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Agriculture Committee
February 19, 2013

[LB435 LB587 LB647 LB654]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 19, 2013, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB654, LB647, LB435, and LB587. Senators present: Ken Schilz, Chairperson; Norm Wallman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Tom Hansen; Burke Harr; Jerry Johnson; and Steve Lathrop. Senators absent: None.

SENATOR SCHILZ: (Recorder malfunction)...go ahead and introduce the rest of the folks that are on the committee. Walking in right now is Senator Tom Hansen from North Platte; to my right is Senator Dave Bloomfield from Hoskins, if I remember correctly; Senator Jerry Johnson from Wahoo. To my left is Senator Norm Wallman, who is also the Vice Chair of the committee. And then also with us today we have Rick Leonard, the research analyst for the committee; Jamaica Erwin, who is the committee clerk; Barb DeRiese who is helping out today with the lights; and we have two pages, Cicely Batie from Lexington and Evan Schmeits from Columbus. Welcome. If you plan to testify today, please fill out a testifier sheet, and those are available by both doors. And if you're presenting testimony on behalf of an organization or your comments will represent the organization's view on the bill, please indicate the organization you are representing. And if your testimony is your own personal views and you are not authorized to represent the views of other persons, then you may leave the space under the representing blank or write in self. When you come to the witness table, there's a box or you can just hand your sheet to Jamaica and she'll get that into the record. Please begin your testimony by stating your name and spelling it so our transcribers may get your name correct. Again, please indicate verbally if you are testifying as a representative or on your own. If you have copies or exhibits to share with the committee, please indicate to one of our pages, and they will hand them out to you. We request that if you do have items to hand out have ten copies. And if you need copies made, a page will be able to make them for you. And I should also mention at this point that if you do hand something to the committee we will keep it for the record. So if it's

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something that you don't want to have go into the record, then don't hand it out. But if it is, it will go into the record. There will be no...today we're going to use the light system. And what we're going to do is four minutes so there will be three minutes with the green light and then you'll get one minute with the yellow light. And then when the red light comes on, we would appreciate you either ending your testimony or summing it up and finishing it as quickly as possible. And as always, keep your comments succinct and to the point and try to avoid previous testimony. At the conclusion of your testimony, we'll ask the members of the committee if they have any questions for you so please remain in the seat until we're sure that there are no questions. I would also ask that when one person is finishing their testimony that the next person in line be ready to come up to the table and get ready to go. If you do not want to testify but wish to indicate your position on a bill, there's a sheet back at the door where you may do so. And these will also be made part of the hearing record. However, only persons who verbally testify will be indicated on the committee statement. We ask that all persons respect and be courteous to witnesses. We do not allow any displays or any verbalizing among the audience of approval or disapproval of the witness's testimony. At this point, please shut off all cell phones or place them in a nonringing mode. And if you need to make or answer a phone call, please take it to the hallway. Likewise, if you need to converse with any other member of the audience, please also take your conversation to the hallway. Today we have four bills on the agenda for public hearing and we'll hear them in the following order: first is LB654, LB647, LB435, and LB587. And with that, we will start here on LB654, Senator Davis will go ahead and open up on his bill and then we have some folks that he would like to testify. So when he is done, I will call the first five testifiers. One other thing that we have decided to do today with the large crowd in here today so that everybody can have their opinions heard, we will go with five proponents and then we will move to five opponents and then we will see if there's any neutral testimony and then we'll turn back around and we'll start with five other proponents, five opponents, and if there's any more neutral testimony. But I think that should cover it and we should get there. So the first few folks we will call up to testify as proponents. And with that, Senator Davis, you're welcome to open on LB654. Thank you.

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SENATOR DAVIS: Thank you, Senator Schilz. Good afternoon, Senator Schilz and members of the Agriculture Committee. I am Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. I'm here today to introduce LB654. This bill would move the entire state into the brand area. I would like to offer AM14 to LB654 at this time. AM14 would simply harmonize all the statutory references to the brand inspection area so they conform to the new definition proposed in LB654. Let me first talk about cattle and cattle ownership. How cattle are customarily branded in Nebraska, the statutes related to the brand inspection area do not require that animals be branded. There are a number of other forms of ownership which meet the requirements of the brand inspection program besides the brand. The key word here is owner, is cattle ownership. There needs to be some authority which recognizes cattle ownership and a regulatory agency to administer and enforce laws relating to cattle ownership. The brand inspection program is that device. When we purchase a car, we acquire an object with unique characteristics and a unique number which applies to the car and gives us the ability to register it with the proper authorities as our property. It is also true of most items you purchase at a store. The receipt you get when you exchange funds is your form of ownership. Livestock are different. Cows give birth to calves. The cow may be purchased and the bull may be purchased, but there is no other document which records your ownership of the calf. It is really when you brand the calf that your first demonstrable proof of ownership is established. So the brand can really be perceived as an ownership document which is situated on the side of a living being. And we've got some maps that we could pass out at this time. As you can see from the shaded map I provided, over 70 percent of Nebraska is in the brand area representing all or part of 49 counties. The remaining 30 percent of Nebraska does not have an inspection program. The second map shows the history of the brand inspection area in Nebraska. Brand inspection has been an official function of state government since 1941. Prior to that, the activity was conducted by the Nebraska Stock Growers Association. Initial fees in 1941 were 10 cents per head and the inspection area was made up of 39 counties. The number of counties included in the brand inspection area has expanded and contracted

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several times since 1941, but the inspection area has remained constant since 1994 when operators in Howard County petitioned to be included in the brand inspection area. A great many things have changed in how we handle livestock since the original implementation of the brand inspection program in 1941. At that time, transport by truck was unheard of, and there were no stock trailers available to farmers and ranchers to move cattle about. Most animals at that time were driven by cowboys to the railhead, loaded on stock cars, and shipped by rail to the marketing centers of Sioux City, Omaha, Denver, Chicago, St. Joe, or Kansas City. In fact, these cities were the original open market cities. The Nebraska Brand Committee had staff at these locations who would monitor livestock arriving by train and trace these animals by the brand they wore. The Nebraska Brand Committee still offers open markets to sale barns or packing plants outside the brand area which request that a brand inspector be present to monitor the ownership of the animals as they arrive at the barn or plant. Livestock arriving from within the brand inspection area and sold through an open market are not required to have a brand clearance before they leave the brand area since they will be inspected at the point of sale. The open market sale barn is obligated to make up any deficit in revenue between the collections made by the brand inspector and his actual costs, but there are several sale barns which retain open market status and value the added security. As I said earlier, cattle are handled very differently than they were in the past, which is one of the reasons it is time to enlarge the brand area and include the entire state of Nebraska. With a four-wheeler, a pickup trailer, and a set of portable panels, it is very easy to load animals and haul them away. Today almost all cattle are hauled on trucks and in trailers which complicates the ability of law enforcement to track the animals easily. Cattle stolen in the brand area can easily be transported and sold in the noninspection area without any documentation provided. Unethical cattle thieves and unethical feedlot owners are the beneficiaries of the inconsistent and outmoded brand inspection area. Brand inspection programs are the single biggest deterrent to the theft of cattle and cattle are the primary engine which drives the agricultural economy in much of Nebraska. Brand inspection in Nebraska is funded by the livestock owners who use the program. Brand inspection does not rely on property tax, on sales tax, or on

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income tax but is strictly a user fee. The fees paid actually contribute to a reduced cost for local government since they remove the local police department from participation in investigations. Remember that local police departments are funded by general tax monies. The fiscal note for this bill includes a one-time allocation of revenue from the General Funds to provide for startup and first year services. After that, the program will be self-funding and could result in lower police costs in the current noninspection area. Enlarging the brand area would also eliminate the problems which plague those who live along the imaginary line which runs through Nebraska. Producers moving into and out of the brand inspection area must obtain permits or inspection to do that under the present system. By including all of Nebraska in the brand inspection area, these headaches will be moved. Finally, LB654 would also add revenue for Nebraska's beef checkoff since brand inspectors would be the collectors for cattle in the area which was formerly outside the brand area. At the present time, those collections are based purely on the honor system. Since the beef checkoff is an obligation of all Nebraska beef producers, it is illogical that individuals on one side of a line are held to a different standard than are individuals who live on the opposite side of that line. I have three letters to offer in support of LB654. One is from Dennis and Delores Hrbek, a second is from Roger Fahrenholz of O'Neill, and the third is from Cole Schaffer of North Platte. I would be happy to answer any questions. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Davis. Any questions? Senator Johnson.
[LB654]

SENATOR JOHNSON: You might be the one to ask or somebody, if you defer, that's fine. What are the relationships with the other states around us because we'll be moving a line from the middle or the eastern third of Nebraska over to the Missouri River? What's the relationship when that's moved over there with Iowa, for instance? Do they have similar situations that they would be inspecting our livestock? [LB654]

SENATOR DAVIS: I'm not familiar with the Iowa brand inspection program, if there is

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one. South Dakota has a brand inspection program which is west of the river. All the western states have brand inspection programs, west of Nebraska. North Dakota has one. Kansas, Oklahoma, and Texas have brand programs of some kind, which I think are on the county level or operated in a different manner. But somebody else might be able to speak to that. There is a...one of the testifiers does buy cattle in Kansas, and he may be able to help with that question. [LB654]

SENATOR JOHNSON: Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other questions for Senator Davis? Seeing none, thank you, Senator Davis. At this time we would like to ask Gary Darnall to come forward to testify. Gary, welcome to the Ag Committee. [LB654]

GARY DARNALL: (Exhibit 1) Thank you. I'm going to first of all point out this is approximately where I live, and in my testimony I refer to that. I assumed that we would have a five-minute and I've tried to cut some out to four minutes so I hope I don't run over. My name is Gary Darnall, Gary, G-a-r-y, Darnall, D-a-r-n-a-l-l. Chairman Senator Schilz and committee, thank you for the pleasure to testify as a proponent of LB654. I'm the past president of the Nebraska Brand Committee and a livestock producer in western Nebraska in the brand area. I live 30 miles from the Wyoming border at Harrisburg, Nebraska. I drove 400 miles one way to testify for four minutes for LB654 because of how important this bill is to the state of Nebraska to help facilitate the flow of the cattle in Nebraska's number one industry. The current situation between the brand inspection area and the nonbrand inspection area slows commerce across the state. It's confusing, it is time consuming, and costly which may deter people from transporting cattle across the brand line. I'm going to skip the next paragraph stating that this is a self-funded program where we producers pay our own way for this service. Currently, shipping cattle from the brand inspection area to a noninspection area needs a brand inspection certificate, the same as I would need if I were shipping cattle out of Nebraska to another state. The result of combining all of Nebraska into one brand inspection

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would remedy the need for an in-state brand inspection or open market status. The open market status would not be needed if the whole state was in the brand inspection area. The open market status, as it is today, would allow...will allow cattle to be shipped to a sale barn or a packer for sale in the noninspection area without a brand inspection before shipment if the destination sale point has a brand inspector on site to inspect the cattle from the inspection area. Cattle owners living in the brand inspection area may get a grazing permit to ship cattle into the adjoining county of a nonbrand inspection area without an inspection fee. If all of the state of Nebraska was in a brand inspection area, a permit would be a moot point. The brand inspection area has registered and nonregistered feedlots. The difference between the two is a registered feedlot pays once a year fee based on the average capacity of the feedlot. A nonregistered feedlot pays a per-head fee every time an animal is moved out of the brand inspection area. The registered feedlots have a financial advantage by only paying on the average capacity, and if they fill their feedyard twice a year, they still pay on a one-time average capacity. This could effectively dilute the brand inspection fee to half. The cattle fed in the nonbrand area do not have an inspection fee, but the cattle owners are exposed to lost, missing cattle strays, theft without the specialization to enforce the recovery of loss. During the fiscal year of 2011-12, brand inspectors, through the routine inspections, recovered 1,970 head of cattle that were missing or strayed value at about \$2.2 million. The total cattle recovered in that time frame were 744 different owners. Of the 1,970 head of strays recovered, 42 head were owned by producers who reside in the nonbrand area of Nebraska with an approximate value of \$47,000. Those 42 head were discovered by brand inspectors working within the brand inspection area. However, how many cattle would have been recovered if the brand inspection area covered the entire state? I see I'm out of time. [LB654]

SENATOR SCHILZ: Give us the last couple of thoughts and then we'll see if there's any questions. [LB654]

GARY DARNALL: Okay. I would...I just feel that the brand laws don't say that you have

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to brand. It's an optional thing. There's a lot of other evidence of ownership which can be used, but the brand on the animals goes with the animal for life and, therefore, is the best evidence of ownership, which is why the brand laws and LB654 is important for the state of Nebraska. And I would ask the committee to please advance Senator Davis' bill, LB654. [LB654]

SENATOR SCHILZ: Thank you, Gary. Any questions for Mr. Darnall? Gary, I have a couple for you. You talk about those 1,970 head of cattle that were missing or strayed. And I guess one question is do you know...it's not a problem, if somebody wants to brand their cattle outside of the brand area, that's not an issue, is it? I mean they can go ahead and brand them wherever they're at, right? [LB654]

GARY DARNALL: That's correct. [LB654]

SENATOR SCHILZ: Yeah. [LB654]

GARY DARNALL: The whole state of Nebraska is within the brand law and so we, no matter whether they were in the inspection area or out of the inspection area we can record a brand. [LB654]

SENATOR SCHILZ: All right. And then do you know and I see there's others here that may be able to better answer this, but do you know...you said something about having the specialized group to be able to investigate. Is it...does the Brand Committee do investigations for folks outside the brand area as well? Or are they just... [LB654]

GARY DARNALL: It isn't a common practice, but if there's cattle discovered that are missing or astray, those problems have been investigated out of the brand area, yes. [LB654]

SENATOR SCHILZ: Okay. And then who...if they're outside the brand area, would those

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be cattle that came from within the brand area? Or would those be or some of those cattle would they be from cattle that were outside of the brand area? [LB654]

GARY DARNALL: They could be cattle of either. [LB654]

SENATOR SCHILZ: Either one. [LB654]

GARY DARNALL: In the brand area or out of the brand area, yes. [LB654]

SENATOR SCHILZ: Okay. Thank you very much. Any other questions? Senator Harr. [LB654]

SENATOR HARR: I guess that raises a question for me. So if I'm in the nonbrand area, I have the protection of the brand area without paying for the protection of the brand area. Is that right because you'll investigate outside of the brand area? [LB654]

GARY DARNALL: On rare cases. On rare cases, that could happen. However, most of those cattle that are investigated out of the brand area would have some tie to cattle in the brand area. [LB654]

SENATOR HARR: Okay. They have to have a tie so I'm from Omaha; I'm naive. So I could have cattle in my backyard stolen and say, hey, Brand Committee, can you come investigate who stole my cattle? [LB654]

GARY DARNALL: Probably the Brand Committee would refer you to the local authorities in that case. [LB654]

SENATOR HARR: Okay. All right. That answered my question. Okay. Thank you. [LB654]

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SENATOR SCHILZ: Thank you, Senator Harr. Any other questions for Mr. Darnall? Gary, thanks for coming all this way, appreciate it. [LB654]

GARY DARNALL: Thank you. [LB654]

SENATOR SCHILZ: Thank you for testimony. Next we'll have Richard Schrunk. Correct? Richard, good afternoon. Welcome to the Agriculture Committee. [LB654]

RICHARD SCHRUNK: (Exhibit 2) Good afternoon, Chairman Schilz and members of the Ag Committee. I am Richard Schrunk, R-i-c-h-a-r-d S-c-h-r-u-n-k, from Emmet, Nebraska. If you're not aware where Emmet is at, it's right up there, guys. We come down with about 32 guys. We come about 200 miles to this hearing today. I am the manager of Shamrock Livestock Market in O'Neill, and I am here to give testimony for my employer, Jim Barta, owner of Nebraska Livestock Sales. And this is Mr. Barta's letter: I am submitting this testimony today in favor of Senator Al Davis' bill, LB654, which would make the entire state of Nebraska a brand inspection state. The brand inspection in the western counties has served us well since the start of the 1941 brand law as a means to prove ownership of our cattle. When the brand law of 1941 went into effect, the value of a calf was \$50. Today, a calf is worth approximately \$1,000. I am the owner of seven livestock markets in Nebraska which are operated under the name of Nebraska Livestock Sales. Five of these auction markets--Alma, Ericson, Blue Hill, Broken Bow, and O'Neill--are located in the brand inspection area. Cattle consigned for the auctions are inspected by brand inspectors for proof of ownership. After the sale, the brand inspector transfers the title of ownership by issuing the new owner a brand paper which gives him title to those livestock. The brand inspector also helps us if there's any discrepancies in head count between check-in tickets, the number of cattle delivered to the auction market. This provides the auctions a check and balance system to verify head counts. The other two auction markets are located in Norfolk and Tecumseh and are both located in a nonbrand area. At these markets, cattle are not inspected for proof of ownership. The only exception is that cattle coming from a brand

