start from square one here. So we need to all look at the amendments that start with replace eight with nine and then after line 10 insert, "if an emergency is declared by the governor the board shall conduct any appraisal required by the section within 24 hours or as soon thereafter as possible. The owner of the condemned animal does not file a protest within 24 hours after the appraisal is conducted the owner waives any right to protest the appraisal and the owner may consent in writing to the destruction of the animal." Was that the one you were thinking was the one you guys thought you put on?

SENATOR WANZEK: That's what the committee clerk thinks should be on it.

REP. RENNER: Alrighty. So now working off of, my assumption then would be this is what the House voted on. Or did the House vote on these? The House voted on these. Do we need the Subcommittee here?

SENATOR KLEIN: Well we've reached the point where the conference committee is going to do the subcommittees' work apparently.

SENATOR WANZEK: I think you know maybe there was an error made but we have the bill that is before us and I, we all, its' pretty consistent. I know and I remember looking at the amendments to decided whether to concur or not, I remember this was the language we did not concur with, so apparently even though it might have been an error inadvertent, it is the amendment that is on the bill, so I don't really don't know how. We got to go from here.

SENATOR KLEIN: We need to reamend to get the language where.

REP. RENNER: If we want to start with this language or if we want to come up with something better.

SENATOR KLEIN: Often times its very difficult to do anything better than the House already did, but I know we can probably work on this.

LARRY SCHULER: One thing that there seeing in the United Kingdom right now is 24 hours is to long a period to wait to destroy those animals, because in that period of time the virus is shedding to other premises, so, if we could get away from the 24 hour lifetime, it is fairly important that we make them do that. We can still offer them the right to protest but.

SENATOR KLEIN: Dr.Schuler, we're doing this during a disaster. This is the only time this will be applied.

LARRY SCHULER: That's right.

SENATOR KLEIN: A time when the state would certainly be up in arms and if the governor declared that kind of disaster I think, I know it would be difficult, but maybe that would be the direction we need to go.

SENATOR NICHOLS: I don't know I guess if that amendment was actually incorrect, maybe we are going to have to look at some different language entirely but make sure that they can destroy those animals very quickly and we need to work on the appraisal of probably after the fact.

REP. RENNER: If I can address Dr. Schuler's concern. This language here doesn't, is 24 hours is just talking about the appraisal. It is not the destruction of the animal.

SENATOR KLEIN: Maybe in that we can leave that first whole sentence and move on from there and add "during a disaster", I am certainly looking for some direction here also.

SENATOR WANZEK: Well, more or less a question for Dr. Schuler. Is it possible, you say 24 hours isn't enough, is it possible to put something in a case of an emergency declaration that they can be quarantined immediately for instance and some kind of measures could be taken not to let the disease spread beyond that quarantine and then destroyed within 24 hours of appraisal done put in 20 bucks. Is your concern that we give them 24 hours there might be up to that owner some unscrupulous character to try to move some cattle out of there or something or livestock or whatever, sheep or whatever that might be.

LARRY SCHULER: Actually, as long as those animals are alive they are producer the virus. In the case of foot and mouth disease. And what they are seeing in Great Britain is the spread of virus just because those animals are alive and its being aerosolized and it spreads by the air for 30 miles. So, they need to be destroyed.

SENATOR WANZEK: You know this is an extreme case, but, you know they do need to be destroyed and its okay in a non-emergency situation to give them seven days or as much time to get an appraisal but, even in an emergency they can protest an appraisal as long as it doesn't delay our ability to destroy the animals right away.

SENATOR NICHOLS: This would only be in an extreme case like even mad cow disease, wouldn't necessarily be an immediate danger. I mean, 24 hours would give you plenty of time to or yoni diseases or some of these other diseases.

LARRY SCHULER: You know most of the diseases we deal with like brucellosis and TB are not highly contagious diseases. BSE isn't a contagious disease so your not worried about animal to animal contact or aerosol contact but in the case of a disease like foot and mouth disease where the all kinds of viruses produces and spreads really easily that is the extreme situations.

SENATOR NICHOLS: I think we would need to do away with the language that we have in

these amendments talking about the 24 hours and that type of thing. Do away with that entirely and replace it with "this language". All right.

LARRY SCHULER: Under Section 4 of the bill it doesn't say anything, it doesn't give a time period for the producer or the owner to protest the appraisal. We could put a time period in there for protest, and then do something for the emergency situation.

