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Agriculture Committee
February 25, 2014

[LB1002 LR413 LR414 LR427]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 25, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1002, LR413, LR414, and LR427. Senators present: Ken Schilz, Chairperson; Norm Wallman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Tom Hansen; Burke Harr; and Jerry Johnson. Senators absent: Steve Lathrop.

SENATOR SCHILZ: Well, good afternoon, folks. I know we don't have all the senators here yet but we'll go ahead and get started. I'm sure they will be coming along here real soon. Welcome to the Ag Committee hearing. My name is Ken Schilz. I am the Chair of the committee from Ogallala. I will give the other senators that are here so far the opportunity to introduce themselves. We'll start with Senator Bloomfield.

SENATOR BLOOMFIELD: Dave Bloomfield, District 17 in the northeast corner of the state.

SENATOR SCHILZ: And then obviously Senator Wallman from Cortland is here to introduce the first bill. We've got Senator Johnson and Senator Hansen entering the room, so welcome.

SENATOR HANSEN: (Inaudible).

SENATOR SCHILZ: There you go. We also have with us today, to my right, is Rick Leonard. He is the research analyst for the Ag Committee. And to my far left is Jamaica Erwin and she is the committee clerk for the committee. We also have two pages, Chandler and Colton, and they've been with us from the beginning and they do a great job so...and they'll help you out with anything that you need as far as copies or any other questions you might have. Committee begins with the introducer's introductory statement. We'll ask for those, after the bill is introduced, we will ask for those speaking in a proponent capacity to come forward, followed by opponents, and then finally neutral testimony. And if you do plan on testifying, please fill out a green testifier sheet and those are available by the doors. And if you're presenting testimony on behalf of an organization, please state who that is. We very much...and if you're presenting for yourself, we need you to say and spell your name and so that it's there for the record. When you come to the witness table, just give your sheet to the pages and they will give it to the committee clerk, and we'll go from there. If you have copies or anything to hand out, we do need ten copies. If you don't have ten copies, the page will go ahead and make sure that we get those made up for you. We are going to...we'll, tell you what, we'll try it without the lights for a little while and see how that goes, but I will retain the right to put the lights in place if I think we need to. And if we do, there will be a four-minute time limit, so you'll get three minutes on the green light, then the light will turn yellow and that will be a minute, and then when it turns red we really need you to

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wind up your testimony and keep moving on. But we'll start out first without that. But remember, four minutes is a pretty good place to try to be. One thing we do, if you have a...if you don't plan to testify but you do have a position on the bill, there should be a sheet of paper at the doors to put down where you stand on a bill, whether you're for it or against it, and then that way we know where you were. We get that on the record. One other thing: We ask that if you have a cell phone, please turn it to the silent position or shut it off completely. And if you do need to take a call, please step out of the hearing room to do so. And one other thing: During the testimony, we do not allow any show of support or opposition to a bill, so please keep your thoughts, actions, and everything to yourself while the testimony is going on. And now with that, we will go ahead and start. And, Senator Wallman, you're welcome to open on LB1002.

SENATOR WALLMAN: (Exhibit 1) Thank you, Senator Schilz and members of the Agriculture Committee. For the record my name is Norm Wallman, W-a-l-l-m-a-n. I'm here today to introduce LB1002. And there's an amendment attached, I think it's passed out, which will become the bill. And LB1002 was brought to me by the Nebraska Humane Society to strengthen the Nebraska Dog and Cat Operator Inspection Act regarding breeders who pose a significant threat to the health or safety of the dogs or cats under their care. There were discussions between the Nebraska Humane Society and the Nebraska Department of Agriculture, and it was determined the bill should be amended with AM2015. You have the amendment before you and I ask that it replace the language in LB1002. The amendment is about dog and cat impoundment procedures and models impoundment language for livestock animals. There are testifiers behind me that can answer your questions. Thank you. [LB1002]

SENATOR SCHILZ: Thank you very much, Senator Wallman. Any questions for Senator Wallman? Seeing none, thank you. [LB1002]

SENATOR WALLMAN: Thank you. [LB1002]

SENATOR SCHILZ: You'll stick around to close, I take it? [LB1002]

SENATOR WALLMAN: Yep. [LB1002]

SENATOR SCHILZ: At this time, we'll take proponents for LB1002. Good afternoon. [LB1002]

JUDY VARNER: (Exhibit 2) Hello. I'm Judy Varner, president and CEO of the Nebraska Humane Society. Senator Schilz and the members of the Ag Committee, thank you. But special thanks to Senator Wallman for introducing both LB1002 and the amendment. Since the inception of this program, one of the biggest stumbling blocks has been what does that Department of Ag do with animals that they seize, and that's been a major issue. We then found out that in fact there was a bill almost, well, exactly like what we

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would like for dogs and cats pertaining to agriculture animals. So that's what the amendment is. This bill, this is a bill that would allow for legal proceedings to take place regarding the impoundment of dogs and/or cats seized under the Commercial Dog and Cat Operator Inspection Act. This bill allows for district court judges to order immediate forfeiture of animals in egregious situations, the return of animals to owners in certain situations, the owner of seized animals to post a bond for the care of the animals during the court proceedings. As you've heard over the years, there are horrible, horrible breeders in our state, breeders whose dogs have missing jaws, broken jaws, huge tumors, rotting mouths, and on and on. Recently, a county court judge referred to a puppy mill as an animal Auschwitz for dogs, before sentencing the owner. These despicable breeders are who we're talking about with this bill. Good breeders, and there are many good breeders, would never, ever let their dogs deteriorate to this level under any conditions. All too commonly the public considers all breeders to be puppy mills. We know that's not the case, but until the true puppy mills--the horrible breeders--are gone, this perception will not change. Should any breeders contact you in opposition to this bill, ask if they want those horrible, bottom-of-the-barrel breeders put out of their business so the public will no longer consider them the same. This bill will go a long way toward making that happen. Again, since the inception of the commercial dog and cat program, there's been a serious road block: What does the state do with dogs if the health of the dogs is so horrific that they need to be seized? Since the inception, the department has been forced to threaten breeders but has never been able to take meaningful action. Part of this was the enforcement policies of the department, but the largest single road block has been the cost of housing seized dogs, for possibly years, during a court case. These breeders got in horrible shape for many reasons, but one of the most common is lack of money to take proper care of their dogs. For these dogs to be seized, and the taxpayers to have to pay the bill for not only the care of dogs but the extraordinary cost of medical care after years of neglect is blatantly unfair. Why should the taxpayers pay the price for a failing business on top of horrific animal neglect and abuse? The cost can easily run into the thousands of dollars. LB1002 will only impact those who are licensed with the state of Nebraska as a breeder, dealer, shelter, humane society, boarding kennel, or pet shop, and who are breaking the state animal neglect and cruelty laws. It will allow dogs to be seized and begin the journey toward their new home without costing taxpayers. There simply must be a way to hold the owner accountable while freeing the dogs from their horrible, abusive owners. This bill is an exact replica of Nebraska state statute 59-913 that provides a safety net for livestock. We're just asking that you afford the same protection to dogs and cats as the state currently offers to livestock. [LB1002]

SENATOR SCHILZ: Thank you, Ms. Varner. Any questions? Senator Harr. [LB1002]

SENATOR HARR: Thank you. Thank you for coming down, Ms. Varner. My question is a little bizarre. I feel like it's a Schumacher question. But why did you choose to go to the judge via district court over county court, if you know? Is that just how it is for large...

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[LB1002]

JUDY VARNER: That's the way it is with livestock,... [LB1002]

SENATOR HARR: Okay. [LB1002]

JUDY VARNER: ...so we're just duplicating what they've done. [LB1002]

SENATOR HARR: Okay. [LB1002]

SENATOR SCHILZ: Thank you, Senator Harr. Any other questions? Julie (sic), I was just wondering, when you went through that list of who all this would apply to... [LB1002]

JUDY VARNER: Uh-huh. [LB1002]

SENATOR SCHILZ: ...as far as breeders, shelters, would that also include...would it be anyone that would be licensed, say, as a rescue or anything like that? [LB1002]

JUDY VARNER: Right. Rescues are on it. [LB1002]

SENATOR SCHILZ: That's in there too as well. [LB1002]

JUDY VARNER: Yes. [LB1002]

SENATOR SCHILZ: Okay. And I have to be honest, I haven't had the chance to read this either, so... [LB1002]

JUDY VARNER: Yes, there are... [LB1002]

SENATOR SCHILZ: ...I won't make you read it to us but... [LB1002]

JUDY VARNER: Oh, okay. It's not terribly long and it's pretty good reading. [LB1002]

SENATOR SCHILZ: Yeah, as they all are, yes. [LB1002]

JUDY VARNER: Yeah, I'm sure nothing you've ever read before. There are bad breeders. There are bad shelters. There are bad rescue groups. There are bad apples in every barrel, and so this is going to take care of all of them across the board. [LB1002]

SENATOR SCHILZ: Okay. Thank you very much. Any other questions? Seeing none, thank you for your testimony. [LB1002]

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JUDY VARNER: Thank you. [LB1002]

SENATOR SCHILZ: Next proponent. Proponent for LB1002. Come on up. Good afternoon. [LB1002]

CAROL WHEELER: (Exhibits 3 and 3A) Good afternoon. I'm Carol Wheeler, 1910 16th Street, Auburn. I'm the founder of Hearts United for Animals. [LB1002]

SENATOR SCHILZ: Please spell your name, please. [LB1002]

CAROL WHEELER: Okay. C-a-r-o-l W-h-e-e-l-e-r. [LB1002]

SENATOR SCHILZ: Thank you. [LB1002]

CAROL WHEELER: I have brought with me today copies of two USDA inspection reports from Nebraska. These are made public information on a Web site. These are only two of the reports. I have read 89 of them. USDA reports are written in a narrative style, with specific details observed objectively. I would like to point out some of the phrases in these reports: wire fencing for dogs protruding with sharp points; wood framing rotten with green moss and algae; concrete floor has 2- to 4-foot cracks in it with black waste and debris; the bedding hay has excessive fecal waste and is wet and soiled; feeders are coated with black and brown debris and dog hair; watering Lixits are leaking, causing standing water and mud; watering Lixits are blackish and green with grime. [LB1002]

SENATOR SCHILZ: Ma'am, I don't mean to stop you but... [LB1002]

CAROL WHEELER: Yes. [LB1002]

SENATOR SCHILZ: ...we've got this here. We can read through all this. [LB1002]

CAROL WHEELER: You certainly can, yes. [LB1002]

SENATOR SCHILZ: And I was just going to say,... [LB1002]

CAROL WHEELER: I'm just picking up some phrases. [LB1002]

SENATOR SCHILZ: I understand. I just want to make sure that you don't take too long and do that. Please... [LB1002]

CAROL WHEELER: I won't. [LB1002]

SENATOR SCHILZ: Okay. Thank you. [LB1002]

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CAROL WHEELER: No, I certainly won't read those lengthy ones. [LB1002]

SENATOR SCHILZ: Okay. [LB1002]

CAROL WHEELER: Okay, let's see: a burn barrel is next to the outside enclosures and it has tall grass surrounding it; there's a large pile of fecal waste 13 feet from most dog enclosures; the refrigerator has excessive brown grime on the shelves of stored medicine; the freezer compartment has solid ice; the whelping building has trash can overflowing and trash and debris on the floor; there are empty stacked cages with accumulation of dog hair; cats trays have accumulation of fecal waste; the husbandry table has spray cans, papers, plastic bags, supply jugs, and a bucket of mouse poison; the wash basin used for cleanup has brown grime and grit. I'm sure we can picture these things. A cocker spaniel has his entire left eye covered with green matter; there is a dog with excessive buildup of reddish to black substance inside and around his ears; there is a pronounced yeast odor; the dog is shaking his head; there is a grayish-brown buildup on teeth, and gums are swollen and inflamed, yellow creamy material along the gum line; dog with a bit wound is mucus and red in texture. There's a 13-year-old dog with no teeth. He scoops up food in his mouth, wallows it around, and lets it drop out. There are dogs extremely matted with fecal waste stuck in their hair, and dogs with hair braided down to their red, inflamed skin. The temperature is extremely hot and humid, causing distress. There is a dog with extremely large eyes, white in color, green dry centers appear cracking; hundreds of dogs in pain and distress. I believe there's a great deal of evidence that dogs should be impounded from places where their facilities and care are far from adequate. In a practical sense, if a bond or other financial arrangements are required from the owner, in most serious cases the dogs will be relinquished. Additionally, criminal prosecution is not ruled out. In other words, there is no trade transaction for signing over the dogs to avoid criminal charges for cruel neglect. LB1002 provides a means of dealing with offenders and saving the animals from suffering. It, further, promotes respect for laws and regulations. Thank you. [LB1002]

SENATOR SCHILZ: Thank you. I appreciate that. [LB1002]

CAROL WHEELER: Thank you. [LB1002]

SENATOR SCHILZ: Any questions for Ms. Wheeler? Seeing none, thank you very much for your testimony. Appreciate it. [LB1002]

CAROL WHEELER: Okay. Thank you. [LB1002]

SENATOR SCHILZ: Next person, proponent, LB1002. Proponents? Seeing none, any opponents? Come on up. Afternoon. [LB1002]

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CLEM DISTERHAUPT: Good afternoon. My name is Clem Disterhaupt, spelled C-l-e-m D-i-s-t-e-r-h-a-u-p-t. I live north of Stuart, Nebraska. I'm president of the Nebraska Professional Pet Breeders Association. I've been a dog breeder for 45 years. I'm also one of the original people who worked with Senator Dierks in initiating the Nebraska state licensing program. I'm also the author of the Nebraska Dog and Cat Purchase Protection Act and worked with many groups in implementing and passing the national puppy import act in which tens of thousands of puppies were imported to the United States from Russia and Hungary for resale. LB1002 changes wording from "may" to "shall." For example, Section 54-633, line 5 states: to ensure compliance with the Commercial Dog and Cat Inspection Act, the department may apply for a restraining order. LB1002 would change that to must apply for a restraining order. This change is unnecessary. For example, if a breeder is written up for anything, even as little as a small piece of plastic that needs to be replaced, LB1002 would require the inspection department to apply for a restraining order when all that would normally be done is to give the breeder a notice to change it in so many days. That's exactly why this must be left to the discretion of the inspection department, so if it is a very minor thing they can give a notice to correct it. If it's a serious problem they could apply for a restraining order. This must be left to their discretion. To change this wording would leave the inspection department in a position where they would have to apply for a restraining order even with a minor, out-of-compliance situation. I've been told by the department that approximately one out of every three inspections are out of compliance for something as simple and as minor as a broken wire, which means that there would be numerous restraining order on a practically daily basis. The department could not possibly deal with this. Also, in LB1002, page 2, paragraph (2) states that, "in the course of performing an inspection under the act poses a significant threat to the health or safety of the dogs or cats harbored or owned by an applicant or licensee, the department 'shall' direct an inspector to impound the dogs or cats." Again, there are minor things that could pose a threat to the safety or health--depends on how it's interpreted--of a dog or cat, could simply be corrected in five minutes, such as a broken wire that was sharp or a heater that quit working. The change of the wording from "may" to must would put the department in a position where, in their cases, they would have to impound the dogs. Can you imagine the lawsuits and liabilities of the state that this would create? About six or seven years ago the Sioux Falls Humane Society impounded a large number of dogs from a breeder in South Dakota based on one dog, Italian greyhound, that appeared to have ribs showing. The humane society hauled the dogs in an open stock trailer to Sioux Falls. They were not careful when putting it together. Dogs fought, were injured; some were lost, some were misplaced. In the end, the court ruled in favor of the breeder and dogs were ordered to be returned to the breeder. This is only one example of the problems it can cause by changing the wording. This is what happens when you take the discretion away from the department. These changes would create a disaster and LB1002 must not pass. Furthermore, through breeders' cooperation in negotiating passage of LB427, Senator Carlson