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area, these cattle are required to be inspected before leaving the brand inspection area, which provides proof of ownership. The way our system of ownership is set up today, cattle within the brand inspection area are required to provide proof of ownership, whether they are branded, tagged, bill of sale, brand paper, or etcetera. Cattle outside the brand area are marketed on the honor system. For example, at the auction market in O'Neill which I manage, the brand inspector was able to stop a sale of stolen cattle from a feedlot in Knox County, Nebraska. The cattle were all loaded in O'Neill to sell. However, because of no proof of ownership could be verified, the check was held until the seller had proof of ownership. If the individual would have attempted to sell these cattle in the nonbrand area, they would have received payment for the cattle they stole that day. If some of the cattle had not been branded, it would have been difficult to prove ownership of those cattle. But a few, 2 head out of 12, did carry a brand and that was enough to provide traceback to the rightful owner, who received the brand papers at the time of purchase. In closing, I would encourage each of you to take a hard look at Senator Davis' bill, LB654. When the brand law went into effect in 1941, the value of a calf was \$50. Today, he's worth over \$1,000, which is an additional incentive to steal cattle. This bill would provide a brand as a proof of ownership just as a title shows ownership of a vehicle and a deed shows ownership of real estate. I would like to thank you guys for hearing our testimony. I would be happy to answer any questions if I could. [LB654]

SENATOR SCHILZ: Thank you, Mr. Schrunk. Any questions for Mr. Schrunk? Senator Johnson. [LB654]

SENATOR JOHNSON: Thank you, Senator Schilz. Thank you, Mr. Schrunk. To follow up a little bit on the question I asked Al Davis and he mentioned west of the river. I'm not familiar with South Dakota. [LB654]

RICHARD SCHRUNK: Uh-huh, uh-huh. [LB654]

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SENATOR JOHNSON: So your facility is south of where...in the branded area in South Dakota. [LB654]

RICHARD SCHRUNK: Right. Actually in O'Neill we're called an open market so we can actually take cattle from South Dakota, west river cattle we call them. They come down on a shipper's permit, and then they are inspected when they reach our sale barn in O'Neill. We're 30 miles from the border actually. [LB654]

SENATOR JOHNSON: So the system works between states then. [LB654]

RICHARD SCHRUNK: Yes, right. It does. [LB654]

SENATOR JOHNSON: What would be different then if you were east of the river and you received cattle from South Dakota? [LB654]

RICHARD SCHRUNK: East of the river those cattle would still be inspected, the way I understand it. As long as they didn't carry no brands, there would be no problem. Or if they did carry brands and this guy had proof of ownership, we could go ahead and sell the cattle. But our brand inspector would hold the check probably if they had no proof of that brand. If that brand wasn't registered in Dakota, then our brand inspector would hold the check until that individual provided proof. [LB654]

SENATOR JOHNSON: Thank you. [LB654]

RICHARD SCHRUNK: Anything else? [LB654]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other questions? Thank you, Mr. Schrunk, appreciate your testimony. [LB654]

RICHARD SCHRUNK: Thank you guys a lot. [LB654]

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SENATOR SCHILZ: Okay. Jessica Kolterman. Is Jessica here? Or Jay. Good afternoon, Jay. [LB654]

JAY REMPE: Good afternoon, Senator. Sorry. I didn't know we were on the list there so. For the record, Senator Schilz, members of the committee, my name is Jay Rempe. That's J-a-y R-e-m-p-e. I am vice president of governmental relations for Nebraska Farm Bureau Federation and here today in support of LB654. I'll be very brief due to the crowd that's here today. But we've had policy in our policy book for a number of years in support of broadening the brand area in the state of Nebraska to encompass the entire state. And although it's been a few years since we've talked about it, I think a couple of reasons that our voting delegates voted to expand the brand area and adopted the policy they did, largely two primary reasons. One is just because of the headaches along the border separating the brand area from the nonbrand area. And all the headaches that go along with that that they thought that expanding it statewide would make it more consistent, obviously statewide, and take care of a lot of those headaches. And then I think the second reasoning is a lot of our members in the western part of the state that are in the brand area feel that the system works very well, and it serves as a deterrent to cattle thieves and it would behoove us to do it statewide. And with that, I apologize for me getting up here. Our person that was supposed to come in today to testify that's the brand expert wasn't able to make it so I drew this draw and came up. So with that, I will be quiet and I'll be happy to answer any questions the committee might have. [LB654]

SENATOR SCHILZ: Thank you, Mr. Rempe. Any questions for Mr. Rempe? Seeing none, thank you for your testimony. Okay. And John Hansen. [LB654]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and appear before you today as my organization's president and also lobbyist.

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Our organization has had, I'm sure, very similar conversations to the conversations within the Farm Bureau. And we look at this as a general ownership issue. We measure and weight the total amount of costs and inconvenience relative to the benefits, and the benefits outweigh the negatives. And we've been...we had a lot of our members that were involved in the Howard County effort to get in the brand area, and we feel that the best way to avoid the issues of border disputes is to, especially given the benefits, is to have the whole state in. And so, you know, the size and the scope of cattle theft is different than it used to be where you could lose a couple of head here or there. You had stuff that always drifts, goes with the wind, goes with the snow, and you had all that inadvertent stuff that moves. Now you do have folks who move in with horses, trailer loads of horses and four-wheelers and semis. So the effort to have a statewide brand system I think is a good ownership investment. I think it's a good policy. And Senator Harr raised a good question about being naive and being from Omaha. I got to tell you not all the cattle thieves are up to speed either or they wouldn't have been selling brand area cattle in O'Neill. They could have gone to Norfolk. And so you don't have to be smart to be a cattle thief. At any rate, the issue of checkoff dollars is one that's also gotten our attention. And if everybody is going to pay their fair share into the checkoff, then we ought to all be paying. And obviously there's a lot higher percentage of folks who are paying because of the brand system in the brand area than out of the brand area, and that creates an economic inequity. And that is the additional point that we make on this bill, and they're similar to the points that we made when we testified in opposition to LB60. So the committee certainly has all the...is getting the options of which way to go before it. So are we going to shrink the area or are we going to expand the area? And we would say that expanding the area provides more benefits, is the better statewide policy. And if the shoe were on the other foot and you were thinking about shrinking the brand area and getting rid of the brand area, then I think we would have to move the hearing to the coliseum because the amount of support for the folks in the brand area is very strong and folks in western Nebraska know that. So with that, I would close and be glad to answer any questions if I could. [LB654]

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SENATOR SCHILZ: Thank you, Mr. Hansen. Any questions? Senator Chambers.
[LB654]

SENATOR CHAMBERS: Mr. Hansen, I've been a member of the Ag Committee for many years. Then I had to take a forced four-year layoff, but prior to that I had attended many hearings where you testified and I've come to know you quite well. I have a lot of respect for your knowledge and the way you handle the affairs that you present to the committee. The last week I think it was you were in Washington, D.C., and others spoke in your behalf. They did the best that they could. And we don't expect a rookie to do as well as a master craftsman, but they did well enough. But I think a tribute to your ability, and it might just be coincidental, you went to Washington; you did whatever you did there. Then when you came back it was announced that Senator Johanns was not going to run for reelection, so you did accomplish something while (inaudible).
(Laughter) [LB654]

JOHN HANSEN: Well, Senator, I'm not sure whether to say thank you or not (laughter). I would just say that I've been around long enough to know that there's a mighty thin line between blame and credit. (Laughter) But I don't think I'll take credit for that but thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Chambers. Any other questions for Mr. Hansen? Seeing none, thank you for your testimony. [LB654]

JOHN HANSEN: Thank you. [LB654]

SENATOR SCHILZ: Now we have Doug Ferguson. Mr. Ferguson, welcome to the Agriculture Committee. [LB654]

DOUG FERGUSON: (Exhibit 3) That's kind of a hard one to follow right there. My name is Doug Ferguson, D-o-u-g F-e-r-g-u-s-o-n. I'm a proponent of LB654. Everybody else

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has pointed to where they live. I live in Senator Wallman's district. I own cattle there. I also have cattle in Senator Karpisek's district so currently I am not yet in the brand inspection area. I'm going to kind of skip over this first part of it I have on the sheet. Senator Davis and some of the others kind of already touched on it, but we talked about the purpose of the Brand Committee is to investigate theft or record an investigation. And as some of these guys have already talked about, all you got to do is move those cattle out of the brand area where there is no accountability, you know. You can take and unload cattle outside of the brand area and they just sell them. Recently right here in our own district, Norm, we had what I call a money floating scheme where cattle were purchased...am I out of time already? (Laughter) Okay. I was like, man. I knew I was nervous, but I didn't think it was that bad. Anyway, I call this a money floating scheme, but what happened is, is cattle were bought in sale barn A, transferred 30 miles down the road and tried to be resold the very next day at a different sale barn. And it says in the brand act, and I have it there at Section 54-1,119 that no cattle shall be offered for sale until they're inspected. Well, that guy tried to sell those cattle right away, even though he did not pay for them at sale barn A so he would not have title to those cattle. And unfortunately, you know, I've been buying cattle for almost 15 years. This goes on quite a bit where we live and it hangs a lot of these small sale barns with, you know, they didn't get paid. They're out of a lot of money. Another thing that happens in sale barns--this happened to me just not too long ago, a couple of years ago, and, of course, this was in the state of Kansas, which is not a brand state--but I bought some cattle there and I was talking to the lady that was on the loading dock and she was loading some of these cattle out. And I said, oh, you were the person running me up on those cattle today. And she says, oh yeah, they're pretty waspy (phonetic). Well, one of the calves that she was trying to load on her trailer turned around, had a brand on its hip. I had bought every calf in that barn that had that brand. She was trying to load out the cattle that I bought, and we have no inspectors, we have no eyeballs in these barns, you know. There's no accountability. I think if you had an inspector in these barns and there is that probability, just that little bit, that somebody is going to watch you, we could put an end to a lot of this stuff. Nebraska Cattlemen a couple of years ago at their brand

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resolution had a bunch of brand meetings all over the state. And I heard a sale barn manager at one of those meetings say he'll catch 90 percent of the funny business in his barn. He gives himself way too much credit. You got to deal with employees; you're trying to sell thousands of head of cattle in an afternoon; you got to deal with sellers, buyers; there's too much going on for him to keep track of. But an inspector, that's his main job is just to make sure everything is legit. Now, Senator Davis, there was a fiscal note attached to this bill and I heard a question somewhere up here earlier about brands outside of the brand area. I currently don't live in the brand area. I have a registered brand, and I've been buying cattle for 15 years outside of the brand area. There are a lot of people in our area branding cattle that do not have registered brands. They brand those cattle for a reason. And I think if you move that brand line to where it belongs, which is the Missouri River, they'll register those brands. So I think there would be a little bit of revenue right off the bat just from that. Also we have what I refer to as the cow tax, more commonly known as the beef checkoff. And again, there's no accountability. There was a task force put together by several industry groups this year to start an in-state cow tax. And I have from a very good source who buys cattle from one of the individuals on that task force they don't pay the checkoff. They're not collecting it. They're outside the brand area. Who's going to watch them? Who's going to police this? There's no accountability. And so just real quick on the last point, animal ID comes up an awful lot. I don't know very many people in favor of animal ID. But if in the event it ever happens, everybody that I've talked to--all the sale barn managers, cattle buyers--all agree brand should be included. It gives us just one more option.

[LB654]

SENATOR SCHILZ: Thank you, Mr. Ferguson. Any questions? Senator Wallman.

[LB654]

SENATOR WALLMAN: Thanks for coming down here. You live pretty close to Kansas. Does Kansas have a brand area? [LB654]

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DOUG FERGUSON: Kansas, no. I think there's three counties but they're nowhere close to us. [LB654]

SENATOR WALLMAN: Thanks, Doug. [LB654]

DOUG FERGUSON: Okay. [LB654]

SENATOR SCHILZ: Thank you, Senator Wallman. Any other questions? Seeing none, thank you for your testimony. At this point, we've been through the first five proponents. We'll now go to opponents. First opponent, please. Mr. Kelsey. [LB654]

MICHAEL KELSEY: (Exhibit 4) Thank you. Good afternoon, Chairman Schilz, members of the Agriculture Committee, my name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y. I'm the executive vice president of Nebraska Cattlemen, here representing the association in opposition to LB654. First let me provide a bit of history regarding brand inspection and supplement what's been given. Nebraska Cattlemen, we're celebrating our 125th anniversary this year. One of our founding member organizations, the Nebraska Stock Growers, was founded primarily to establish brand inspection in Nebraska. And, in fact, that organization we administered brand inspection until the Nebraska Brand Committee was created in 1941. Those early members paid to participate in the service, provided at livestock terminals specifically in Omaha and Chicago mainly, but some other areas. In those days, there were no feedlots nor were there options for cattle or herd identification other than brand. Beginning in those days, it's been a local decision on whether to be a part of the inspection area. Nebraska is a large state in area and one size does not fit all. The western part of the state is more like the intermountain west, while the eastern part is more like the Midwest, with mostly crop ground and small areas of grazing. Two years ago at our annual convention the issue of brand inspection statewide was brought up for discussion. Our members wanted to talk about the concept statewide so we hosted 18 meetings across the state; 15 of those meetings were in the brand inspection area and 3 were outside the area. I attended and facilitated

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every one of those 18 meetings. I'd be happy to summarize some of that information for you. Before I do, though, let me indicate not everybody is in agreement on this issue. You'll find folks in the western side of the state that don't support inspection. You'll find folks in the eastern side who do and don't so there is no 100 percent on this particular issue. First of all, producers in the west, especially those in the cow/calf and the yearling operations, are very supportive of brand inspection. Pasture sizes in the west are determined in sections, not in acres. And in those situations, they shared that brand inspection is very, very important and our policy reflects that. Second of all, producers in the east, for the most part, do not favor brand inspection. Again, you will see exceptions to that. Cattle, by nature, in these areas are more confined and there's always...usually always in the sight of someone's home. It's more populated area in this case. Because of the diversity of our state geographically and in culture, Nebraska Cattlemen members have determined that the best method is the one we currently have. It allows producers of a county to decide what is best for themselves and if a change is needed, to bring that request to their district's senator. Our policy states this: Nebraska Cattlemen strongly supports the current Nebraska brand statutes based upon the following: The Nebraska livestock brand inspection area boundary line is the result of years of negotiation and compromise between cattlemen in Nebraska. And Nebraska Cattlemen supports our producers' members' rights to seek legislation for an inspection to be added or to be removed. There will always be a line, whether that is the border of a state or in Nebraska. And what I would like to do oat the conclusion is submit a series of letters that we have from not only individuals but also some of our county affiliates in the eastern side of the state such as Saunders County, the northeast affiliate is also in opposition to LB654 and asked us to carry their letters for them. So I'd like to submit those to the committee as well. Be happy to answer any questions if need be, Senator. [LB654]

SENATOR SCHILZ: Thank you, Mr. Kelsey. Any questions for Mr. Kelsey? Senator Chambers. [LB654]

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SENATOR CHAMBERS: Other than the fact that the Cattlemen don't like it, if this bill were to pass, how would it hurt the Cattlemen and their interests? [LB654]

MICHAEL KELSEY: Very good question, Senator. And the members that we have in the eastern part of the state that are opposed to it have shared to us, and you'll see that in their letters that they have submitted, that they don't feel like it's necessary in their operations for security of cattle, for ownership of cattle. Now again, please understand this is not universal. You've heard testimony from an individual in the east and we very much respect his opinion on this issue. You can also hear testimony from those in the west who have brand inspection that don't support it. They don't feel like it provides them protection. That's their opinion. So in many cases, producers in the east have shared with us that it's a bureaucracy or to them it's a bureaucracy or a meaning by which they don't feel benefits them or returns any investment for them. At the same time, there are producers in the west, and we strongly support the brand inspection in the west, that feel like it is very beneficial and it does return. And in that case, I think they have a great point. [LB654]

SENATOR CHAMBERS: I guess that's the best answer you can give and that's the way I asked the question so thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Chambers. Any further questions? Senator Johnson. [LB654]

SENATOR JOHNSON: Thank you, Senator Schilz. Thank you, Mike. I'm speaking to one of those groups tonight, about 300 from Saunders County Livestock. [LB654]

MICHAEL KELSEY: Um-hum. [LB654]

SENATOR JOHNSON: So I got to make sure I get my stuff straight here. My questions might relate more to the sale barns in the eastern third. Where do they stand on their

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issues with branding and nonbranding? [LB654]

MICHAEL KELSEY: Great question, Senator Johnson. And I'm not at liberty to speak for the markets because we don't represent the markets. And we've talked to a few and they're very and sundry positions. But I would encourage you to talk to the markets. And I would encourage you...Saunders County signed one of the letters in opposition. I spoke to president Dan Benes yesterday. [LB654]

