

2011 SENATE AGRICULTURE

SB 2365

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2365
February 11, 2011
14419

Conference Committee

Committee Clerk Signature

Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to the humane treatment of animals: and to provide a penalty.

Minutes:

Attachments: #1, #2, #3, #4, #5

Senator Flakoll: Meeting called to order 9:00 am, this Friday, February 11, 2011 on SB 2365.

Senator Flakoll: Clerk take roll call.

Clerk: Roll call:

Senator Jim Dotzenrod: District 26. I am the Senate sponsor on SB 2365 ...many here to testify in favor of this bill. This is an important billthe work has been done and had reached an agreement to go ahead. The House sponsors have been involved in the bill from the beginning with lots of information.

Representative Corey Mock: District 42ND Legislative Council (Attachment #1) (Attachment #2)

Senator Heckaman: In bringing the amendment forward, what does the group who originally had sponsored the bill feel about the amendments?

Corey Mock: Do you mean the coalition or the legislators?

Senator Heckaman: Coalition.

Corey Mock: I can't speak on behalf of the entire coalition.....some in favor and some opposed. Goes from 4 pages to 14 pages.

Senator Flakoll: Could you provide us with a list of the working group and who they represent so we have a better understanding of who worked on the committee.

Corey Mock: Many of those representatives are in this room. I was not on the coalition ...brought in at the last minute.

Senator Flakoll; Do you know who chaired the group?

Corey Mock: Cynthia Theland the Burleigh County State's Attorney. The request of Arlette Moen (Executive Director of Circle of Friends of Humane Society) wants to present testimony (Attachment #3).....was not able to attend and Steve Sullen (Attachment #4) was not able to attend, but wanted his testimony presented.

Sue Buchholz: Shelter Director of Central Dakota Humane Society in Mandan (Attachment #5)

Senator Larsen: The proposed amendment is that you do not support, is that this one or is it the one.....?

Sue Buchholz: We do not support this issue being tabled.

Senator Larsen; Study?

Sue Buchholz: Yes

Senator Flakoll: Sue...were you on the working group?

Sue Buchholz: Yes

Faith Bellon: This is important to me, but I want to know why it has taken ND so long? Examples parallel school bullying to injuring animals. ND is known to have friendly people, but we need to be an example....we need to protect our pets and animals.

Senator Flakoll; Opposition?

Foster Ray Hager: Cass County Wildlife Club from Castleton, ND Section 3 page 4 regarding cages for the animals. We are concerned about the cage constructed of solid material on 3 sides and fords the animal protection and the horizontal dimension are at least equal to 4 times the length of the caged animal. Hamsters will be no problem.....if you have 120# dog, you would a kennel 12ft long. That is our concern and under A, many dog kennels are wire on all 4 sides....we are concerned that this section could be re-written to maintain the animal is comfortable in the cage at all times.....size is sufficient for the size of the animal.

Woody Barth: ND Farmers Union. Described very well the situation we were involved this past year working with the state attorney (I was a part of the members representing FU). The group came together, 2 or 3 times.....working the issues.....brought together because of the concerns of the states attorney....situations she was aware of through Burleigh county and other parts of the state....the prosecution of felonies, the amount of penalty of some of these situation was not strong enough We came together (other Ag groups were a part of it, veterinarians staff) to try to work out a situation to make certain Ag was protected in normal Ag practices were protected was the major concern. Some animal cruelty in NDND is one of the states with weakest animal cruelty laws. Our working group did a good job....The person who brought (S District Judge) us together was promoted to another position, we were missing a lead person, so it kept us back. It stopped until another replacement was found. The concern was the bill went from a 4 page bill into a 14 page bill. If a major re-write....we need to do it through a legislative process and interim committee...

Probably not an opposition, but best way to do this would be brought through an interim process and let all parties come before the interim committee and re-write the code the way the other sections quoted over the past couple biennium and allow that to be a full committee hearing. NDFU are aware and want to make sure of Ag protection. If there is abuse, we want it to be taken care of properly.

Senator Miller Do you any information about the instances in the past where we have hadare you aware of the legal action taken against them?

Woody Barth: Only what read in newspaper....or what examples given at the meetings.

Senator Miller; Reading (handout)misdemeanors....maybe need to put more teeth in it I like things spelled out so we can protect ourselves.

Woody Barth: "Overload" thought it meant overload a stock trailer....it meant overload pack animals. We need to update that section. Reason for support study resolution.

Senator Flakoll; We have the weakest laws in ND.....what is based on... it is based on penalties.

Woody Barth; Referring to the penalty bases.

Senator Flakoll; Do you support the section that deals with the penalty phase in the bill?

Woody Barth: We have no direct pulse in the penalty phase....but it the members felt the penalty phase were strongerthat needs to be stronger to make sure there was some prosecutionsome teeth in the law. Could be dealt with by states attorney and would listen to and have the NDFU work with the issue.

Senator Flakoll: Could we as option, pass the penalty phase and study some of the cleanup language....from a working group standpoint, do you think that would be....please react to that option.

Woody Barth: We would have no problem with you as a committee working on the penalty phase and allowing the group to come back and re-write....no objections.

Senator Flakoll; Any other section think that we could pass without problems or un-amended?

Woody Barth: Hope you would let the committee work their process of re-write and work with the group.....if you want to work on the penalties, we would not object....we would need to sit on a group and work through the sectionsall areas everyone is protected and laws well written.

Julie Ellinson: ND Stockman's Association. Mr. Barth did a good job explaining the opposition of the bill. We take extra care to take excellent care of our animals. We want to make sure appropriated care is taken of our animals. Our organization had similar reservations as Mr. Barth spoke about to....we want to have the issue analyzed more closely during the interim and look forward for the opportunity to continue the effort with him and other groups to make sure we have the best product in hand and we are doing best for our animals.

Senator Miller: Do you think there has been inadequate in cruelty cases in ND that have come about the people have not gone after the district attorneyhaven't done their job?
We are trying to create more law.

Julie Ellinson: Someone here is more knowledgeable. Tiers of penalties have to be utilized.

Senator Heckaman; Do you know if any political subdivisions have any specific animal laws on animal cruelty as cities....or do they follow the state statute?

Julie Ellinson: Someone else is better to answer.

Senator Flakoll; Are you believing the penalty phase of the bill as proposed is something you and your group is supportive?

Julie Ellinson: We don't have any particular policy in regards to the penalty phase?

Senator Flakoll; Were you working on the committee?

Julie Ellinson: Yes, there was a committee together including the members Mr. Barth mentions.

Senator Flakoll; Any sections of the bill you would say is very fine....doesn't need work?

Julie Ellinson: We looked at several sections we felt we should study. New sections that were not discussed.....analyze to come to a comfort level.

Nancy Kopp: ND Veterinary Medical Association, Introduce our president to provide our testimony.

Dr. Del Ray Martin: ND Veterinary Medical Association (President) Small animal veterinarian in Mandan. Took the 4 pages and increased to 14 pages....belonged to the group and needs more study with more work.

Senator Murphy: Do I have this understood? The coalition got together and worked a couple times, then the legislative council got it and went through the 4 pages and as Senator Mock had to update everything to make certain all cohesive with the new wording. That is how it got to be 14 pages. Now you would like to go through it again because new things/ideas came up?

Dr Del Ray Martin: Yes, there are certain sections that include new items that we had not discussed. There were concerns express by several members of my board on certain sections (specifics listed) that hadn't been discussed and terminology that is outdated that we feel need to be addresses....we as a coalition we can work on that more effectively.

Senator Klein; What happened, you didn't have enough time to finish? After the election, the additional meeting that you should have had did not take place.

Dr. Del Ray Martin: Certain sections that we didn't look atonly sections that we addressed pertained to animal cruelty and caging. Only 4 -5 sections that we discussed, several other sections

where they took our proposal recommendations and plugged them in and plugged them in sections we hadn't looked at.....the terminology in those sections.

Daryl Lies: Douglas, ND: Animal Entertainer.....I raise and sell (dogs) animals. I display and am an animal entertainer which is my occupation. Racing pig entertainment and running a petting zoo. Important the laws are considerate of the entertainment animal world. Humane society has been known to harass him as an entertainer of animals.

Aaron Birst: ND Association of Counties and I speak for State's Attorney Member Group
This seems to be a breakdown in the process there was an assistant State's Attorney in Burleigh County who organized a group, worked with all these people extremely hard, put together a 4 page bill, was elected to judge. So no longer was the driving force in that bill re-write. It was brought to my attention could the state's attorney support this bill....could you be the front person on this bill? Association indicated that this is not our bill to push, we certainly don't oppose the concepts in the bill; we're here to carry out the will of the legislature. So we will leave it to the legislature to determine what to do with the bill. The most significant part of the 4 page was creating a "see felony" offense.....which we do not have in ND. The State's Attorney is willing to work to make certain, whatever happens, that it is in a technical, correct position.

Senator Miller; Briefly describe the difference between the classification of felonies?

Aaron Birst: Under ND law, it is against the law to mistreat an animal that is A misdemeanor ...punishable by up to 1 year in jail and a fine of \$2,000 or both: C Felony up to 5 years in prison and/or a fine of \$5,000 or both. Senator Heckaman question on subdivisions create this.....yes, they can and they have; however they cannot exceed state law. Fargo case example.

Senator Murphy; Example of human abuse parallel with animal cruelty. What is the fairness of Class C felony in these cases?