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secured an agreement with the Nebraska Humane Society that there be no more bills written or promoted in five years on their behalf. This would be a violation of that agreement. We breeders do not support the bad actors and all the legislation that we put forward through the years proves that. There is ways to deal with those kind of situations and I'm willing to sit down with anybody to try to correct anything like that, but this is not the answer. We breeders don't support bad actors in any way, shape, or form in promoting the original Dog and Cat Inspection Act, and that is why I personally wrote the Nebraska Dog and Cat Purchase Protection Act and supported many parts of many dog-related bills. But enough is enough. Today even good breeders cannot stay in business because of overregulation. Furthermore, I know of no other state laws which words must (inaudible) of may, including the USDA rules, and therefore I ask you all to vote no on LB1002. Thank you. [LB1002]

SENATOR SCHILZ: Thank you, Clem. And I don't suppose you had an opportunity to see the amendment that they have come up with,... [LB1002]

CLEM DISTERHAUPT: I haven't had. [LB1002]

SENATOR SCHILZ: And we haven't either. I would...I hope they would be able to get you that so that you can take a look at that and see. [LB1002]

CLEM DISTERHAUPT: Okay. I'd like to look at it, yes. [LB1002]

SENATOR SCHILZ: Thank you. Are there any questions? Senator Johnson. [LB1002]

SENATOR JOHNSON: Thank you. Thank you, sir, for coming in. I can't write as fast as you spelled your name, so I won't try to pronounce it. [LB1002]

CLEM DISTERHAUPT: That's all right. [LB1002]

SENATOR JOHNSON: My question is the two cases that Ms. Wheeler presented to us, how does...I won't even say this slipped through the cracks. How can something get that bad? What is the process now? Help me. I'm kind of in Dog Act 101 here. Tell me the process that happens for an inspection. Is it by somebody turning somebody in or is it by chance or how does that work? [LB1002]

CLEM DISTERHAUPT: Well, it can work both ways. Somebody can turn somebody in and have them sent out, but normally it's done by inspections. The inspector comes and sees something out of compliance and gives you so many days to complete it. And then they come back and recheck to make sure you got it in compliance. [LB1002]

SENATOR JOHNSON: So that first inspection, is that a routine that they need to inspect every month, two...? [LB1002]

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CLEM DISTERHAUPT: Every so often. [LB1002]

SENATOR JOHNSON: Every so... [LB1002]

CLEM DISTERHAUPT: No, not every month. I think the USDA comes when they want to and it used to be once a year. Now it's two or three, four times a year, depending on the breeder. State only...if I remember right, I think it's once every two years, and they can come and do come more often than that generally. [LB1002]

SENATOR JOHNSON: Okay. [LB1002]

CLEM DISTERHAUPT: All right? [LB1002]

SENATOR JOHNSON: That helps me a little. Thank you. [LB1002]

CLEM DISTERHAUPT: Uh-huh. [LB1002]

SENATOR JOHNSON: I don't have any other questions on that. [LB1002]

CLEM DISTERHAUPT: Uh-huh. [LB1002]

SENATOR SCHILZ: Thank you, Senator. Senator Harr. [LB1002]

SENATOR HARR: Thank you,... [LB1002]

CLEM DISTERHAUPT: Yes. [LB1002]

SENATOR HARR: ...Mr. Chairman. Clem, nice to see you again. [LB1002]

CLEM DISTERHAUPT: Thank you. [LB1002]

SENATOR HARR: Thanks for coming down. And I think your points, a lot of them you made, were very valid, which led to this amendment of LB1002. I have a copy of it here. When you leave, I'll give you a copy of it. And then I would appreciate if you want to send myself or the members an e-mail and let us know if you do have a problem with the amendment, because it does get rid of your main concern, which was going from "may" to "shall." That was addressed in this amendment, but there are other parts of it. So I would appreciate your input so that you can have a chance to let us know how you feel on the bill. [LB1002]

CLEM DISTERHAUPT: Thank you, Senator. I made a proposal, and I'd be happy to discuss that with you, a couple of years ago which would help resolve this problem in a

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much better way than this one does. [LB1002]

SENATOR HARR: Okay. Yep. [LB1002]

SENATOR SCHILZ: Thank you, Senator Harr. Anybody else? Senator Chambers. [LB1002]

SENATOR CHAMBERS: Are you aware of or familiar with the case that did occur in Lancaster County that...where the woman wound up being convicted and the judge referred to her operation as a dog Auschwitz? Are you familiar with that case and what was involved in it? [LB1002]

CLEM DISTERHAUPT: Without knowing the name of the person, I can't tell you that. I... [LB1002]

SENATOR CHAMBERS: I don't need her name because that's... [LB1002]

CLEM DISTERHAUPT: Yeah, I don't know if that's a particular case. [LB1002]

SENATOR CHAMBERS: There... [LB1002]

CLEM DISTERHAUPT: I am familiar with a case. [LB1002]

SENATOR CHAMBERS: There had been a number of inspections where problems were found and they were not corrected, and the department didn't do anything about it. That's an actual case very recently. The example you gave took place in another state where the humane society took some action. [LB1002]

CLEM DISTERHAUPT: Uh-huh. [LB1002]

SENATOR CHAMBERS: I'm talking about what happens right here. [LB1002]

CLEM DISTERHAUPT: I'd be happy to discuss that with you. [LB1002]

SENATOR CHAMBERS: And the judge said...well, I'm not going to do what I do based on what you say or anybody else says. I have to use my judgment. The judge was told by the lawyer for the woman, well, the Ag Department doesn't think that that was so bad because they didn't take any action against her and they knew about it. That's a matter of court record. What about that, where the department knew about these horrible conditions, had recorded them, documented them, and had done nothing? What about that? [LB1002]

CLEM DISTERHAUPT: Well, I'm not sure I'm familiar with that case, but if you say

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"what about that," my answer to that is that personally I've visited many of these facilities. I haven't seen such a thing and I can't believe that an inspector, as many as I've seen as touchy as saying, Mr. Disterhaupt, the dog chewed on that door. [LB1002]

SENATOR CHAMBERS: No, I'm not talking about what you think. [LB1002]

CLEM DISTERHAUPT: Please let me give you...finish my answer, please. If they write... [LB1002]

SENATOR CHAMBERS: I'm asking the questions. [LB1002]

CLEM DISTERHAUPT: ...you up for something this simple as chewing on a door, I can't imagine that an... [LB1002]

SENATOR CHAMBERS: Mr. Disterhaupt, Mr. Disterhaupt, I'm asking the questions, if you don't mind. [LB1002]

CLEM DISTERHAUPT: I'm trying to answer, sir. [LB1002]

SENATOR CHAMBERS: We're not in a discussion. We're talking about that particular case and you said you were not familiar with it, so I'm not asking you questions about what you're not familiar with. [LB1002]

CLEM DISTERHAUPT: You asked me what I thought about that and I'm trying to answer that question. [LB1002]

SENATOR CHAMBERS: Well, what do you think about that case? [LB1002]

CLEM DISTERHAUPT: I think I don't believe that the case...I think there's something seriously wrong there if that actually happened because, like I was trying to tell you, in our case, if we have an inspector that even notices a chew on the dog (sic), they write us up for it and we have to correct it. [LB1002]

SENATOR CHAMBERS: That's not the case I'm talking about. I'm telling...I'm telling you... [LB1002]

CLEM DISTERHAUPT: I'm comparing the case, Senator. [LB1002]

SENATOR CHAMBERS: ...I'm telling you about a court case. You don't have to believe it, and that's the problem. Apparently, the Ag Department goes by anecdotes, and what breeders tell them, they believe. I'm telling you what happened in court, what was stated in court. I talked to the prosecutor and I was asked to bring some changes in the law to correct that situation. So I don't want to engage you in an argument, but I could not let

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your statement stand unchallenged that the department is going to do certain things when I know it's not. But I think somebody from the department might testify and I'm just giving a heads up. [LB1002]

CLEM DISTERHAUPT: Uh-huh. [LB1002]

SENATOR CHAMBERS: But let me ask you this. If what I say is true, if there had been documented instances of this kind of mistreatment of these animals, if that's true, what do you think the department should do in a case like that? [LB1002]

CLEM DISTERHAUPT: I sat down in Senator Carlson's office two years ago and I had a plan laid out for that. It wasn't thought through. I'd be happy sometime to discuss that plan with you where those things could be corrected. This just isn't the way to do it. This causes a lot of problems for the department. [LB1002]

SENATOR CHAMBERS: I don't think my questions are understood, so that's all I'll ask of you. Thank you. [LB1002]

CLEM DISTERHAUPT: Okay. Thank you, sir. [LB1002]

SENATOR SCHILZ: Thank you, Senator Chambers. Any other questions? Seeing none, thank you for your testimony. [LB1002]

CLEM DISTERHAUPT: Thank you. [LB1002]

SENATOR SCHILZ: Next opponent. [LB1002]

TOM MANEELY: Good afternoon. [LB1002]

SENATOR SCHILZ: Good afternoon. [LB1002]

TOM MANEELY: It's a pleasure and honor to speak before you today. My name is Tom, Thomas Maneely, M-a-n-e-e-l-y. I live at 2028 Road 3 in Leigh, Nebraska. I'm a citizen of...I better sit down. I'm used to standing up when I talk, so I'm sorry. [LB1002]

SENATOR SCHILZ: (Laugh) You're fine. [LB1002]

TOM MANEELY: I am a citizen of the state and I also work for the American Kennel Club. In my capacity with the American Kennel Club, I'm an executive field representative. [LB1002]

SENATOR CHAMBERS: Just one thing: Would you spell your name? [LB1002]

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TOM MANEELY: Certainly. Did I lose track there? I'm sorry, sir. M-a-n-e-e-l-y. Okay.
[LB1002]

SENATOR SCHILZ: Thank you. [LB1002]

TOM MANEELY: All right. In my job with the American Kennel Club, I am charged with writing the rules that govern field dog activities from coast to coast. Within the last year, I've been in five different time zones and my job, when I visit these events, is to make sure that these rules that we've spelled out and written are enforced. As I'm sure...and I may be speaking a little out of turn here because of this amendment that is put up that evidently has changed some of the wording of it, but as we all know, if you change the wording of "shall"...or "may" to "shall," you are changing the entire meaning of it. Instead of giving the person on the ground the ability to assess a situation and say this is good or this is bad, this needs immediate relief, we're mandating that this must happen. The United States Constitution and Nebraska statute, let me help myself here, 28-1012 guarantees the right...the freedom from unlawful search, seizure. This statute of the state law requires law enforcement officers to obtain search warrants in cases of animal abuse and neglect. We have two layers of law in Nebraska for a commercial dog breeder. There's normal animal abuse and neglect statutes, and then we have another layer that's added on to them for the commercial dog breeders. If we change the wording from "may" to "shall," we're taking away this constitutional protection and this due process that is so important, I think, to our legislative body and our state. An example of this due process in my job responsibilities is to advise people when there's a misconduct hearing. Just this past weekend I received a call from a club in Missouri. There was two people that had written allegations that a man had abused a dog, was beating a dog during an event. We have a well-spelled-out process. All the clubs get this nice, little booklet and on page 23, I know, remember that because it spells out step by step how we go through this process. Well, as they worked through the process and the witnesses came up and testified and the defendant was given the ability to cross-examine these witnesses, it was found that the people were mistaken in what they had seen, that he was pulling on a leash and they thought he was going down, and he was pulling back, trying to keep the dog from running out of control on him. He was kind of behind a bush. Their view was obscured. But this accusation, this could have resulted in the man losing his animal, losing his rights with the American Kennel Club. If we insist that the officer may do it...if I had this club say, well, there's an allegation, you must right away suspend this gentleman, he'd be faced with financial hardship, possible impoundment of his animal. It's very important that anything that's enacted by the Legislature, that due process is protected in it. You know, I was going to quote the example that the previous gentleman talked about, about the South Dakota breeder that had...the numbers I had was about 172 dogs, 172 dogs were seized from his kennel and breeding operation. Now this doesn't...and, you know, if the dogs are being abused, I'm the first one that says, go get them, put them in a safe place. But 172 animals, the biosecurity problems that come up with seizing and impounding these animals is very,

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very serious. Any commercial breeder, whether it's dogs, cats, pigs, understands the importance of good biosecurity in a breeding operation. Myself, I go around...I told you I go around the country to all these dog events. I have to change my shoes and my clothes before I can go out and pet my dogs in the kennel when I come from these events, because I've had a dog contract parvovirus. Parvovirus lives in the ground for I can't tell you how many years. If you rub up against an infected dog with your pant leg, you can transfer it to another dog. It's a very serious, often fatal disease. If it's not fatal, it can cost \$1,000 or more for the dog to recover. What happened in this incident in South Dakota, biosecurity was not assured. Of those 172 dogs, all the dogs when they were taken in tested negative for parvo. This was in September of 2009. By February of 2010, 28 of the dogs had contracted the virus and died from it. Mr. Christensen, the gentleman whose dogs were seized, estimated to have lost over \$100,000 worth of breeding animals in this infestation. There's other examples. If you do a Google search, you can see it all through, all across the country where proper biosecurity measures weren't assured and dogs have been sickened lost, birds have been killed. It's not just dogs. It's all animals. Those should be plenty of examples of the bad things that can happen by passing a law or a bill that you don't look at both sides of what can happen. Senator Chambers, I'm honored to be able to address you today, sir. I've always thought of you as the balance in the scale of justice, and that's why I was interested in your questions and I think they are valid questions. Nobody, not myself or the American Kennel Club, which I've been neglecting advising that the American Kennel Club came out against this bill on the basis of the loss of due process, that just on the threat or an allegation that someone's property can be seized and taken away from them without the possibility...with the possibility of maybe never getting them back. That's not the way our system is supposed to operate. But neither myself nor the AKC wants to see these bad operators. The thing is we have the laws in place. If you go back and look at the animal cruelty laws, the officer or the person investigating is required to report these, required to go and get a search warrant or a warrant that would allow the seizure of these animals. Now the question is, why aren't the current laws being enforced? And by gosh, we could ask that about so many laws, you know? Things fall through the cracks. Evidently, this person fell through the cracks and, by gosh, if I would have been on the doorstep I would have been the first one down there writing the complaint. And I believe that the last gentleman testified he also would have been right down there writing the complaint, because I don't believe anybody that really cares about animals would neglect or fail to report these type of conditions. I think it's important that the person on the ground gets the opportunity to assess the situation, see what's best. If seizure is best, due process needs to be afforded and warrants need to be obtained and served. And really, that's about all I need to complain about today. I thank you very much for your time and I welcome any questions. By the way, I do have a prepared thing, but I'm not going to hand it out because I don't know what the amendment is and it may make a lot of it moot. [LB1002]