SENATOR JOHNSON: Right. [LB654]

MICHAEL KELSEY: What I would encourage you to do is talk to those producers and how they function with their market. They can give you much better insight than I can, Senator. [LB654]

SENATOR JOHNSON: Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Johnson. Any further questions of Mr. Kelsey? Seeing none, thank you for your testimony. [LB654]

MICHAEL KELSEY: Thank you, Chairman Schilz. [LB654]

SENATOR SCHILZ: Other opponents. Opponents? Seeing none, do we have any neutral testimony? Anyone come in the neutral? Okay. I guess... [LB654]

DAVID HRBEK: Thank you, Senator Schilz and committee. I'm David Hrbek, D-a-v-i-d H-r-b-e-k, from Creighton, Nebraska. And I live in the south central part of Knox County so I am right at the edge of the brand area, and I have cows that I put in cornstalks a mile and a quarter south of me. And that's out of the brand area and it creates kind of a problem, especially when you have open year. You put down one piece of land and then we have an open winter and you have to have the legal description of the land

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where the cattle are and then you find out you could rent some others because of the open winter so you want to move them and you don' have those down on your sheet. And my cows are calved out in the north Crofton...northwest of Crofton, Nebraska, and it's also in Knox County. It's out of the brand area. And I feel, as far as I'm concerned, I would like to see either the whole state in the brand area or the whole state out of the brand area. I'd like to see it either one way or the other. And I hate to see the state divided because it creates a lot of problems as far as moving cattle back and forth to my pastures and to the guy that's calving them out. And in the fall I bring them to my place until I run out of cornstalks and stuff, and then we have to move them to his place, which is out of the brand area again. And it would just make things a whole lot easier if we either had the state one way or the other, but I don't think it should be divided. Are there any questions? [LB654]

SENATOR SCHILZ: Thank you, sir, appreciate your testimony. That's pretty good neutral testimony--one way or the other. Any questions? Seeing none, thank you very much for your testimony. [LB654]

DAVID HRBEK: Thank you, Senator. [LB654]

SENATOR SCHILZ: Are there other neutral testimony? You know, at this time I see that Steve Stanec is here in the audience. Would you mind coming up and answering maybe a couple of questions for us, Mr. Stanec? Good afternoon. Welcome to the Ag Committee. I'll just go ahead and ask because I don't know if you had anything prepared or not. But, you know, one of the...can you go ahead and state your name first. I'm sorry. [LB654]

STEVE STANEC: Okay. My name is Steve Stanec, first name spelled S-t-e-v-e, last name S-t-a-n-e-c. I'm the executive director of the Nebraska Brand Committee. Just for I guess brag a little bit, 19 years as the administrator and 10 years prior to that as a brand inspector so I've had quite a few years with the agency. [LB654]

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SENATOR SCHILZ: Been around a little while. Thank you, Mr. Stanec. Just a couple questions. We heard mention earlier of a fiscal note. And I was just wondering if you could explain to the committee a little bit about how that came about and what the ramifications of this would be. [LB654]

STEVE STANEC: Well, I guess more than ramifications, probably hurdles that would have to be overcome. Presently we have staff to cover the number of inspections inside the brand inspection area. If that brand inspection area is expanded, due to the number of producers, to the best of our guess, if you will, because there's no one central suppository for this type of information, the number of sale barns, packing plants, etcetera, we would have to hire and train an additional 25 to 27 full-time brand inspectors and additionally that many intermittent who are paid on a per head basis because they are seasonal type employees. We also considered the hiring of one more criminal investigator for the eastern part of the state, would require an additional training center to be established as well as equipment, supplies, and materials for all the new personnel. Currently we are a cash funded agency so we collect...try to collect through a year's time frame what it costs us to operate. So we don't have a lot of funds to expend to such an extravagant cost, if you will, the expenses involved in establishing new employees and training them. We figured the first year it could be somewhere in the neighborhood of \$2 million to hire all people, get them trained. Currently it takes one year on-the-job training to have a full-time person trained well enough to let them on their own because basically once they're out there, they're on their own. They don't have somebody looking over their shoulder. They're expected to do their job by themselves so that's quite an extensive process. Does that answer your question, Senator Schilz? [LB654]

SENATOR SCHILZ: Yes, it does. Thank you very much. Any questions? Senator Wallman. [LB654]

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SENATOR WALLMAN: Thank you, Chairman Schilz. Yeah, thanks for coming down, Steve. Right now do you have brand inspectors at packing plants like in Kansas? [LB654]

STEVE STANEC: No. [LB654]

SENATOR WALLMAN: No? [LB654]

STEVE STANEC: No. We do not have. Years ago when cattle stopped being shipped by rail... [LB654]

SENATOR WALLMAN: Um-hum. [LB654]

STEVE STANEC: ...all those foreign markets in other states discontinued to be utilized. The last brand inspector that we had relative to that was in Omaha, but Omaha stockyards have been closed for many years. The only open markets we have right now is one in Grand Island at the packing plant and we have two auction markets that are open markets that we provide inspection for. [LB654]

SENATOR WALLMAN: Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Wallman. Any further questions? Steve, I guess...oh, Senator Hansen. Sorry. [LB654]

SENATOR HANSEN: Thank you, Mr. Chairman. Steve, I was looking at the fiscal note. Have you reviewed that that came out from the Fiscal Office? [LB654]

STEVE STANEC: Yes, I looked that over. [LB654]

SENATOR HANSEN: Okay. It says a new hire promoted, personnel agency costs and

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benefits of about \$1.8 million. And then with relocation, added mileage, inspection office, office equipment, investigator, it all totals up about \$3 million. [LB654]

STEVE STANEC: That would be over the two-year period I believe, Senator Hansen. [LB654]

SENATOR HANSEN: Over a two-year period, but are there enough cattle in the noninspected area according to the maps that we were handed out to ever make that cash flow? [LB654]

STEVE STANEC: There again we're speculating on those numbers. We can't go just by the number of cattle that are there because cattle are to be inspected at change of ownership, private treaty, at packing plants and auction markets, or leaving the state or the brand inspection area. So we can't rely on just the number of cattle that are marketed because the packing plants certainly will have cattle coming in from other states as we do at some of our packing plants inside a brand area. So that's going to generate more revenue because all cattle that are consigned for sale or slaughter in a brand area must be inspected on premises. So, you know, you could be looking somewhere in the neighborhood of 5 million inspections, but we don't have that many cattle located in the nonbrand area because we have cattle coming in. We have cattle possibly come into Beatrice sale barn out of Kansas. They have to be inspected on the premises by a Nebraska brand inspector if Beatrice would become part of the brand inspection area. So there's no one place we could gather all those figures to find out how many inspections we're actually going to have. [LB654]

SENATOR HANSEN: Since we've had the inspections in the western part of the state, would that be about the same ratio of those cattle going to feedlots and selling various times, selling separate times and collecting the brand inspection? [LB654]

STEVE STANEC: Are you referring to the 34 percent I believe that was mentioned...

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[LB654]

SENATOR HANSEN: No, the rest of the cattle in the western part. I mean you've got good records on the western part of the state, the two thirds of the western part of the state where we inspect cattle now. [LB654]

STEVE STANEC: The speculation is there's about 6.7 million cattle in Nebraska and two thirds of those are in the western part of the state. We did last fiscal year inspected 3.9 million head of cattle, so whatever ratio that turns out to be with two thirds of the cattle. [LB654]

SENATOR HANSEN: All right. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Hansen. Any other...Senator Johnson. [LB654]

SENATOR JOHNSON: Thank you. Follow up a little bit on that. So it takes so many inspectors in the western two thirds in order to cover that many cattle. [LB654]

STEVE STANEC: Right. [LB654]

SENATOR JOHNSON: I don't know how many barns would need to be inspected. How...if you need an inspector at every sale barn and some of them have a sale on Mondays, Tuesday, whatever days, you'd be able to spread those around, how much time does an inspector normally have to take at a sale? Does he have to be there all day because cattle are coming in or is there a time frame that people have to come in with their cattle so we can move the inspector around? [LB654]

STEVE STANEC: It depends on the auction market itself as to how many cattle they sell on any given sale day. Inside the brand area we have at least one full-time inspector that's assigned to that market. That's his area. But we also have inspectors coming from

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adjacent counties to help, either on sale day or the day before. Some auction markets have cattle coming in five days a week. Some auction markets we only have an inspector there two days a week--the day prior and the day of the sale. So... [LB654]

SENATOR JOHNSON: So the barns in the eastern part of the state normally...I don't know, at least in the barn I'm familiar with, they maybe have cattle come in the day ahead but not every day. [LB654]

STEVE STANEC: Correct. [LB654]

SENATOR JOHNSON: So your inspector...the demand on your inspectors in the eastern part of the state would be less. [LB654]

STEVE STANEC: Depending on the number of cattle that they sell. Certainly a smaller barn would have a lesser demand than on a barn that sells 4,000 or 5,000 head of cattle at any given sale day. [LB654]

SENATOR JOHNSON: Yeah. Okay. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other questions? Mr. Stanec, you might just for the committee, could you just go over...I know you talked a little bit about how this all works. Could you go over just the authorities and the responsibilities for theft investigation outside the brand area if it does happen? How does that work? How does it come about that you guys get involved? [LB654]

STEVE STANEC: Well, the Livestock Brand Act which dictates what the Nebraska Brand Committee does and the brand law covers the whole state of Nebraska. The only difference being is that outside of the brand inspection area livestock that change ownership, the seller is to give the buyer a properly executed bill of sale. Inside the brand area, those same cattle are brand inspected for ownership by a brand inspector

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and the brand inspector transfers the title. Brand recording, criminal theft, selling cattle that you do not own without power of attorney, bill of sale is statewide statute. Our criminal investigators, by statute, have a duty to investigate livestock theft and fraud and associated crimes in the state of Nebraska. [LB654]

SENATOR SCHILZ: Okay. Thank you very much. Anything else? I just wanted to ask you because I know with the drought the way it is and all that and with all the sales that we're seeing with cows, have you guys looked at the impact that that's going to have on revenues that are coming in? [LB654]

STEVE STANEC: Well, our numbers fluctuate constantly anyway from one year to the next. To date, we're about 200,000 head on inspections than we were a year ago. But as I talk to people in the country, those inspections are to decline over the next few months. So anticipate next year we're probably going to be well below that 3,900,000 inspections. [LB654]

SENATOR SCHILZ: Let's hope the drought doesn't continue too long... [LB654]

STEVE STANEC: Right. [LB654]

SENATOR SCHILZ: ...otherwise it could get tough, couldn't it? Yeah. Okay. Any further questions? Mr. Stanec, thank you for your testimony today, appreciate it. [LB654]

STEVE STANEC: Thank you. [LB654]

SENATOR SCHILZ: Okay. At this point, are there any other neutral testimony? Neutral? Seeing none, we will now move back to proponent testimony and Chris Abbott, you're the next contestant. Good afternoon. [LB654]

CHRIS ABBOTT: Good afternoon. Thank you, Senator Schilz and fellow committee

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members. I'm Chris Abbott, C-h-r-i-s A-b-b-o-t-t. I'm a fifth generation cattle rancher from Cherry County. I've got a map here I kind of want to just...I know we've got some Omaha senators here...if I can get this turned on. I'm located right out here in Cherry County. Cherry County is 60 miles wide by 90 miles long. It's one of the largest counties in the nation. I live in west central. It's about a six-hour drive home so like Gary Darnall when he lives clear out in western Nebraska, 400 miles, and I think, Senator Hansen and Senator Schilz, you kind of know what I'm talking about here. Back to Cherry County, you know, it's home to roughly 170,000 mother cows and 6,000 people. And I am presently on the Nebraska Beef Council, and the Nebraska Beef Council is made up of nine districts. And I represent District 2 which is Cherry County and eight other counties. I represent over 300,000 mother cows in my district. You know, District 1, District 4, District 1 is in the Panhandle. And if you know the Nebraska Sandhills is the bulk of the mother cows in Nebraska. There's 1.9 million mother cows and I'd say over roughly half of them are in the Sandhills region. You know, you get into the nonbrand area, there are roughly a half million mother cows. I guess with my testimony I really would like to drive home a lot of the folks sitting behind me that rode down on the bus, you know, we really don't look at the brand inspection fee as a tax. You know, to us it's a security blanket. It's an insurance policy. And, you know, for instance, I've never seen a tax go down; and I think in the history of the brand committee I think it's been lowered four times, I think the last time in 1998. And, you know, it just amazes me that it started out at 10 cents and today we're at 75 cents with the rate of inflation. So I think the brand committee has been very efficient throughout the course of the 70-some years that it's been in existence. So with that, I think I've got some other comments here, but I think, you know, I'd just be reiterating. But I think at the end of the day, you know, with the number of cattle that we've got and, you know, it's pretty much our sole, primary means of income, it's our livelihood. And proof of ownership means a lot to us when it's your only livelihood. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Mr. Abbott. Any questions? Senator Hansen. [LB654]

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SENATOR HANSEN: Thank you, Mr. Chairman. Chris, good to have you down here. I know about half way...when I get home I'm about half way to your place (laughter). Since you sit on the Beef Council, I want to ask you some questions about Beef Council and Beef Council receipts in the nonbrand inspected area. Does anyone collect beef checkoff at all the sale barns in the eastern third of the state? [LB654]

CHRIS ABBOTT: The sale barns do. [LB654]

SENATOR HANSEN: Sale barns only then? [LB654]

CHRIS ABBOTT: But you know, we know exactly it's in private treaty sales that, you know, we do know in the brand area and we know that amount year in and year out. There's a lot of gray area in the nonbrand area when it comes to private treaty. And my guess is there's a lot of private treaty sales that do go on in these feedlots where the feedlot owner and manager is the broker, so to speak, or the collecting person that, you know, we don't know, they don't know, there's no accountability that we can see. [LB654]

SENATOR HANSEN: For the feedlots. What about packers? [LB654]

CHRIS ABBOTT: You know, I think the packers, most cattle that go to the different packers they're--from the numbers that I see on our financial statements--those payments are being made that I can see. But I think it's, you know, the average change of ownership for an animal is roughly 2.5 times through the course of its life. And I think a lot of that might go on, that change of ownership from the cow/calf sector to the feedlot--we're missing that change of ownership sale. [LB654]

SENATOR HANSEN: If cattle come from Iowa or Missouri to a packing facility in Nebraska, are those cattle collected on for the Beef Council, beef checkoff? [LB654]

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CHRIS ABBOTT: Yes, they are. [LB654]

SENATOR HANSEN: Are they remitted back to that state of origin? [LB654]

CHRIS ABBOTT: Yes, they are. [LB654]

SENATOR HANSEN: So we don't get that count. [LB654]

CHRIS ABBOTT: Right. [LB654]

SENATOR HANSEN: Okay. [LB654]

CHRIS ABBOTT: You know, to give you an idea, I think through the course of the years the Beef Council takes in roughly \$9.5 million total and about \$2.5 million is remitted back to outside states. [LB654]

SENATOR HANSEN: Okay. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Senator Hansen. Any further questions of Mr. Abbott? Mr. Abbott, I think your assessment of it being an insurance policy is probably about the best description that you can give of the brand inspection and how that all works so thank you very much, appreciate your testimony. [LB654]

CHRIS ABBOTT: Thank you. [LB654]

SENATOR SCHILZ: At this time, I hope I don't butcher his name too bad, Greg Koinzan. Is Greg here today? There he is. Welcome to the Ag Committee. [LB654]

GREG KOINZAN: Thank you for having me. My name is Greg Koinzan, G-r-e-g K-o-i-n-z-a-n. I live in Tilden, Nebraska. I have a unique perspective. [LB654]

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SENATOR SCHILZ: You might just stay back just a little bit because it's pretty sensitive. It will pick you up. [LB654]

GREG KOINZAN: Okay. I have a unique perspective. I work for Nebraska Livestock. I work at the sale barn in Norfolk and I also work at the sale barn in Ericson. My family owns property outside of the brand area and several properties in western Nebraska in Sheridan County inside the brand area. I've been around it my whole life. I was asked to come and speak for my family. I have the ability to represent the people I work for, but I choose not...what I state today is my own opinion and you'll find them factual. I came...what I'd like to talk about is the liability issues for the sale barn and the producers and the differences between in the area and out of the area. My perspective at Ericson, the brand man determines ownership of the livestock. He lets the office know who owns the livestock. The girls in the office then go to a state lien file and file a lien. And that way we pay the correct people for the correct livestock and the sale barn is not liable. After the sale has occurred, the brand inspector then writes a title of brand clearance for said number of livestock with said identification. It's completely up to the producer whether the cattle are branded or not. Sometimes on the clearance it says no brand, but they do the best they can to secure a title. So once again, the state represent determines ownership and passes title. At Norfolk, Nebraska, the way it is listed on the check-in tickets is how we make the check. So if John Doe stole cattle and wants to sell them in Suzy Q's name, if he writes Suzy Q on the ticket and she has no liens, we put no liens on the check. These are stolen cattle or if John Doe has four liens, he's now committed fraud. We perpetrated it. We've helped him. On the counter side of that, there is no title given. There is just a purchase sheet that says 63 black steers. So in the event that someone has bought cattle and fails to pay for them, I have a purchase sheet that says 63 black steers. But if they're commingled at this person's ranch, feedlot, etcetera, etcetera, in his backyard, I have no way of distinguishing my livestock, which they're still mine because I paid the consignor at the sale barn, I paid the consignor already, I have no way of identifying that the cattle that he's bought and ineffectively