Aaron Birst: Can't answer that question.

Senator Larsen: Closing the hearing on SB2365

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2365
Feb 11, 2011
14435

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the humane treatment of animals: and to provide a penalty.

Meeting for SB 2365 Friday morning at 10:30 am.

Minutes:

You may make reference to "attached testimony."

Second meeting for today on this SB 2365

Senator Flakoll; This is an emotional issue on both sides and we are not having to get this out today. Committee should think in terms of what you want to glean out of here. Could be put in place without creating problems is "hawk house" study appropriate? Thoughts?

Senator Murphy; I don't think there are 2 sides....Everyone wants to protect the animals. We need allow them to work on this over the interim.

Senator Larsen: It is clear that they didn't finish their work. I feel there should be a lot more study.

Senator Klein; I agree.....when you go from 4 to 14, it is alarming. I don't think they accomplished their goal and need more time. The groups have worked on the different section and taken the time and did a good job. They can work section by section and work on them individually. That is the direction we need to go.

Senator Luick; I agree with Senator Murphy also....the compassion and concern and need is there. The object is whether we need something to protect the animals....it is more so the vehicle to get to that point. The testimony was emotional; the need for more study is inevitable.

Senator Larsen: Example of personal dogs. (Alaskan Sled Dog chained compared to a small dog loose.)

Senator Miller; Group of people believe that any kind of animal/agriculture is inhumanethey are the ones who drag these rating and new laws have to be careful how far we want to go. That is why it is important to put this in an interim study. With regards to the penaltyI can see a stiffer penalty for a second offense.

Senator Murphy; In regard to the penalty, I don't know about the C Felony. I feel a stronger fine and jail sentence would be more felt by the perpetrator.

Senator Luick: I agreesecond offense....the Class A Felony. I feel a stiffer fine or penalty is getting out of hand. I feel they should be "hit in the pocketbook" rather than pay for their upkeep in the big house.

Senator Klein: We create law because there are some not normal people out there. We have to look at this and penalties that fit the crime.

Senator Flakoll; There will always be people who do inappropriate things to animals. If we make some changes that it is clearly definable so it protects the animal, owner, and caretaker. So everyone knows the difference between what is appropriated and what is not appropriate. We needed more information from the prosecuting attorney so we could get a better handle onwhy are they not perusing some of these because we know that lesser the penalty, the less they are inclined they are to bring it to court. That why you don't see too much activity.....state's attorneys don't want to deal with it. I feel there needs to be stiff penalties to people who do these things.

Senator Miller; Example of the cat.

Senator Larsen: We had a flyer from about the penalties and felonies class A and C. I would like to review.

Senator Luick: Do we have any numbers....as cases that have been tried in the state?

Senator Flakoll: As a committee, no. I believe that is something Erik can find. Are you looking so you can bottle us up a little bit ...most reporting year, what would be helpful to you?

Senator Luick; Hear of a few cases, however, many of the cases never get to the news. I am curious as to how many cases are out there.....frequency of cases? Last years or whatever is convenient.

Senator Murphy: It goes with Class B misdemeanor is 30 days and \$500 fine, then climbs to be Class A misdemeanor which is \$1,000/maybe \$2,000 one year in jail, then goes to the felonyusually goes to 5 and 5 and use to be 10 and 10 and for the felony 20 and double A highest is prison.

Senator Flakoll; Senator Luick coordinates with Erik afterwards.

Senator Luick; Question about the resolutions. Basically the resolutions are informational or do they have any weight for legislation?

Senator Flakoll: We hope they have weight, but reality not as much weight as we wish they would in terms of outcomes.

Senator Luick: Can a resolution be amended?

Senator Flakoll; Yes it can, but then again, it can't be amended like the language from your tiling bill. A resolution does not allow you to do that. Resolutions are everything from graduating the class B to encouraging congress this or that.....etc.

Senator Flakoll: House calendar for today has a few resolutions on there.....they are on the consent agenda.

Senator Luick: Same testimony for and against on resolutions?

Senator Flakoll: Hold the hearings the same waywe can amend. In committees, we have to take a roll call vote, on the floor a voice vote.

Senator Flakoll: Keep a tally on your bills as you don't want the appropriation member to catch you off guard.

Senator Flakoll: Meeting adjourned.

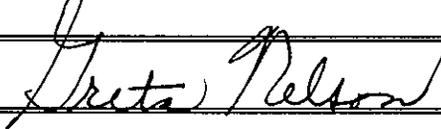
2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2365
February 17, 2011
14661

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the humane treatment of animals: and to provide a penalty.

Minutes:

You may make reference to "attached testimony."

Senator Flakoll: Meeting called to order this 17th day of February, 2011, SB 2365.

Senator Klein; The States Attorneymore interested in going after the larger amounts and ignoring the smaller amounts to go after. Current penalty we havewe are doing something but needs a lot more work and will favor the study.

Senator Larsen; My concern when the woman lady who stood up was in the group study and said she hadn't completed the study. Their work isn't finished.

Senator Flakoll: We have not worked at any amendments.

Senator Flakoll; Any other pending amendments besides the 1001 amendment?

Senator Klein; Story relating to farmer and class C felony.

Senator Flakoll; Not to a point where everyone is comfortable with the language. This is an issue that needs attention; if we move forward and miss step....we create more problems than maybe deemed that we have today. Know if we don't do something, then others will decide for us and we won't like that. We need to protect the animals, care takers, owners, of them. Different opinion on the penalty phase because they as it is up to a certain level of penalty. When you look at some of the things that have happened, that are sinister nature, extreme harm to animals....unthinkable treatment. We need to think about more serious penalty options for judges.....when you look at their process.....up to a certain amount. Jailoption of getting out early...difficult to make penalty decisions and to what extent.

Senator Flakoll; Do you want "shall consider" or "shall"? Any preference?

Senator Klein; "Shall consider" is fineit will float to the top. I move the amendment as it is currently written.

Senator Miller; Second

Senator Flakoll; Hog House amendment would replace the entire bill. Discussion
Clerk take roll vote. For 11.0786.01001 SB 2365

Clerk: Take roll call vote. 7-0-0

Senator Klein: I move SB 2365 Do Pass amended

Senator Miller; Second

Senator Flakoll; Clerk take roll call vote

Clerk: 7-0-0

Senator Flakoll; Motion carries Flakoll carries the bill

FISCAL NOTE

Requested by Legislative Council
02/01/2011

REVISION

Bill/Resolution No.: SB 2365

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2365 provides for an additional possible penalty of a Class C Felony to be included NDCC 36-21.1

It is 'Undeterminable' at this time to know what the fiscal impact to local, county, and state entities may be.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The hope or assumption is that by adding the possible charge of a Class C Felony (of 5 years imprisonment and/or \$5,000) to NDCC 36-21.1, it would serve as a deterrent for inhumane treatment of animals.

If the assumption is correct, it will save an undetermined amount of resources (staff time and budget) from the local to the state level where authorities are expected to respond to, investigate and carry out necessary actions involving cases of inhumane treatment of animals.

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.*

The revenue impact is undetermined.

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.*

The expenditure impact is undetermined.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

There is no appropriation associated with this bill.

Name:	Susan Keller DVM	Agency:	NDDA
Phone Number:	701-328-2657	Date Prepared:	02/01/2011

February 7, 2011

#2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2365

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the laws relating to the humane treatment of animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HUMANE TREATMENT OF ANIMALS. During the 2011-12 interim, the legislative management shall consider studying laws pertaining to the humane treatment of animals for the purpose of reviewing their content and their applicability to domestic or companion animals and to animals in production agriculture, and recommending necessary policy changes to laws that are found to be irrelevant, inconsistent, illogically arranged, not reflective of current practices or needs, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

Date: 2/17/11

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2365

Senate Agriculture Committee

Legislative Council Amendment Number 11.0786.01001 / 02002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Klein Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	✓		Senator Heckaman	✓	
Vice-Chair Oley Larsen	✓				
Senator Klein	✓				
Senator Luick	✓				
Senator Miller	✓				
Senator Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator

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

Date: 2/17/11

Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2365

Senate Agriculture Committee

Legislative Council Amendment Number 11.0786.01001 / 02000

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Klein Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	✓		Senator Heckaman	✓	
Vice-Chair Oley Larsen	✓				
Senator Klein	✓				
Senator Luick	✓				
Senator Miller	✓				
Senator Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Flakoll

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

REPORT OF STANDING COMMITTEE

SB 2365: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2365 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the laws relating to the humane treatment of animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HUMANE TREATMENT OF ANIMALS. During the 2011-12 interim, the legislative management shall consider studying laws pertaining to the humane treatment of animals for the purpose of reviewing their content and their applicability to domestic or companion animals and to animals in production agriculture, and recommending necessary policy changes to laws that are found to be irrelevant, inconsistent, illogically arranged, not reflective of current practices or needs, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

2011 HOUSE AGRICULTURE

SB 2365

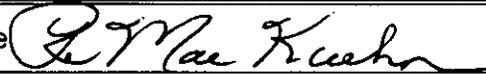
2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

SB 2365
March 18, 2011
Job #15672

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of the laws relating to the humane treatment of animals.