SENATOR SCHILZ: Okay. Thank you, sir. Appreciate your testimony. [LB1002]

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TOM MANEELY: I would be happy to e-mail it to anybody that would be interested. [LB1002]

SENATOR SCHILZ: That's totally up to you, if you want to. [LB1002]

TOM MANEELY: Yes. [LB1002]

SENATOR SCHILZ: Senator Chambers. [LB1002]

SENATOR CHAMBERS: And your name is Macneely (phonetically)? [LB1002]

TOM MANEELY: Maneely. [LB1002]

SENATOR CHAMBERS: Oh, Maneely. [LB1002]

TOM MANEELY: But that's as good as most people do, yes, sir. [LB1002]

SENATOR CHAMBERS: Okay. Okay, Mr. Maneely, the amendment keeps the word "may,"... [LB1002]

TOM MANEELY: All right. [LB1002]

SENATOR CHAMBERS: ...and you didn't have a chance to see the amendment. But under the law, this train of events occurs, as the language says, and this is current law, if alleged violations of the Commercial Dog and Cat Operator Inspection Act, the rules and regulations, or an order of the director or an offense against animals, if that person observes these things then the action can be taken and you don't need a warrant, just as if a crime occurs in the presence of an officer there is no warrant needed. A warrant is needed if it occurs outside the observation of the officer. This law will still say if the inspector observes this mistreatment, these things can occur. But if additional action occurs, like after the animal has been impounded, then there has to be a hearing. There has to be notice of the hearing given. If a judge determines there's probable cause, then a warrant can be issued. All of those things you mentioned as due process rights would be observed. But in the first instance, if the inspector observes, and that's current law,... [LB1002]

TOM MANEELY: Uh-huh. [LB1002]

SENATOR CHAMBERS: ...then the inspector can take some action. In a number of cases, that is not occurring. And I didn't want to argue with the last witness, but I've talked to Mr. Ibach himself. And I don't know if he's here to testify, but I don't lie on people. [LB1002]

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TOM MANEELY: Certainly not. [LB1002]

SENATOR CHAMBERS: And I've been at hearings where some of these breeders who talk about how concerned they are, yet there are inspectors who write complaints and no action is taken by the department. And I'm going to ask Mr. Ibach some very pointed questions here today. And I've had a conversation with him on the phone between him and me, and that conversation was going to be between him and me,... [LB1002]

TOM MANEELY: Yes, sir. [LB1002]

SENATOR CHAMBERS: ...but now I'm wondering what is going on. And for everybody who comes here to testify, not only with this committee--and some of my colleagues will testify on committees of which I...on which I sit--I don't base my judgment on what somebody who has an interest in an industry will tell me about how great the industry is or, when they're allowed to slide by, how great those are whose job it is to regulate that industry. I do not think the dog and cat area is overregulated. I don't think that at all. I'm concerned because the kinds of things that happened in the case I talked about had been ongoing, ongoing, ongoing, and the judge was outraged. And the lawyer for the woman said that it can't be that bad because the Department of Agriculture knew about it and didn't take any action. That was part of the defense--the department has not acted. And I'm going to give whoever represents the department an opportunity to respond to that. From what I understand that you said, it's based on the green copy of the bill where the discretion would have been taken away. You had indicated the kind of things that you think, in the way of protecting animals, should be observed. That's why I'm not questioning you about any of those things, because I agree with you. [LB1002]

TOM MANEELY: No problem. [LB1002]

SENATOR CHAMBERS: But I just want to point out that the amendment that's offered does touch on the kind of things that you mentioned you were concerned about, so there's not a lot that I'm going to have a back and forth with you on. [LB1002]

TOM MANEELY: No. I understand your legitimate concerns. And who that cares about animals don't have those type of concerns, you know? But we have these layers of laws. And maybe you don't feel that we're overregulated in the animal industry. I think there's quite a few laws when you go through and start reading them, you know? And we have these protections for the animals that are established. Now why they aren't enforced, that's the big question. But adding more rules on top of it that makes it even more unenforceable, and are unfunded basically, just complicates the problem. The problem would be to get...or the solution would be to get down to bedrock, find out what's causing the lack of enforcement of the rules that are existing, and pursue that course. [LB1002]

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SENATOR CHAMBERS: That's what I want to do. But Mr. Ibach and I had a conversation. [LB1002]

TOM MANEELY: But... [LB1002]

SENATOR CHAMBERS: Let me bring something up here. There's a lot of craziness going on around in this country saying this is an unfunded mandate. When the law places responsibility on an agency, that agency is to carry it out. [LB1002]

TOM MANEELY: Yes, sir. [LB1002]

SENATOR CHAMBERS: And they can whine and whimper all they want to. And if the director of the agency can't do the job, he or she needs to go. Those agencies are allowed and encouraged and directed to present a budget. And if the budget that they're ordered to present by the Governor, if that's what it comes down to, does not cover what their duties are, that person ought to make it clear: This is on the Governor, I can't carry out my duties. It's not for us in the Legislature to pass a law and then let somebody who doesn't want to carry it out tell us, well, it's just unfunded. You get your funding from... [LB1002]

TOM MANEELY: Yeah. [LB1002]

SENATOR CHAMBERS: ...the Legislature and it's up to you to present that budget. And if you don't present the budget you need, that's on you. [LB1002]

TOM MANEELY: I would certainly agree with that. [LB1002]

SENATOR CHAMBERS: And some people don't understand how the process works and they come up here and they talk a lot of things that they don't know. They express opinions and beliefs which are totally irrelevant to what is entailed when the law is on the books and the law is not being carried out. You don't work for the state, apparently. You work for that operation that you've...the name of which you gave? [LB1002]

TOM MANEELY: The world's largest dog registry, the American Kennel Club. [LB1002]

SENATOR CHAMBERS: Right, so that's your employer. And I'm sure... [LB1002]

TOM MANEELY: Yes. [LB1002]

SENATOR CHAMBERS: ...that if they have rules and regulations which you as an employee will not follow, they'll fire you. And I don't think you tell them, I don't like that law, I don't like that rule, I'm not going to carry it out. Then you're gone, aren't you?

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[LB1002]

TOM MANEELY: Oh certainly. Certainly. [LB1002]

SENATOR CHAMBERS: Okay. [LB1002]

TOM MANEELY: But the problem is, if I take a new idea to my administration, I report directly to the vice president in charge of all the events of the AKC, that big Westminster Show, all that stuff. I report directly to the vice president. If I take an initiative to him and say, Mr. Ljungren, this is what I'd like to do, one of the first things he'll ask me is, how are you going to pay for it? [LB1002]

SENATOR CHAMBERS: Well, that's not... [LB1002]

TOM MANEELY: And I think that's responsible, responsible... [LB1002]

SENATOR CHAMBERS: That's not the same thing. [LB1002]

TOM MANEELY: Oh, certainly. [LB1002]

SENATOR CHAMBERS: When the law...you said you bring a new idea. I'm talking about the law on the books, the rules in place now. [LB1002]

TOM MANEELY: Yeah. [LB1002]

SENATOR CHAMBERS: It's not you...for you to question why. You do it or you're fired. [LB1002]

TOM MANEELY: But we're here talking about expanding the powers of an unlicensed employee of the Ag Department, said inspector. [LB1002]

SENATOR CHAMBERS: That's not a concern of yours how it's going to be paid for. That's a legislative issue. [LB1002]

TOM MANEELY: Well, I'm sorry if...I don't want to get into a big thing on the finance. I will...I will... [LB1002]

SENATOR CHAMBERS: I didn't think you wanted to because... [LB1002]

TOM MANEELY: ...I will certainly let you have the experience on that matter with... [LB1002]

SENATOR CHAMBERS: Do you think...do you think the law should be enforced if it's on

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the books? [LB1002]

TOM MANEELY: Certainly. [LB1002]

SENATOR CHAMBERS: If an inspector is given duties under the law, should they be carried out? [LB1002]

TOM MANEELY: Certainly. [LB1002]

SENATOR CHAMBERS: If the department is given requirements and dictates under the law, should they be carried out? [LB1002]

TOM MANEELY: I would certainly expect that of my state government. [LB1002]

SENATOR CHAMBERS: That's what I expect too. I want them to understand. [LB1002]

TOM MANEELY: But, you know, I kind of have to complain a little bit. This bringing the... [LB1002]

SENATOR CHAMBERS: Mr. Maneely, Mr. Maneely, talk to them... [LB1002]

TOM MANEELY: Okay. I'm sorry. [LB1002]

SENATOR CHAMBERS: ...because you and I are through. [LB1002]

TOM MANEELY: It's really not right to bring an amendment up at the last minute, an amended bill like this, and then have people here prepared to speak on the bill that had been published. You know, it's like coming into a court with evidence at the last minute that's not been disclosed. I feel very handicapped in talking to you folks this afternoon because I don't have the information that I need. I spent hours and hours researching these laws to come to talk to you about them, and I feel that I have a very good grasp of the laws that are in place in Nebraska, both for the neglect and the proper treatment of dogs, which certainly Senator Chambers' example does not meet the standard of treatment that our state expects dogs to be cared for or cats, since we're talking about both. But then we add that second layer with the commercial dog breeders and cat breeders bill. So instead of piling more regulation on, I think it would be much more intelligent to integrate the two. Some of the wording that was used in the statute as it is now, 54-633, is very similar to wording that's in one of the statutes under 25. I don't have the number right in front of me right now, but under 25 every one of those humane societies, political subdivision I think is listed in there. I don't know how a political subdivision ever got the power to care for impounded animals but they're in there. But under 25 those humane societies, rescue organizations, community shelters all need to be registered with the Ag Department and then they would be inspected. The laws call

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for their inspection at least once every 24 months. And of course if there's a complaint, the inspector can come back; if there's a complaint, a law enforcement officer. And law enforcement officers are defined under 25. Inspectors of the Ag Department are not defined under 25 as law enforcement officers. Whether that's right or wrong I'm not saying, but that's the way the law is today. And I fear that if you put too much power in these unvetted, nonofficers of the court, the power of seizure of property, that's asking a lot from these people and opening them up to liability also along with the state and the Ag Department and anybody else that goes along for it. This gentlemen up in South Dakota that myself and the previous witness referenced, he's currently in the process of suing for over \$5 million in damages between the state and the rescue organizations and the Humane Society of the United States. Everybody that was involved with that seizure is listed in that lawsuit. He's won that once and it's on appeal. Of course they're going to appeal it, you know? But it stands that he's going to win it again, you know? So there's significant liability to seizing property without the proper safeguards put in place, due process being the most important. [LB1002]

SENATOR SCHILZ: Mr. Maneely, I think you're exactly right when you... [LB1002]

TOM MANEELY: I've far exceeded. I'm sorry. [LB1002]

SENATOR SCHILZ: Yeah. No, you're fine. You're fine. I was just going to say you're exactly right when you say that, you know, it's hard to comment on something that you haven't seen. Unfortunately, in the Legislature and the way things work sometimes, it does take time to get amendments out there... [LB1002]

TOM MANEELY: I'm sorry. Thank you. [LB1002]

SENATOR SCHILZ: ...and it becomes difficult at times too. I can tell you that you weren't the only one that didn't get to see this to start out. And we take it as it comes. And we, as we move forward, if you have any comments on the amendment, and I'm sure that you're more than welcome to get that and take a look at it, we would be happy to hear your comments on that as well. [LB1002]

TOM MANEELY: Certainly. And I'd certainly be happy to work with anybody in the Ag Committee here with improving dog laws or, you know, looking at them. And you need to look at both sides of the coin on these things, you know, if... [LB1002]

SENATOR SCHILZ: Absolutely. [LB1002]

TOM MANEELY: ...you don't want just feel-good laws and you don't want just people laws. [LB1002]

SENATOR SCHILZ: Right. [LB1002]

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TOM MANEELY: Thank you very much. [LB1002]

SENATOR SCHILZ: Thank you. Any other questions? [LB1002]

TOM MANEELY: I'm sorry. [LB1002]

SENATOR SCHILZ: No, you're fine. Seeing none,... [LB1002]

TOM MANEELY: Thank you, sir. [LB1002]

SENATOR SCHILZ: Thank you. Other opponents? [LB1002]

CASEY SCHAAF: (Exhibit 4) My name is Casey Schaaf, C-a-s-e-y S-c-h-a-a-f, 47282 U.S. Highway 20, Atkinson. I represent Nebraska Dog Breeders Association. I'm kind of with the other two. We didn't have access to the amendment, so a lot of my speech was not the same. But the one part that I do have is the whole purpose of the Nebraska dog and cat inspection was to address the issues of breeders who were not USDA inspected because of a loophole of the retail pet store. What this means is individuals were dropping their USDA license and selling over the Internet, and they would not have to be USDA licensed, which is where the problem was. And that was the purpose of the Nebraska dog and cat inspection program, is to regulate these breeders. On November 18, 2013, the Animal Welfare Act changed the definition of a retail pet store so that breeders who found a loophole will now be forced to be inspected by the USDA. So my question is, why are we sitting here double-inspecting breeders and why does the state want to deal with the cost of court proceedings of impounding animals when the federal government has closed the loopholes and a very good majority of the breeders will now be covered under the new AWA regulation? So I'm here today to, instead of worrying about the word "shall" or "may," maybe let's look at the bigger picture of downsizing the program to only include non-USDA breeders, rescues, humane societies, and pet stores. I'm sure there's going to be a shortage of funds to run the program in the very near future and I would strongly encourage you to review the handout I provided out with the new provision of the USDA, which will include, and again ask you, why should the state of Nebraska taxpayers and the USDA licensed breeders in the state of Nebraska have to be double-licensed and double-inspected? And this kind of goes with what Senator Chambers said, is if I as a breeder, I'm tired of paying the fees whenever the program isn't working. That's what the whole problem is. We're being inspected by the USDA, so let those guys deal with all the costs of impounding dogs, those kind of things, and not put the state at risk for instances like what happened up in South Dakota. [LB1002]