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sold or stole. I'm receiving them and that's why I am for this bill. The other thing I'd like to speak to is the revenue you guys all have questions is really simple. Lower the rate and broaden the base. I think every Republican should understand that. The revenue takes care of itself. You're going to lower the rate and broaden the base. That seems to be a fairly popular political thing. Any questions? [LB654]

SENATOR SCHILZ: Thank you, Mr. Koinzan. Any questions for Mr. Koinzan? Seeing none, I...as I sit here and think about this, so at the barn in Norfolk, as you write that and you were talking about liability, wouldn't it still fall back on the person that's making the claim that they own the cattle rather than the livestock market? [LB654]

GREG KOINZAN: It would be, but in the meantime, we act as a...we're in the middle. If someone sells cattle, we pay them. When they sell cattle, we pay them that day. [LB654]

SENATOR SCHILZ: Right. [LB654]

GREG KOINZAN: If someone fails to pay, then we're actually a collection agent. Most of our business is collection. The brand law ensures that we pay the correct people for the correct cattle and we also have the ability to go retrieve stolen cattle with the brand clearance. I mean it's very simple. And I think it's very poor that the sale barns in the eastern part of the state don't understand their liability, that they think it's an inconvenience. And it is a simple inconvenience. But the worst-case scenario for any business is to sell stolen property or have to pay for the same merchandise twice. A typical steer, as has been documented several times today, is worth \$1,000. We charge approximately \$20 to sell this animal. If I have to pay for a steer or a load of cattle that weighs \$75,000 twice, I'm going to have to sell a lot more cattle at \$20 per head commission to overcome that loss. That's why I think that more people should realize what a...this is a simple inconvenience, but what it ensures. [LB654]

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SENATOR SCHILZ: Right. Mr. Koinzan, one final question, and I ask this purely out of curiosity. In those areas and in the nonbrand inspection areas in those barns, does your company or do you know of others that specifically hire somebody to run those checks to make sure that when the cattle are...that they are who people say they are? [LB654]

GREG KOINZAN: Well, that's the interesting part of it. That's what...the Brand Committee is an independent third party. They have no iron in the fire so to speak. [LB654]

SENATOR SCHILZ: No pun intended, right? [LB654]

GREG KOINZAN: No pun intended. The sale barn...if I feel someone is selling something that isn't there's, you understand that they're my customer. The consignor pays the bills, not the buyers at these livestock markets, the consignors. So in fact, you're telling your customer that we don't think they're honest. Now that tends to be really hard on business, and that is a lot to do probably why the other sale barns out of the brand area don't have the courage to come and testify because they're worried...it appears to me in many cases people out of the area are stepping over a hundred dollar bill to pick up a penny. They're worried about their simple commission for selling these livestock instead of the real liability of selling something...selling stolen property and/or selling something and not getting paid for it and not having the ability to retrieve it. I mean that's...and that's...the value of these animals that happens. It's happening now in this check kiting scheme. And once again, the Brand Committee is self-funded. And I think these funding issues are just something to talk about--lower the rate and broaden the base. I mean it's phenomenal to me the number of cattle that are inspected. It will take care of itself. It's an efficient process. [LB654]

SENATOR SCHILZ: Do you..and having said that about the livestock barns, do you guys, in your barns that are outside the area, do you make an attempt to prove ownership before you... [LB654]

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GREG KOINZAN: At our own peril. [LB654]

SENATOR SCHILZ: Right. [LB654]

GREG KOINZAN: I mean, you know...right, I mean, yes, yes. And we've, on numerous occasions we've called Steve Stanec or Rick Bickford because that's the problem. All the thieves don't sell...I mean what happened with Richard in Knox County we've already alluded to it. That was a slow thief. Any educated thief would no doubt haul his cattle somewhere out of the area. That's the problem with the line. And we...if there is something that is...well, I'll tell you a for instance. There's a sale barn or a feedlot south of Norfolk and when we first started there a guy hauled in these cattle, a trailer load of cattle, and sold them in his girlfriend's name. I happened to unload the cattle, the thing looked wrong to me. I looked at the cattle. They had Wyoming brands on them. I'm from Sheridan Nebraska, I understand that. I went inside and I told Dad, there's something wrong. So my dad bought the cattle because we didn't want to lose the cattle. He just let everything go through the auction as it should and we bought the cattle. So after the sale, we had to call, waited for the girlfriend to come pick the check up, which is our customer. And then we very politely asked her if she had ownership for these cattle. Well, she was very confused about that and she would have to check with her boyfriend. And that seemed like a real problem to us so then we called Steve Stanec, which is the investigator for the Brand Committee. And meanwhile, with a little bit of work, we realized that what happened was her boyfriend was a cowboy for the local feedlot. And they were the Kronicks (phonetic) and he was selling part of the Kronick's (phonetic) to someone else and taking part of them home. Well, they magically got better and resold them. But you understand the number of people that I endangered. I endangered a customer, being the girl; her boyfriend, a local cowboy; and the feedlot who does business with us on a weekly basis. I mean I had to endanger four people to do the right thing. That's why I think the whole state should be in the brand law, inconvenience or not inconvenience. [LB654]

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SENATOR SCHILZ: Yeah. And I would say that I'm guessing that the feedyard was...
[LB654]

GREG KOINZAN: Very glad to get his cattle back. [LB654]

SENATOR SCHILZ: ...very interested to hear that one of his employees was doing things untoward. [LB654]

GREG KOINZAN: Right. And it's just...the feedlots, they are going to have a permit. They won't pay as much as regular producers. But the line is the problem, and it penalizes people outside of the line. And there's big liability issues for these sale barns and they don't realize it. And it could all be prevented if the Brand Committee turns ownership. [LB654]

SENATOR SCHILZ: To play devil's advocate for just one question and then I'll leave you alone and (inaudible)... [LB654]

GREG KOINZAN: No, you're fine. It's a long ways here. I'd just as soon answer them now. [LB654]

SENATOR SCHILZ: Right, I gotcha. If the issue is a line, even if we put the whole state within that, aren't there still lines that have to be contended with? You know, and I bring that up with an example of Kansas and not having brand area there or some other state. Because as you said, you know, these cattle are worth a lot of money. And as you said, if you're a sharp thief, you'll take the cattle, you can find somewhere to put them for a while, and then you'll move them someplace. And with that many dollars, a little shipping isn't going to bother a whole lot of people. [LB654]

GREG KOINZAN: Well, basically. The lines, if the whole state was in, the lines would be

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state lines. And all you know, once you take stolen property over a state line, that's a little bigger deal than just...that's a federal. Also, Steve can testify to all these things. They already have in place in South Dakota, Kansas, Wyoming, western Nebraska, they already deal with livestock across state line issues. It's no more...it doesn't create more problems. They already have a set of rules this is now we treat cattle that come from South Dakota; this is how we treat cattle that come from Kansas, that go to the packinghouse in Lexington or Grand Island or Canada. We even have international lines. The Brand Committee already has a set of rules developed to deal with all these problems. It's a simple thing including the whole state. They know how to inspect cattle that come from Canada or they have a set of procedures. I mean it's been well documented. The Brand Committee is very efficient. And I think you'll find that the amount of revenue will go down drastically because you've broadened the base. I mean we're going to inspect a lot more cattle and they're self-funded. [LB654]

SENATOR SCHILZ: Right. [LB654]

GREG KOINZAN: I mean it's a win. [LB654]

SENATOR SCHILZ: Very good. Any other questions? Senator Bloomfield. [LB654]

SENATOR BLOOMFIELD: I did. Thank you, Senator Schilz. Thanks for coming down, Mr. Koinzan. I've been buying and selling out of Norfolk barn for the last 20-some-odd years. And I think one time in that, and that was just three or four years ago, I'd left the checkbook home and I was actually allowed to leave with the animal without having paid for it first. [LB654]

GREG KOINZAN: You have a week to pay for it. [LB654]

SENATOR BLOOMFIELD: (Laugh) I assume that's strictly regular customers. [LB654]

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GREG KOINZAN: No. [LB654]

SENATOR BLOOMFIELD: You certainly wouldn't let a stranger out of there with...
[LB654]

GREG KOINZAN: Yes, we do. That's a unique ability of any livestock market. You can go to John Deere and you can't leave with a hydraulic hose without signing your life away. But we're more than willing to have several million dollars worth of cattle leave. I would say on a given Saturday in Ericson with...last Saturday we had 5,500 head of cattle at Ericson at \$1,000 apiece, \$5.5 million worth of cattle. I would be very surprised if they collected for over a million dollars worth of cattle the day of the sale. And 95 percent of the cattle would be gone by Sunday. So there's huge liability issues for sale barns. And by the laws of the Packers and Stockyard Act of 1928, if you're a packinghouse, you're supposed to have it mailed within one day. Regular individuals have approximately seven days to pay. [LB654]

SENATOR BLOOMFIELD: I guess I'll leave my checkbook home more often. (Laughter)
[LB654]

_____ : Next (inaudible). [LB654]

GREG KOINZAN: I mean it's an anomaly because that's part of our business, I mean, we let you charge. But it's a lot handier if you let someone charge if you have a brand clearance that says title if they think...if they're confused, if they think the sign says First National Bank instead of Norfolk Livestock, you can take your brand clearance and go get your cattle back. [LB654]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you very much, sir, appreciate your testimony. Peyton Ramm. Welcome, sir. [LB654]

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PEYTON RAMM: Thank you for having me. My name is Peyton Ramm. I'm for LB...oh, sorry. Peyton Ramm, P-e-y-t-o-n R-a-m-m. I'm for Al Davis' LB654. I think it's really good for the state. Just to give a...I'm here to represent my father, Thomas Ramm. He's a member of ICON, the Independent Cattlemen Association of Nebraska, and he cannot be here today because we started calving two weeks ago on our first calf heifers. So I just...I'm only 25 years old and I finally bought my first herd of cattle last year, and I got my brand bought and so I own by own brand now. And it's really important to me that the whole state would be in the brand area because, for example, back in the '80s, back when I was...I was born in '87 and I think it was before that, I wasn't even born yet, my dad was running cattle over by...oh, I'm from Valentine, Nebraska, just to concur. But he was running...he had to drive cattle over to the Kime's, which is over by the Niobrara River. And there was incidents where Dad would lose nine to ten head of cows with the calf in a summer and we'd bring them back...we didn't know where they went, you don't know how to get them back. One instance we finally had Sioux Falls sale barn called us, called Dad and he said, well, we got your cattle here or we got three cows here. And he's like...and I'm not for sure. I don't think they had a brand inspector. I think they just saw a whole bunch of brands and then randomly three or so different brands, and then they thought it was a little bit weird so they looked it up. And Dad's like, no, I'm not going to drive to Sioux Falls to pick up three head of cows so just sell them. So that was one instance that we were able to get some money back for that, but other than that, there's instances where the brand has just been so important to me because me and my brother will go out and have to doctor calves, roping and throwing down and then doctor them and we'll see...and some of our neighbor's cattle sometimes get into ours and I'm not familiar with everybody's brand. And if there's cattle there that didn't have a brand, I wouldn't be able to call my dad and ask him, I could read the brand off my horse and I can ask my father what the brand is. And then my brother and me would know if we should open the gate east, west, north, south or have to let the fence down and push those cattle back over there. Because if we can't, then those cattle are going to stay there until we can figure out where it goes and he's eating our grass and so we can't

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really do very much about it. But in conclusion, I'm for this bill and I hope it gets passed. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Mr. Ramm. Any questions? Seeing none, thank you for your testimony today. [LB654]

PEYTON RAMM: Thank you. [LB654]

SENATOR SCHILZ: Mr. Ryan, Mike Ryan. Good afternoon. Thank you. Welcome. [LB654]

MIKE RYAN: Good afternoon. I'm Mike Ryan, Mike, M-i-k-e, Ryan, R-y-a-n, and I am from Berwyn, Nebraska. I'm a cattle producer there, which is inside the brand area. I would like to share today some things that happened. I lived in northern Kansas for five years. And the ranch that I worked for had some cattle that were on a share basis, and they were able to take those cattle with estate brand was the only mark on them--take them to a feedyard, feed them out, send them to a packer, and get the check, no questions asked, no title, bill of sale, brand release, or anything. And the next year the same cattle from that estate, they fed them to like 800 pounds and then took them and marketed them in Alma, Nebraska, at the sale barn. The brand inspector there held the check, even though it was a registered Kansas brand, until they could come up with a bill of sale or whatever for those cattle. And to me that just kind of proves that brand inspection you have to prove the proof of ownership of these cattle. And I think that's why this bill is very important to put the whole state into the brand inspection area. So at that, I guess if there are any questions. [LB654]

SENATOR SCHILZ: Questions? Seeing none, thank you very much for your testimony today, appreciate it. [LB654]

MIKE RYAN: Thank you. [LB654]

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SENATOR SCHILZ: And Mr. Allen, Paul Allen. Is Paul here? Welcome, sir. [LB654]

PAUL ALLEN: Thanks for having me. My name is Paul Allen, P-a-u-l A-l-l-e-n. Mr. Chairman and members of the committee, I've been down here different times for different things. And today I'm down here to support this bill to put this in the brand area, and I'm going to be short because these fellows have covered it pretty well. If I was a banker, I'd want the brand deal. I would like to know why they don't want it. I'd like to see some reasons why you would not want to have your cattle branded. We trust everybody in our country, but I still brand my cattle. And I can tell you one time the cows showed up at my place, and we had the brand men down. We couldn't find a brand. And it ends up if you can't find the owner of that critter, you know what happens to the cow? They sell her and they give the money to the school. Thanks a lot for pasturing her for us. (Laughter) And so I think you could...I think but I don't know because we never figured it out, but I'm pretty sure that cow come from out of the brand area and somebody got scared. And that's the kind of things the system you're talking about is not perfect. It's not going to catch everybody, and it's not going to prove everybody ownership. And in some cases, the bankers will trust you too much and you probably shouldn't have had it anyhow. But I know that there's cattle that leak out of here either intentionally or on purpose. And I think everybody should be paying the checkoff. If I got to pay it, everybody else should be paying it. And that's all I have to say. Thank you. [LB654]

SENATOR SCHILZ: Thank you, Mr. Allen. [LB654]

PAUL ALLEN: Is there any questions? [LB654]

SENATOR SCHILZ: Is there any questions, yes? No questions. Thank you very much for your testimony. That will conclude our list of testifiers that Senator Davis had had down there. Are there any other proponents? Okay. Go ahead and...how many

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other...show of hands, how many other proponents do we have that wish to testify?
Okay. Thank you very much. [LB654]

JIM DINKLAGE: Jim Dinklage J-i-m D-i-n-k-l-a-g-e. I am from Knox County near Orchard, Nebraska, east of O'Neill, and I'm here representing my family, my immediate family, and in no way am I representing any feedlot that is under the Dinklage name. We have...I found out today trying to do a little history on the Dinklage name on who owns brand and found out that we probably have been in violation of the brand laws in the last...I'm the fourth generation, and every generation has probably had violations because we move cattle back and forth out of the brand area, but were ignorant of the law that they had to be inspected. I've also did the same thing and that was the first time I met Mr. Stanec, one of the brand inspectors, because I had moved cattle out of the brand area at that time and forgotten to get them inspected. I knew they were supposed to be inspected, but the cattle were loaded and I said I'm not going to unload the cattle. Take them to the feedyard and in about five days he was at my doorstep. I paid the fine, but it was a lot less than would have been the shrink of the cattle. I am for this law because I think it would help those interested parties that have land on both sides to resolve that. They do not have to pay that inspection fee even though they still do own the cattle. As far as out of the state of Nebraska, I own land outside of the state in Iowa, and there is no brand law in Iowa that I know of. And we have also lost cattle out of our own feedlot. This law would help them. We found the cattle, but we could not prove ownership because our brand was not registered, and we could have received the money from those cattle and it was thousands of dollars because we could not prove it. I don't even know what happened to the money. At this time I still support this law. I think it would be a good law to have, and I think it would be good for those feedlots that are outside the law because of the new registration of those feedlots. I don't think it would cause any problem, and if I still owned a feedlot. I would support that also. Any questions? [LB654]