SENATOR WANZEK: Rep. Renner and I were just looking at this amendment. What if we were to say, if an emergency declared by the governor the board shall be or conduct any appraisal required by this section as soon as possible, but if the owner of the condemned animal does not, well I don't feel like this but, but then give the owner of the condemned animal a certain amount of time to appeal the appraisal. But remove the 24 hours in the emergency declaration as far as the board taking action. They can move in as soon as possible but still give, specify them a time for the appeal of the appraisal. So all we really be letting the
producer do is appeal the his differences in the value of the appraisal.

REP. KOPPANG: Aren't we doing exactly that in this amendment? If you read it through and the blue sheet, if an emergency is declared by the governor, the board to conduct an appraisal required by this section in 24 hours and that is one thing that were talking about, and maybe destroyed as soon thereafter as practicable. And then from there, add the ability to protest. Aren't you accomplishing what we were concerned about Rep. Wanzek? Do you follow what I am saying?

SENATOR NICHOLS: I don't think we can even look at the 24 hours. I think that.

REP. KOPPANG: The aerosol you mean?

SENATOR NICHOLS: There can't be any delay in destroying the animals and I think according to this amendment there would be a delay.

REP. KOPPANG: As soon there as practicable. Or you mean the 24 hours before you can.

SENATOR KLEIN: It may destroy the animals afterwards. So I think there would be a delay in destroying the animal.

REP. RENNER: I didn't quite get that.

SENATOR KLEIN: The issue were trying to hammer out here is whether or not the producer is being compensated for a fair value of his diseased critters. Its' not. We all believe here that they should be destroyed as soon as possible. And 24 hours is just a number that's been kicked around here. The whole issue is to get those animals destroyed and then fairly compensate the producer.

SENATOR WANZEK: As far as when there is a emergency declaration, I just as soon leave out any time classified, just leave it totally up to the authorities, Dr. Schuler and whoever to determine in that extreme case what is necessary action to take place. Maybe we don't even need to make any reference to time as far as quarantining or whatever those animals are destroying those animals in that very high contagious emergency situation. But then allow for a certain amount of time for. I think we all know what we want, we don't know how to put it in order.

SENATOR KLEIN: Well, I think we need to and maybe I need to appoint a few guys to once again draft the verbiage that could maybe work with the Stockman's Association and Dr. Schuler and Darrin would be and I think maybe that is where we are going here, because, I think we all are on the right track and we all agree that what we want to do, its just that we want to have it in proper language. Rep. Renner, would you like to serve on this subcommittee once again? I know that Senator Erbele is not on the conference committee, he was a sponsor of the bill, and did carry the bill, I don't think it would hurt that I may even ask him to be help participate here but...

REP. FROHLICH: We're all talking, we're not worried about the destruction, I think we know that is something we got to do right away. The only question I have is the time framing of the

appraisal. 24 hours to me can be borderline seven days, I am strictly talking appraisals. I don't think it would be to much to ask if someone has 7 days now to appeal this towards the decision on the appraisal. Twenty four hours sometimes doesn't give you a lot to get your act together. That is the only thing if I got, I would like to see a longer time frame for the appraisal.

REP. RENNER: I agree with Rep. Frohlich. I was thinking more like seventy two hours. My intentions here are not to hold up and I don't think anybody intentions to hold up the destruction of the animal and if you read this blue amendment like Rep. Koppang was looking(Ex.53.5-54.8) I think the issue here is maybe got everything that we need we just need to get rid of that one sentence and put in the time that we want whether its 3 days or 7 days. I don't its going to take anybody that long to decide whether or not they want to protest an appraisal or not.

SENATOR WANZEK: I read this too and I tend to agree with up to the point where you get as to " where you may destroy the animal as soon thereafter", I read that saying that appraisal has to be done, well.

SENATOR ERBELE: I don't have it in front of me and I heard it read twice now and so after hearing it read, its just telling me that they've got 24 hours to make the appraisal and then can destroy thereafter. And I think you need to get rid of that and say they can destroy immediately the appraisal be made within 24 hours and then you have however many days to appeal that appraisal.

SENATOR WANZEK: I think we all understand what we want again. We said we got to work with and we could sit here and debate the play on words, but I think that we are responsible.

SENATOR KLEIN: I certainly want to keep the guys in the loop here that are actively involved in production of critters and that's why I think I am going to have to ask for these guys to sit down and work the language out between Dr. Schuler and Wade and.