SENATOR SCHILZ: Thank you, sir. Any questions? Seeing none, thank you for your testimony today. Other opponents, please. Opponents? Come on up. Good afternoon

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and welcome. [LB1002]

JUDY WILLIAMSON: Good afternoon. Good afternoon, Chairman and members of the Ag Committee. My name is Judy Williamson, J-u-d-y W-i-l-l-i-a-m-s-o-n, from Stamford, Harlan County, Nebraska, and my family and I have been raising dogs and providing puppies as family pets since 1985. And I was addressing this LB1002 in opposition. Again, I don't come to this table to tell you that I fully understand this bill in its complexity. In fact, I'm not at all versed on the facts of how this bill may affect my business, especially with the amendments now. And in one sense, I understand and agree that any animal, dog or other, that is found to be in a life-threatening situation, and I wish to exaggerate this term "life-threatening situation," should be removed immediately. Growing up, I had a difficult time even watching trappers kill a coon that my, you know, my dad would hire kids to come and hunt and kill the coon on the...in order to save the crops. And so I'm definitely an animal activist. I love animals. They've played a part, a big part in my life and in my family's life. However, I'm not sure the broad context of the way this bill reads that an inspector now turns into kind of a power figure of law enforcement where he shall apply for a restraining order--and the amendments may change that--or interprets to mean what threatening, "threatening to violate," hmm, "threatening to violate," I wonder how you're going to interpret that one. I know my mother, when she said I may, you may do something, was different than you shall do something. I do know that. So I don't know how this is going to all be interpreted. Again, as the AKC director spoke...or member of the AKC spoke, when it comes to biosecurity, I agree. Because of the parvo and things like that, that lie without, I know that when anything leaves my facility, it doesn't come back. I've got to quarantine and make sure that nothing happens. In fact, if anybody came and took my dogs, I wouldn't want them back, because if I did have anything left, they could contaminate everything I did have, and that has happened where I've had people come to visit and in seven days my kennel breaks with parvo and I watch my puppies die one by one, not able to do anything for them because of that disease. Biosecurity is important, so he really hit that one on the head. Before I entered into retirement, I worked for prosecuting attorneys for over 25 years. And during that time, there were matters of animal abandonment, animal welfare, cruel mistreatments, neglect, serious injury and illness citations, and cases that we prosecuted. But the channel of justice normally began with a call to the law enforcement, someone is complaining, followed by someone goes out to investigate. Then that someone comes back and speaks to the sheriff or someone else in authority and then they draft up information, and then they go to the county attorney to seek a warrant authorizing entry. And at that time, an animal could either be impounded along with a citation issued, or they could come into a custody agreement whereas between the owner and the state that person had to maintain or take care of the animal in a certain way. It was agreed upon. And then you know it was rechecked and if there was violations then, of course, the animal would be seized, all this process of course taken through a court situation. There was times an animal had to be impounded immediately. One case in particular I remember, a man had had a stroke

and his horses were starving in a pasture because he couldn't remember where he had put them for the winter. Well, it can happen. You know, situations like that happen. What I want to emphasize, that normally it was not just one person's decision. It went through a channel. My mom always said two heads are better than one. I think that's still true. I don't understand why the word "may" doesn't work. Why doesn't the...why doesn't that word work now for our inspectors, may, and then it gets to a certain place or it gets through the courts? Why isn't it working? I know for a fact that the same guidelines that I as a commercial dog breeder am under to some extent do not apply to rescues, animal control, and animal shelters. We do have a separate (laugh)...there's a lot more pages that apply to us in that Dog and Cat Inspection Act than apply to the rescues, so I'd beg to disagree with anyone prior to that. So I don't know, is it the rescues out there? I don't know. I know that the rescues are popping up like weeds in a garden. That tells me something right there. I don't know. Anyway, I clearly do not understand why an inspector needs to take the full responsibility of making these calls on his own. I would also question the educational background that would be necessary to make such decisions when it came to the interpretation of all the knowledge required for animal husbandry, as well as characteristics of certain breeds of dogs. I was mistaken one time when one of the state troopers came in with one of the first dogs that they use for control and drugs, and at first sight this dog appeared to be starving to me. You could see that every rib stuck out over an inch. And I inquired of the trooper about the condition of his starving dog. And he kindly informed me that this breed of dog from Germany was supposed to look like this and it was part of the breed standard for his agility and overall well-being. So I would have probably made a bad call then. To recap, I am in opposition of this bill, LB1002, with regards to the "may" or "shall." I do believe that we've got to approach this carefully because it can cause irreversible situations for a professional dog breeder like myself whose total livelihood is at stake. My daughter came up to me not that long ago. I have five children. Most of them have sought other things in life. My children have all been touched by our dog business. I believe they've chosen careers in their life based on the fact of the care of the dogs. They cared for dogs; now most of them are caring for people. My youngest daughter asked: Mom, you know, I really like the dogs, I've always liked the dogs. She's got two young children of her own, kind of having a hard time making ends meet. What do you think about me going into the dog business? And I had to look at her. Even though I've got the facilities and everything, I said, with the rules and regulations that are coming out now and whereas we're treated as a criminal for raising puppies...you can't go anywhere and tell anyone that you're raising puppies anymore because you're looked at. They've seen too many commercials on the TV. We're all a puppy mill. And I had to look her in the eye and say, I know you love...I know you would love the work, I know you know everything about it, you'd be up nights having puppies and nurturing those puppies and making sure they had their first colostrum; I know you know everything about it because you've trained underneath me, but in this day and age, with the rules and regulations and the way they're falling, I don't think it's something you should pursue. [LB1002]

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SENATOR SCHILZ: Thank you, ma'am. Appreciate that. Any questions? [LB1002]

SENATOR CHAMBERS: Just one thing. [LB1002]

SENATOR SCHILZ: Senator Chambers. [LB1002]

SENATOR CHAMBERS: The word "may" has been, by this amendment, reinstated. Just so if that is an overwhelming worry, at least that one has been removed. [LB1002]

SENATOR SCHILZ: Thank you. And I'd give you the opportunity to take a look at the amendment... [LB1002]

JUDY WILLIAMSON: Yeah. [LB1002]

SENATOR SCHILZ: ...and see what you guys think, and then we're happy to take comments after today. [LB1002]

JUDY WILLIAMSON: Okay. [LB1002]

SENATOR SCHILZ: So thank you very much. Any other questions? [LB1002]

JUDY WILLIAMSON: Okay. [LB1002]

SENATOR SCHILZ: Seeing none, thank you for your testimony. Any other opponents? Seeing none, any neutral testimony? Hmm. Seeing none, with that, that will close...oh, Senator Wallman, would you like to close? [LB1002]

SENATOR WALLMAN: I'm sorry we didn't have the amendment here just a couple hours ago, so sorry you didn't see it earlier. And so it was finalized today, but sorry about. And sorry to the testifiers as well. So we will give copies of this amendment to anyone who wants it and then we can always talk in my office if they wanted to. And you know this just ties in with the regular Livestock Act, the same as that. And so it would make it cohesive with that. And we used to raise some puppies ourselves, rat terrier puppies. And, Senator Chambers, they were born in my chair, little puppies, thanks to my wife. Thank you. (Laughter) [LB1002]

SENATOR SCHILZ: Thank you, Senator Wallman. Any questions for Senator Wallman? Seeing none, thank you. That will close the hearing on LB1002 and we will move on now to LR413, LR414. Okay, Senator Davis, welcome. Good afternoon, Senator. Welcome. [LB1002]

SENATOR DAVIS: Thank you, Senator Schilz. Good afternoon, gentlemen. I am Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I'm here today to

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introduce LR413. LR413 would express legislative resolve to request that the United States Department of Agriculture immediately withdraw its proposed rule entitled "Importation of Beef from a Region of Brazil" and not allow the importation of fresh beef from 14 states in Brazil due to the increased risk of introducing foot-and-mouth disease into the United States. LR413 would also express legislative resolve to request that the United States Department of Agriculture adopt a rule to strictly prohibit the importation of fresh beef from Brazil until the United States Secretary of Agriculture certifies to Congress that every region of Brazil is free of foot-and-mouth disease without vaccination. The United States Department of Agriculture is proposing to allow the importation of fresh beef, chilled or frozen, from 14 states in Brazil. These are states where widespread outbreaks of foot-and-mouth disease occurred as recently as 2005 and 2006 when vaccination was attempted to control the disease as well as states that are geographically adjacent to Paraguay where an outbreak of foot-and-mouth disease occurred as recently as 2011. Foot-and-mouth disease is one of the most contagious diseases known to cloven-hoofed animals and including cattle, hogs, and sheep. An outbreak of foot-and-mouth disease could significantly harm Nebraska livestock producers and our state's economy. The United States has not had an outbreak of foot-and-mouth disease since 1929 when it was inadvertently introduced into the United States from Argentina. Since that time, the United States has prevented any further reintroduction of foot-and-mouth disease by strictly prohibiting the importation of livestock and fresh meat originating in countries where foot-and-mouth disease has not been eradicated and where a risk of outbreak persists. In its proposed rule, the United States Department of Agriculture acknowledges that the reintroduction of foot-and-mouth disease in the 14 states that desire to export fresh beef to the United States is possible because foot-and-mouth disease is endemic to the overall region of South America. The United States Department of Agriculture further acknowledges that its proposed rule would reduce financial returns for cattle producers and beef processors, the result of which would also harm rural communities and the entire Nebraska economy. If an outbreak of foot-and-mouth disease occur as a result of the proposed rule, the economic harm to the state of Nebraska and the United States would be significant. The conclusion is consistent with the U.S. Department of Agriculture's findings that previous outbreaks of foot-and-mouth disease in the United States were very costly to contain and eradicate. LR413 would demonstrate that the Legislature objects to taking any unnecessary and avoidable risk that might be created by the introduction of such a dangerous disease as foot-and-mouth disease due to the severe consequences that such a disease would have on the Nebraska cattle industry. Adoption of LR413 would express legislative resolve that the industry is vital to the economic and social well-being of the state of Nebraska and the United States. Thank you, Mr. Chairman. [LR413]

SENATOR SCHILZ: Thank you, Senator. Senator Chambers. [LR413]

SENATOR CHAMBERS: Senator Davis, welcome. [LR413]

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SENATOR DAVIS: Thank you. [LR413]

SENATOR CHAMBERS: Can foot-and-mouth be transmitted to a human being?
[LR413]

SENATOR DAVIS: I don't believe so. [LR413]

SENATOR CHAMBERS: Then if this rule does not apply to live animals, but rather the beef, the product, how would that transmit foot-and-mouth to live animals in America? And I'm not being argumentative. I just don't understand. [LR413]

SENATOR DAVIS: Some years ago, about ten years ago some fresh beef was imported to Great Britain that came from China and it was imported illegally. The fresh meat carries the bacteria, very, very contagious. And so in Great Britain the outbreak...the beef was in, I believe it was in London but it can be spread on your feet, in packages, and any other way. So the illness was moved into the country and it ended up thousands and thousands of animals had to be put down because of it. [LR413]

SENATOR CHAMBERS: And in that instance it was this same... [LR413]

SENATOR DAVIS: It was a fresh meat situation. [LR413]

SENATOR CHAMBERS: ...chilled or frozen fresh beef that transmitted it. [LR413]

SENATOR DAVIS: I think it came in, in a...actually, it came in, in a meat sample to a Chinese restaurant I believe in London. [LR413]

SENATOR CHAMBERS: And if the Legislature were to...first of all, we have a very competent staff member and he's modest also. But in the commenting period was closed February 21. During that period probably representatives of the livestock industry submitted numerous objections I would suspect. What could a resolution by the Legislature outside of the period of commenting have? [LR413]

SENATOR DAVIS: I think it sends a message to the U.S. Department of Agriculture that we take our agriculture and our beef industry seriously in Nebraska. You know, we have moved into the number one slot in terms of cattle feeding in the country. [LR413]

SENATOR CHAMBERS: Feeding, um-hum. [LR413]

SENATOR DAVIS: So I think that if states take the initiative and send a message to the USDA that we don't approve of this action, while it may not impact this particular action, it may take precedence in a future one. [LR413]

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SENATOR CHAMBERS: My final question--do you think the five representatives, the two senators and three members of the House from Nebraska, commented in opposition to this rule or you wouldn't have any way of knowing? [LR413]

SENATOR DAVIS: I have no way of knowing. [LR413]

SENATOR CHAMBERS: Okay. [LR413]

SENATOR DAVIS: I would hope they did. [LR413]

SENATOR CHAMBERS: Thank you. That's all that I have. [LR413]

SENATOR SCHILZ: Thank you, Senator Chambers. Senator Wallman. [LR413]

SENATOR WALLMAN: Chairman Schilz, thank you. Welcome, Senator Davis. [LR413]

SENATOR DAVIS: Thank you. [LR413]

SENATOR WALLMAN: Do you think this would tie into pretty well identification, you know, animal ID? [LR413]

SENATOR DAVIS: No. This just is basically...this is a different issue. This is an issue of the health of the animal. We're not bringing live animals in with this. I mean animal ID is a part of that... [LR413]

SENATOR WALLMAN: Sure. [LR413]

SENATOR DAVIS: ...if we ended up importing live animals. [LR413]

SENATOR WALLMAN: Do we know the meat comes from Brazil for sure, you know, you know what I mean, at the ports? [LR413]

SENATOR DAVIS: Um-hum. [LR413]

SENATOR WALLMAN: Yeah, thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Wallman. Senator Harr. [LR413]

SENATOR HARR: Thank you, Chairman. Is there a way to also prevent foot-and-mouth disease? [LR413]

SENATOR DAVIS: The cattle can be vaccinated for that. [LR413]

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SENATOR HARR: (Laugh) And what about politicians, state senators? (Laughter) [LR413]

SENATOR DAVIS: No. State senators can't be, Senator Harr. [LR413]

SENATOR SCHILZ: Senator Harr, that usually is held for someone that knows when to keep their mouth shut. (Laughter) [LR413]

SENATOR HARR: That's the other problem. [LR413]

SENATOR SCHILZ: Thank you, Senator Harr. [LR413]

SENATOR DAVIS: Would you like a vaccination, Senator Harr? (Laughter) [LR413]

SENATOR SCHILZ: Okay. Thank you, Senator Harr. Any other questions? Seeing none, thank you, Senator Davis, appreciate it. Proponents for LR413. Good afternoon, Pete. [LR413]