SENATOR SCHILZ: Thank you, Mr. Dinklage. Any questions? [LB654]

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JIM DINKLAGE: Thank you. [LB654]

SENATOR SCHILZ: So knowing that and not having a brand registered before, have you registered that brand now? [LB654]

JIM DINKLAGE: Yes. [LB654]

SENATOR SCHILZ: And so now you have that. [LB654]

JIM DINKLAGE: Yes, that brand is registered, yes. And if you have a brand, a physical brand and you use it on an animal, that has to be registered. Just because you have a brand doesn't mean it has to be registered. If you use it, it has to be registered. [LB654]

SENATOR SCHILZ: Right. Absolutely. Thank you. Any other questions? Thank you for your testimony. [LB654]

JIM DINKLAGE: Thank you. [LB654]

SENATOR SCHILZ: Further proponents. Go ahead, come on up, guys. Don't be shy. We've got a long day to go so. There you go. Welcome, sir. [LB654]

RUSSELL HIPKE: Thank you, Mister Senator and committee members. My name is Russell Wynn Hipke, R-u-s-s-e-l-l, last name Hipke, H-i-p-k-e. I'm from Stuart, Nebraska. I've been a rancher there all my life, and I have a unique story about cattle being stole that I had shipped to the Atkinson Livestock Market there in Atkinson, Nebraska. And they was...we brought them in the day before the sale, and they were sorted and penned and sometime between about 12:00 on Tuesday morning to 4:00, someone pulled in there with a POD and he backed up and they went down the alley and they took these cattle from out of the sale barn and loaded them up and the next

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morning they were gone. And so by really no...they could find any evidence or that that they could bring before but within the next couple of weeks there was some cattle stole in southern Nebraska and they put the deal out on e-mail through and the Beatrice sale barn caught...said they recognized these cattle and by their brands and by the physical description. And so they in turn went back on this fellow and when they investigated, he had sold other cattle at other barns in Nebraska. And so there they then went out to the people that had bought the cattle at the sale barns and out of a pen of 500 steers, they picked out half of the steers that he had sold of mine that he had sold and rebranded over the top with his registered brand, only turned it sideways to cover up my brand and also that was at the Albion sale barn. And at the Fullerton sale barn they also recovered...he had sold cattle there and they went to that feeder and was able to recover all 62 head that was stole. But when the cattle went through the sale barn at Albion, beings this guy was from Silver Creek and he was out of the brand area, the brand inspectors were standing there, but they didn't inspect the cattle because this man was out of the brand area, which is...would have been very evident if a brand inspector inspected them brands that they had been branded over and so forth. So...but it all turned out and we got it and so...but if the person would have fed them out, he would have ended up probably getting away with it, you know. He was out of the brand area, go to the packer and sell them to the packer direct and there would be no recourse. And if this law goes through, that should eliminate some situations like that. [LB654]

SENATOR SCHILZ: Right. Thank you. Thank you, Mr. Hipke. Any questions? Seeing none, thank you for your testimony. Next proponent. Good afternoon. Welcome. [LB654]

RON STEWART: Thank you, Senators. I'm Ron Stewart, R-o-n S-t-e-w-a-r-t. I'm from up in Rock County, and without the brand laws that exist in the area where I'm at, it wouldn't be possible for me to remain in business. Things are just scattered too far and too wide. I've got all honest neighbors, good neighbors, and brands, and the local brand man just keep everything straight. Along with that, in the wetter years the ranch has

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grown more grass than what our cow herd will eat. I've taken in cattle. I've consistently taken in some cattle through the summer from a family at Clarkson, Nebraska. And we've had conversations over the brand issues. And that fellow says I own the number of cattle that are on my real estate every day. If somebody got drunk and run through the fence last night and my cows are on the neighbors, he says I really don't have title to them unless he wants to give them back. They've got a nice cow herd. They've got their own feedlot. They don't have summer pasture. And when they're looking for summer pasture, they like to get them in Holt County or west. He says if those cattle actually are live and breathe air, anything that's missing, if they still breathe air he says we will either get the cattle back or a check. That's my testimony. [LB654]

SENATOR SCHILZ: Thank you, sir. Any questions? Seeing none, thank you for your testimony, appreciate it. Next proponent. [LB654]

DAROLD WICKERSHAM: My name is Darold Wickersham, D-a-r-o-l-d W-i-c-k-e-r-s-h-a-m. I'm for LB654. I'm just going to give you some instances where the brand inspection does work. And I'm in the brand area. I'm from Boyd County. We had a calf that was running around our area and nobody...none of the neighbors put claim to it so we hauled it to the sale barn. Well, we get it to the sale barn and the brand inspector inspects it and finds no brand. But it did have an ear tag in its ear. So he puts it in the chute and looks on the back of the ear tag it said Paul Fisher (phonetic), who is my neighbor. He called Paul up, said you missing a calf? No, no, no, no. He said, well, we got your calf here at the sale barn. So it works. But not only that, but another instance is we had a few break-ins here about three years ago in the county of Boyd County. Everybody was getting broke into. And looked for a couple of years and couldn't find anybody who had taken anything and happened one time got license plates out of South Dakota on this break-in. They checked this facility out in South Dakota, two boys broke into the M&M Locker in Bristow, Nebraska. They had their freezer full of meat. Guess what was on that meat? M&M Locker. Caught, prosecuted. So that's what a brand can do for our cattle and that's my story. [LB654]

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SENATOR SCHILZ: Thank you, sir. Any questions? Yeah, I have to ask you but we...I don't believe we included meat in the brand laws, but it's good that they were able to get that and find that out. [LB654]

DAROLD WICKERSHAM: Yeah, a label. Thank you. [LB654]

SENATOR SCHILZ: Thank you very much. Next proponent. Welcome to the Agriculture Committee. [LB654]

JUNIOR YOUNG: Thank you, Senator. Thank you, Senator and committee. My name is Junior Young, J-u-n-i-o-r Y-o-u-n-g. I guess just my story is I'm going to tell you I'm a broke rancher. I had to go to town to get a job about 27 years ago. I've been working in the court system, and I'll clue you in the court system takes this brand deal very serious and cattle rustling. I worked with three different judges and one of the judges today is on the Supreme Court, the other judge is retired from the appellate court, and the judge I'm working for now is out of Ainsworth, Nebraska. But I've sat in about four or five of those sentencings, and those judges take that serious, very serious, this cattle rustling business, because they know it's the heart of our country, the cattle business. And I listened pretty heartily what they have to say, and they've all taken it very serious, this cattle rustling business. And I know Mr. Hipke. I was involved in that situation and that man spent several days in the pen, you know. But I'm just saying...and I am a victim myself. I had seven calves...I have a little place close to town in O'Neill and I raise baby calves up and a lot of times those calves I don't brand them. And I had seven calves...kids come and picked up seven calves, took them to Verdigre sale barn, sold them, took the check to the Winnetoon bank, cashed it, came home with \$4,000. That's just how simple it was. But if I'd have had those calves branded, that wouldn't have happened. The brand man at Verdigre would have stopped that. But if I hadn't been on the trail, knew the situation, and had an idea of who might have stole my calves, I mean, I figured I'd have been out...it wasn't that big a deal, but it was still \$4,000 or so. But I

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just feel it's certainly something that we all need to consider, and I would like to make it a statewide deal, statewide law. [LB654]

SENATOR SCHILZ: Great. Thank you, sir. Any questions? I guess...but you were able to recover your \$4,000 I take it (inaudible). [LB654]

JUNIOR YOUNG: I was, yes. I wouldn't have, though, if I hadn't have known...hadn't figured it out myself basically because they were gone, the kid had cashed the check, and he had the cash in his pocket. [LB654]

SENATOR SCHILZ: And \$4,000 is a lot of money when it's yours and somebody else is trying to take it. [LB654]

JUNIOR YOUNG: Correct. That was about 15 years ago. [LB654]

SENATOR SCHILZ: Thank you, appreciate your testimony. Other proponents. Welcome. [LB654]

BILL LANGAN: Thank you. Good afternoon, Senators. My name is Bill Langan. I'm a fourth generation cattle rancher from O'Neill, Nebraska. [LB654]

SENATOR SCHILZ: Can you say and spell your name, please. [LB654]

BILL LANGAN: B-i-l-l L-a-n-g-a-n. I work at the Shamrock Livestock Market in O'Neill part time and my job there is getting the cattle out of pens. And I'm going to tell you that during the course of a year I fall back on the brand inspectors a lot to make my job easier. When the cattle are checked in, they write the consignor number, the number of head he consigned, and what pen those cattle go to. When I go to a pen, if the number doesn't match what I have on my card, I...first I look and make sure I'm in the right pen, of course, then I call the brand inspectors to make sure, see how many head they

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checked in. Most of the time it's a clerical error, just wrong number got written down on a card. But the brand inspectors help me sort this stuff out, keep things moving so that I can get the cattle up and we can get our customers' cattle up to the ring in a proper time and have for a good sale. It is a fallback. It is a system of checks and balances that I think should be established statewide. I guess that's all I have to say. Thank you.

[LB654]

SENATOR SCHILZ: Great. Thank you. Thank you for your testimony. Any questions? Seeing none, thank you. [LB654]

BILL LANGAN: Thank you, Senators. [LB654]

SENATOR SCHILZ: Other proponents? Welcome, sir. [LB654]

EARL MILLER: I'm Earl Miller, E-a-r-l M-i-l-l-e-r, and I'm here to testify for myself. I live in Knox County; my address is Holt County, and I'm right on the county line and I'm for this bill because the other bill that was to take Knox County out come right up to my place and I had land in both things so I'm in favor of this bill. [LB654]

SENATOR SCHILZ: Thank you. Any questions for Mr. Miller? Mr. Miller, how long have you been raising cattle? [LB654]

EARL MILLER: Since I was 16 years old. (Laughter) [LB654]

SENATOR SCHILZ: I bet you've seen a few. Thank you very much for your testimony. Any further proponents? Welcome, sir. [LB654]

WAYNE HOFFMAN: My name is Wayne Hoffman, W-a-y-n-e H-o-f-f-m-a-n. I guess I'm a fourth generation rancher, been...had a cow or two or three since 1947 or 1948, saw a lot of cattle branded, saw a few neighbors get into some arguments over who belonged

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to what, no brand on them. The brand law up there is very important and it's something that would be much simpler. We have occasion to move some cattle out of the brand area for pasture and bring them back, and it isn't anything we can't handle. But it would be a lot handier if we didn't have to have them brand inspected so I'd like to see this. I'd like to see this brand area cover the whole state. That's about all I have. [LB654]

SENATOR SCHILZ: Thank you. Any questions? Seeing none, thank you for your testimony. Other proponents? Good afternoon, welcome. [LB654]

DAVID WRIGHT: (Exhibit 5) Good afternoon. Thank you, Senator Schilz. Thank you, committee. Thank you for hanging in there on this. My name is David Wright, D-a-v-i-d W-r-i-g-h-t. I am the current president of Independent Cattlemen of Nebraska. I would like to touch on just a few things from some of the testimony that has been given and some of the questions that were asked. I live outside of the brand area but I ranch inside the brand area. I'm fourth generation. My son lives on a ranch. He's fifth generation. The one that I find quite interesting is the testimony of confinement--the cattle area confined on the eastern side of the line or I can see them from my house so, therefore, we don't need brand inspection over there. So we don't need proof of ownership? My mom drives her car to church and that's the only place she drives it so does she not have to prove ownership of her car because all she does is drive it to church? So...and I know that's a little facetious and I probably should have better manners than that. The other one, the other note, the fiscal note. Mr. Stanec was talking about roughly \$2 million, \$2.4 million or \$3 million. You all know that the budget here is \$8.2 million for the Legislature. I mean we're talking .03 percent. That's not very much money at all to ensure for a program that's self-sufficient and does not call for any money from the Legislature. So with that said, the testimony...what I'm bringing before you is I have over here I have 270 petitions that were signed at the Atkinson, Verdigre, and O'Neill livestock auctions and other producers from around the area that heard about this, some up from Keya Paha County and heard about what we're doing. As a matter of fact, there's 50 petitions I understand that are still in Chambers that didn't quite

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make it that might get mailed to you. They're all in favor of LB654. At the Atkinson Livestock Market, this piece of paper was brought to me and it's by Jim Kasson, and this is when Howard County came into the brand inspection area in 1993. Again, in 1997 or '98 there was an effort to move Howard County back out of the brand inspection area. So Mr. Kasson had the brand inspection authority to look up how many cattle were retrieved in that four-year period: 115 head of cattle. Now if Howard County would have been out of the brand inspection area, you would have never known that. You would have never known. But since it was in the brand area, those are the results. And he had told me after they had done this little bit of research and submitted it as testimony then that went nowhere so Howard County stayed inside the brand inspection area. The next paper is part of Senator Schilz's bill and you're all aware of this, there's 20 different ways to identify ownership on that piece of paper. That's in the state statute--25 ways to identify ownership, not just branding. And you've all seen the brand inspection line that runs across the state. So I have traveled from South Dakota to Kansas up and down the brand line talking to people about this whole inspection thing and about trying to make it statewide. And I have a nagging question that I cannot answer and that's on the last page. The nagging question is: Why don't you want to prove ownership? I cannot find a legitimate answer for why you don't want to prove ownership. So my next question is: Why would you be afraid to prove ownership? Last week my son and I were working on a tractor. He's 24 years old. He's a diesel mechanic. And I'm telling him about all of this stuff and he stuck his head out from under the tractor and he said, Dad, it sounds to me like don't ask, don't tell. And I think he hit it on the head. If I don't ask, don't tell me. We're going to have the head count, we're going to sell them, kill them, and be done. So the last...my last comment is, if you can't prove ownership then you can't prove theft. And if we pass this law, Chris has got a...he's been working on his state here, if we pass the law instead of a brand line, this is what we could have instead. Equality under the law, proof of ownership. So that is my testimony and I would welcome any questions.
[LB654]

SENATOR SCHILZ: Thank you, Mr. Wright. Any questions? Seeing none, thank you so

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much for your testimony. [LB654]

DAVID WRIGHT: Thank you. [LB654]

SENATOR SCHILZ: Other proponents? Proponents for LB654? Seeing none, any other opponents? Seeing none, any neutral testimony? Last chance. Seeing none, Senator Davis, would you like to close? [LB654]

SENATOR DAVIS: Thank you, Senator Schilz and members of the committee. I appreciate the opportunity to present this discussion to you today. I think you can see by the number of people that came and the petitions that there are a lot of people that are very interested in this process and that this bill go forward. You've...we've heard a little testimony in opposition to it, but I would hope that you might consider the fact that there are a great deal of information we just don't know. We just don't know how much revenue is going to be generated outside the brand area because it's never been looked at. I feel confident that in a very short time that revenue will more than make up for the amount of expenditures that we would have to put out today. I heard quite a bit of discussion about other states and how the other states do it and how is that going to affect us from questions from the committee. And to part of that point, I'm wondering if people are feeling like, well, you know, if another state is not doing it, does it make any sense for us to continue having a brand program? You know, and I would say this to that: If Rhode Island was the only state in the country that didn't have a brand inspection program, would it make sense for the rest of us just to throw in the towel and say, well, to heck with it. If Providence doesn't want to do it, we just might as well not do it at all. It's a very important safeguard for people who own livestock. Livestock is our number one industry in this state. There is theft that goes on. We know it. We've heard about it constantly here. You heard Mr. Stanec talk about investigations outside the brand area that they have done. That's paid for by revenue that comes from within the brand area. So there's beneficiaries out here in the nonbrand area that are receiving some benefits and they're not paying for it. We talked about the checkoff and what I consider to be an

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equal protection issue or an equal right under the law. You've got one side of the brand line where checkoff is a voluntary thing. You've got the other side where it's a mandatory thing and it's collected by the brand inspection program. If nothing else, that's something that needs to be addressed by somebody sometime because that's an important issue. As I'm a member of the Cattlemen's beef board, I can tell you that compliance is an issue that the CBB fights all the time. I always point to the state of Florida as an example of one where compliance is a real problem--over a million cows in Florida and around \$317,000 in collections. Something doesn't add up there to me. So, you know, if we don't have an enforcement process for the checkoff, we're not going to collect the revenue. Final thing I want to say is state of South Dakota has an all-state brand bill on the books this year. It's been voted out of committee. You know, I think other states are looking at it, and we have moved away from the days of railhead shipping. We're dealing with the more modern age where cattle can be moved quickly. We're going to protect our livestock producers, protect our farmers and ranchers, our feedlots, and everyone else by having an all-state brand bill. Thank you very much.
[LB654]

SENATOR SCHILZ: Thank you, Senator Davis. Any last questions? Senator Johnson.
[LB654]

SENATOR JOHNSON: Not a question and this is not an issue necessarily. But I think for the record we have two copies of petitions here and there are some signatures that are on both of them, just for the record. Not an issue but just so it's on the record that there are some signatures that are on both of them. [LB654]