Minutes:

Rep. Mock, Co-Sponsor: In the interim there was a coalition of individuals working on potential legislation addressing the humane treatment of animal laws in North Dakota's Century Code. I offered to introduce legislation of what was 4 pages of recommendations became 16 pages of a bill with clean up language. This section of law will be up for rewrite during the interim. We are giving the interim committee the opportunity to recommend changes to the structure. This bill would allow the interim ag committee to review this section of law as they rewrite and to recommend changes. Some of the content in the first version, the original version, related to punishments or sanctions for individuals found guilty of egregious animal abuse. Keep in mind that all exemptions related to agricultural practices such as livestock, rodeos are in current law and remain in current law. We did have members from all agricultural organizations at the table in the interim working with the States Attorneys Association when drafting the recommendations.

SB 2365 in its first form is a good first step in recommendations. I hope the Engrossed version gets a favorable recommendation.

Some supporters of the original bill, Senator Flakoll, tried to keep in Sections 14 & 19 related to the penalties in the bill and then studying the rest of the chapter. There wasn't a lot of enthusiasm in the room. They did accept my amendment to amend the entire bill and turn it into a study. I would make a friendly suggestion if it is in the interest of the committee, to consider Sections 14 & 19 of the original bill. That would address some of the penalties allowing for a Class C felony for multiple egregious violations within a period and also prohibiting potential ownership if a judge deemed it appropriate.

Representative Headland: The rewrite ag policy is already in law. What is the need for this study?

Rep. Mock: The rewrite is happening. The problem is that during a rewrite no changes of the actual content can be made. It can only be rewritten to bring it up to code. This would allow that same committee to make recommendations for potential change.

Representative Headland: Your motive is to change the law?

Rep. Mock: Any changes related to penalty, which was the original reason the bill was introduced, could not be studied under the current rewrite.

Representative Trottier: I was in hog production. I had a friend in the hog business. Many groups are trying to get rid of indoor pens. The opposite of that is to put them outside and that is not humane treatment. This person had visitors from the Humane Society and PETA because they were in individual crates. They were clean and watered and fed daily. They were after him that they needed to put those pigs outside. His dog died of old age. He went to the Humane Society to get a dog. He filled out all the paper work. They asked where he is going to keep the dog. He said outside and he can go in the barn. They said he has to stay in the house. So the dog has to stay in the house but my hogs don't. Do you have an explanation for that?

Rep. Mock: No. With regard to agricultural practices—in the first version the reason for this bill was not related to agriculture. It was related to egregious animal abuse. It came about from cases in Minnesota and South Dakota where there were two examples of animal abuse. One where the owner cut the throat of his dog and left it for dead but the dog survived. The other instance an individual glued a cat to the side of a highway—all four paws and its nose. Had that happened in ND a person found guilty of that, the most severe penalty would have been a misdemeanor. If those individuals had other pets, they would not have had any restrictions on pet ownership if found guilty. That was the reason of the bill. There was a states attorney in North Dakota and Burleigh County that called a coalition together of various agriculture organizations to review the laws. They came forth with their recommendations. This included members from Farmers Union, Stockmen's Association, Veterans' Association, Farm Bureau, and States Attorneys Association who reviewed it as a coalition. The bill changed because of the rewrite. That is where it got complicated. The exemptions that should stay in law are related to agricultural production. That is commonly used practices of producing livestock, rodeos, animal racing, livestock exhibitions, livestock competitions, fishing, hunting, trapping, research, and the list goes on. Those are exemptions in current law. We are not talking about people that are treating animals properly. It is about people that are intentionally abusing or neglecting a dog or cat.

Representative Rust: Is there a definition of egregious? Egregious can be in the eyes of the beholder. I grew up on the farm where many animals were companion animals. I can think of times where if somebody else would have watched what we did would have thought that it was egregious to the animal.

Rep. Mock: I don't know if there is a definition in code. That gives all the more reason to review the law.

Chairman Johnson: We were involved with the rewrite during the last two interims. The opportunity would be there during the interim study.

Woody Barth, ND Farmers Union: We are in support of the engrossed version. We were a part of the group that came together during the interim at the request of the Assistant Burleigh County State's Attorney in Bismarck. We were one of the states with the least amount of penalties to animals. As the state's largest farm organization, we were concerned how this applied to common practices of agriculture animals. The agreement of the committee was that agriculture practices would still be exempt.

A 4-page proposal becoming a 16-page proposal concerned us. We would be willing to be a part of the changes during the interim.

Representative Headland: Are you familiar with the passage of laws in other states to make it illegal for an employee to take pictures and use it against the owner?

Woody Barth: I am familiar with the press story. I am aware of some of the potential changes some other states have made in their animal welfare laws.

Representative Headland: Do you think that piece would be a good addition to this bill?

Woody Barth: We have no policy on that. We would be willing to listen to ideas from an interim study.

Representative Mueller: Why is this an issue for you?

Woody Barth: To make sure we are protecting animal practices in ND.

Charlene Seifert, Board Member of the Central Dakota Humane Society:
(See attached #1)

Representative Boe: In your written testimony you refer to the 200 dogs rescued from a farm. In your verbal you called it a puppy mill. What do you define as a farm? Is this an active working farm or is this just a rural residence?

Charlene Seifert: This was a puppy mill on a leased farm.

Representative Boe: Would that be fair to characterize it as a rural residence?

Charlene Seifert: I can't answer that.

Representative Headland: Is your organization affiliated with the Humane Society of America?

Charlene Seifert: Yes, we are a part of the Humane Society of America.

Representative Trottier: In your reference to the American or National Humane Society, I really struggle with all of this. The local Humane Society shelters-- what they do is tremendous. You receive from the National or American Society less than 1% of their funds? Is that true?

Charlene Seifert: Yes it is true. We operate on donations given to us. We receive no funding from the National Humane Society.

Representative Trottier: Do you know what the rest of the funds are used for from the National?

Charlene Seifert: I can't answer that.

Christine Kujawa, Owner and Handler of Nationally Certified Pet Therapy Dog and creator of blog STAND: (See attached #2a)

Representative Headland: You refer to puppy mills and dogs in cages and crowded, etc. Do you think if we put that type of language into code that an activist could use that type of language against a farmer?

Christine Kujawa: It is possible. The way the law reads, agriculture activities are exempt from the law.

Representative Boe: Of the cases in Bowman County and Scranton, what kind of penalties had been handed down by the judges?

Christine Kujawa: It is still in the works. Nothing has been done at this time.

Representative Mueller: Can you give us a sense of when the public sees the issue in the newspaper, what is the feeling of the general populous?

Christine Kujawa: It tugs at our heart strings. We, in an agriculture state, realize that keeping pigs in pens for their own safety and well being is a good thing. Where gluing a cat to a highway is not a good thing and there should be penalties for that

Representative Trottier: Do you feel that the national has the same views as you do about farm animals.

Christine Kujawa: I don't think they do. This is our state law and we take care of what we need to do within our own state. If it is written into law that it is a Class C felony on a second offense if for our house pets and it clearly states that the agricultural groups are exempt then I think we have it covered on both sides. We are not only protecting farmers but also our dogs and cats in our homes.

Representative Boe: Do you know the difference between a Class A misdemeanor and a Class C felony? What is the step up?

Christine Kujawa: In the penalties and sentencing section of our Century Code

Chapter 12:

- Class B misdemeanor, the maximum penalty of 30 days imprisonment, a fine of \$1,000 or both may be imposed
- Class A misdemeanor, the maximum penalty of 1 year imprisonment, a fine of \$2,000 or both may be imposed
- Class C felony—the maximum penalty of 5 years imprisonment, a fine of \$5,000 or both may be imposed.

Representative Rust: Once you are convicted of a felony, you jump into a whole new situation. There are laws dealing with convicted felons. Immediately there are other ramifications beyond the \$5,000 or 5 years or both. Correct?

Christine Kujawa: I don't have the answer to that. As it is a different level of punishment, as the fiscal notes states this would be a way to determine inhumane treatment of animals. It is their second offense when they face the higher penalty. That may make people think twice.

Vice Chair Kingsbury: Are you a member of the Central Dakota Humane Society?

Christine Kujawa: I am a member but I am not involved.

Vice Chair Kingsbury: How close of a relationship do they have with the Humane Society of America?

Christine Kujawa: I am not able to answer that question.

Charlene Seifert: We are members but we take less than 1% of donations from them.

Vice Chair Kingsbury: Does your group pay in dues to them?

Charlene Seifert: I am not sure about the dues structure.

Vice Chair Kingsbury: Does the Humane Society of America encourage your group to watch for this and promote laws?

Charlene Seifert: Yes. They have a mission similar to ours in terms of animal rights and responsible pet owners. That is their mission as well as ours. We operate on our own. Our mission is to provide for family pets.

Chairman Johnson: There is a difference between animal rights and animal welfare.

Julie Ellingson, ND Stockmen's Assn.: (See attached #2b)

To make clarification, the Humane Society of America or the American Humane Society both serve as an umbrella organization for some of the local shelter groups. The one we have challenges with is the Humane Society of the United States. That organization spends less than 1% of its revenues to actually support animal care. The tactics are referred to as PETA but with a nicer watch.

We are profitable when taking care of animals. We don't want to harm those in animal agriculture. We think the approach in this bill is appropriate.

The penalty phase is part of the study. We ask to keep the study as a whole. The penalty phase is a two-step penalty approach. You first need that base level enforcement. We do have the misdemeanor penalty already in code. You still need the first level offenses charged out as misdemeanors before you move up to the C felonies.