REP.FROHLICH: There was a problem two years ago when they tried to fix it up, can elaborate on it. The horses were destroyed and stuff sent off to slaughter and it was a critical deal. But then I know Dr. Schuler had problems afterwards with the appraisal. There in lies the problem. If you destroy, lets say you've taken a horse and you had horses that the owner were claiming were worth $10, 000 and $15,000 after they were destroyed, you cannot appraise them. You don't have a physical specimen there to, especially with horses versus a beef cow. A beef cow, okay she's worth $800 or $1000, that's easy enough to say. Now when your talking a registered quarter horses or a price breeding buffalo bull, or a price angus bull, now we've got some problems. In here lies the problem of what is this appreciable value of that animal. A feeder calf at $500 is not a problem, a breeding bull at $ 50,000 or $5,000, a quarter horse valued at $ 20,000 those would were, he ran into the problem afterwards. He can probably elaborate on that.

LARRY SCHOLAR: We did have an OE outbreak also in 1999 and involved 33 or 34 horses. The board at never at any point ordered any animals destroyed. But there were some horses that the state did pay indemnity on, some of the horses were exposed and subsequently tested positive. So we didn't, we did kind of a backwards things where we hadn't ordered them destroyed but we would've eventually ordered them destroyed. They disposed of the horses and then we went about trying to figure out how to pay indemnity on those animals that were positive for EIA. And then we, as Rep. Frohlich said, we had a difficult time finding anyone to appraise the animals as of, they based their appraisal on the pedigree of the animal is basically what they did. So after the fact that was the great problem.

REP. RENNER: We got a similar problem with registered livestock. Five year old cows, a great grandma cow, you see all kinds of problems, but that is the appraisal process, were dealing here with time.

REP. FROHLICH: Therein lies part of the problem, Rep. Renner, if the governor declares an emergency, Dr. Schuler goes out and says these cattles got to be destroyed, appraiser they say it okay we're going to do it today. We'll there is nobody that is there to appraise it, so then Dr. Schuler's people destroy the animals and they come along, gees their gone and their worth $4000, you know they are my registered herd, you've killed my best cows. I say well there is no way that these are just straight beef cows and only worth $1000. That is where you run into your problem. You should get them appraised before they get destroyed but then there is also the problem where we need to get it done now. So we have a real time frame there that is critical for appraisal and also critical for destruction of a infected animal.

SENATOR KLEIN: Rep. Frohlich, how do you propose to address that?

REP.FROHLICH: Very difficult.

REP. RENNER: If I may add and say something here. That would be the art or the act of appraising when you come down and look at your cattle involved, assuming that they are breed cows, beef cows. Your going to have to produce for $2000, but then arguments could probably settle that even after the animal was destroyed. It is just to verify that we're destroying this registered animals.

REP. FROHLICH: Dr. Schuler, say this thing happened tomorrow, do you have people in place right now to call on 24 hours to get the appraisals done? I mean if this bill is all passed and we leave session and it happened it is going to take you awhile to assemble the appraisal team is it not?

LARRY SCHULER: Yes, we do have Wayne Carlson in the Ag Department who does some appraisals for us. He is not comfortable with doing a lot of them but he could do them if it was an emergency. Also, if there is a foot and mouth disease outbreak the USDA has teams of appraisers

that would be here fairly soon that would work on that aspect of the disease. The other thing right now USDA says they will pay fair market value and then there will be an additional unknown sum for registered animals. So its kind of unknown exactly what moneys would be available from USDA. The other thing actually in the statute, if a producer does protest even under the emergency situation we could go to Section Four where there would be a board of three appraisers appointed where the boards appraiser, the owners appraiser would be hired and between those two appraisers they hire a third appraiser and then that board determines the value of the animals. So we would still have to go through that protest process with the Board of Appraisers and in the case of a protest.

SENATOR KLEIN: Now that you have cleared that all up.

REP.FROHLICH: I'm sorry for muddying the water, but I do know that in the case of Dr. Schuler's deal two years ago with the horses I realize that horses don't come under foot and mouth, but they do come under other diseases and things and there is a gray area in there. What my horse is valued at $5000 and they say its worth a $1000 and they have somebody who has sold horses for a considerable amount of money. That's why I am saying their is a slight gray area in there that. These three member board of appraisers would have a hell of a good job. We can't wait for foot and mouth gets here to do this, but, I would really suggest to the committee that we do lengthen that 24 hour appeal process.

SENATOR KLEIN: Well, Rep. Frohlich, maybe you and Rep. Renner, Senator Nichols, Senator Erbele, do you want to work on this committee along with the Dr. Schuler and Wade.