SENATOR DAVIS: Okay. [LB654]

SENATOR SCHILZ: Thanks, Senators. Any other questions? Thank you, Senator Davis, appreciate it. [LB654]

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SENATOR DAVIS: Thank you. [LB654]

SENATOR SCHILZ: That will close the hearing on LB654. Thank you very much to everybody who came down to testify. We appreciate it. Now we will move on to LB647. Senator Davis, I believe that this is yours as well. [LB654]

SENATOR DAVIS: This is Al Davis Day in the Ag Committee. (Laughter)

SENATOR SCHILZ: Right. (Laugh) Senator Davis, you're welcome to open on LB647. [LB647]

SENATOR DAVIS: Good afternoon, Chairman Schilz, members of the Ag Committee. I am Al Davis, D-a-v-i-s and I represent the 43rd Legislative District. I'm here today to introduce LB647. The bill would specify that Nebraska would not require individual animal identification for cattle imported into Nebraska from a state with a registered brand inspection program, provided the animals were accompanied by a brand-clearance document from that state and a certificate of health inspection by a veterinarian in that state. This proposal was originally introduced last year by former Senator LeRoy Loudon who is here this afternoon. And it was introduced in response to concerns expressed by cattlemen in Nebraska that Nebraska was heading towards requiring individual identification for all cattle imported into the state, a concept which would impede commerce and impose a horrific workload on ranchers, livestock barns, and veterinarians. At that time, the United States Department of Agriculture had indicated that they might delist the brand as a form of identification and the Nebraska Department of Agriculture and the state veterinarian wanted to wait and see what kind of actual rule USDA would issue rather than impose a law in Nebraska which would be voided if USDA refused to recognize the brand. USDA recently issued its final rule which recognizes the brand as an official form of identification and permits each state to develop its own rules and regulations about what is appropriate. This bill is much the same as the bill introduced last year with the addition of the definitions which were

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added at the request of Nebraska Department of Agriculture Director Greg Ibach. This bill does not impede the ability of Director Ibach to require individual identification under specific circumstances as outlined in the bill. Under LB647 the state veterinarian would also be granted authority to issue additional requirements as needed for cattle imported into Nebraska. LB647 would help Nebraska sale barns and feedlots since it would not impose a significant ID workload on cattlemen exporting cattle to Nebraska from the selected states. Passage of LB647 would essentially place in statute practices which are already in place in much of the state while still protecting the health and safety of the state's cattle herds. The cattle brand is still the best form of identification available since it is not removable and will not fall out or be rubbed off, which happens occasionally with cattle tags. Almost any rancher will tell you that tags are a valuable asset to use on the ranch, but are fallible and have a failure rate of 2 to 5 percent annually. When this bill was introduced last year, over 40 letters were received from ranching families outside Nebraska who committed to feeding their cattle in Nebraska if Nebraska implemented the brand as the primary form of identification of animals rather than individual tags. This is a unique economic development bill for agriculture. It will benefit the entire state by adding jobs without any new costs, rebates, or incentives. At first glance, you might think that LB647 was designed for health inspection and disease traceability, but that is not the purpose. The traceability documented in the bill will only be used if some sort of cattle disease outbreak occurs and that is something that rarely happens. What does occur on a daily basis is the importation of large number of cattle into Nebraska to sale barns and feedlots. LB647 is really economic development legislation. I have to admit that I lifted a lot of this language from Senator Loudon's introduction last year. There are sale barns along the border between South Dakota, Nebraska, Wyoming, and Colorado which are states with registered brand inspection program. The Gordon sale barn imports around 15,000 head of cattle from South Dakota to sell through the auction facility. Valentine sale barn imports about 20,000 head of cattle a year; the Rushville sale barn-15,000 head; Crawford sale barn, approximately 15,000 head from South Dakota and Wyoming; Bassett sale barn adds another 12,000 head which totals around 87,000 head of cattle imported into the state

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mainly from South Dakota. Sale barn charges approximately \$15 per head, as...what I anticipated, but we've heard maybe a \$20 figure is more accurate. So at \$15 per head, the economic benefit to Nebraska is approximately \$1.3 million generated in those barns from those existing sales. This revenue is out-of-state revenue coming into Nebraska. It provides jobs to struggling rural communities. It's a very good source of revenue for the economy in those areas and the rural economy in general. There is also ancillary income generated through these sale barn transactions such as trucking jobs, sale of feed to the auction facilities, and so forth. Again, this income comes from out of state and does not require economic incentives, tax rebates or other government subsidy for its existence. In fact, all it has given back in return is good service to sell these cattle. After being sold at the auction barn, the cattle are delivered to pastures, feedlots, or packing houses, often in the state of Nebraska. Most of the cattle go to Nebraska feedlots where value is added to the animals through the use of feedstuffs which are grown by Nebraska farmers. The combination of grain, ethanol and by-products in cattle has made Nebraska the premier cattle-feeding state. There are significant numbers of cattle being fed in Nebraska feedlots which do not go through the auction process, but are brought directly into the state to benefit from the convenient location of cattle feed and packing facilities. If you look at the capacity of the commercial feedlots in Nebraska, as of January 1, 2012, USDA declared there were 2.55 million head on feed in Nebraska in yards that held over a thousand head of cattle. There are thousands of these cattle that have arrived from out of state and this is a huge economic boon for Nebraska's economy. By implementing LB647, we will protect the health of our animals, while at the same time setting a livestock-friendly status for cattlemen all across the western states. LB647 would use regulations that are already in place. A mandatory brand inspection and a certificate of veterinary health inspection to allow cattle to be imported from a state that also has a mandatory brand inspection program. Veterinary health inspection is also required to import cattle from other states. LB647 is just about cattle. It's not about poultry, swine, sheep, or goats; and it only allows cattle to be imported in this way from states with mandatory brand inspection programs in place which protects the health and traceability of the animals if there ever

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is a problem. LB647 would benefit Nebraska economically and it would better ensure the health and traceability of cattle that are shipped into other states. I urge the committee's support of LB647 and would be happy to answer any questions. Thank you. [LB647]

SENATOR SCHILZ: Thank you, Senator Davis. Any questions for Senator Davis? Seeing none, oh, Senator Hansen. [LB647]

SENATOR HANSEN: Senator Davis, on page 3 of the bill, subsection (4) then it says this section does not limit the authority of the state veterinarian to issue import orders and imposing additional requirements for animals imported into Nebraska from any state, country zone or other area including the requirements related to identification. Is the department...what's the role of the Department of Ag under this bill? [LB647]

SENATOR DAVIS: The rules the USDA put forward... [LB647]

SENATOR HANSEN: The Department of Ag in the state? [LB647]

SENATOR DAVIS: U.S. Department of Agriculture, you know, have said that the states can work out an arrangement for identification of cattle between the states. So the Department of Agriculture has reviewed the bill and made the changes that they thought were necessary to the bill to meet their requirements. And as to the reason that that particular clause is in there, I think there were some concerns about TB and some other issues which would require some other more intensive identification processes. [LB647]

SENATOR HANSEN: And this is the state veterinarian, not the USDA? [LB647]

SENATOR DAVIS: That's correct. [LB647]

SENATOR HANSEN: Yeah, okay, thank you. [LB647]

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SENATOR SCHILZ: Senator Davis, and I take it that where...that's where all this language came...that's what they...the... [LB647]

SENATOR DAVIS: Yes. [LB647]

SENATOR SCHILZ: The department wanted this language specifically for that, even though it's not delineated in other section in the act. [LB647]

SENATOR DAVIS: That's correct. [LB647]

SENATOR SCHILZ: Okay. Thank you. Any further questions? Seeing none, thank you very much. [LB647]

SENATOR DAVIS: Thank you. [LB647]

SENATOR SCHILZ: At this time we will take proponents for LB647. [LB647]

MELODY BENJAMIN: Good afternoon, Chairman Schilz, members of the Ag Committee. Thank you for the opportunity today to testify on LB647. I'm Melody Benjamin with Nebraska Cattlemen, M-e-l-o-d-y B-e-n-j-a-m-i-n. I'm the vice president of member services for Nebraska Cattlemen and I also serve on the staff to their brand and property rights committee. As a side, I also own a small ranch outside of Alliance. The Nebraska Cattlemen board of directors voted to support LB647. Nebraska Cattlemen members liked that LB647 recognizes brands that can be used at times to identify cattle, but it also, importantly, gives the Director of Agriculture the authority to determine the best method of identification required for importation into Nebraska. Using brands when they are appropriate means that their identification is a low-cost method for producers. Cattle from some locations and of certain class may not need any further identification other than that brand. Giving discretion to the Director of

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Agriculture on the method of identification required to enter Nebraska will allow the state veterinarian to determine the best method to protect not only the health of the state's cattle herd, but the appropriate means of commerce among states that Nebraska enjoys. Thank you for your time and I'll be glad to answer any questions. [LB647]

SENATOR SCHILZ: Thank you, Miss Benjamin. Any questions? Seeing none, thank you very much for your testimony. Further proponents for LB647. Senator, welcome back. [LB647]

LEROY LOUDEN: (Exhibit 1) Well, thank you. Good afternoon, members of the Agriculture Committee and Chairman, Senator Schilz. As I listen to Senator Davis' presentation, I said he pretty well told it all, I think. (Laughter) I will reiterate a few things there, but he very ably presented. My name is LeRoy Louden, that's spelled L-e-R-o-y L-o-u-d-e-n and my address is Ellsworth, Nebraska. I'm a rancher and a former state senator. I'm here today to testify in favor of LB647. The United States Department of Agriculture published its final rule title, "Traceability for Livestock Moving Interstate" to the Federal Register on January 9, 2013. The requirements take effect 60 days following publication, which means beef producers need to comply by March 11, 2013. The new animal disease traceability, or ADT as I will refer to it, exempts animals less than 18 months of age and cattle shipped directly to slaughter. That eliminates calves, young seedstock and most feeder cattle and culled breeding cattle sold for slaughter. The program only applies to animals shipped across state lines. Adult cows and bulls sold to other producers will make up the bulk of cattle affected by the program, along with animals transported to stock shows, rodeos, exhibitions, or recreational events. These are the cattle that are most likely to spread a disease as this type of livestock usually return to a farm or ranch and remain in the production pool. The ADT rule specifies that livestock moved interstate will need to be officially identified and accompanied by an interstate certificate of veterinarian inspection or other documentation agreed upon by the shipping and receiving states or American Indian reservations. A veterinary inspection, or health certificate, as we in the industry call it,

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has been required for years to ship cattle to another state. A procedure that has been used for years is included in the new ADT rule. This new ADT rule is an outcome-based approach to improving traceability that allows states and reservations to develop systems for tracing animals that work best for them, their producers, and others in their jurisdiction. And that is where LB647 comes into play. LB647 outlines what and how cattle can be identified to be moved into Nebraska. Section 2 of the LB647 outlines the requirements to identify cattle that are imported into Nebraska and also gives the Director of the Department of Agriculture authority to require documentation of the identification of cattle imported into Nebraska. LB647 allows feeder cattle and cattle destined for slaughter to be moved without individual identification that require restraining the animal. Now Nebraska is a major cattle feeding state in the nation and we import thousands if not millions of cattle to be value added to with the feed produced in Nebraska. We must have simplified rules to accommodate such an industry. And as Senator Davis talked about, the amount of cattle that are imported just into the auction markets along the South Dakota border, and we've said before, somewhere between 85,000 and 100,000 head of cattle are sold through those auction markets annually. And as he mentioned, that one person testified, they charge \$20 a head now to sell those cattle, so that's over \$1.5 million to \$2 million of income that comes from other states, mostly South Dakota, that just comes into the pockets of Nebraskans. And that isn't counting the other pluses that come with that; there's trucking and there's feed and other needs that accommodate the working of those cattle. The importation of cattle into Nebraska is a major source of income from outside the state and we need to accommodate this industry, and LB647 works well with the new ADT rule from the USDA. Thank you and I will entertain any questions. [LB647]

SENATOR SCHILZ: Thank you, Senator Loudon. Any questions? [LB647]

SENATOR CHAMBERS: Excuse me. [LB647]

SENATOR SCHILZ: Senator Chambers. [LB647]

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SENATOR CHAMBERS: How's your father doing? [LB647]

LEROY LOUDEN: How's my father doing? [LB647]

SENATOR CHAMBERS: Are you the senator who used to be here? [LB647]

LEROY LOUDEN: Well, I sure enough am. (Laughter) [LB647]

SENATOR CHAMBERS: You look like his son. (Laughter) [LB647]

LEROY LOUDEN: Well, I knew you were getting old, but I didn't know your eyesight was going. (laughter) [LB647]

SENATOR CHAMBERS: Touche. Good to see you. [LB647]

SENATOR SCHILZ: Thank you, Senator Chambers. Any other questions? And your opening last year must have been pretty darn good if you just basically took it and used it again, right? [LB647]

LEROY LOUDEN: Okay. [LB647]

SENATOR SCHILZ: There you go. Thank you, Senator Louden. Other proponents for LB647. [LB647]

JOHN HANSEN: Good afternoon again. My name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n and I am the president of Nebraska Farmers Union and also our organization's lobbyist. I appear before the committee today in strong support of LB647. We thank Senator Louden for bringing this bill last time. We realize it had some issues with the Department of Ag. I think they've been taken care of. We thank Senator Davis

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for bringing it again. We think this is a commonsense bill that makes a lot of sense and that there's a lot of, I think, just nuts and bolts, economic reasons why this ought to be considered and moved this session. And we were disappointed last year that it didn't quite make it. And I would also say, which I maybe should have said on the last bill is that our organization is a certified beef nominating organization. We have 6,200 folks, families in our organization. We've been audited by the USDA to be able to get that designation. And so we do nominate folks for the national beef promotion board. And we do have a lot of cow/calf producers. And I would also just say that I've been doing my radio program for 22 years called Irons in the Fire. And if we were to do away with branding, I don't know, I'd maybe have to change the name of my program to Fats in the Fire, given my physique. And with that, I will close. [LB647]

SENATOR SCHILZ: Thank you, Mr. Hansen. Any questions? Seeing none, thank you for your testimony. [LB647]

JOHN HANSEN: Thank you very much. [LB647]

SENATOR SCHILZ: Further proponents. [LB647]

DAVID WRIGHT: (Exhibit 2) My name is David Wright, D-a-v-i-d W-r-i-g-h-t. I am the current president of Independent Cattlemen of Nebraska. I would like to thank the committee and the chairman for hearing this discussion on this bill. As has been stated earlier, a year ago Senator Louden introduced this bill, and also a year ago, I should say, I served eight years on the...I served eight years on the...oh for heaven sakes... [LB647]

_____ : Nebraska Beef Council. [LB647]

DAVID WRIGHT: ...Nebraska Beef Council, and then I've been appointed to the Cattlemen's beef board by Secretary Vilsack to which I've served two years on there

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and I have one more year left. So I went around the country, I was invited to do checkoff meetings in Wyoming, Washington State, Colorado, Kansas, South Dakota. And while I was there, what I found out from the producers out west there is they have a hard time moving their cattle and finding places for slaughter for their cattle. So in my proposal here, after you see the bill, the next letter is from Ross Baker who is the animal ID person at the Department of Agriculture here, and I asked Ross if he would find out what the other states' feelings are on entering into an agreement with the state of Nebraska on brands. And you can see his response. Some of this probably should have went with the last testimony on the other bill, but Minnesota will not accept brands; Wyoming does; Kansas will not, and this is interesting, Kansas will not accept brands; Iowa does not accept brands; South Dakota does; and Missouri don't. So if you turn to the next page, there is a picture of the United States and in red is the brand inspection area, statewide brand inspection area, across the United States, those states, the brand inspection is by law. So the next page shows the number of cattle in those states. Roughly there's...it says there's...and this is 2011 numbers, there's 13.8 million head of cows to have calves, and there's 31.4 million head of cows and calves which tells you there's about 17 million head of calves, whether they're calves or yearlings, that are going to be sold or fed out or slaughter somewhere. So to my producers to the west, I had asked them last year if they would send testimony urging Nebraska to pass what was Senator Loudon's bill at the time, because those states have got to go somewhere to feed those cattle. Now if you go back to the red map, there's only one logical place they're going to go. If Kansas will not accept brands, and Texas is a brand inspection by county, Missouri won't, Iowa won't, and you'll see in the back I've got testimony from 30 people. Two tribes have said, if Nebraska passes that bill, we will send our cattle to you first because they don't want to deal with the RFD tags, they don't want to deal with the silver clips, they want to just deal with brands and a health inspection paper. So that is my testimony. I would entertain any questions if you have some. [LB647]

SENATOR SCHILZ: Thank you, Mr. Wright. Senator Hansen. [LB647]