Representative Holman: It appears your organization and others have been involved in the developing of this. You would want to be involved in the study?

Julie Ellingson: Yes. We stand ready to take part through the agricultural chapter rewrite and any discussion related to this industry.

Nancy Kopp, ND Veterinary Medical Assn.: (See attached #3)
Supports SB 2365.

Representative Mueller: Can you differentiate between societies?
Humane Society of America and Humane Society of the United States.

Nancy Kopp: I can't answer that.

Aaron Birst, ND Assn. of Counties: I'm speaking from our states attorney perspective on this bill. We support this study. What happened in the interim, there was an assistant Burleigh Co. States Attorney that worked with these groups and was elected judge. She asked if the States Attorneys Assn. could work on this bill.

The Felony vs. Misdemeanor was probably the only concern that the states attorneys are even involved in. We didn't oppose it. We will give technical assistance as we are more than willing to work during the interim to provide that.

Rep. Rust's question of what is the distinction--it is significant under the law when you get convicted of a felony. A felon can no longer possess guns. Under ND law if you are convicted of a felony but sentenced to less than a year in jail, it is deemed to be a misdemeanor.

Representative Rust: Are you a States Attorney?

Aaron Birst: Former.

Representative Rust: Do you lose voting rights when you are a convicted felon?

Aaron Birst: You do, but there is a way to repetition to get them back.

Representative Rust: It seems that when you cross over, there are big differences between a misdemeanor and a felon.

Aaron Birst: Under a misdemeanor you can never go to the state penitentiary. The worst is to go to a county jail. Under a felony you go to the state penitentiary.

Representative Rust: On many applications, one of the questions is "Have you been convicted of a felony?"

Representative Holman: If I got thrown in jail for running a stop sign, you probably would find some other way to deal with it. Here we are talking about a penalty. I know judges and state's attorneys have leeway in deciding how to charge something. Moving this to the higher penalty, in your opinion, what would be the application of something like that?

Aaron Birst: States Attorneys and judges have discretion. Many times they work within that discretion. From a public policy perspective, every time the legislature increases the penalty level it sends shock waves through the system that this is the legislature telling us to kick it up a notch.

Anne Jorgensen Green, Member of Central Dakota Humane Society Board of Directors: Because there were questions between CDHS and those national organizations, I called our shelter director. She told me that HSUS (Humane Society of the United States) is that national organization that seems to be the cause of concern. They don't operate shelters in the country. They work on legislation nationally and are responsive to disasters. They have been getting involved in farming issues.

The ASPCA (The American Society for the Prevention of Cruelty to Animals) is another national organization. They offer and provide shelter to animals throughout the United States.

AHA (American Humane Association) is probably the least known. They offer training and seminars.

Are we members of those organizations? Yes, we are a member of the Humane Society of the United States. We pay between \$50-125/year which provides us with educational materials and the ability to attend seminars on issues that are important to us. We receive no funding from HSUS or other organizations.

Do we get on board with those organizations' mission statements? Our shelter director said "absolutely not." Our mission is to provide comfort, rescue, and shelter for our local companion animals.

Opposition: None

Neutral:

Daryl Lies, Douglas, ND: I find myself torn between what we need to do to promote the welfare of animals and what others bring as rights of animals. I am the owner/operator of an animal entertainment industry. I raise livestock to sell for meat and to sell to 4-H and FFA members across about seven or eight states. I am an auctioneer. I do dog training and breeding. I make 99.9% of my living from animals.

Being in the animal entertainment industry, owning Daryl's Racing Pigs, puts me at a higher profile. I have to deal with the humane societies. You don't hear much about PETA anymore. They are a creature of many arms. You have HSUS based on the east coast. You have the ALDF (Animal Legal Defense Fund) based on west coast which is an arm. The ASPCA (American Society for the Prevention of Cruelty to Animals) is another arm of PETA.

It concerns me that local organizations, which are well intended, have farmers, sportsmen, etc. on their boards because they feel doing the right thing with animal welfare is important. If they advertised their intent, they would lose some of their farmer and sportsmen membership because PETA does not like animal agriculture or sportsman hunting and trapping.

I have had problems because of false accusations. Having the racing pigs and petting zoos, I am licensed by the United States Department of Agriculture to do that. I am inspected, randomly, at events or in various territories. I get home inspections. However when I went to a fair in Lincoln, NE, four days in a row I was harassed by false accusations. The 1st day a highway patrol shows up, with lights on, during my show. It was a report of not having water in the petting zoo. The 2nd day a county deputy shows up, with lights on during my show, acting on the same report. The 3rd day a city cop showed up, during my show with lights on, for the same report. The 4th day it is animal control, with lights on during my show, with the same report from four days earlier. Day 2, I called the sheriff. Through research we found out it was a lady that had a beef with the fair—a former employee who wanted to get back at them at my expense. The time they were out of water, that she was talking about, was about 3 minutes and 40 seconds. It the time I picked it up and carried to a drain to dump it and fill it with new and bring it back.

I found out the harassment was coming from the local humane society. A guy that was a PETA member infiltrated into the local humane society by PETA to make Lincoln, NE their hub of the Midwest. When I called the sheriff to report harassment charges, he wouldn't even take my complaint. I told him I had rights as a U.S. citizen to file this complaint. He said, "The way they interpret the laws here, you are wasting your time." The animals have more rights than you do. Had I not been doing business for that fair for six years, I wouldn't have probably been hired back or received recommendations for other jobs. Credibility can be hurt by false accusations.

I caution who you take this information from. The words "puppy mill" and "factory farm" come from PETA. If I raise pigs in a captive pen, I am considered a factory farm. It is names to throw out to bring fear and tug at those heart strings. We got accused of being a puppy mill also by a neighbor. We raised sled dogs. At the same time we had Labrador and English Pointer hunting dogs along with the Beagle and Jack Russell. We only produced the Jack Russells and the Labs. We did it with less than 3 females so we weren't forced to get a United States Department of Agriculture license to produce these dogs. We raised huskies which we had to put on a chain or they would be gone. They had ample space with 20 foot chains. But we got reported for that puppy mill because we had so many dogs.

We are one of only four states without a felony classification for a penalty. These people that put a cat in a microwave have a problem. That is the same problem as someone who murders which carries a felony but does it stop them? NO.

As an animal trainer and entertainer, I did not have a seat at the table of this coalition that was referred to. I am involved with organizations that did. That is another area to look at is training. The perception of an egregious event is different with everyone.

We are one of two or three states that is in the black. We need to make ND law on ND common sense by ND people. Enforcement costs are extraordinary to enforce these things. We are one of the worst 5 rated by the Animal Legal Defense Fund and by HSUS. We like our freedoms. We like to eat our steak and have our companion dogs.

I am not the regulation hater. But when you go to the point where we give animals more rights than humans, I don't think our U.S. Constitution allows for that.

Representative Mueller: Your neutral testimony indicates to me that we don't need to do this study?

Daryl Lies: We aren't getting enforcement of penalties we have now. What is right is up for perception.

Representative Mueller: The rewrite doesn't deal with changing laws. It deals with clarity and getting rid of unnecessary language. We can't fix this in the write because that is about what is currently in law.

Daryl Lies: I understand that. A lot of that bill was clean up that was introduced.

Chairman Johnson: Closed the hearing.

Representative Headland: Moved Do Not Pass.

Representative Trottier: Seconded the motion.

Representative Mueller: It is in their best interest that we have legislation on the books that said we are doing a good job. It is really about protecting the industry. Perception is reality. I think it is just a study. Why would we not want to take a look at it?

Representative Rust: Have we ever done something like this before? Is there a concern that we have laws that are conflicting or that there is a problem with the current laws? When I see a Class C Misdemeanor and \$2,000 and 1 year in prison or both, that would get my attention?

Chairman Johnson: I can't answer that without looking into it. When we go to our national meetings, this is the focus of our State Agriculture & World Leaders conferences in Washington, DC or California. There is a difference between animal rights and animal welfare. We are all concerned with animal welfare. The agenda in larger populated areas

is animal rights. That is why as legislators we get nervous when we see these same groups that are trying to influence our rural state with animal rights instead of the focus on animal welfare.

Representative Rust: I am all for protecting our agriculture industry. Sometimes it starts as a study with good intentions but it can get away from you. Is there something really out there? Is the ag. dept. really concerned that we have a situation that needs to be looked at?

Representative Holman: I'm going to vote against the motion, too, because it is an opportunity to point out to the public as part of the discussion is that a well-fed and well-cared for animal is what we want. They are the ones that will produce. That is what could come out of this type of study is to counteract some images we see on TV as not being what goes on in ND.

Chairman Johnson: The way the law is now, those types of animals are exempt.

Representative Boe: I am resisting the motion also. My question about how often are these cases of the puppy mills. How often are we bumping up against current law? If no one has received the maximum penalty, there isn't a reason to raise it. We need more time to find that information so a study would be the way to go.

Representative Trottier: The states that have the most penalties are states like California and Indiana and it all starts with a study and it all comes down from PETA. We found out from the Humane Society people here that they felt like they were not part of that. I hope they do realize that they are part of that by contributing with their memberships because they said they get nothing back. When I talk to the locals they say we get information back. They pay for our way to go to the seminars and they are influenced through that. I think this is opening the door for PETA.

Vice Chair Kingsbury: I agree with the last remarks. The Ag. Dept could come up with those statistics rather than spend time on a study. There should be that information between the Ag. Dept. and law enforcement.