PETE McClymont: Good afternoon, Chairman Schilz, members of the Ag Committee. For the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm executive vice president for the Nebraska Cattlemen. We're here today to support Senator Davis in LR413 in calling on USDA to withdraw its proposed rule "Importation of Beef from a Region in Brazil." To be clear, Nebraska Cattlemen supports trade and supports opportunities to enhance trade opportunities for the U.S. beef industry in the international marketplace. After reading the risk assessment related to this rule, NC members believe that while the risk of FMD being introduced from the importation of fresh or chilled beef from Brazil may be slight, we view any risk is too large. Brazil's most recent outbreak of FMD in 2005 and 2006. The United States, as Senator Davis pointed out, has not had an outbreak since 1929. With that, Nebraska Cattlemen believe that decisions of this magnitude should be based on sound science, and we are concerned that the science related to this issue is from a country that has not historically had the same vigilance in their standards of surveillance and management practices as the United States. Cattle movement in the U.S. is quick and widespread, and Nebraska Cattlemen believe it's too risky to the beef economy of the state of Nebraska to consider fresh or chilled meats from Brazil. And Senator Chambers asked good questions as the rest of the committee. And so knowing that there would be technical questions to that point to support Senator Davis in LR413, I've invited an expert here from the university that knows this very well to answer any of the technical questions. And to your point, Senator Chambers, USDA has extended the comment period another 60 days so comments can continue to be taken on this issue. With that, I'll conclude my testimony, Senator Schilz. [LR413]

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SENATOR SCHILZ: Thank you, Mr. McClymont. Senator Bloomfield. [LR413]

SENATOR BLOOMFIELD: Thank you. Mr. McClymont, do you...it's been mentioned that we could vaccinate for that here in Nebraska. Do you have any idea what that cost would be per head? [LR413]

PETE McClymont: I do not. So obviously where since 1929 we don't need to do it, but to your point, it's a remote... [LR413]

SENATOR BLOOMFIELD: I hope we never get to that point. [LR413]

PETE McClymont: Yeah. [LR413]

SENATOR BLOOMFIELD: But I think it will be expensive if we had to. [LR413]

PETE McClymont: Yeah. [LR413]

SENATOR BLOOMFIELD: Thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you for your testimony. [LR413]

PETE McClymont: Thanks. [LR413]

SENATOR SCHILZ: Further proponents, LR413. [LR413]

SENATOR CHAMBERS: Is this the expert that he spoke of? [LR413]

SENATOR SCHILZ: We're going to find out. Mr. Pappas, welcome. [LR413]

JIM PAPPAS: I get abused before I sit down. Mr. Chairman, committee members, and the balance of the committee, my name is Jim Pappas, P-a-p-p-a-s. I'm here to represent Independent Cattlemen of Nebraska and basically just give a few thoughts on this. One I'll address about how this is spread which could be spread in England when it went over there. When fresh meat goes into a locale or a country, once it's sold there's no control over it. And a lot of times, even though it's illegal in most places, waste material or waste food will wind up at local farmsteads. And then like the senator elaborated on it's very contagious and it could be fed to hogs. But the hogs could be right next door to cattle and all of a sudden, bang, you got this huge outbreak and outspread. It seems strange that there is just certain areas in Brazil that they would allow this to come in. That's like saying, you know, there's certain states in the United States it's okay; the other states not. You know, we can't control all them so why would we let a few come in? You got to take into consideration, too, that Brazil we have no

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control over what they inspect and what they don't. We have a tough time, USDA does, in the United States that control the inspection of the meat processing in lieu of what just happened in California. [LR413]

SENATOR CHAMBERS: Excuse me, one second. Senator Pappas, did you give your name before you started? [LR413]

JIM PAPPAS: Yes, I spelled it too. [LR413]

SENATOR CHAMBERS: Oh. [LR413]

JIM PAPPAS: I'll apologize. I said earlier one time that I knew that there were some more senior citizens on this committee and I have to learn to talk slower so some people can comprehend. (Laughter) [LR413]

SENATOR CHAMBERS: Senator Pappas, could you speak a bit slower for me? (Laughter) [LR413]

JIM PAPPAS: The other thing I might bring into context, it seems strange that the beef industry is trying to increase the exports of U.S. beef to different foreign countries, but yet at the same time the federal government wants to allow more imports in this country. You know, that's kind of almost a Catch-22 type situation. But I think there's other people that will testify after me and what senators so I just want to add a few comments to why I think it's a good idea to send this on. And Congress does take a look. Several years ago Congress was looking at changing the inspection program for cattle being movement. And the Nebraska Legislature at that time was considering legislation to allow brands for means of identification. And even though it wasn't passed at the time, Congress and the USDA did take note of what Nebraska was trying to do and withheld and changed some of the lawmaking process before it was done. So they do take into consideration what this body does and the Ag Committee does. [LR413]

SENATOR SCHILZ: Great. Thank you, Mr. Pappas. Senator Johnson. [LR413]

SENATOR JOHNSON: Thank you. Jim, are you aware, is there any relationship to...between the inspection of beef leaving Brazil going to other countries and then eventually getting here? Is there any relationship between other countries so we're not...I mean, we're targeting Brazil. But is there other ways or other countries that are at risk that we need to be looking at? [LR413]

JIM PAPPAS: I'm not qualified to address that. [LR413]

SENATOR JOHNSON: Okay. [LR413]

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JIM PAPPAS: And the one thing I do know that from traveling abroad once or twice that when you get out of the country, that most countries where you can find different types of beef on the market that they predominantly always more or less like to advertise U.S. beef because it's a better quality. And particularly if you ever had Australian beef, which I don't think there's no comparison, but there is a difference. And I'm quite sure that there could be roundabout ways that we need to watch other countries too. Hopefully USDA does that. [LR413]

SENATOR JOHNSON: I mean not by intent but maybe just...okay, they might ship from someplace else the fresh beef and somehow it ends up here. Thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Johnson. Senator Bloomfield. [LR413]

SENATOR BLOOMFIELD: Mr. Pappas, thank you for coming in today. If we were to get an outbreak of this hoof-and-mouth disease in the United States, how would that affect, if you know, our ability to export to other countries? [LR413]

JIM PAPPAS: It would stop it. It almost would stop it immediately until it could be quarantined and isolated in certain particular areas. But it would immediately, about every country we export to, just like with mad cow disease when we had some outbreaks. Even though we traced it from Canada, there was a lot of countries that stopped and they limited the age it could be exported. And hoof-and-mouth disease would just stop everything for...temporarily for the time being until we could completely eradicate what was infected and then vaccinated it and had a time test, proven test that there's no more at present. [LR413]

SENATOR BLOOMFIELD: Okay, thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Senator Chambers. [LR413]

SENATOR CHAMBERS: Sometimes senior citizens' brain cells take a while to get warmed up, but I have a question. [LR413]

JIM PAPPAS: An easy one I hope. [LR413]

SENATOR CHAMBERS: Suppose despite all of the comments and the objections this regulation goes through and the beef is allowed to come into this country from these states in Brazil. Would it help if labels have to tell the country of origin of beef? [LR413]

JIM PAPPAS: I did not plant that question I might add to the body, but that is the...that will be presented in the next...yes, it would help. [LR413]

SENATOR CHAMBERS: Because, Senator Pappas, when you reach that high age, you

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don't know whether the breath you take may be your last. (Laughter) Okay, so that's why I put it to you while I had the opportunity. [LR413]

JIM PAPPAS: I appreciate that. Thanks you. [LR413]

SENATOR SCHILZ: Thank you, Senator Chambers. [LR413]

SENATOR CHAMBERS: And come visit us again sometime, Sonny. (Laughter) [LR413]

SENATOR SCHILZ: Any other questions? It must be the last day of the Agriculture hearings because we're all in a very... [LR413]

SENATOR HARR: We're just happy to see him out of sweatpants. [LR413]

SENATOR SCHILZ: ...jovial mood. Thank you, sir, appreciate it. Further proponents. Mr. Hansen, welcome. [LR413]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I am the president of Nebraska Farmers Union and also their lobbyist. We are in strong support of this legislative resolution, both at the state level and also at the national level. I did run off our National Farmers Union special order of business that we passed last year on this issue that would reinforce this position. And since I am getting up in years myself, I managed to leave it sitting on my desk. But we did go over this issue in some length this morning as our National Farmers Union legislative committee met. I am its vice chair. This topic came up, and it will...it rose to the level of concern that it's going to be included in an additional special order of business this year, of which we usually have six to eight. So that gives you kind of an indication of just how important we think it is. I have worked at some length on this issue, and I think that it's entirely appropriate for the state...states that have the most to risk and most at risk to weigh in on this issue. My friends at USDA when you get down to the nuts and bolts of risk assessment and looking at the problems that exist in Brazil that are known problems where you...we don't have clear buffer states in-between the states with contamination and the states that are not. And so as we all know, animals move back and forth. People go back and forth. You have tires, you have feet that can carry this disease. So in terms of this country being able to adequately police and enforce its own guidelines is questionable. So when you raise the question, why would you risk the entire U.S. export as well as consumption status to be able to import from a country that was partially contaminated? Why would you take that additional risk? Why would you put the entire industry at the U.S. at risk to do that? And it seems to me as I've been meeting with USDA officials for some length of time on this issue that this should be a technical issue. It should be an animal health issue. And it seems to me that the answers I get are more political, which bothers me. And I suspect that relative to the U.S. trying to develop some kinds of offers of reciprocity relative to our issues

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with that country over their filings on our income support structure for cotton and other commodities that they have brought in the WTO are not altogether unrelated. So while our organization has continued to weigh in time after time on this issue, it's frustrating when no matter what the risk assessment says, no matter what the technical data says that the ball continues to roll forward. So we welcome the opportunity for an additional 60-day comment period. It's needed. And anything that the state of Nebraska can do to help jiggle that chain down at USDA a little bit to let them know that we're watching and that this is an important issue in my opinion would be extremely helpful. And so in that vein, I would encourage the Agriculture Committee to give serious and positive consideration to LR413 and thank Senator Davis for bringing it. [LR413]

SENATOR SCHILZ: Thank you, Mr. Hansen. Any questions? Seeing none, thank you for your testimony. [LR413]

JOHN HANSEN: Thank you. [LR413]

SENATOR SCHILZ: Further proponents. Seeing none, any opponents? Seeing none, any neutral testimony? Come up. [LR413]

JORDAN DUX: Good afternoon. Senator Schilz, members of the Ag Committee, my name is Jordan Dux, J-o-r-d-a-n D-u-x, and I'm the director of national affairs with the Nebraska Farm Bureau Federation, and I'm here today to provide testimony in a neutral capacity on LR413. We've heard from several members across the state with concerns about the proposed USDA rule on the importation of beef from Brazil. The concerns center, obviously, on the potential risk for foot-and-mouth disease in the United States with Brazilian beef imports. And as we all have heard time and time again, the introduction of any livestock diseases, especially a disease such as foot-and-mouth disease, into the United States would have truly a ruinous impact on beef and pork producers, as well as the entire livestock and meat industry, which is so important to Nebraska's economic viability. Farm Bureau national policy supports the use of science-based international standards to protect animal and human health and to facilitate the international trade of safe products. It further supports the establishment of minimal-risk regions based on a risk assessment of the potential for introduction of foot-and-mouth disease, which should include the existence of a national tracking program and adequate, active testing and monitoring programs in those countries. In response to the concerns about the transmission of animal diseases, while being committed to international trade, nations have supported the establishment of science-based regulations through the World Animal Health Organisation, OIE, and the World Trade Organization. And we strongly support those efforts that are...us and our trading partners, in order that we comply with those OIE and WTO guidelines. And under those rules, the countries that are members of those organizations, the OIE and the WTO, such as Brazil and the U.S., are held to a high standard of compliance in order to make sure those products meet those applicable trade standards. In moving

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forward we would encourage USDA to maintain a constant high level of assurance, vigilance and assurance, to assure that Brazil is following those appropriate procedures, to prevent the introduction of animal diseases into the United States. And we would also ask for continued and active engagement with the Brazilian authorities as necessary for the successful operation of these disease control programs. And we are also continuing to ask that the restrictions for entry of all these areas where the diseases are not controlled to be rigorously enforced by Brazil and continuously monitored by USDA. These efforts must continue for the effective guidance of trade through the acceptance and implementation of international product safety standards by all countries. Thank you very much, and I'd be more than willing to answer any questions anyone has. [LR413]

SENATOR SCHILZ: Thank you, sir. Any questions? Senator Chambers. [LR413]

SENATOR CHAMBERS: I'll yield to... [LR413]

SENATOR SCHILZ: Senator Wallman. [LR413]

SENATOR WALLMAN: Thank you, Chairman Schilz. Yeah, thanks for coming. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR WALLMAN: Do you know what our balance of trade is with Brazil? [LR413]

JORDAN DUX: What was that? I'm sorry. [LR413]

SENATOR WALLMAN: Balance of trade, you know, plus or minus? [LR413]

JORDAN DUX: I don't have the exact figures as to what the balance is. I know that Brazil, we do actually import some beef products from one state in Brazil right now, and I know that there are still restrictions on U.S. beef going into Brazil right now. But those, the official numbers, I don't have those. [LR413]

SENATOR WALLMAN: Why is our beef restricted? [LR413]

JORDAN DUX: When it...standards or things that probably are more political in nature than scientifically focused there. [LR413]

SENATOR WALLMAN: Thank you. [LR413]

SENATOR SCHILZ: Senator Chambers. [LR413]

SENATOR CHAMBERS: Since the vast majority of members of the Farm Bureau are nonagricultural people,... [LR413]

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JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...could that account for why the Farm Bureau is taking a neutral position on this resolution? [LR413]

JORDAN DUX: I would say, Senator Chambers, that the reason we came in a neutral position is the policy that was passed by the voting members of our organizations focus in very strongly on scientific standards and making sure that we comply with international agreements in which we've signed up for. And so the voting members, we've heard from both sides of our voting member block, those with concern about the importation, but at the same time making sure that we're good trade partners, as well. And so the balance of those two issues is why we came in a neutral position. [LR413]

SENATOR CHAMBERS: What was the breakdown of the vote, if you know? [LR413]

JORDAN DUX: I wouldn't know the breakdown of the vote. It's a longstanding policy that we've had. Specifically to Brazil, we have limited policy specifically addressing it. A lot of our policy deals in a broader scope of international trade and working in with those scientific standards. [LR413]

SENATOR CHAMBERS: So then the Farm Bureau's position on this issue is more political, even though they talk about science being the basis for a decision being made by the United States, science over there. But the position being taken by the Farm Bureau today is political, isn't it? [LR413]

JORDAN DUX: I wouldn't necessarily say it's political. I would say that you look at the scientific standards and, again, the science that works within the agreements that we've signed in within the OIE and the WTO and making sure...having faith within those institutions and allowing those scientific standards to really kind of play forward with how we view this particular issue. [LR413]

SENATOR CHAMBERS: So then, if I may,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...you're saying the Farm Bureau may not know the answers to these questions, but there are those who do, and the Farm Bureau places its trust in those who do know the answers which the Farm Bureau does not know. Is that correct? [LR413]

JORDAN DUX: I would say that, again, we as an organization looked at the scientific standards that have been set up by these particular entities. The United States

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government entered into the agreement with these entities and, again, having faith that those protocols which we have supported are followed and followed through by all of our trading partners, again, to provide that we...to show that we are all good trading partners. [LR413]