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SENATOR HANSEN: I've got one. Thank you for coming back today. Are you still involved in the printing business? [LB647]

DAVID WRIGHT: I sure am, can you tell? (Laughter) I did this last night. [LB647]

SENATOR HANSEN: A question I would have is, you know, all these western states have their own brand laws. [LB647]

DAVID WRIGHT: Um-hum. [LB647]

SENATOR HANSEN: They (inaudible) have their own brand registry. What about duplicate brands? Ours is a 77 on the right hip. There's one in Chadron, 77 on the left hip. I mean, those...by someone who's not really...real sharp might miss that. [LB647]

DAVID WRIGHT: Um-hum. [LB647]

SENATOR HANSEN: But there are...there has to be other brands, duplicate brands, there's not that many combinations for...what you'd say, 17 million cattle in those red states. [LB647]

DAVID WRIGHT: Um-hum. [LB647]

SENATOR HANSEN: That plus a health certificate, do you feel adequate for identification? [LB647]

DAVID WRIGHT: Sure, because every one of those states have a statewide brand inspection program like we do. Before they can cross that border, they have to be...they have to leave with a brand release. Before they leave Washington State, someone had to give a brand release letting them go. So then as they come into Nebraska, that release is following those cattle, along with the health certificate. So, yes, I do. I mean

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currently that's how we...currently in the state, in our state, you know, that's how we do that. If we have like...Mr. Ibach talks about somebody in Kansas has the same brand he does. But his brand will be inspected by a Nebraska inspector and it will have that piece of paper, that brand release that goes with that. I hope that answered your question.
[LB647]

SENATOR HANSEN: Okay. Thank you. [LB647]

SENATOR SCHILZ: Thank you, Senator Hansen. Any other questions? Seeing none, thank you for your testimony. [LB647]

DAVID WRIGHT: Thank you. [LB647]

SENATOR SCHILZ: Further proponents. Welcome back. [LB647]

JAY REMPE: Good afternoon again, Senator Schilz, members of the committee. My name is Jay Rempe, J-a-y R-e-m-p-e. I am with Nebraska Farm Bureau Federation here today on behalf of Nebraska Farm Bureau in support of LB647. I'll be very brief given the time of the day. But our members strongly support the use of the brand as an official identification in a traceability system. For that reason we support LB647 because it would provide the procedures to allow for the brand as an official recognition of ownership. Also, it provides the department enough latitude for disease traceability purposes of it needs to go beyond that it...we feel the bill gives the department those authorities. So with that I will be happy to answer any questions. [LB647]

SENATOR SCHILZ: Thank you, Mr. Rempe. Any questions for Mr. Rempe? Seeing none...or...yeah, seeing none, thank you for your testimony. Other proponents for LB647. Proponents? Any opponents for LB647? Any neutral testimony? [LB647]

KATIE ZULKOSKI: Good afternoon, Senator Schilz, members of the Ag Committee.

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Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of the Nebraska Veterinary Medicine Association. And first of all, I just want to go over a couple of things from last year. As some of you that were involved in this issue may remember, the veterinary...the Nebraska Veterinary Medical Association opposed the bill as it was advanced to the floor and amended into a separate bill because of some of the concerns you heard Senator Davis mention briefly. And we do...since that time, we have worked...been working with Senator Davis in discussions with him and we want to thank him for working with us on this bill and continuing to talk to us. That is why we're here today in a neutral capacity which we are...is always much easier than coming in opposed to bill. And so we're thankful for those discussions. Disease traceability is, obviously, a big concern with veterinarians across the state, but we do feel that in Section 2(4) of this bill, the authority that is given to the Department of Agriculture to address specific situations if that needs to be the case, does address our concern in that area and so we are neutral on this bill. And I'd be happy to take any questions.
[LB647]

SENATOR SCHILZ: Thank you, Miss Zulkoski. Any questions? Seeing none, thank you for your testimony. Other neutral testimony? Seeing none, Senator Davis, would you like to close? Senator Davis waives closing and that will close our hearing on LB647. Now we will take up LB435. Senator Hansen. [LB647]

SENATOR HANSEN: Thank you, Mr. Chairman. My name is Tom Hansen, T-o-m H-a-n-s-e-n, representing District 42. LB435 will allow an out-of-state buyer of Nebraska cattle to brand the purchased livestock with an out-of-state brand before leaving the state. Section 3 defines what an out-of-state brand permit will be. This will be an advantage to the out-of-state buyer in that they will be able to unload their purchased livestock directly into a pasture in their home state. It will be an advantage of the Nebraska cattle producer because they can add value to their livestock to bordering state buyers by making them ready to unload in surrounding states. It will allow livestock auction barns and other approved locations to process Nebraska-purchased cattle

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headed for Colorado, South Dakota, or Wyoming and to comply with the various brand laws of bordering states. Nebraska brand inspectors will issue an out-of-state brand permit to the purchaser of Nebraska cattle and limits the time...the time frame for the cattle that are...to be moved out of the state of Nebraska. LB435 is an attempt to address a need out of...a need for the out-of-state buyers and to make the transaction more smooth for Nebraska cattle producers to our neighbors across our state borders. This legislation was brought to my attention by the Nebraska Brand Committee during the interim. Following me are members of the Nebraska Brand Committee that will be able to answer any questions that you might have about this change to our brand statutes. Are there any questions of me? [LB435]

SENATOR SCHILZ: Thank you, Senator Hansen. Any questions for Senator? Seeing none, thank you for your opening. [LB435]

SENATOR HANSEN: Thank you. [LB435]

SENATOR SCHILZ: We will take proponents to LB435. Good afternoon and welcome. [LB435]

JIM LEE: Thank you, Senator and Ag Committee. My name is Jim Lee, J-i-m L-e-e, for the record, I think I'm probably have the shortest name of anybody we've had so far. I'm representing the Brand Committee. I'm vice chairman of it. And I was probably the one that brought this bill to Senator Hansen. I'm one of the owners of the Valentine Livestock Auction barn. I'm also a rancher in Cherry County. And we have people from South Dakota that come and buy bred cows this time of the year and they need to...they have a South Dakota brand; they're from South Dakota and they want to take them back there, but they have no facilities there to brand, especially when there is a lot of snow in that part of the country this time of the year. So what's been happening, they've been using our facilities at the livestock auction putting their brand on them which is illegal. And we think that it's only fair that they should be able to do that. So the Brand

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Committee agrees and we think that this bill should be passed. Any questions? [LB435]

SENATOR SCHILZ: Thank you, Mr. Lee. Senator Johnson. [LB435]

SENATOR JOHNSON: Thanks, Ken. Thank you, Mr. Lee. Has there been reasons this hasn't been brought before, any issues in the past, anything changed, or is this... [LB435]

JIM LEE: No. I didn't know it was going on until our sale barn manager mentioned it. He said that what they do they just bring their iron down from South Dakota and when they buy these bred cows, why they'd...in the night they take them in and put their brand on them in the sale barn's facilities--we have lights and everything--and then load them on their trailer and take them to South Dakota. So when I found out about that, I said, well, isn't that illegal? And they said yes, but they're still doing it so to make everything easy. And then also the Brand Committee can collect a little fee doing this; our inspectors will check with it. [LB435]

SENATOR JOHNSON: Not a negative, but so we're kind of taking an illegal practice and making an okay law. [LB435]

JIM LEE: Making it fair. It would help everybody on both sides of the line; the people that are selling these bred cows, it will help them because people from South Dakota can buy them then because there is some ranchers up there that won't do it because they don't have the facilities to do it. So any other questions? [LB435]

SENATOR SCHILZ: Senator Bloomfield. [LB435]

SENATOR BLOOMFIELD: Thank you. Have our brand inspectors not raised an eyebrow over this practice or not? [LB435]

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JIM LEE: Yes, but what can they do about it? [LB435]

SENATOR BLOOMFIELD: That's probably a fair question, but I think they'd register a complaint somewhere. [LB435]

JIM LEE: Yeah. I don't know. Steve, has any of our inspectors have they...he's going to come up, okay, he can probably answer that better than I can. [LB435]

SENATOR BLOOMFIELD: Thank you. [LB435]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? Looks like you just got off the hook from the questions I was going to ask. I'll wait until Mr. Stanec gets here. (Laughter) Thank you so much. [LB435]

JIM LEE: Good, good. [LB435]

SENATOR SCHILZ: Next proponent. [LB435]

MELODY BENJAMIN: Well, good afternoon again. I'm Melody Benjamin, M-e-l-o-d-y B-e-n-j-a-m-i-n, and I am still with Nebraska Cattlemen and I'm still on the staff of their brand and property rights committee. Thank you for allowing me to testify on LB435. The Nebraska Cattlemen board of directors voted to support LB435 and Senator Hansen in bringing this legislation giving the Nebraska Brand Committee the authority to issue a one-time permit to apply an out-of-state brand will provide purchasers of Nebraska cattle to brand them at livestock markets or other locations where they have gathered the animals for eminent removal from Nebraska. It is not uncommon for cattle producers to brand their cattle at the point of purchase before moving them to pasture. Currently, out-of-the-state producers are not allowed to apply their brands from another state. This bill will allow the Nebraska Brand Committee to legally use their discretion in regard to the specific situation. Nebraska Cattlemen members feel LB435 is a positive

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move to make interstate commerce of cattle easier for those purchasing cattle in Nebraska. Thank you for your time and I'll be glad to take any questions. [LB435]

SENATOR SCHILZ: Thank you, Miss Benjamin. Any questions for Miss Benjamin? Seeing none, thank you for your testimony. Further proponents to LB435? Mr. Wright, welcome back again. [LB435]

DAVID WRIGHT: Thank you, Senator Schilz and committee. My name is David Wright, D-a-v-i-d W-r-i-g-h-t. I'm the current president of Independent Cattlemen of Nebraska. I would like the committee for having...to thank the committee for having the foresight to put all of these together. We are in favor of this. I must admit, since I live outside of the brand inspection area, but still live in the state of Nebraska, if I buy cows in Bassett or O'Neill or Atkinson and I lay a brand on them and I'm still in the state and I cross that brand line, I could not do that. And I must admit to you that I have done that, because I would take those cows straight to the cornfields and dump them off. So I would like to thank the senator for bringing this bill forward. And I would like to try and point out the elephant in the room here. There is so much value in that brand that they're willing to brand that animal the day they buy it. That's how valuable it is. That's how it shows ownership and identification and a paper trail. I mean it's amazing. I mean I could...I can see it. I hope the rest of you can see it too. But I want to thank you. And if there are any questions, I would entertain those. [LB435]

SENATOR SCHILZ: Thank you, Mr. Wright. Any questions? Senator Chambers. [LB435]

SENATOR CHAMBERS: A naive question from an uninformed person, if I understood correctly, these cattle would be brought from Dakota here or purchased here by somebody from Dakota? [LB435]

DAVID WRIGHT: They would be purchased in Nebraska at a Nebraska livestock

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auction from a person in South Dakota. [LB435]

SENATOR CHAMBERS: From a person? [LB435]

DAVID WRIGHT: Yeah. They come down into the state and bought the cattle. They would brand it with their own brand and haul it back after the purchase. [LB435]

SENATOR CHAMBERS: But the person would come with no cattle. [LB435]

DAVID WRIGHT: Right. [LB435]

SENATOR CHAMBERS: And then would buy the cattle here. [LB435]

DAVID WRIGHT: Right. [LB435]

SENATOR CHAMBERS: So it's known that the cattle being purchased have not been stolen. [LB435]

DAVID WRIGHT: Well, in the brand inspection area it is. [LB435]

SENATOR CHAMBERS: Okay. [LB435]

DAVID WRIGHT: Inside the brand... [LB435]

SENATOR CHAMBERS: Okay, yes, let's say that, because I just want to get to this one issue. The person from Dakota is going to purchase the cattle in Nebraska and put the Dakota brand on the cattle while they're here and then take them back? [LB435]

DAVID WRIGHT: That's correct. [LB435]

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SENATOR CHAMBERS: Okay, I just wanted to understand the process. Thank you. [LB435]

DAVID WRIGHT: Thank you. [LB435]

SENATOR SCHILZ: Thank you very much. Further questions? Seeing none, thank you for your testimony. [LB435]

DAVID WRIGHT: Thank you. [LB435]

SENATOR SCHILZ: Further proponents. [LB435]

JOHN HANSEN: Again, good afternoon, members of the committee, Mr. Chairman. For the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. We thank Senator Hansen for bringing this bill forward. It seems when we looked at it that it was a commonsense bill. It made a good husbandry practice legal. The fewer times that you load and unload cattle, the fewer times that you run them through the chute, if you've got them in the sale barn and they're there and you have good facilities, it makes no sense to us to load them back up, take them, unload them, work them, load them back up, and then take them to where they're going to go. And so for those reasons we are in strong support of LB435. Thank you. [LB435]

SENATOR SCHILZ: Thank you, Mr. Hansen. Any questions for Mr. Hansen? Seeing none, thank you for your testimony. [LB435]

JOHN HANSEN: Thank you. [LB435]

SENATOR SCHILZ: Further proponents. Proponents. Seeing none, are there any opponents? Seeing none, neutral testimony? Steve, if you'd like to...welcome back, thank you. [LB435]

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STEVE STANEC: Thank you, Senator Schilz. Again, my name is Steve Stanec, S-t-e-v-e S-t-a-n-e-c, executive director of the Nebraska Brand Committee. To try to answer Senator Johnson's question, when our inspectors are aware of it, they have a violation report that they are to complete and forward on to our criminal investigations. We make every effort to contact those people. Unfortunately, we're reactive; the cattle are gone, the producers are gone into another state. We have no jurisdiction in that state. So we will contact them and tell them that it's illegal, that they cannot continue that practice. Oftentimes we are aware of it; oftentimes we are not. We do follow up on it when we are made aware of it. [LB435]

SENATOR SCHILZ: Thank you. Steve, I guess I have just a couple of questions. We talked a little bit...Mr. Wright talked a little bit about inside the brand area and outside the brand area, if this goes through, was it envisioned that it would cover the entire state or just the areas where...inside the brand inspection area? [LB435]

STEVE STANEC: It's illegal in the state of Nebraska to brand an animal in the state of Nebraska when the brand is not recorded with the Nebraska Brand Committee in the state of Nebraska. So it would be open for anyone that would want to brand cattle in Nebraska from another state. We have hurdles of...we don't have brand inspectors at this point in time in eastern part of the state. So we would have to set up some type of a mechanism that they can get that permit to do that branding in the nonbrand inspection area. [LB435]

SENATOR SCHILZ: Right. And that permit, it talks about, you know, the application would be approved within a reasonable period of time. Do you have any, you know, anything that would tell you what that reasonable amount of time...what the turnaround time would be? [LB435]

STEVE STANEC: Inside the brand inspection area... [LB435]

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SENATOR SCHILZ: Uh-huh. [LB435]

STEVE STANEC: ...the brand inspector would have the availability to issue that.
[LB435]

SENATOR SCHILZ: Right. [LB435]

STEVE STANEC: And they're at the auction market. So you're speaking minutes, you know, within less than an hour, because they would have the authority to issue that permit. In the nonbrand area, it would probably be the difference of whether or not the office is open. They would have to plan ahead to some extent for application. Once we receive the application, then we could fax the permit back to them or they could pay with a credit card, whatever the case may be. [LB435]

SENATOR SCHILZ: So if they're outside that area,... [LB435]

STEVE STANEC: Right. [LB435]

SENATOR SCHILZ: ...they'll just have to take it upon themselves to make sure they get it in before they want to do it. [LB435]

STEVE STANEC: Right. Correct. [LB435]

SENATOR SCHILZ: Yeah, okay. Thank you. Any other questions for Mr. Stanec? Once again, thank you very much for your testimony. Any other neutral testimony for LB435? Seeing none, Senator Hansen, you're welcomed to close. [LB435]

SENATOR HANSEN: If there are no questions, I'll (inaudible). [LB435]

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SENATOR SCHILZ: Senator Hansen waives. [LB435]

SENATOR HANSEN: If there are no questions. [LB435]

SENATOR SCHILZ: Senator Hansen waives closing. And that will close our hearing on LB435. Norm, it's all yours. [LB435]

SENATOR WALLMAN: And now we'll have LB587 by Senator Schilz. [LB587]

SENATOR SCHILZ: Good afternoon, Vice Chair Wallman and the members of the Ag Committee. My name is Ken Schilz spelled K-e-n S-c-h-i-l-z. And I bring to you today LB587. LB587 was brought to me by concerned folks that were having some issues with getting ownership worked into and being able to provide that ownership when the cattle were taken to packing plants. It seems that...and what I understood as we talked about this is that there were instances where...there was inconsistencies as to what was being accepted for identification at certain packing plants. And this bill, albeit, you know, it changes a couple things, but what this bill was to have a discussion on what should be required for ownership, how that should be acquired, and whether or not the rules and regulations of the Brand Committee actually reflect what the statutes read at this point in time. And I do have others behind me that can better explain the situation going forward. So with that I will move it along. I don't want to take up a whole lot of time, but if there are any questions I'd be more than happy to try and answer them. [LB587]