Representative Schmidt: I'm confused. We say "We shall consider studying the laws pertaining to. . . ." Are we more concerned about the laws that we already know exist or are we more concerned about the existing animal handling practices that are being done? There are two separate issues. We already know where we stand with respect to the other states and the laws we have on the book.

If agriculture is exempt, I question why we need to study the laws. Would we not be talking about the handling procedures that are being implemented? What good does it do to study the laws that are on the book?

Representative Wrangham: I understand the points made by the people who are not going to support the Do Not Pass. This will be studied at least some during the interim. What bothers me the most is it seems that those who wanted to push this study, their main goal was Class C Felony—to increase the penalty but leave some discretion. Every time

we leave discretion, we open a window for mischief. I would agree that the most severe penalty is probably rarely given.

Representative Mueller: People involved in the process, the groups that are in support of the study, say this is a good deal. I am not sure what the fear is. This is a positive statement about animal agriculture and our pets. The rewrite law doesn't allow us to look at it during the interim.

Representative Rust: When there is a bad bill, my first choice is to kill it. When there is some support for it, then instead of killing it there is support for a study.

Chairman Johnson: If we do pass it, studies are not assured that they will be studied.

Representative Schmidt: Again, are we studying the laws or are we studying the handling practices of livestock? Studying the laws isn't going to do anything for us. I don't believe livestock producers are breaking any laws. In Montana, they cannot dock the tails of dairy cows nor can they in California. They are also pushing the effort that when it comes to sterilizing animals that they want the animals to be under sedatives. In California the animals sterilized are sedated.

Representative Wrangham: During an interim when they study the laws, one of the challenges is to decide if there should be changes to those laws. If they decide there will be changes, that opens up the whole realm of policy and penalties as they look at new laws unlike the rewrite.

Chairman Johnson: This would study the laws on the books now.

Representative Wall: The people who testified said that current agricultural practices will be exempt. I think this should be studied because I can't see anything very radical happening in a study because a study will be under the interim ag. committee.

A Roll Call vote was taken. **Yes: 10, No: 4, Absent: 0,**

DO NOT PASS carries.

Representative Headland will carry the bill.

Date: 3/18/11

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2365

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended
 Rerefer to Appropriations

Motion Made By Representative Headland Seconded By Representative Trottier

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe		X
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman		X
Craig Headland	X		Phillip Mueller		X
David Rust	X				
Mike Schatz	X				
Jim Schmidt	X				
Wayne Trottier	X				
John Wall		X			
Dwight Wrangham	X				

Total Yes 10 No 4

Absent 0

Bill Carrier Representative Headland

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

REPORT OF STANDING COMMITTEE

SB 2365, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman)
recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2365 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2365

PROPOSED CHANGES TO NORTH DAKOTA CENTURY CODE CHAPTER 36-21.1

This document reflects the changes proposed by a coalition of various interests ("the group") to North Dakota Century Code Chapter 36-21.1 and the manner in which Senate Bill No. 2365 addressed the proposed changes.

Document Reflecting Changes Proposed by the Group (Unedited)	Senate Bill No. 2365
<p>§ 36-21.1-01 Definitions. In this chapter, unless the context otherwise requires:</p> <p>1. "Abandoned animal" means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner's agent if the animal bears no identification indicating the owner or the owner's agent and the owner or owner's agent is not known to a the sheriff, police licensed peace officer, licensed State veterinarian or designee or investigator, taking custody of the animal under this chapter.</p>	<p>Section 36-21.1-13 is a separate section that deals with abandoned animals. The definition was moved to that section. See P12 L24-31 et seq.</p> <p>For consistency within the titles, the bill refers to licensed peace officers as "law enforcement" officers.</p>
<p>2. "Adequate care" means normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter, and health care, as necessary to maintain good health in a specific species of animal.</p>	<p>The only time that adequate care was referenced in the group's document was in Section 36-21.1-06. The group wanted language providing that before an "animal is returned to its owner, the court shall determine whether the owner or the owner's agent can demonstrate to the court that the owner can and will provide adequate care for the animal." SB 2365 requires the owner to demonstrate to the satisfaction of the court that the owner "can and will continue to care for the animal in a manner that is not in violation of this chapter."</p>

	The components of adequate care were covered by SB 2365 in the definition of neglect (see P2 L14-20).
3. "Animal" includes every living animal except the human race.	This definition was deemed to be unnecessary.
4. "Commissioner" means the agriculture commissioner.	The agriculture commissioner is referenced only in two sections. SB 2365 refers to the "agriculture commissioner" in those sections. Therefore, the definition was unnecessary.
5. "Cruelty" <u>of animals</u> means any act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused, or permitted, or allowed to continue. The term does not include: <ul style="list-style-type: none"> a. Any activity that requires a license or permit under chapter 20.1-03; b. Any activity that is usual and customary practice in production agriculture; c. Any scientific research conducted at a public or private facility or laboratory by and under the direction of a qualified researcher; d. Any show, fair, competition, performance, or parade; e. A rodeo; f. A wagon or buddy ride; g. Trial or pleasure riding; or h. Any activity that involves the training or teaching of animals; 	The group wanted to first define cruelty and then prohibit it. SB 2365 simply prohibits the same activities (see P3 L18-28).
6. "Investigator" means any person approved by the board to determine whether there has been a violation of this chapter.	The group removed the definition of an investigator, as did SB 2365.
6. <u>"Mistreatment" of an animal means to unjustifiably injure or kill any animal.</u>	The group wanted to first define mistreatment and then prohibit it. SB 2365 simply prohibits the same activities (see P3 L20).
7. "Neglect" of an animal means to deprive any animal over	SB 2365 defines "neglect" as depriving "an animal that is owned

<p><u>which the person has charge or control of necessary food, water, shelter, adequate sanitation, adequate facilities, or other care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition, and type of animal as established by the American Veterinary Medical Association.</u></p>	<p>by or in a person's custody or control of:</p> <ol style="list-style-type: none"> 1. Necessary food, water, or shelter; 2. Adequate facilities; 3. Adequate sanitation; or 4. Other care generally accepted to be reasonable, given the species, breed, physical condition, and type of animal. <p>See P2 L14-20</p>
<p>§ 36-21.1-02 <u>Overworking</u> <u>Neglect of animals,</u> <u>mistreatment,</u> <u>cruelty,</u> <u>or abandonment of animals</u></p> <p>1. No person may willfully neglect, mistreat, commit any act of cruelty on an animal, or abandon an animal. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.</p>	<p>SB 2365 states that a person may not willfully neglect an animal (see P3 L19).</p> <p>Rather than first define mistreatment and then prohibit it, as the group did, SB 2365 simply prohibited those actions contained in the group's definition; i.e., a person may not unjustifiably injure or kill an animal (see P3 L20).</p> <p>Rather than first define cruelty and then prohibit it, as the group did, SB 2365 simply prohibited those actions contained in the group's definition (see P3 L18-28).</p> <p>SB 2365 provides that a person may not willfully abandon or desert an animal (see P3 L30).</p>
<p>2. No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter. No person may keep an animal in any enclosure without freedom of movement and wholesome exchange of air.</p>	<p>SB 2365 provides that a person may not confine an animal in an enclosure if the animal is denied adequate ventilation (see P3 L29).</p> <p>(Sometimes one needs to confine an animal in an enclosure without freedom of movement; e.g., a dog travelling in a crate.)</p>
<p>3. No person may keep any animal in any building, room, cage, or pen without adequate care.</p>	
<p>4. No person may abandon any animal.</p>	
<p>5. 3. A person shall reclaim an animal within forty-eight hours</p>	<p>SB 2365 provides that an abandoned animal includes one that is</p>

<p>of the agreed-upon time for termination of a boarding contract and pay all charges for boarding the animal</p>	<p>left in the care and custody of another person and not reclaimed within forty- eight hours of an agreed upon time (see P13 L25-27). Abandonment is prohibited (see P3 L30).</p>
<p>6. No person may allow any maimed, sick, infirm or disabled animal of which the person is the owner, or of which the person has custody, to lie in any street, road, or other public place for more than three hours after notice.</p>	
<p>7.4. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.</p> <p>(NOTE: Cruelty is defined as any act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused, permitted, or allowed to continue.)</p>	<p>SB 2365 provides that a person may not:</p> <ul style="list-style-type: none"> • Unjustifiably injure or kill an animal; • Engage in any act or omission that causes an animal unjustifiable pain, suffering, or death; • Knowingly permit an act or an omission to continue if doing so causes an animal unjustifiable pain or suffering; • Knowingly have permitted an act or an omission to continue if doing so caused an animal's death; • Instigate an act or omission if that act would cause an animal unjustifiable pain, suffering, or death. <p>See P2 L18-28</p>
<p>8.5. No person may cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal.</p> <p>This subsection does not apply to the North Dakota state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political</p>	<p>SB 2365 placed this concept in a separate section.</p> <p>SECTION 3. A new section to chapter 36-21.1 of the North Dakota Century Code is created and enacted as follows:</p> <p>Caging of animals - Public display.</p> <ol style="list-style-type: none"> 1. A person may not cage an animal for public display unless: <ol style="list-style-type: none"> a. The cage is constructed of solid material on three sides and affords the animal protection from the elements; and b. The horizontal dimensions of the cage are at least equal to four times the length of the caged animal. 2. This section does not apply to: <ol style="list-style-type: none"> a. The North Dakota state fair association;