SENATOR CHAMBERS: So then if you're supporting all of those things,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...why didn't you come in on a position of opposition to this resolution? [LR413]

JORDAN DUX: Because at the same time we have policy which supports those and policies that come from there, and at the same time we also have a number of members that specifically, when it comes to Brazil, have some real concerns as to what...where some of those things are. So again, trying find that balance is...as you all do with a number of your constituents, trying to find that balance between the overlying policy that we have on things and then also the opinion of some members that have expressed concern about this at the same time but at the same time still supporting those international standards. [LR413]

SENATOR CHAMBERS: Well, since you drew an analogy between the way we operate and the Farm Bureau,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...the Legislature is a political body, maybe nonpartisan, supposedly,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...but it's a political body. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: Is the Farm Bureau a political body? [LR413]

JORDAN DUX: In terms of the fact that we take position on public policy issues, I would say that we could be a political body and...yeah. [LR413]

SENATOR CHAMBERS: And the position being taken today is a political position, isn't it? [LR413]

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JORDAN DUX: I would say that the position of anyone taking a position on this one could be said that it's political. [LR413]

SENATOR CHAMBERS: I'm not talking about anyone. I'm talking about you... [LR413]

JORDAN DUX: Okay. [LR413]

SENATOR CHAMBERS: ...because you're here for the Farm Bureau. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: The Farm Bureau is taking a political position today. [LR413]

JORDAN DUX: We're taking a position on a policy matter, so. [LR413]

SENATOR CHAMBERS: But it's a political position being taken, isn't it? [LR413]

JORDAN DUX: If you...I would again say we're taking a position on a policy...on a piece of policy. [LR413]

SENATOR CHAMBERS: Well, you say...then you don't think it's a...then you feel it's not a political position, correct? [LR413]

JORDAN DUX: It's a... [LR413]

SENATOR CHAMBERS: The position you're taking today... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...is not a political position. [LR413]

JORDAN DUX: It's... [LR413]

SENATOR CHAMBERS: It has to be one or the other. [LR413]

JORDAN DUX: Either one, based on science or political, is that what you're asking, one of those two? Are those my choices? [LR413]

SENATOR CHAMBERS: No. The fact that you've decided to come in... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...neutral... [LR413]

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JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...instead of for or against... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...is a political position which puts you in the position of offending neither side. Isn't that what the Farm Bureau is really interested in? [LR413]

JORDAN DUX: We want to make sure that we are following the, again, the overall, arching position within our policy on supporting international standards but at the same time also understanding that we have members who look at this particular issue and have...we also have policy that talk about, again, making sure that disease issues, such as this one, are also monitored. And so trying to find a balance between those two issues, just like any organization has to try to find a balance between those two areas of policy, is why we came in neutral today. [LR413]

SENATOR CHAMBERS: Not intending to be argumentative,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...although it may seem that I'm arguing. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: I've been in the Legislature for more years maybe than you've been on the earth. [LR413]

JORDAN DUX: I think that's apt. [LR413]

SENATOR CHAMBERS: And the Farm Bureau takes votes on issues. [LR413]

JORDAN DUX: Um-hum, um-hum. [LR413]

SENATOR CHAMBERS: I've never heard them say that, a majority of our members were in favor of something so we're coming in neutral. I asked you what the vote was and you said the vote was for. And I asked you what was the breakdown of the vote. So what was the vote taken on, whether you should be neutral or not or whether you should support this resolution or not? When the question was put, how was the question framed to those who were going to vote on it? [LR413]

JORDAN DUX: Um-hum. [LR413]

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SENATOR CHAMBERS: "Are you for this resolution or are you against it," is that the way the question was posed? [LR413]

JORDAN DUX: The way our policy is written on the...in this particular subject, and again, it doesn't... [LR413]

SENATOR CHAMBERS: Let's forget the policy. You said it was based on a vote. I very carefully asked that and I knew what I was asking. [LR413]

JORDAN DUX: Um-hum, um-hum. [LR413]

SENATOR CHAMBERS: And I knew why I was asking it. Do you remember me asking you if there was a vote and you said the position was taken based on the voting members' vote? [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: Did you say that? [LR413]

JORDAN DUX: I said that the way our policy on general...again, the Brazilian issue is a part of the general policy that we've had for a very long time that is about being...again, following in with these trade entities that we have become members of. That's where the vote has been. It's been on, again, general, overarching policy, and it's our opinion to then move forward with policies that work within that framework. And so... [LR413]

SENATOR CHAMBERS: So if I'm... [LR413]

JORDAN DUX: ...that's where the overarching policy objective came from. [LR413]

SENATOR CHAMBERS: If I'm understanding your clarification,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...which I think you intended to give,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...no vote was taken with reference to this specific resolution, was it? [LR413]

JORDAN DUX: No, that's...we have not taken...but again, it's the idea that we enact the policy that...the general, overarching policy. [LR413]

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SENATOR CHAMBERS: But you're getting ahead of me. [LR413]

JORDAN DUX: But this resolution in particular, no. [LR413]

SENATOR CHAMBERS: Senator Pappas pointed out that senior citizens of advanced age... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...operate a little more slowly, so bear with me. If no vote was taken on this specific amendment...resolution,... [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: ...you could not tell me what such a vote would be, can you, forgetting the general, overarching policy? This is a specific resolution. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: It was not put to a vote of anybody, was it? [LR413]

JORDAN DUX: This specific one, no. [LR413]

SENATOR CHAMBERS: Yes. [LR413]

JORDAN DUX: No, it has not been. [LR413]

SENATOR CHAMBERS: But your testifying on this specific resolution. [LR413]

JORDAN DUX: Right. [LR413]

SENATOR CHAMBERS: And you're, to the best of your understanding, interpreting what the position would have been had a vote been taken? [LR413]

JORDAN DUX: Again, our policy...and I don't mean to repeat myself and I don't mean to come off as argumentative... [LR413]

SENATOR CHAMBERS: Well, to answer the question you might have to. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: So I'm not offended at that. [LR413]

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JORDAN DUX: Well, again, the policy principles that we have in place within our policy book are, in a lot of times, very broad, specifically to cover larger issues, like this one. This one, while it is specific to Brazil, Brazil fits in the entire framework of the United States as a trading partner. And so when it comes to agricultural trade in general, that's the focus of our policy. And the fact that we had a considerable amount of...and this has been to be good trading partners and be an organization that believes very strongly in free trade. This is kind of...this has been our general opinion for a very long time. And so when you look at the overarching, again, the policy position, that's where we fit in to where we've had, again... [LR413]

SENATOR CHAMBERS: Have you seen that commercial, "I could've had a V8"? [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR CHAMBERS: Allow me to: Oh, (hits forehead) now I get it. If I offered a resolution saying we should support as a Legislature the importation of this beef, if that's what the regulation is for, if I had a resolution to support that position being taken, then the Farm Bureau would support my position based on the overarching view that these kind of trade agreements ought to be supported. So if I brought a contrary resolution, you would then come and support that, based on your general position with reference to international trade and specifically Brazil? [LR413]

JORDAN DUX: I would say that, again, not...because that doesn't exist, I would say that, again, we'd have to look at anything that would be introduced and, again, balance our free trade standpoint and the trade...our trade policy that focuses on international standard but at the same time look at our policy that, again, brings us why we took a neutral position, at the same time looking at those individual producers, as well, and producers of the cattle industry. [LR413]

SENATOR CHAMBERS: Here's what I want to explain. In the Legislature a resolution can be presented any time. [LR413]

JORDAN DUX: Um-hum, um-hum. [LR413]

SENATOR CHAMBERS: So what I intend to do is take the language of this resolution and change it from a negative position to an affirmative position and it might be referred to the committee for a hearing. And then you would come in and support my resolution, wouldn't you? You'd have to. You can't be for and against the same thing at the same time, so you would support that resolution. I know I've got at least the Farm Bureau with me, don't I? [LR413]

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JORDAN DUX: I would say, Senator Chambers, we'd have to take a look at anything and obviously make our determination as to where that fits within our policy. [LR413]

SENATOR CHAMBERS: But if I bring that resolution, the Farm Bureau would testify one way or the other on it. Can I be assured of that? [LR413]

JORDAN DUX: Again, I'd have...we'd have to take a look at it again and it might come down to the same thing where we could testify in a neutral position, as well, because that's the ability that we've been given to testify in any of those three categories. [LR413]

SENATOR CHAMBERS: Now I'm confused again, but that's all I'll ask you. (Laughter) [LR413]

JORDAN DUX: Okay. [LR413]

SENATOR CHAMBERS: Thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Chambers. Senator Bloomfield. [LR413]

SENATOR BLOOMFIELD: Thank you, Mr. Dux. [LR413]

JORDAN DUX: Um-hum. [LR413]

SENATOR BLOOMFIELD: Do you know, are there any other countries, other than Brazil, that we're facing this problem with right now? [LR413]

JORDAN DUX: In terms of foot-and-mouth disease? [LR413]

SENATOR BLOOMFIELD: Yeah. [LR413]

JORDAN DUX: There are other countries that, I'm sure, have a foot-and-mouth disease issue, correct. [LR413]

SENATOR BLOOMFIELD: I know we import quite a little lamb. Is that... [LR413]

JORDAN DUX: I'm sure we do. [LR413]

SENATOR BLOOMFIELD: Is that the same issue of...do you know if any of that is coming in from... [LR413]

JORDAN DUX: From any other countries that have...? [LR413]

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SENATOR BLOOMFIELD: ...from other countries that might have the hoof-and-mouth problem? [LR413]

JORDAN DUX: That I couldn't answer. I'm not sure. [LR413]

SENATOR BLOOMFIELD: Okay. Thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you for your testimony. [LR413]

JORDAN DUX: Okay. Thank you. [LR413]

SENATOR SCHILZ: Next neutral testifier. Welcome. Good afternoon. [LR413]

ALAN DOSTER: Thank you, sir. My name is Alan Doster, A-l-a-n D-o-s-t-e-r. I'm a veterinarian, a veterinary pathologist, and work at the University of Nebraska. And I don't think I could add anything that Jim Pappas hasn't said, or Senator Davis, so I'm here to answer your questions if I can. [LR413]

SENATOR SCHILZ: Great. Appreciate that. Any questions for the good sir? I guess if nobody else has one...Senator Wallman, I'll let you go first. [LR413]

SENATOR WALLMAN: Okay. Thank you, Chairman. Yeah, thanks for coming. You know, as we realize, we're on the borders of two major beef-producing countries. [LR413]

ALAN DOSTER: Um-hum. [LR413]

SENATOR WALLMAN: And is our border security very good, you think, in the south? [LR413]

ALAN DOSTER: Truthfully, no. [LR413]

SENATOR WALLMAN: That worries me. Thank you. [LR413]

ALAN DOSTER: Well, I guess what I would like to say is foot-and-mouth disease has been the most costly disease in the last two centuries, you know, the 19th and...or, actually, the 20th and 21st century. If you look in the literature and that, in 2001, Great Britain spent more on the eradication of foot-and-mouth disease, or almost as much, that they spent entirely during World War II. And so that tells you a lot as far as what the cost is. You know, as far as Nebraska goes, you know, we have an \$82 billion to \$84 billion economy here. Agriculture accounts for about \$24 billion of that. Half of that is cattle, and so you can see that if foot-and-mouth disease was introduced into our state,

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how devastating that really would be. [LR413]

SENATOR SCHILZ: Senator Chambers. [LR413]

SENATOR CHAMBERS: If this rule were to be adopted and the beef were to be imported, do you think that would pose a clear and present danger to the livestock in this country, as far as contracting hoof-and-mouth or foot-and-mouth disease? [LR413]

ALAN DOSTER: Yes, I do, and I'll tell you why. The virus, you know, the virus, there are evidence, particularly in Britain, where they have brought in fresh meat and the meat somehow has gotten thrown away and got in contact with swine. Swine are a multiplier. They will multiply that about a million times greater than cattle. One virus particle can infect a cow. It's been shown that this virus can travel aerosol for 70 miles, so from one outbreak 70 miles to another outbreak, with nothing in between. [LR413]

SENATOR CHAMBERS: And here is the question I was getting to. A question was asked about the cost per head of vaccinating livestock. [LR413]

ALAN DOSTER: Okay. I can't tell you that but I can... [LR413]

SENATOR CHAMBERS: I'm not going to ask you the cost per head. [LR413]

ALAN DOSTER: Okay. [LR413]

SENATOR CHAMBERS: Would that be a recommendation that all livestock be vaccinated against foot-and-mouth (disease)? [LR413]

ALAN DOSTER: It would be a recommendation, but you'd have to realize there are seven serotypes and, within those seven serotypes, there's greater than 60 strains. And so you would have to have the right vaccine for the right strain, you know, to countermand that. Okay. What could happen is you could vaccinate an animal. He would become immune to the vaccine. You could expose him to another strain which will not protect him. He could replicate that and spread foot-and-mouth disease. And you could vaccinate all you want and nothing would happen. [LR413]

SENATOR CHAMBERS: So what would have to be done, speaking practically, is to wait and see if there will be an outbreak and, if so, what strain it is, and conclude that it came from the importation of this beef from Brazil because there should be some scientific way to trace the origin of this bacteria to the beef from Brazil, if that's where it came from. Or is that false? [LR413]

ALAN DOSTER: No, that's true. But I will tell you that we have individuals in the government that are studying that all the time to find out what serotypes are in what

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country--you know, should we be manufacturing this type of vaccine or that type of vaccine?--you know, that's being done all the time. [LR413]

SENATOR CHAMBERS: Now I don't think that a state can prohibit the transporting of a product from one state to another state because Congress governs interstate commerce. Would any purpose be served by putting the country of origin on labels that accompany beef? Then people could at least be forewarned. [LR413]

ALAN DOSTER: Um-hum. But I tell you, it wouldn't even get into this country to start with, okay, because of the quarantine that we have against, you know, these... [LR413]

SENATOR CHAMBERS: But if this rule is adopted, then the beef will be allowed to be imported, wouldn't it? [LR413]

ALAN DOSTER: That...I don't know the intricacies of that particular bill. I can't answer that, sir. [LR413]

SENATOR CHAMBERS: Well, if the rule that all of this relates to has to do with allowing the importation of beef from these named states in Brazil, if that rule were adopted after all the comment and everything else, it would be adopted nevertheless and the beef would be imported, should that beef carry on the label the notation that it was imported from Brazil? [LR413]

ALAN DOSTER: Yes, in my opinion, yes. [LR413]

SENATOR CHAMBERS: Okay. And I'm not...these are not trap or trick questions. I've been convinced from what I've heard that it could be a very, very serious threat not only to Nebraska but livestock anywhere in the country. [LR413]

ALAN DOSTER: Yes. [LR413]

SENATOR CHAMBERS: And that's all that I would ask. [LR413]

ALAN DOSTER: Yes. [LR413]