SENATOR ERBELE: If you let me in the door.

SENATOR KLEIN: Your in. I am trying to pick on some of you guys out there who are producers and have an active, real active role in this. We need to get this thing going and Senator

Wanzek, not to slight you a little, I know you want to be on there, you certainly can join right in with those guys.

SENATOR WANZEK: I didn't realize that Senator Erbele had such an interest in this or otherwise he would've been on this committee.

SENATOR KLEIN: Well, he was the carrier.

SENATOR WANZEK: Sometimes these come to me as the chairman, I am supposed to get a meeting with him that day. But anyway, now that we've discussed all that, I don't mean to drag this out much longer. Is there anything at issue with the other amendment? Would we change it from what the Legislative Assembly and the State to the Emergency Commission? Is that because most of these issues are going to need to be addressed in the Interim, I guess Emergency Commission? I mean that is not much of an issue. Maybe Dr. Schuler can. I am trying to recall why we, why that's there and why we changed it?

LARRY SCHULER: The reason that is there is because previously it said the amount of money appropriated by the Legislative Assembly and there is no money appropriated by the Legislative Assembly so the request was to make it the Emergency Commission.

SENATOR KLEIN: Well, with that I am asking you new committee members to see if you can't draft that as quickly as possible and if you could let me know when you've got that done, I'll try to get another meeting. We would like to get this thing and come up a reasonable solution for that particular paragraph because we want everybody to feel comfortable and with that I adjourn this hearing.

SENATOR KLEIN; Senator Nichols did you come up with any new language?

SENATOR NICHOLS; We did get together with Dr. Larry Schuler, Wade Moser, of the ND Stockmen's Assoc. and Senator Erbele and we worked through some proposals that we hope will

take care of things the way we were talking about. We decided that the committees feeling was that we should be able to protect an owners ability to protest the appraisal but also be able to destroy the livestock almost as quickly as possible because of this type of outbreak.

* Explained the amendments to the committee (meter # 2.8 - 3.6).

REP. RENNER; Did you work with Wade Moser and Dr. Schuler ?

SENATOR NICHOLS; Yes, they were both here.

REP. RENNER; This looks fine to me. I don't know how those wrong amendments go typed up.

SENATOR NICHOLS; I didn't have them drawn up appropriately by Legislative Council yet because I wanted to see if the committee felt that this is the way we wanted to be.

REP. KOPPANG; I an conformable, they were the things we talked about last time we met.

SENATOR KLEIN; I think the direction certainly was that we wanted to destroy the animals as quickly as possible but leave the producer the opportunity to have some ability to come back and protest what the appraisal was.

SENATOR WANZEK; If I may ask Senator Nichols, Subsection 2 and 3 that we add, allows them to destroy the animal immediately after an appraisal and then it allows the owner to protest the appraisal. Does he protest it in the same manor he would as subsection 1? Do they have 7 days then?

SENATOR NICHOLS; Explained the changes to the amendment. You would have up to 7 days to protest that appraisal.

SENATOR WANZEK; That is the same process they follow even under subsection 1? Is the appeal process the same either way? Whether it is declared an emergency or not declared an emergency you still have the right to appeal the appraisal and you have 7 days to do it?

SENATOR KLEIN; Senator Nichols, what we are doing here is more clearly identifying the days in an emergency situation?

SENATOR NICHOLS; That is the way I feel it is even though those animals have to be destroyed almost immediately the owner has the ability of 7 days to protest the appraisal and to ask for records and documents that would indicate that he wants it adjusted.

SENATOR KLEIN; Is there any other questions?

SENATOR WANZEK; I would move that the House recede from its amendments and amend with the amendments from Senator Nichols.

REP. KOPPANG seconded the motion.

SENATOR KLEIN; Is there any other discussion? Is everyone in agreement and comfortable?

SENATOR ERBELE; Which version are we working off of?

SENATOR KLEIN; We would be working on the amended version, would we not?

SENATOR ERBELE; Then the lines would be different if we are working off the one with the house amendments.

SENATOR WANZEK; We moved to recede from the House amendments, then we are back to the original bill and then we can amend.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

PROPOSED AMENDMENTS TO SENATE BILL 2347

Prepared for the
Agriculture Conference Committee

Page 2, line 6, after the period insert

"1."

Page 2, after line 10 insert:

"2. If an emergency is declared by the governor, the board shall conduct any appraisal required by this section and may destroy the animal as soon thereafter as practicable. The owner may protest the appraisal, however, any protest may not delay the destruction of the animal."