<p>subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos are exempt from this subsection.</p>	<ul style="list-style-type: none"> b. An agricultural fair association; c. A political subdivision; d. A district, regional, or national educational livestock or poultry exhibition; and e. A zoo that is approved by the political subdivision having jurisdiction. <p>See P4 L1-14</p>
<p>§ 36-21.1-06 Exposure of animals. – Authority of officers.</p> <p>1. Any sheriff, police <u>licensed peace officer</u>, licensed veterinarian, or investigator, may take custody of and care for any animal unjustifiably exposed to cold or inclement the weather, or not properly fed and/or watered-, or not cared for in a way generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition, and type of animal as established by the American Veterinary Medical Association.</p> <p>Any sheriff or police <u>licensed peace officer</u> may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.</p> <p>-----</p> <p>2. <u>A warrant or court order is not necessary for seizure of an animal, if any delay in impounding the animal would continue to cause the animal extreme suffering or if other</u></p>	<p>SB 2365 provides that a law enforcement officer or a licensed veterinarian may take custody and control of an animal if there is reasonable cause to believe that the animal has been subjected to an activity prohibited by this chapter (see P6 L29-31).</p> <p>SB 2365 amended Section 36-21.1-03.1, which pertains to leaving an animal unattended in a motor vehicle and added the authority of a law enforcement officer to that section; i.e., "A law enforcement officer may use reasonable means to remove an animal from a vehicle if the animal has been left in the vehicle in violation of this section." (see P4 L29-31)</p> <p>-----</p> <p>SB 2365 places this concept into a separate section:</p> <p>SECTION 9. A new section to chapter 36-21.1 of the North Dakota Century Code is created and enacted as follows:</p> <p>Seizure of animal - Warrant - Court order.</p> <p>1. A law enforcement officer may seize an animal, without a warrant or court order, if:</p> <ul style="list-style-type: none"> a. (1) There is reasonable cause to believe that the

exigent circumstances exist.

If any animal is impounded or subjected to other action under this section without a warrant or court order, the licensed peace officer shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy

3. ~~2-~~A sheriff, police licensed peace officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.

4. ~~3-~~If the owner or the owner's agent is known, the individual must be immediately notified.

animal has been subjected to an activity prohibited by this chapter; and

(2) During the time normally required to obtain a warrant or a court order, the animal would be subjected to extreme suffering; or

b. Other exigent circumstances exist.

2. A law enforcement officer seizing an animal without a warrant or court order, in accordance with subsection 1, shall show cause for the action thereafter. If the court finds sufficient cause, the court shall issue an order ratifying the seizure of the animal. If the court finds insufficient cause, the court shall order the return of the animal to its owner or order any other appropriate remedy (see P7 L1-14).

SB 2365 authorizes a law enforcement officer or a licensed veterinarian to take custody and control of the animal (see P6 L29-31).

SB 2365 places this concept into a separate section:

SECTION 10. A new section to chapter 36 21.1 of the North Dakota Century Code is created and enacted as follows:

Notification of owner.

1. If the owner of an animal seized under section 9 of this Act is known to the law enforcement officer or to a veterinarian, the

If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. The notice must inform the owner or the owner's agent that the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days from the date of the notice.

5. 4. The sheriff, police licensed peace officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien on the animal and that lien is superior to any other claim or lien, for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding the claim may apply to the district court for an order to sell the animal and discharge the lien.

law enforcement officer or veterinarian shall immediately notify the animal's owner.

2. If the owner of an animal seized under section 9 of this Act is not known to the law enforcement officer or to a veterinarian, the law enforcement officer or veterinarian shall publish a notice in the manner required by law and indicate that the animal may be sold or otherwise disposed of pursuant to a court order if the animal is not claimed within five days from the date of the notice.

See P7 L15-25

SB 2365 places this concept into a separate section:

SECTION 11. A new section to chapter 36 21.1 of the North Dakota Century Code is created and enacted as follows:

Lien on animal.

The law enforcement officer or veterinarian having custody and control of an animal seized under section 9 of this Act has a lien on the animal for the reasonable value of the animal's care and shelter, and for any expenses incurred in notifying the animal's owner. This lien is superior to any other claim or lien (see P7 L26-30 and P8 L1-2).

SB 2365 places this concept into a separate section:

SECTION 12. A new section to chapter 36 21.1 of the North Dakota Century Code is created and enacted as follows:

6. ~~5~~—Upon order of the court, the animal may be sold at a public market to pay the charges for its keeping, and the title to the animal passes by the sale.

7. ~~6~~—The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for the adoption of the animal, or arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.

8. ~~7~~—If the animal is sold, the lienholder is entitled to the proceeds of the sale and to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent is not known, the remainder must be deposited in the county general fund.

If no purchaser is found, the animal, at the discretion of the commissioner, may be offered for adoption or disposed of consistent with the law.

9. ~~8~~—Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can

Sale of seized animal.

1. A court may order that an animal seized under section 9 of this Act be sold to pay for any expenses incurred as a result of its seizure. Title to the animal passes to the purchaser at the time of the sale.

2. A court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for adoption of the animal, or arrange for destruction and disposal of the animal if no market exists for the animal or if it is a companion animal.

3. If the animal is sold, the lienholder is entitled to the proceeds of the sale, to the extent of the lien. Any remaining amount must be paid to the owner, if known. If the owner is not known, the remainder must be deposited in the county general fund.

4. If a purchaser is not found for the animal, the agriculture commissioner shall determine whether the animal is to be offered for adoption or destroyed and disposed of in accordance with law (see P8 L3-18).

SB 2365 places this concept into a separate section:

SECTION 13. A new section to chapter 36 21.1 of the North Dakota Century Code is created and enacted as follows:

Return of animal to owner.

If the owner of an animal seized under section 9 of this Act asks the court to return the animal, the court shall require the owner to

demonstrate to the court that the owner can and will provide adequate care for the animal. The court has ten days within which to make this determination. The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.

10. Upon the conviction of a person charged with a violation of this section, in addition to any sentence imposed, the court may also prohibit or limit the defendant's ownership, possession, or custody of animals as the court believes appropriate during the term of the sentence including any period of probation, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care or control of any animal.

11. This section does not prohibit

a. a person humanely destroying an animal for just cause;

demonstrate to the satisfaction of the court, within ten days, that the owner can and will continue to care for the animal in a manner that is not in violation of this chapter. Before the court returns the animal to its owner, the owner shall pay all costs associated with the animal's seizure (see P8 L19-26)

SB 2365 places this concept into a separate section:

SECTION 14. A new section to chapter 36 21.1 of the North Dakota Century Code is created and enacted as follows:

Conviction - Prohibition or restriction of ownership.

In addition to any other sentence imposed, a court may:

1. Prohibit or restrict a person found guilty of violating this chapter from owning or having custody of an animal during the term of sentence, including any period of probation; and
2. Require that a person found guilty of violating this chapter:
 - a. Immediately deliver any animal owned by or in the custody of the person to a designated shelter or other entity for adoption or destruction and lawful disposal; or
 - b. Demonstrate to the court that the person no longer has ownership or custody of an animal.

SB 2365 places this concept into an existing section that pertains to the entire chapter:

SECTION 24. AMENDMENT. Section 36 21.1 15 of the North Dakota Century Code is amended and reenacted as follows:

36-21.1-15. Applicability of chapter.

1. This chapter does not prohibit:
 - a. The humane destruction of an animal for just cause;
 - b. The use of practices in the production of livestock which

<p><u>b. the use of commonly accepted agricultural, livestock, and animal husbandry practices on livestock;</u> <u>c. lawful rodeo or racetrack activities, or livestock exhibitions or competitions;</u> <u>d. lawful fishing, hunting, and trapping activities;</u> <u>e. lawful wildlife management practices;</u> <u>f. lawful scientific or agricultural research or teaching that involves the use of animals;</u> <u>g. services provided by a licensed veterinarian; or</u> <u>h. lawful control of rodents and predators and other lawful animal damage control activities.</u></p>	<p>are commonly accepted in this state; c. Rodeos; d. Lawful animal racing; e. Livestock exhibitions; f. Livestock competitions; g. Lawful fishing, hunting, and trapping; h. Lawful wildlife management practices; i. Research or educational activities that involve the use of animals; j. The provision of medical services by a veterinarian; k. The lawful control of rodents and predators; or l. Lawful animal damage control activities.</p> <p>2. This chapter does not apply to estrays covered under Chapter 36-22.</p> <p>See P14 L13-30</p>
<p>§ 36-21.1-03.1 Unattended dog or cat animal in motor vehicle. No person may leave a dog or cat <u>an animal</u> unattended in a stationary or parked motor vehicle in a manner that endangers the animal's health or safety. Any person who violates this section is guilty of an infraction.</p>	<p>36- 1.1-03.1. (As amended)</p> <p>Unattended animal in motor vehicle. A person may not leave an animal unattended in a motor vehicle in a manner that endangers the animal's health, safety, or well being. A law enforcement officer may use reasonable means to remove an animal from a vehicle if the animal has been left in the vehicle in violation of this section (see P4 L31).</p>
<p>§ 36-21.1-11 Penalty. Any person knowingly and willfully violating any rule adopted by the board or violating any provision of this chapter for which a specific penalty is not provided is guilty of a class A misdemeanor, <u>unless the violation results in serious injury, serious illness, or death of the animal in which case the person is guilty of a class C felony.</u> A person convicted of a second (2nd) or subsequent offense under this section within five (5) years is guilty of a <u>class C felony.</u></p>	<p>36-21.1-11. (As Amended)</p> <p>Penalty. A person violating any rule adopted by the board or violating any provision of this chapter for which a specific penalty is not provided is guilty of:</p> <ol style="list-style-type: none"> 1. A class A misdemeanor; or 2. A class C felony for a second or subsequent offense within five years. <p>(This was changed from the group's original penalty at the request of a legislator.)</p>

§ 36-21.1-12. Duties of board and commissioner.