SENATOR SCHILZ: Thank you, Senator Chambers. Senator Johnson. [LR413]

SENATOR JOHNSON: Yeah. Thank you. Thank you for coming in. Hopefully, maybe you can answer this. How aggressively are we, in our inspection process that we inspect every 100th package of meat or how do...how aggressive are we in that? [LR413]

ALAN DOSTER: I think that we are very aggressive, but that can always slip through

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the cracks. If you look at our country versus other countries, we spend millions and millions of dollars to protect ourselves against this. You know, it was 1929 when we had the last outbreak. North America is free of foot-and-mouth disease all the way down to Panama. South America is endemic. Eastern Europe, western Europe is free. Africa is endemic. Southeast Asia is endemic. So I think, all in all, we're doing a good job as far as trying to prevent it. But I have a feeling someday, somewhere, somehow, it'll slip through. [LR413]

SENATOR JOHNSON: We're not a totally perfect world, I agree with that, so thank you. [LR413]

ALAN DOSTER: Yeah, sure. [LR413]

SENATOR SCHILZ: Senator Hansen. [LR413]

SENATOR HANSEN: Thank you. Doctor, the...I don't know if you saw the resolution, but in the summary it says, until Brazil is free of foot-and-mouth disease without reliance on vaccine...on vaccination. Do you know if they vaccinate in Brazil? [LR413]

ALAN DOSTER: My understanding is they do, yes. [LR413]

SENATOR HANSEN: And how do they develop that vaccine? [LR413]

ALAN DOSTER: Probably within their own USDA. [LR413]

SENATOR HANSEN: I know we have outbreaks of pinkeye in our feeder cattle and that only has...I think it we're dealing with seven different strains of pinkeye. You go out and buy pinkeye vaccine, well, sometimes it's just like throwing money down the drain because it's not the right type of vaccine. [LR413]

ALAN DOSTER: Correct. [LR413]

SENATOR HANSEN: And so I would imagine that this foot-and-mouth vaccine that would have to come up would take months to develop... [LR413]

ALAN DOSTER: Months to years. [LR413]

SENATOR HANSEN: ...and years to develop. [LR413]

ALAN DOSTER: Yes. [LR413]

SENATOR HANSEN: It would be pretty devastating. [LR413]

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ALAN DOSTER: Yep. Exactly. [LR413]

SENATOR HANSEN: Thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Hansen. Senator Bloomfield. [LR413]

SENATOR BLOOMFIELD: Thank you, Doctor, for coming in. Just to get it on the record, would you describe to us just what happens to an animal that's infected? [LR413]

ALAN DOSTER: Well, an animal that's infected with foot-and-mouth disease, several things can happen, usually, in younger animals and that, acute death. It causes a myocarditis or infection of the heart. Older animals, it causes a vesicular disease. What happens is it gets in the mouth, replicates in the tonsils, and carried throughout the tissues and that, and it has a propensity to attack epithelial cells, particularly those in the mouth, and then the coronary band, you know, around the hooves and that. And so these animals get sever blisters. These things rupture. The viral fluid within the...or the fluid within the vesicles contains billions and billions and billions of virus particles and so, therefore, contaminates the environment. So it spreads that way. It also replicates down in the lung and so anytime the animal breathes in and out, you're spreading that aerosol infection that way. [LR413]

SENATOR BLOOMFIELD: What happens to the meat? [LR413]

ALAN DOSTER: The meat itself, you know, they eat the meat. You know, if these animals become chronically debilitated or whatever, you know, secondary infections, bacterial, pneumonia, etcetera, etcetera, the meat is tanked. One of the problems with foot-and-mouth disease is it causes chronic disease, chronic unthriftiness over a long period of time. [LR413]

SENATOR BLOOMFIELD: When you say the meat is tanked, how big a danger is there from the tankage still continuing to spread? And if any of the meat would happen to get consumed by humans, does it affect us? [LR413]

ALAN DOSTER: Well, humans are susceptible. There's been a few cases of foot-and-mouth disease reported in humans. It usually cases flu-like symptoms. You know, you've got the flu for a couple days and you get over it, okay. There's no evidence that people have spread it to animals. However, you know, that possibility could occur as a result of aerosol infection. [LR413]

SENATOR BLOOMFIELD: Okay. Thank you. [LR413]

ALAN DOSTER: Okay. [LR413]

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SENATOR SCHILZ: Thank you, Senator Bloomfield. And, sir,... [LR413]

SENATOR HARR: (Inaudible)...Chairman. [LR413]

SENATOR SCHILZ: Yep. Senator Harr. [LR413]

SENATOR HARR: I've just got a quick question. Following up on the question about vaccination, how long does it take to...how quickly does the disease spread? [LR413]

ALAN DOSTER: Okay, the... [LR413]

SENATOR HARR: I was trying to look it up on here and I couldn't find it. [LR413]

ALAN DOSTER: Okay. Usually, it can take anywhere from two to three days--it's fairly acute--or up to two weeks. Okay. Vaccination and that, usually you don't start to see a response until about 14 days after vaccination. [LR413]

SENATOR HARR: And how contagious is it? [LR413]

ALAN DOSTER: Extremely contagious, extremely contagious. [LR413]

SENATOR HARR: Okay. Thank you. [LR413]

SENATOR SCHILZ: Thank you, Senator Harr. Doctor, thanks for coming in today. And as I understand it, Brazil is in the process of applying for FMD-free status as we speak, aren't they? [LR413]

ALAN DOSTER: Those 14 states are, yes. [LR413]

SENATOR SCHILZ: I see, but not the whole country itself. [LR413]

ALAN DOSTER: No. [LR413]

SENATOR SCHILZ: Um-hum. And then, you know, if that happens, then how does that affect our ability to restrict beef that's coming in from Brazil, I mean, through the international...I mean, because as long as they ship from that state, we... [LR413]

ALAN DOSTER: Well, I would be worried about you have a so-called free state in a positive state--aerosol. You know, many of these animals actually can become infected and not develop clinical signs. They can develop into carriers. And the thing about cattle, they can be a carrier for up to three-and-a-half years without showing any clinical signs whatsoever. [LR413]

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SENATOR SCHILZ: Right. And then how does the international community--I mean other countries--deal with a country that would have that? [LR413]

ALAN DOSTER: Same way we do,... [LR413]

SENATOR SCHILZ: We shut them off. [LR413]

ALAN DOSTER: ...shut them off, trade restrictions, yes. [LR413]

SENATOR SCHILZ: Yeah. And then one last thing. And I know everybody has talked about it here. But when we saw the outbreak in Great Britain and we saw the devastation there and how much that cost, Great Britain runs their cattle industry, dairies, and everything else that's there much, much differently than we do here. Get...just...it horrifies me just to think about this. But as we look at the way we use sale barns and the way we use...the way our transportation thing is in place and how we use all that, let's say that there's an outbreak and they find it, just like the scare that was in Kansas, what was it, about ten years back or so, where they thought maybe they had it and it turned out to be hay that had some bugs in it or something. But explain that to folks that...okay, if we've got an animal that sells or that's found at a sale barn, right, and they know the herd that that...if they know the herd that that come...that that came from, can you explain exactly what that would mean and how that would look and what the procedure would be, so that everybody understands the seriousness. [LR413]

ALAN DOSTER: Well, they would do a trace back to that herd. That herd would be quarantined and then all the animals sold in that sale barn would be quarantined. But one of our problems would be that, you know, we've had farmers and ranchers and who else walk through there. They can carry this virus on their feet. It'll stay in fecal material for up to a month, so just tracking around someplace. If... [LR413]

SENATOR SCHILZ: And because it's an aerosol, it can even reside in the nasal passages of humans for up to two to three weeks, correct? [LR413]

ALAN DOSTER: Yes. Yes. If you...you know, Iowa, and we've had it, too, this so-called porcine endemic (sic) diarrhea virus. And if you remember, they didn't really know where it came from. We think it's Chinese because the virus sequence is about 93 percent homologous, which is very, very close. And so what they did is they went to all the Kwik Shops around these little towns where they had PED. Okay, they swabbed the floors, went back, ran the tests in the laboratory. In 17 Kwik Shops were positive for the virus because the farm workers would stop there in the morning before going to work and get a Slurpee and a donut. Okay. And so this is one way that they thought that they spread it from farm to farm because maybe farm A was 15 miles over here, had no contact whatsoever with farm B. It was through the Kwik Shops. And that's just recently within the last three months. [LR413]

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SENATOR SCHILZ: And then...and especially in hogs, I mean, the biosecurity is absolutely essential, I mean. [LR413]

ALAN DOSTER: Well, remember with hogs, too, that they can replicate at a million times more than a cow. [LR413]

SENATOR SCHILZ: Right. And so when people talk about combining hogs and making sure that they know where they're coming from and where they're going and how that all works is extremely important to the industry overall, the main...to make sure that they don't devastate that industry too. [LR413]

ALAN DOSTER: Yes, yes. [LR413]

SENATOR SCHILZ: Okay. Thank you very much. Senator Bloomfield. [LR413]

SENATOR BLOOMFIELD: Thank you again. I had heard that story about the Kwik Shops, but I had also heard that it was a wife's tale or urban legend. [LR413]

ALAN DOSTER: No, I... [LR413]

SENATOR BLOOMFIELD: But are you 100 percent sure of the facts behind it? [LR413]

ALAN DOSTER: That's what they're telling me, that they're going in...and one way to...that we... [LR413]

SENATOR BLOOMFIELD: Who is telling you that, Doctor? [LR413]

ALAN DOSTER: My friends at Iowa State. [LR413]

SENATOR BLOOMFIELD: Okay. Thank you. [LR413]

ALAN DOSTER: Yeah, yeah. [LR413]

SENATOR SCHILZ: Senator Chambers. [LR413]

SENATOR CHAMBERS: Is it a virus or a bacteria? [LR413]

ALAN DOSTER: It's a virus. [LR413]

SENATOR CHAMBERS: A virus. Now my general skepticism about human beings where money is involved is going to manifest itself. These states at some point are going to be contiguous to other states from which the beef will not be allowed to come

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in. If you are unscrupulous and I am unscrupulous and I'm in one of the states which will not allow the animals to be...you can't export these to the United States, what would stop us from doing things that are sometimes done in this country where, despite rules, laws, and so forth, sometimes infected, sick animals are put into the food chain and there are processors who have been found to do this. So it's not outside the realm of possibility that some unscrupulous people, driven by the love, the inappropriate love of money, would bring some infected animals into a state from which they could be sent. How could that be guarded against? And that's a rhetorical question because I don't know how in one country you can draw lines and say, on the left side of the line you're clear to sell your product, on the right side of the line you're not. There would not necessarily even have to be knowledge on the part of somebody on the appropriate side of the line. Cattle were rustled in this country; cattle are stolen now. And that's why they have brands and so forth. What would prevent that from...could that be prevented from taking place? [LR413]

ALAN DOSTER: No. [LR413]

SENATOR CHAMBERS: I don't think so either. I didn't come here alarmed today. (Laughter) But...and I don't mean to the point where I'm going to go jump off a building or anything like that, but I cannot conceive of any way that, if this rule is adopted, there can be even a reasonable assurance that there will not be the spread of this infection in this country, since it actually exists in the country of origin. [LR413]

ALAN DOSTER: Um-hum. Well, you'd have to take it that our people, our inspectors of that are making a very concerted effort to make sure that it doesn't happen. But you're absolutely correct. And I will tell you that foot-and-mouth disease has been spread to elephants in zoos, so imagine what would happen if we'd have to destroy all the elephants in the state of Nebraska. [LR413]

SENATOR CHAMBERS: Elk, you said? [LR413]

ALAN DOSTER: Elephants. [LR413]

SENATOR CHAMBERS: Oh, elephants. (Laughter) Oh, well. (Laughter) [LR413]

SENATOR BLOOMFIELD: How about mountain lions? (Laughter) [LR413]

SENATOR CHAMBERS: Watch it. You read my mind. Okay. [LR413]

SENATOR SCHILZ: All right, guys. Oh, that's another day. (Laugh) Okay. Any other questions for the good doctor? Seeing none, thank you very much for your testimony. [LR413]

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ALAN DOSTER: Thank you, sir. [LR413]

SENATOR SCHILZ: Yeah. [LR413]

ALAN DOSTER: Thank you. [LR413]

SENATOR SCHILZ: Any further neutral testimony? Seeing none, Senator Davis, you're welcome to close. [LR413]

SENATOR DAVIS: Thank you, Mr. Chairman. I think we just had a great discussion here today about hoof-and-mouth disease, which I think we all need to relearn the facts and figures of that illness every once in a while, and this was a really good exercise in that. Senator Chambers made a reference to something and I had taken notes when I first sat down here. But if you've got a nation of 50 states, like we have, and if we had 5 states that could export beef to the European Union but the other 45 could not do that, there would be a price differential that would develop between those states, and that price differential would result in exactly what Senator Chambers has said--people moving animals across that line illegally to take advantage of a better price. And that's what we're looking at in Brazil and, really, South America. The same thing: You could move the cattle from Paraguay into Brazil and then on out. So until they can accomplish their goal of hoof-and-mouth disease without vaccination, for our U.S. Department of Agriculture to consider permitting this would be just an absolute travesty, in my opinion, very scary. Now a couple of other things can be said. And we learned about the impact to the ag economy. And I had done my own little back-of-the envelope study on that. But it said, you know, about \$10 million is generated in checkoff dollars every year in this state, and that's at \$1 a head. So you figure if an animal is worth \$1,500, you can do the math and you'll turn up to \$15 million impact on the state of Nebraska, not just one year. This would essentially eliminate a lot of the animals in our state. And, Senator Schilz, you made a reference to sale barns. But if you think about the concentration of animals today and the mobility of this virus and the way it can move through the air, it would be very possible that we would lose the entire beef herd in the state of Nebraska if this were to happen. You know, we are the number-one state now in beef, in the feeder industry, so it's a very serious thing. And I guess I'll make a couple of other points. I find it sort of interesting now that JBS, which is a Brazilian-owned company, is the largest meat packer in the country, that now are looking at a regionalizing of a Brazilian market. Maybe it's a coincidence but perhaps not. And, Senator Chambers, can I cosign your resolution? [LR413]

SENATOR CHAMBERS: We'll talk about it. (Laugh) [LR413]

SENATOR DAVIS: Thank you, Senator Schilz. [LR413]

SENATOR SCHILZ: Thank you, Senator. Any final questions? Senator Hansen.