Page 2, line 14, replace "If" with "Except as provided in section 3, if"

Page 2, line 16, after "order" insert "within seven days"

Page 3, line 13, after "check" insert "jointly" and after "owner" insert "and any lienholders"

Page 3, line 17, replace "appropriated" with "approved by the emergency commission" and replace "by the legislative assembly and the state" with an underscored period

Page 3, remove lines 18 through 19

Page 3, line 23, replace "payment" with "the board" and replace "be made" with "authorize payment"

Renumber accordingly

Date: April 16, 2001

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2347

Senate Agriculture Committee

☐ Subcommittee on _____

or

☒ Conference Committee

Legislative Council Amendment Number _____

Action Taken House recede from House amendments and amend

Motion Made By Senator Wanzek Seconded By Rep. Koppang

Senators	Yes	No	Senators	Yes	No
Sen. Klein	✓		Rep. Renner	✓	
Sen. Wanzek	✓		Rep. Koppang	✓	
Sen. Nichols	✓		Rep. Froelich	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF CONFERENCE COMMITTEE

SB 2347: Your conference committee (Sens. Klein, Wanzek, Nichols and Reps. Renner, Koppang, Froelich) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 946, adopt amendments as follows, and place SB 2347 on the Seventh order:

That the House recede from its amendments as printed on page 946 of the Senate Journal and page 1011 of the House Journal and that Senate Bill No. 2347 be amended as follows:

Page 2, after line 6, insert:

"1."

Page 2, after line 10, insert:

"2. If an emergency is declared by the governor, the board shall conduct any appraisal required by this section and may destroy the animal as soon thereafter as is practicable. The owner may protest the appraisal, however, a protest may not delay the destruction of the animal."

Page 2, line 14, replace "If" with "Except as provided in section 3, if"

Page 2, line 16, after "order" insert "within seven days"

Page 3, line 13, after "check" insert "jointly" and after "owner" insert "and any lienholders"

Page 3, line 17, replace "appropriated" with "approved by the emergency commission" and replace "by the legislative assembly and the state" with an underscored period

Page 3, remove lines 18 and 19

Page 3, line 23, replace "payment" with "the board" and replace "be made" with "authorize payment"

Renumber accordingly

SB 2347 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

SB 2347

CONT

NEXT FICHE

Testimony of Larry A. Schuler, DVM
State Veterinarian and
Executive Officer of the State Board of Animal Health
Senate Bill 2347
Senate Agriculture Committee
Roosevelt Park Room
February 1, 2001

Chairman Wanzek and Committee members, my name is Larry Schuler. I am the state veterinarian and executive officer of the State Board of Animal Health. I am here to testify in support of SB 2347, which deals with indemnity in animals.

Producers are paid indemnity to help them cope with losses due to diseases that are under eradication or control programs. When the state determines that an animal is infected with a disease and orders it destroyed, indemnity is generally paid to help the producer remain in business. Insurance, generally, does not cover these animals.

Currently, the statute contains the procedure for paying indemnity for losses of cattle and bison associated with tuberculosis or brucellosis. This bill is an effort to broaden the statute to apply to more species of animals as well as to other diseases. In the last few years, we have dealt with scrapie in sheep and equine infectious anemia in horses. In both situations, animals have

been destroyed and some indemnity has been paid, but there was no guidance from the statute regarding these diseases or species. This bill will outline the procedure to be followed regarding appraisers, dissatisfaction with appraisals, amounts of indemnity that can be paid, and circumstances under which indemnity cannot be paid.

Chairman Wanzek and committee members, I urge a do pass on SB 2347. I would be happy to answer any questions you may have.

Germany will slaughter 400,000 cattle
BERLIN (AP) - The German government announced Wednesday it would slaughter an estimated 400,000 cattle in an attempt to curb mad cow disease, a spokesman said.

Agriculture Minister Renate Kuenast had estimated it would cost the country about $166 million to buy the cattle from farmers, properly slaughter them and dispose of the corpses. After the animals are killed, they are to be tested for mad cow, the common name for bovine spongiform encephalopathy, or BSE.

German ministers had claimed their country was free of the disease until the first case was discovered in November. Since then, several cases have been discovered every week, bringing the overall number of infected cattle to more than 20.

BSE has been linked with new variant Creutzfeldt-Jakob disease, the human version of the fatal brain-wasting ailment that has killed some 80 Europeans since the mid-1990s, mostly in Britain. Cattle parts ground back into feed are suspected of spreading the disease.