The board shall ~~may~~ adopt rules to effectuate this chapter.

The board by rule may restrict the importation into the state, and restrict the sale or other distribution within the state, of all domestic animals or animals wild by nature which the board may have reason to believe may be a threat to the health and well-being of the human or animal population of the state, or both, unless the importation or sale is for bona fide scientific or educational purposes.

The board shall ~~may~~ establish reasonable qualifications for approved investigators and the commissioner shall ~~may~~ maintain a current listing of all approved investigators.

Employees of the commissioner may be assigned as investigators.

The commissioner may by injunctive procedure without bond or other undertaking proceed against any person or persons for a continuous violation of any provision of this chapter.

No liability may accrue to the board, the commissioner, or

36-21.1-11. (As Amended)

State board of animal health - Animal importation - Restriction.

In accordance with Chapter 28-32, the board has the authority to adopt rules. Therefore, the first sentence was omitted.

1. The state board of animal health may restrict the importation into this state and the sale or distribution within the state, of any domestic or wild animal if the board has reason to believe that the animal may be a threat to the health and well being of the human or animal population of this state.
2. Notwithstanding subsection 1, the state board of animal health may not restrict the importation or sale of a domestic or wild animal if the importation or sale is for bona fide scientific or educational purposes.

See P11 L25-31 and P12 L1-12

SB 2365 places this concept into a separate section:

SECTION 21. A new section to chapter 36 21.1 of the North Dakota Century Code is created and enacted as follows:

Investigators - Assignmen - Qualifications.

1. The state board of animal health may establish qualifications for and authorize individuals other than law enforcement officers to investigate violations of this chapter.
2. The state board of animal health shall maintain a list of all authorized investigators.
3. The commissioner may assign employees of the department of agriculture to serve as investigators.
4. The agriculture commissioner may by injunctive procedure, without bond or other undertaking, proceed against any person for violating this chapter.

any authorized representative in proceeding against any person or persons pursuant to this section.

Liability is addressed in Section 36-21.1-14
See P14 L4-12

NOTE: When a number of sections within a chapter are amended, the remaining sections must be reviewed for consistency. At times, this presents an opportunity to update or otherwise clarify the remaining sections within the chapter. Not only does this improve the North Dakota Century Code, it also provides legislators and interested parties with an opportunity to consider whether proposed changes, such as increased penalties, are appropriate for the entire chapter. Senate Bill No. 2365 contained several of these sections:

SECTION 4. Amendment of Section 36-21.1-03 - Cruelty in transportation.

SECTION 6. Amendment of Section 36-21.1-04 - Poisoning animals.

SECTION 7. Amendment of Section 36-21.1-05 - Animal with infectious disease.

SECTION 15. Amendment of Section 36-21.1-07 ~~Cockfights, dogfights, and other exhibitions prohibited - Penalties~~ Animal fights - Prohibition - Penalty.

SECTION 16. Amendment of Section 36-21.1-08 - Artificially colored ~~animals~~ animal - Sale.

SECTION 17. Amendment of Section 36-21.1-09 - Use of certain birds as advertising devices - Use of live beef or dairy cattle as raffle prizes - Gifts of animals.

SECTION 18. Amendment of Section 36-21.1-10 - Care of animals used as advertising devices.

#2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2365

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the laws relating to the humane treatment of animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HUMANE TREATMENT OF ANIMALS. During the 2011-12 interim, the legislative management shall consider studying laws pertaining to the humane treatment of animals for the purpose of reviewing their content and their applicability to domestic or companion animals and to animals in production agriculture, and recommending necessary policy changes to laws that are found to be irrelevant, inconsistent, illogically arranged, not reflective of current practices or needs, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

#3

**ND Legislative Session
Senate Agriculture Committee
Friday, February 11, 2011
9:00 am**

Good Morning,

My name is Arlette Moen. I am the executive director of the Circle of Friends Humane Society in Grand Forks North Dakota.

This testimony is in response to SB #2365. While this bill does include an important revision to the ND Humane Treatment laws which is a class C felony for a second or subsequent offense within five years, it is apparent that SB #2365 does not have the full support of the many animal-related groups in the state. It is vitally important that this bill in its final form be the result of a cooperative effort among agriculture, veterinary and animal welfare organizations.

This bill would add North Dakota to an important list, the list of states with felony animal cruelty laws. Felony level penalties are essential in protecting animals from abuse. As you are already aware, studies in psychology, sociology, and criminology during the last 25 years have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty. Analyses of the lives of serial killers suggest that most had killed or tortured animals as children.

In the Grand Forks area, we average two reports per week of animal neglect or abuse. While most of these reports could not be classified as felonies, they point out a distinct disregard for the welfare of animals. Incidents of a far more serious nature are those in which animals are used as pawns in domestic situations, small pets thrown against walls or beaten to elicit compliance from children or spouses. Or willful contempt for living creatures as when children were found beating a puppy with sticks just "to see how long it takes to die".

It's incredibly frustrating when most of us recognize the need for the class C felony provision, yet the path to accomplish this task seems so arduous. It is critical that the journey does not make us lose sight of the reason we began the journey in the first place. That reason being the elderly dog beaten bloody then kicked down a flight of stairs because he urinated on the floor. I realize that everyone's interests and rights must be discussed and protected. But it's time to come together and finish a task begun so many years ago.

The Circle of Friends Humane Society will support a resolution to refer the bill for study in the interim. While it will be disappointing to see another legislative session end without a provision for a class C felony if this bill fails, it is imperative to pass revisions to the ND Humane Treatment laws that are supported by all those who care for the welfare of animals in their various fields.

I represent people in the business of caring for lost, unwanted animals, mostly cats and dogs. We do our jobs quietly and with dedication, day after day watching the parade of pets come through our doors. But we cannot remain quiet about allowing criminal behavior to go unpunished. Please, please, to all those groups whose voices must sound in unison for changes to the ND Humane Treatment laws, let's make this happen before more time slips away.

We sincerely appreciate the efforts of the sponsors of SB #2365 for their recognition of the need to revise these vitally important laws and move our state forward in animal protection.

Thank you for your time.

Arlette Moen
Executive Director
Circle of Friends Humane Society

#4

ND Legislative Session
Senate Agriculture Committee
Friday, February 11, 2011

Dear Committee Members,

Apparently, in order to provide penalties that are equitable to the crime, it is incumbent upon us to remember an old adage: "Watching laws being made is like watching sausages being made. You might like the taste of the results but you can't stand the process of producing it".

I am writing to express my frustration with what once again appears to be a delay in the passing of meaningful legislation regarding the abuse of animals.

In most cases, these are creatures domesticated as pets and completely dependent upon their owners behavior for their existence. Put them in an environment which is controlled by a cruel or sick person and their life's are pure Hell. As are other family members.

It is as a constituent wholly reliant upon my belief that those in a position to make change that will continuously elevate out societal morals for safety and decency will do so in a timely manner.

I am writing to ask you to do what your common sense tells you is needed. That is to prepare and enact a law that will allow our justice system to combat the atrocities that are and will continue to be committed, likely on a daily basis, against animals, most of which are family pets. You have most likely seen, read, or have been told of the statistics that connect animal abuse to family violence. That serial killers can, in most cases, be linked to animal abuse at a young age. It would be redundant to quote, chapter and verse, this historical data that can only bring one to the conclusion that atrocious behavior should be met with appropriate penalties. It should be not asking too much to allow a repeat offender to be charged with a felony in order to allow our judicial system the ability to mete out harsh penalties in extreme cases.

Please don't get bogged down in details which only delay protection for animals and in many cases, by association, families in abusive homes.

As voters, we send the best and brightest to see that our society is a fair and equitable one. A society which for centuries has been the beacon of hope for the entire world to envy. It is sad to think that North Dakota is lagging in its efforts to protect a segment of our society that has the ability to enrapture the attention of the nation in cases of an extreme nature. As the best and brightest, surely a collaborative effort on your part could prepare a bill that would provide the necessary basic protection while ensuring that the interests of related parties are protected as well.

Please do not let this effort once again die on the vine.

Sincerely,

Steve Sulland
202 70th Ave N
Grand Forks, ND 58203

#5

**2011 Senate Bill No. 2365
Testimony before the Senate Agriculture Committee
Presented by Sue Buchholz, Shelter Director
Central Dakota Humane Society
February 11, 2011**

Mr. Chairman, Members of the Committee:

My name is Sue Buchholz. I am the Shelter Director for the Central Dakota Humane Society (CDHS) in Mandan. I am here to testify in support of Senate Bill 2365.

SB 2365 is not a perfect solution to the abuses we see on a daily basis, but it is a place to start. We approve of the penalty section of Senate Bill 2365 in that it starts the process of including a felony animal cruelty penalty in North Dakota law. It is a provision long overdue in North Dakota. We are one of only 4 states that does not have a felony animal cruelty law.