SENATOR WALLMAN: Does anybody have any questions? Seeing none, first testifier, proponent. [LB587]

KORBY GILBERTSON: Vice Chairman Wallman, members of the Agriculture Committee, for the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as registered lobbyist on behalf of Tyson Foods. First of all I'd like to thank Senator Schilz and Senator Hansen for introducing this

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legislation to further the discussion of some events that have taken place over the last year and even prior to that time in previous years. The reason for the legislation is to discuss...maybe to make a point would be the best way to describe it. There had been some activities at the Tyson plant in Lexington in which certain modes of satisfactory evidence were being used as evidence of ownership. And then that was changed based on an audit that was done out at the plant and then those forms of ownership were no longer accepted. The statute that we changed that is in front on you clearly states...there's a listing of things that can be used as satisfactory evidence. There is no hierarchy established in that statute. There isn't anything that says that certain things are best evidence or not best evidence, but rather just a list of acceptable things that could be accepted as proof of ownership. Last April is when I got word that there were some issues in Lexington. We started conversations with Mr. Stanec at that time. And then approximately in mid-August we finally decided that we needed to sit down because we could not figure out exactly what was going on. That meeting finally took place in October. And then the legislation that you have before you was discussed with both Senator Hansen and Senator Schilz at the beginning of January because as of that date we still did not have any agreement or anything resolved from the Brand Committee, even though we had back in October submitted a proposed document that could be used for proof of ownership. That document was finally approved on January 17. And at that time we discussed the need for possibly having a conversation with the committee so that we could get things out in the open and discuss maybe in a little more detail underlying issues with brand inspection and what goes on at the packing plants. Only two packing plants in the state of Nebraska fall inside the inspection area. The others fall outside the inspection area. You might find it interesting to hear that in...for the 4,500 cattle a day that go through the Tyson/Lexington plant, we've not had issues when they have had any issues with ownership or checks going to the wrong place, they have admitted it freely, written checks to people that have never had anything gone so far as a prosecution. The same is held with the plant in Dakota City which does more cattle than they do in Lexington. So with that said, what we wanted to do is bring it to the committee's attention that when the brand inspectors are looking at proof of

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ownership, there have been numerous issues where different forms of ownership are used. They can use DNA evidence; you can use the health papers; you can use the original documentation; brands, obviously; scale tickets are allowed under this; and for some reason, certain things are being used more than others, or being allowed more than others. And that would follow the Brand Committee's rules. We have long maintained that we think that the Brand Committee needs to revisit those rules and make them more in line with what the statute clearly says on its face. And with that I'd be happy to try to answer any questions. [LB587]

SENATOR WALLMAN: Do we have any questions for Miss Gilbertson? I guess I have one. [LB587]

KORBY GILBERTSON: Um-hum. [LB587]

SENATOR WALLMAN: Are the banks involved in any of this stuff, proof of ownership? Have you talked with the banks? [LB587]

KORBY GILBERTSON: They have...for as many years as I've been dealing with it on...at this side, no, they've not been involved. [LB587]

SENATOR WALLMAN: Seems strange. [LB587]

KORBY GILBERTSON: Well, I think...probably Senator Schilz can probably explain to you the nuts and bolts of how the money gets exchanged and Senator Hansen can too. [LB587]

SENATOR WALLMAN: Okay. [LB587]

KORBY GILBERTSON: But they have not been involved in our discussions or shown an interest when we've discussed it. [LB587]

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SENATOR WALLMAN: Thank you. Anybody else? Seeing none, thank you. [LB587]

KORBY GILBERTSON: Okay, thank you. [LB587]

SENATOR WALLMAN: Next proponent. More proponents here? Opponents? Neutral? Oh, opponent? [LB587]

JIM LEE: Senators, I'm Jim Lee again, J-i-m L-e-e. I'm on the Brand Committee. And we've been working on this for quite awhile. We thought we had it all straightened out last fall...or we had a...well, our...the Supreme Court, state, anyway said that we thought we had it. But then when the bill came out, why it's against...in this form we can't...we feel that we can't abide by it. So we're against this bill as a Brand Committee. So, any questions? [LB587]

SENATOR WALLMAN: Okay. Any questions? Senator Chambers. [LB587]

SENATOR CHAMBERS: Did you say this because of a court decision that leads you to be against it? [LB587]

JIM LEE: No. [LB587]

SENATOR CHAMBERS: Oh. [LB587]

JIM LEE: Well, it's different than what we understood before...or when we tried to work with Tyson. Steve can explain it a lot better than I can. He knows all the law stuff. [LB587]

SENATOR WALLMAN: Okay. [LB587]

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SENATOR CHAMBERS: That's all I had. Thank you. [LB587]

SENATOR WALLMAN: Senator Hansen. [LB587]

SENATOR HANSEN: Yeah, thank you. Jim, I was unaware that you...that the Nebraska Brand Committee was in opposition to this. So, there's 16 types of ownership documentation... [LB587]

JIM LEE: Right. [LB587]

SENATOR HANSEN: ...ways you can identify cattle. Is there some there that should be stricken rather than all left in the state statute? There weren't any added. There were none added in this legislation. All there was was three...two and a half lines struck out and it will... [LB587]

JIM LEE: Well, when you take those lines out, why... [LB587]

SENATOR HANSEN: And that's the problem? [LB587]

JIM LEE: Yeah. [LB587]

SENATOR HANSEN: Okay. [LB587]

JIM LEE: Other documentary evidence such as bill of sale or certificates of brand clearance transferring title from an owner to another party may also be introduced as evidence. That's under the 54-107. [LB587]

SENATOR HANSEN: Okay, thank you. [LB587]

SENATOR WALLMAN: Any other questions? Seeing none, thank you, Jim. Next

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opponent? Seeing none, neutral? [LB587]

MELODY BENJAMIN: Good afternoon, Chairman Wallman, members of the committee. I'm Melody Benjamin, M-e-l-o-d-y B-e-n-j-a-m-i-n. I'm on the staff at Nebraska Cattlemen, I'm the vice president of member services, and I serve as the staff to their brand and property rights committee. Today I'm testifying before you in a neutral capacity on LB587. There are some benefits in regard to LB587, but we would raise the following concerns for the Ag Committee's consideration. Producers need to know what, with certainty, what documentation is required to prove ownership of cattle when producers interact with Nebraska Brand Committee. This is particularly important for producers who are out of the inspection area shipping cattle into the inspection area. These producers have less experience with brand inspection, so those producers need clearly defined specifics. Our concerns arise from the limited list of items which prove ownership. There are new technologies that can be used to determine the ownership of an animal such as a bolus which uses radio frequency identification or DNA profiles. Likely there are other technologies on the horizons that I can't name today. We do not want to limit the ways the Nebraska Brand Committee can determine ownership when it is questioned. It is important for the Nebraska Brand Committee and its representatives to be consistent in their request for documents and which documents are acceptable. When a brand inspector questions ownership of a load of cattle, the monies are held until the inspection...inspector's curiosity is satisfied on ownership. Many times it is several days and the dollar amounts can be very large. If producers could avoid this complication, it would be better for business in our state. I thank you for your time and I would like to answer any questions if I can. [LB587]

SENATOR WALLMAN: Thank you. Any questions? [LB587]

SENATOR JOHNSON: If I catch this right, say those that are outside the brand inspection area would be a disadvantage not knowing all of the... [LB587]

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MELODY BENJAMIN: Currently, because of the list, a bill of sale is one of the things that's required, if they get to the packing house and the inspector questions that bill of sale, then they need something else. And a lot of times those people that are out the inspection area just are not sure what those documents need to be that they send with the cattle. [LB587]

SENATOR JOHNSON: I'll put you on the spot a little bit. [LB587]

MELODY BENJAMIN: Okay. [LB587]

SENATOR JOHNSON: So if the first bill went through and it went statewide, would that clear that part of the issue up and they would be more likely to be able to understand it and comply? [LB587]

MELODY BENJAMIN: Well, it would take awhile until we got everybody educated, I'm sure. Currently, the law says that if you're out of the inspection area you must provide a bill of sale. And we find that a lot of people are not even aware of that. So it would take quite a bit of time to get everybody educated. Some of the problem that arises here is say some cattle are out of the inspection area and they came into that feedyard out of the inspection area on a certificate of health and they don't have a brand inspection for them. And they have sorted those cattle and put them in two different pens. And part of that one pen went maybe to Schuyler to be harvested and part of that pen went to Lexington to be harvested. They only have one document. So which document goes with which load of cattle? This is just confusing for people. And so a clearly defined document would be much better. [LB587]

SENATOR JOHNSON: Okay, thank you. [LB587]

MELODY BENJAMIN: Um-hum. [LB587]

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SENATOR WALLMAN: Thank you, Senator Johnson. Anybody else? [LB587]

MELODY BENJAMIN: Thank you. [LB587]

SENATOR WALLMAN: Seeing none, next neutral testimony. [LB587]

STEVE STANEC: Again, Steve Stanec. [LB587]

SENATOR WALLMAN: Welcome back, Steve. [LB587]

STEVE STANEC: First name, S-t-e-v-e, last name, S-t-a-n-e-c, I just try to answer any questions you might have. I will make a comment that the rule and reg that's in place was an attempt to address the issue that was just brought by the last testifier to lay out what is expected under certain circumstances. As an example, if you buy cattle inside the brand area, you should have a brand inspection certificate or a sale ring clearance to show ownership of those cattle. So if that was the case, that's what would be asked for. If you bought cattle in a nonbrand area of Nebraska, private treaty, you should have a bill of sale because that's what's required by law. So that was the effort through the rule and reg to set up a guideline so people would know what that was. I will also say that the rules and regs were encouraged by two previous attorneys general and ultimately was approved by the Attorney General's Office and signed by the Governor's Office into the administrative code. So we rely on that rule to guide our inspectors so that inspector A is asking for the same document as inspector B so we don't have that confusion. That was one of the major rules for...or reasons for the rules and regulations to accomplish that because there was so much confusion. Any questions relative to that? The other thing...go ahead, Senator Hansen. [LB587]

SENATOR HANSEN: No, go ahead, finish your thought. [LB587]

STEVE STANEC: By striking that language, it takes away a lot of evidence of ownership

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that we utilize that is not listed. A comment was made about DNA, that's not listed, but we have utilized that in both civil and criminal cases to determine ownership. I've been recently involved myself in two investigations where we utilize production records that were not listed. So the brand inspector has some latitude and discretion with that language remaining in there. In conjunction with that, we went out and inspected mother cows to determine ownership on calves that were unbranded in a civil case and that amounted to \$47,000 worth of cattle. We would not have the availability to determine ownership if that language was stricken. [LB587]

SENATOR WALLMAN: Anybody... [LB587]

SENATOR HANSEN: I do have a question. Is the part that is underlined...stricken in this bill on the second page that includes the word "statements" does that include the affidavit that I thought we were talking about last fall? [LB587]

STEVE STANEC: The statement that was agreed upon to utilize for nonbrand inspection area cattle coming into Tysons is that statement. If you strike that, we can no longer utilize that statement because the informal Opinion we got from the Attorney General's Office when we asked them if we could accept that statement, they emphasized that language for us to be able to utilize it. [LB587]

SENATOR HANSEN: Okay. And then the last item that is accepted by the old statute are tags. Would that include RFID tags? [LB587]

STEVE STANEC: That's not specified, but when this statute was written, there were no RFID tags. [LB587]

SENATOR HANSEN: I mean, but they're tags. [LB587]

STEVE STANEC: Yeah. There are tags. We would recognize that. The other options

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that we have available: boluses, retinal scanning, things of nature that are not listed. And tomorrow is another envelope, if you will, of opening of other technologies that we could use that are not listed. So the discretion to be able to go beyond what's documented, in my opinion as an administrator and as a brand inspector for 29 years, we've got to have a little bit of latitude to give the brand inspector...I guess I pose this rhetorical question, if a producer could not provide one of those documents, should the cattle then be impounded, sold as strays and the money go to the state school fund? (Inaudible) our cases where these documents aren't available or tags aren't available, something of that nature. So as I alluded to the other things, production records, ear notches even can be utilized. There's a lot of things that can be utilized when these documents aren't available. [LB587]

SENATOR HANSEN: I just want to remind the committee that as Ms. Gilbertson said that Tyson processes 4,500 head of cattle a day. And that's a huge part of the cattle industry in the western part of the state, in Dawson County. So it's really an important part and somehow or other we have to get this thing figured out. [LB587]

STEVE STANEC: Well, it's my understanding in talking with... [LB587]

SENATOR HANSEN: It's gone on long enough. [LB587]

STEVE STANEC: ...it's my understanding that the statement is working. The last time I spoke with Kent McCleary (phonetic) from the packing plant, he says it is working. [LB587]

SENATOR HANSEN: Okay. All right. Thank you. That's what I wanted to hear. [LB587]

SENATOR WALLMAN: Anybody else? Seeing none, thanks, Steve. Anybody else in neutral? [LB587]

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DAVID WRIGHT: I would like to thank you again for having these hearing today all in one shot. My name is David Wright, D-a-v-i-d W-r-i-g-h-t. I'm the current president of Independent Cattlemen of Nebraska. We are taking a neutral position on this. We feel very strongly, as you've heard from testimony today, about proof of ownership of livestock. And we are also...we also understand that not everyone wants to brand their cattle and that we need these other forms...for not limited just these forms of identification. So I'm kind of a naive individual. I don't understand why you would strike out the ability to add more. So that's why we take a neutral position. We don't want to undermine the ability to prove ownership and the value behind proof of ownership. I'm going to have to leave it at that. [LB587]

SENATOR WALLMAN: Any questions for Mr. Wright? Seeing none, thank you, David. [LB587]

DAVID WRIGHT: Thank you. [LB587]

SENATOR WALLMAN: Any more in neutral capacity? Seeing none, Senator Schilz, would you like to close? [LB587]

SENATOR SCHILZ: Thank you to the committee for taking the time to hear this. I would also like to thank the folks from the Brand Committee and thank Director Stanec for coming out and being here as well. And I can't disagree with anything they said. We always want to be more inclusive than exclusive on these things. We always want to have more flexibility in how we can get the job done. As Mr. Wright asked, he says, I don't understand why we would want to do this. Well, if everything is working the way it is supposed to, we won't have to do anything, we won't have to do this. And I know that they have been working diligently and I appreciate the work that the Brand Committee has done. And I understand, as well as we've heard earlier, that the new statement that they have come up with is working. And as long as it continues to work I see no place for any change in the law. But I think it should be noted that sometimes, as we've heard

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before, and...is that sometimes legislation is introduced for conversation, is introduced to make sure that, as Ms. Gilbertson said, a point is made. And I think that now maybe that's the case, maybe everybody understands. I think everybody understands the importance of making sure that our packers within the state of Nebraska have the ability to do their jobs and that we are as inclusive and as flexible as possible to make sure that commerce can happen the way it needs to be at the speed of business and that's what we need. So with that I don't...I probably won't be asking for a vote to get this bill out of committee, but I appreciate your time and your patience in hearing the bill. Thank you. [LB587]

SENATOR WALLMAN: Any questions for Senator Schilz? Senator Chambers. [LB587]

SENATOR CHAMBERS: Governor Schilz, it seems that something is in the water around here. (Laughter) You sound like another governor of just a few days ago, but you really mean that if this bill is killed, then it doesn't make any difference. [LB587]

SENATOR SCHILZ: You know, I...well, yeah, if...if...because as long as it's working, then, yeah, that's fine. And if it would be killed and it doesn't work... [LB587]

SENATOR CHAMBERS: And here's why I say it. From what I've gathered, and I'm counting on what people are saying who are in the know, that an issue was created, this bill was put in here to call the thing to people's attention and bring it to a head. But if the bill is not needed, then rather than have there be doubt, then I think we ought to just kill it. If that's...if I'm hearing correctly, everything is to stay just like it is now and this bill would change things if it passed... [LB587]

SENATOR SCHILZ: Correct. [LB587]

SENATOR CHAMBERS: ...striking that language, okay, that's all I needed to know. But I think we ought to go on and kill it then if there's that big an issue swirling. Don't leave

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anything to question by anybody. [LB587]

SENATOR SCHILZ: Right. [LB587]

SENATOR CHAMBERS: But I'm just one person. That's all that I have. [LB587]

SENATOR SCHILZ: No, and I would say this that, yes, that's fine and I would suspect that if there would be issues again in the future that there could be more legislation introduced. So thank you very much. With that I'll close if there are no other questions? [LB587]

SENATOR WALLMAN: Any questions? Seeing none, this closes the hearing on LB587. Thank you, Senator. [LB587]