Testimony of Susan J. Keller, DVM
Deputy State Veterinarian
Senate Bill 2347
House Agriculture Committee
Peace Garden Room
March 8, 2001

Chairman Nicholas and Committee members, my name is Susan Keller. I am the deputy state veterinarian. I am here on behalf of Dr Schuler, the state veterinarian, who is currently attending the Western States Veterinary Convention. I am here to testify in support of SB 2347, which deals with indemnity in animals.

Producers are paid indemnity to help them cope with losses due to diseases that are under eradication or control programs. When the state determines that an animal is infected with a disease and orders it destroyed, indemnity is generally paid to help the produc[illegible]ain[illegible] business. Insurance, generally, does not cover these animals.

Currently, the statute contains the procedure for paying indemnity for losses of cattle and bison associated with tuberculosis or brucellosis. This bill is an effort to broaden the statute to apply to more species of animals as well as to other diseases. In the last few years, we have dealt with scrapie in sheep

and equine infectious anemia in horses. In both situations, animals have been destroyed and some indemnity has been paid, but there was no guidance from the statute regarding these diseases or species. This bill will outline the procedure to be followed regarding appraisers, dissatisfaction with appraisals, amounts of indemnity that can be paid, and circumstances under which indemnity cannot be paid.

Chairman Nicholas and committee members, I urge a do pass on SB 2347. I would be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO SENATE BILL 2347

Page 1, line 1, replace "eight" with "nine"

Page 2, line 6, after the period insert

"1."

Page 2, after line 10 insert:

"2. If an emergency is declared by the Governor, the board shall conduct any appraisal required by this section within twenty-four hours or as soon thereafter as possible. If the owner of the condemned animal does not file a protest within twenty-four hours after the appraisal is conducted, the owner waives any right to protest the appraisal. The owner may consent in writing to an earlier destruction of the animal."

Page 3, line 13, after "check" insert "jointly" and after "owner" insert "and any lien holders"

Page 3, line 17, replace "appropriated" with "approved by the Emergency Commission", after "indemnity" insert a period, and remove "by the legislative assembly and the state"

Page 3, remove lines 18 through 19

Page 3, line 23, replace "payment" with "the board", after "may not" insert "authorize payment", and remove "made"

Renumber accordingly

PROPOSED AMENDMENT TO SB 2347

Page 4, after line 16, insert:

"**Section 11. Right to protest does not apply.** The right to protest a diagnosis of disease or appraisal of an animal does not apply during a disaster or emergency as defined in NDCC §37-17.1-04.

Renumber accordingly

SB 2347

- Since section 1 defines "animals" to include cattle and bison, should NDCC sections 36-15-02, -08.1, and -10 also be repealed to remove duplicate provisions and the possibility for conflict? What does 36-15-08.1 do that would not be covered by the amendments to ch. 36-14? What about repealing NDCC sections 36-01-14 and -15? At a minimum, sections 36-01-14 and -15 should be harmonized with the bill and possibly moved into ch. 36-14 to keep all indemnity laws in the same chapter.

- The language from section 36-15-19 could be added to the bill (new section to 36-14) to give the board of animal health more authority to conduct testing and eradication. Section 36-15-19 makes it a criminal infraction for a person to attempt to prevent the board from carrying out its duties relating to animal testing. But that section Only applies to ch. 36-15 (brucellosis or TB testing) and would not help with other disease testing/eradication efforts under ch. 36-14.

- Should Section 2 of the bill have an exception to the "15 days" for "exigent" circumstances? 15 days is a long time if the state should experience an outbreak of a highly contagious livestock disease such as foot and mouth disease.

- As sponsors, do you feel that NDCC sections 36-01-12.1 and -19 are consistent with the intent of the bill. I believe they are since those sections may relate to expenses other than indemnity payments, such as labor and equipment to control a disease outbreak.

- P.3, Lines 12-13: What if a 3rd party has a lien on the livestock for which the state is making payment to the "owner"?

- P.3, Line 17: Does "Legislative Assembly" include "emergency commission"? Many past requests for indemnity funds have come to the commission since the Legislature was not in session.

- P.3, Lines 17-18: What is the "appropriation" to which the bill refers? The special indemnity fund (NDCC sec. 36-15-12) was repealed by S.L. 1999, ch. 317, sec. 28. And even that section only applied to cattle and bison. In addition, it was my understanding that the special indemnity fund had no monies appropriated to it in recent years, so even it was of little value.