CDHS is an animal shelter located north of Mandan. We serve central North Dakota and in times of great need, we help across the state and even in other areas of the United States. The closest similar facility to ours is in Jamestown. We've traveled as far as Iowa to rescue animals in peril from flood waters.

We are not a radical animal rights organization. Many of our employees and volunteers were raised on farms and ranches which provided the foundation for their love of animals. We've had hunters and sportsmen on our board of directors. The organization's mission is to provide for, house, rehabilitate and relocate lost, strayed or homeless animals. We provide medical services, advocate for spaying and neutering of pets and educate about pet owner responsibilities.

You may recognize our name as we are frequently in the news, helping to rescue animals from puppy mill breeding sites within our state. In our most recent rescue,



we saved 200 dogs from a farm in Scranton. Several of these dogs were seriously ill, had untreated injuries and were without adequate food, water and shelter.

During the past 15 years that I have worked for CDHS, I have seen and been made aware of many examples of abuse and neglect of animals. These cases run a broad spectrum and certainly not all cases merit the same treatment. There are some, however, where the act described warrants a more serious consequence.

For example:

- Aubrey, a cat that was "cooked" in the microwave by her owner.
- Smiley, a dog with an open leg wound that was left by her owner to suffer without any medical care.
- A puppy whose head was stepped on and smashed. A man killed the dog in front of his girlfriend.



CDHS does not support the proposed amendment to this bill. If amended and passed out of committee, we all understand that the likelihood of this issue actually being chosen and studied is slight. As we wait to discuss this issue further, more animals will suffer abuse and neglect just like Aubrey and Smiley.

We are disappointed that our interim work with many of the groups who sit today in opposition to this bill did not yield a result that would provide a meaningful deterrent to intentional and needless cruelty to animals. During our interim work the group agreed to language that would have included a Class C felony provision for abuse and neglect on a first offense in cases of serious injury, illness or death. This is the penalty we will continue to advocate for.

We urge a "do pass" on Senate Bill 2365.



That concludes my testimony. I'd be happy to answer any questions that you may have.

#1

**2011 Engrossed Senate Bill No. 2365
Testimony before the House Agriculture Committee
Central Dakota Humane Society
March 18, 2011**

Mr. Chairman, Members of the Committee:

My name is Charlene Seifert. I am a member of the Board of Director of the Central Dakota Humane Society (CDHS). I am here to testify in support of Engrossed Senate Bill 2365.

Senate Bill 2365 is not a perfect solution to the abuses we see on a daily basis, but it is a place to start. In its original form, we supported most importantly the penalty section of Senate Bill 2365 because it included a felony animal cruelty penalty in North Dakota law. It is a provision long overdue. We are one of only 4 states that does not have a felony animal cruelty law.

CDHS is an animal shelter located north of Mandan. We serve central North Dakota and in times of great need, we help across the state and even in other areas of the United States. The closest similar facility to ours is in Jamestown. We've traveled as far as Iowa to rescue animals in peril from flood waters.

We are not a radical animal rights organization. Many of our employees and volunteers were raised on farms and ranches which provided the foundation for their love of animals. We've had hunters and sportsmen on our board of directors. The organization's mission is to provide for, house, rehabilitate and relocate lost, strayed or homeless animals. We provide medical services, advocate for spaying and neutering of pets and educate about pet owner responsibilities.

You may recognize our name as we are frequently in the news, helping to rescue animals from puppy mill breeding sites within our state. In our most recent rescue,



we saved 200 dogs from a farm in Scranton. Several of these dogs were seriously ill, had untreated injuries and were without adequate food, water and shelter.

Our collective experience as an organization has brought to our attention many examples of abuse and neglect of animals. These cases run a broad spectrum and certainly not all cases merit the same treatment. There are some, however, where the act described warrants a more serious consequence. For example:

- Aubrey, a cat that was “cooked” in the microwave by her owner.
- Smiley, a dog with an open leg wound that was left by her owner to suffer without any medical care.
- A puppy whose head was stepped on and smashed in front of his girlfriend. The animal died.



CDHS is disappointed in the engrossed version of the bill. We understand that the likelihood of this issue actually being chosen and studied is slight. As we wait to discuss and study this issue further, more animals suffer abuse and neglect.

We look forward to continued interim work with many of the groups who are represented today. We will continue to advocate for a meaningful deterrent to intentional and needless cruelty to animals.

That concludes my testimony. I'd be happy to answer any questions that you may have.

#2a

DO PASS SB 2365

Chairman Johnson and Members of the House Agriculture Committee,

My name is Christine Kujawa and I'm here today in support of SB 2365.

I'm a citizen of Bismarck and was born in North Dakota. I am also an owner and handler of a nationally certified pet therapy dog and creator of the blog, STAND (Save the Animals in North Dakota), which spotlights homeless cats and dogs available for adoption in shelters across the state.

I sent each of you a letter regarding my views on this bill and I'd like to take a few moments of your time today to reiterate these views.

I was pleased to learn that SB 2365 was introduced in the 62nd Legislative Assembly. While a Class C felony on a first offense may be warranted as punishment in some of the more heinous crimes against our companion animals, the penalty section as proposed in SB 2365 would be a long overdue step in the right direction.

I attended the Senate Agriculture Standing Committee hearing on February 11, 2011, and some members of the coalition who worked on rewriting the law did not want the bill to pass for a couple different reasons:

1. The animal cruelty law went from 4 to 14 pages.
2. Sections were added that they had not discussed.

Regarding the length of the bill, many sections were reformatted from paragraph to list form making it easier to read the law. The bill also includes the strikethrough text. If the strikethrough text is removed, the length of the bill is actually only 7 pages long.

Regarding sections added that coalition members had not discussed, if this is the case, they are justified in their argument for not wanting the bill to pass with those sections included at this time.

However, Senator Flakoll asked some of the coalition members present at the hearing how they would feel about passing the felony section of the bill while the rest of it was studied during the interim; the response was positive.

The recent puppy mill rescues in North Dakota illustrate the need for tougher animal cruelty laws in our state. This past fall, animal shelters around the area rescued over 100 dogs at a puppy mill in Bowman County. Puppy mill dogs suffer from filthy living quarters in small cramped cages soiled in their own excrement, lack of food and clean water, and multiple health problems including skin disease and pneumonia.

Under the current law, the maximum sentence for animal cruelty is a Class A Misdemeanor, which carries a fine of \$2,000 and up to one year imprisonment. Puppy mill breeders have no regard for the welfare of the dogs and are concerned solely in their profits. This breeder could pay the fine and be back in business within a year's time.

If the law proposed in SB 2365 was the current law, the maximum sentence for this breeder would still be a Class A Misdemeanor, but the breeder would know that she would face being charged with a Class C Felony for second offense. As the fiscal note for SB 2365 states, adding the possible charge of a Class C Felony "would serve as a deterrent for inhumane treatment of animals" which would also potentially save the resources of the authorities expected to respond and investigate these cases.

While the general consensus may be to study the bill during the interim due to added sections that have not yet been thoroughly discussed, it seems reasonable to pass the felony section of the bill at this time. Helpless dogs and cats are being abused and need our help now, not two years from now or however long it might take to change the law. I respectfully ask that you consider this option.

Thank you and I will stand for any questions.

#26

SB 2365 - Testimony to the House Agriculture Committee

Good morning, Chairman Johnson and members of the House Agriculture Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association.

The humane treatment of animals is an important topic for beef producers. We take steps every day to assure our cattle are cared for - from everyday activities like providing adequate feed, water and shelter to more specialized activities, like bottle feeding and opening our homes to lethargic newborn calves. We, as an industry, know that taking care of our animals is the right thing to do, and it is also what makes us profitable.

We became engaged in this issue because we want to assure the proper care of animals, but we also want to assure that any language adopted does not unintentionally harm those in animal agriculture who are everyday stewards of their livestock. Our industry has been the target of some extreme animal rights groups who have tried to paint a very different picture of modern food production than reality, and we are intent on not providing more fodder for them to disparage a way of life we are proud of and have enjoyed for many generations.

For these reasons, we support SB 2365, stand ready to help with this study and ask for your favorable consideration of it.

SB 2365

3

Good Morning Mr. Chairman and Members of the Committee.

For the record, my name is Nancy Kopp. I represent the North Dakota Veterinary Medical Association.

I appear before you in support of Engrossed Senate Bill 2365.

The NDVMA did participate in the various coalition meetings that were conducted prior to the 2011 Legislative Session. These meetings were primarily to reach a consensus of interested parties, such as the North Dakota Stockman's Association, ND Farm Bureau, ND Farmers Union, Central Dakota Humane Society, Fargo and Grand Forks Humane Societies, NDVMA, Board of Animal Health and a Burleigh County States Attorney.

We worked on a number of potential revisions to the current statute, but the main thrust, in our opinion, was to increase the penalty from a misdemeanor to a felony.

Most of the groups were in support of the proposed language that could be introduced. However, due to position changes of the enforcement entities, the waters got muddied, so to speak and a bill was drafted that went above and beyond what most of the groups had agreed to support.

The NDVMA does have real concern over some of the abuse that has occurred to our furry friends and will work with others during the interim on the study and hopefully, together, find solutions to the problems

I ask for your favorable support and passage of SB 2365.