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[LR413]

SENATOR HANSEN: One comment, I guess. After the beef herd is decimated with foot-and-mouth disease, our property taxes are still going to be pretty high. (Laughter)
[LR413]

SENATOR DAVIS: Well, that will be up to the Revenue Committee, won't it, Senator Hansen? [LR413]

SENATOR HANSEN: They'll be high. [LR413]

SENATOR DAVIS: They'll be high. [LR413]

SENATOR SCHILZ: Thank you. Any other questions? Seeing none, thank you, and you can stay right there if you like. [LR413]

SENATOR DAVIS: Got to get my notes. [LR413]

SENATOR SCHILZ: Oh, not quite ready. Okay, that will close the hearing on LR413 and we will move along and open up the hearing on LR414. Senator Davis, welcome back, and you're welcome to start whenever. [LR413]

SENATOR DAVIS: Chairman Schilz and the Ag Committee, I am Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I'm here to introduce LR414. LR414 would express legislative resolve to request that President Barack Obama and United States Congress, Secretary of Agriculture, and trade representatives defend and protect the right of United States citizens to be informed about the origins of their meat purchases by rejecting any effort to change the law governing country-of-origin labeling. In addition, LR414 would express legislative resolve to request that these same officials notify the World Trade Organization that it must not intrude on the sovereignty of the United States by attempting to undermine U.S. law governing country-of-origin labeling. Until Congress passed the country-of-origin labeling law in 2002, the United States was among only a few developed countries that did not require labels to inform consumers of the origins of their food, even though the United States has long required labels on virtually all imported consumer goods, including, for example, pet treats, clothing, tools, and electronic equipment. After its 2002 passage, it was not until 2008 that the country-of-origin labeling law was implemented for fruits, vegetables, certain nuts, and meats. This was because meat importers convinced Congress to delay the implementation of country-of-origin labeling. Meat importers also convinced the United States Department of Agriculture to include a loophole in the 2008 implementing regulations that allowed meat products derived from animals exclusively born, raised, and slaughtered in the United States to, nevertheless, be misidentified with a label stating that the products were from multiple countries, such as Canada, the United

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States, and Mexico. Ironically, when Canada and Mexico filed complaints with the World Trade Organization in an effort to strike down United States country-of-origin labeling, the international tribunal cited the misleading nature of the mixed-country labels on meat derived exclusively from United States livestock as a reason for directing the U.S. to modify its labeling regime to bring it into compliance with international trade rules. On November 23, 2013, the U.S. Department of Agriculture's new rule to bring our country-of-origin labels into compliance with international trade rules became effective and enforceable. This new rule corrects the previous country-of-origin labeling regulations by disallowing mixed-origin labels on meat exclusively born, raised, and slaughtered in the United States. It does this by requiring labels on muscle cuts of meats to name the country where the animal from which the meat was derived was born, where it was raised, and where it was slaughtered. Unfortunately, Canada and Mexico and domestic meat importers are now trying to convince Congress to eliminate or weaken country-of-origin labeling, which would deprive the citizens of the state of Nebraska and the United States of information regarding where the meat they've purchased for themselves and their families was born, raised, and slaughtered. LR414 would demonstrate that the Legislature supports the rights of consumers to be informed as to the origins of their meat purchases, so they may be empowered to use that information to exercise choices in the marketplace, including the choice regarding which country's producers and manufacturers to support with their purchasing dollars. Thank you. [LR414]

SENATOR SCHILZ: Thank you, Senator Davis. Any questions? Senator Wallman. [LR414]

SENATOR WALLMAN: Thank you, Chairman Schilz. Thank you again, Al. [LR414]

SENATOR DAVIS: Thank you. [LR414]

SENATOR WALLMAN: Now does Canada have point...do they have country-of-origin labeling? [LR414]

SENATOR DAVIS: I believe they're looking at introducing that. I don't know...I can't honestly answer that question, Senator Wallman. [LR414]

SENATOR WALLMAN: I think that's how they found the mad cow disease in Washington, didn't they, from a dairy herd? [LR414]

SENATOR DAVIS: That was through a tagging process. [LR414]

SENATOR WALLMAN: Oh. [LR414]

SENATOR DAVIS: Those animals were marked. [LR414]

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SENATOR WALLMAN: Thank you. [LR414]

SENATOR SCHILZ: Thank you, Senator. Senator Harr. [LR414]

SENATOR HARR: Similar to the last resolution, are we in the comment period for rules and regulations? [LR414]

SENATOR DAVIS: When they...when the resolution was introduced, the ag...the farm bill had not been completed. There was some talk of taking that out, so this was designed to sort of send a message to Congress that at least we were looking at this. Now that the farm bill is completed, country-of-origin labeling is still a part of that. So if we move this to the floor and pass it, we will send a message to the World Trade Organization and USDA that we need to stand up for country-of-origin labeling in the courts. [LR414]

SENATOR HARR: Okay. Thank you. [LR414]

SENATOR SCHILZ: Senator Bloomfield. [LR414]

SENATOR BLOOMFIELD: I don't now how prevalent it is now, but there used to be a lot of feeder pigs come in from Canada. I think they still are. If Canada doesn't have this, how do we regulate that or how do...any suggestions on what we'd do there to identify them? [LR414]

SENATOR DAVIS: I think Canada can make its own rules and regulations on what it wants to do within its sovereign boundaries. But I think in our nation, we need to be...our citizens really have requested, and if you look at the data, you'll find that the citizens want to have country-of-origin labeling. [LR414]

SENATOR BLOOMFIELD: I agree. I want to have country-of-origin labeling. But if you are bringing in feeder pigs from a country that doesn't require it, how are we going to identify it ourselves? [LR414]

SENATOR DAVIS: Well, if they come into the United States from Canada, then the product will have to be labeled "Product of Canada" if... [LR414]

SENATOR BLOOMFIELD: If they come in even as a feeder pig? [LR414]

SENATOR DAVIS: It won't...it will not say, "born, raised, and slaughtered in the United States." [LR414]

SENATOR SCHILZ: Anyone else? Senator Davis, I guess, to go off of what Senator

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Bloomfield said, and you had mentioned something about this before and I apologize for not picking up on it completely. But will it have to...in your...in what you're talking about, would you have to name...this product was born in Canada, fed in the United States, and slaughtered someplace else. Would all that have to come into play on every single package? [LR414]

SENATOR DAVIS: As I understand it, that was the ruling that was ordered. When the World Trade Organization made the new order, they said that what we were doing, which was labeling a product as a multicountry product without specifying where it came from, that that was wrong and we needed to narrow that down and specify it. [LR414]

SENATOR SCHILZ: Right. [LR414]

SENATOR DAVIS: And so the Canadians and the Mexicans have argued that their product is being discriminated against because consumers in this country are...will buy...will prefer to buy American products. [LR414]

SENATOR SCHILZ: You'd think we could throw...never mind. I was going to ask if we could throw Texas in there, too, but never mind. I won't go there. Anyway, any other questions? Senator Hansen. [LR414]

SENATOR HANSEN: Thank you. Senator Davis, this...is the COOL, as written now or written before, and the WTO has ruled on it, does it include food safety at all? [LR414]

SENATOR DAVIS: I don't... [LR414]

SENATOR HANSEN: Is there anything in food safety that COOL helps with? [LR414]

SENATOR DAVIS: I don't believe that there is, Senator Hansen, except if we have a nation that is known to have some disease problems and the product is labeled "Product of Brazil," we'll say. It does send a message to the consumer that what you're buying here may not be the same quality as what you're going to buy if you get it from an American producer. [LR414]

SENATOR HANSEN: Qualitywise, anyway. [LR414]

SENATOR DAVIS: Qualitywise. [LR414]

SENATOR HANSEN: Okay. Thank you. [LR414]

SENATOR SCHILZ: Just one more. Do we...and you could go both ways with this, I think. And the industry has gotten much better over the last 15-20 years, but there were times when some of that labeling wouldn't have necessarily helped a product of the

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United States, if you know mean. [LR414]

SENATOR DAVIS: Right. [LR414]

SENATOR SCHILZ: I mean, we've had some issues with quality in the United States ourselves, and I think that there's...could be two sides of that. [LR414]

SENATOR DAVIS: I think that's a good point. However, the consumer always...we...every...there will be packages of meat that are labeled "USDA." To the average consumer, that is a message that this is an American product when, in fact, it isn't and doesn't even have to have been inspected by anybody from USDA but has to meet the criteria. So if you've got a substandard product and it's labeled "USDA," you're going to give the impression that this is an American product when, in actual reality, it might not be. [LR414]

SENATOR SCHILZ: Okay. Senator Bloomfield. [LR414]

SENATOR BLOOMFIELD: When we're dealing with processed, the canned meat, is that covered under this, too, or is it supposed to be on the can, say, a can of SPAM, that this came from...? [LR414]

SENATOR DAVIS: Obviously, I needed to do more homework on this, but I... [LR414]

SENATOR BLOOMFIELD: Well, and I just... [LR414]

SENATOR DAVIS: I do think every product is supposed to now be labeled, any food product. [LR414]

SENATOR BLOOMFIELD: Okay. I know when we get...if you buy a jar of mixed nuts it says they may be from Brazil or they may be from wherever, along with the U.S., and processed here, and I just... [LR414]

SENATOR DAVIS: And I might be wrong on that, Senator Bloomfield, because it seems to me I just read about some chicken products that were imported from China that had some issues and they were not marked. [LR414]

SENATOR BLOOMFIELD: That would be very concerning. [LR414]

SENATOR SCHILZ: Okay. Seeing no other questions, thank you, sir. [LR414]

SENATOR DAVIS: Thank you. [LR414]

SENATOR SCHILZ: At this time we will take proponents for LR...come on up, LR414.

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Good afternoon. [LR414]

ERIC SWAFFORD: Good afternoon, Mr. Chairman. Members of the committee, I'm Eric Swafford, E-r-i-c S-w-a-f-f-o-r-d. I'm the director of rural development and outreach for the Humane Society of the United States. And, first of all, I want to thank you all for allowing me to be here today. I'm here today to urge passage of this resolution, LR414, and to applaud the sponsor for bringing it and the members of this body for considering it and also to thank you in advance for not only what you're going to do for Nebraskans, but for all of the United States farmers and ranchers, as well as consumers. COOL, or country-of-origin labeling, provides U.S. products with a competitive advantage over foreign products because U.S. consumers, when offered a clear choice, prefer fresh foods of domestic origin, thereby strengthening the demand and the prices for them. We feel consumers have a right to know the origin of their food, particularly at a time when U.S. food imports are increasing and when particular health and safety issues come up. You know, it's not been that long ago, just over ten years, when we had the huge scare of mad cow and BSE from foreign countries. Consumers have spoken loud and clear. They want to know where their food comes from. We live in an information age. We can...with a quick Google search or whatever your search engine of choice is, you can find out just about anything you want to know, and today's consumer is more informed than ever before. And I think that's a good thing. As a farmer and rancher myself, I want my customers to know that their product is safe and I want them to know where it comes from. This country, we should require labeling and we do for almost everything from our shirts to our shoes and our food should be no different. Also, people have made it perfectly clear that they want more transparency. They want more transparency from our elected officials, from our government, from our teachers in the classrooms that teach our children, and their...it's the same when it comes to the food supply and the food that's being fed to our families. The COOL legislation, or country-of-origin labeling, it does several things, it has several impacts, and we see all of these as positive. It has a positive impact on U.S. farmers and ranchers because when given the choice, consumers will choose to buy those products that are produced here in the United States, which naturally strengthens the market and the value for our products. It has a positive impact on the consumer because we're allowing them to have more information and make more informed decisions and to spend their money with more confidence. And it has a positive impact on animal welfare. We believe that the United States farmers and ranchers care a great deal about their animals. We know that they want to be good stewards of the things that they're entrusted with and the animals that they use to make a living, and we want to support them and help them to do so. Because of this, we believe that stronger markets for U.S. products, products from U.S. farmers and ranchers, that have...give them more value when we allow this information to the consumer. When they have more transparency, when we build trust, when we build confidence, we give these farmers and ranchers the ability to take care of the animals in a way that we all want. Again, I will be brief. I want to thank you all again for allowing me to be here as a sixth-generation cattleman, born and raised on a farm in

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east Tennessee that...where cows are still running today that I was feeding yesterday, I greatly appreciate you all considering this resolution. I greatly appreciate what you do. And I'm going to thank you in advance for what you're going to do by sending this message to the United States Congress and the U.S. Senate. At this time, I'd be happy to entertain any questions you might have. [LR414]

SENATOR SCHILZ: Any questions? Senator Hansen. [LR414]

SENATOR HANSEN: I have one. Thank you for coming. [LR414]

ERIC SWAFFORD: Yes, sir. [LR414]

SENATOR HANSEN: And did you come from Tennessee, come in yesterday? [LR414]

ERIC SWAFFORD: Yes, sir. [LR414]

SENATOR HANSEN: Well, good. [LR414]

ERIC SWAFFORD: Yes, I came in last night. [LR414]

SENATOR HANSEN: I noticed a little bit of difference in your voice (laughter)... [LR414]

ERIC SWAFFORD: Well, I started to say North Dakota, but I just didn't think you'd buy it. (Laugh) [LR414]

SENATOR HANSEN: ...and the speed. There's quite a list here of things that COOL covers--muscle cuts, ground beef, wild and farm-raised fish, shellfish--fresh/frozen--nuts and vegetables, peanuts, pecans. Do consumers, do you think consumers are going...I mean, get down the list, not talking about beef, but talking about all these other things, do you think they buy on price or do they buy on freshness or what do you...do you think they buy frozen fruit on...that it's made in the United States, packaged in the United States? [LR414]

ERIC SWAFFORD: What I do believe...on everything, when...what we've seen when those...when those labels are put out there, when the consumer is given the choice, they will pay more for the U.S. product. [LR414]

SENATOR HANSEN: I turned this tie over and looked. I don't wear a tie very often, but I looked and it's...and I bought it because of the color, bought it because... [LR414]

ERIC SWAFFORD: That's a nice tie. I like it. [LR414]

SENATOR HANSEN: And, well, it's made in China, and I didn't know that until just a few

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minute ago. And I bought it on...probably bought it on sale. (Laugh) [LR414]

ERIC SWAFFORD: I understand. [LR414]

SENATOR HANSEN: I buy...I don't buy very much fish but when I do I usually buy tilapia and it's a product of Indonesia, I think, somewhere. I don't remember where. It doesn't matter to me. They have...the freshest fish is that fresh-frozen fish. So, you know, I don't really care where it was caught or processed or anything else. It's a reasonable price and I like it. [LR414]

ERIC SWAFFORD: Okay. We at least... [LR414]

SENATOR HANSEN: And I raise beef too. [LR414]

ERIC SWAFFORD: Sure, sure. [LR414]

SENATOR HANSEN: And, you know, I think that the United States raises the best beef in the country. [LR414]

ERIC SWAFFORD: So do I. [LR414]

SENATOR HANSEN: But I also see Canadian cattle coming across the border as feeder cattle, fed in Nebraska feedlots, processed in Nebraska packinghouses, and some of it goes back to Canada. So that would be a confusing label. [LR414]

ERIC SWAFFORD: But the consumer should have the right to know and that's what... [LR414]

SENATOR HANSEN: (Inaudible.) [LR414]

ERIC SWAFFORD: I mean, I applaud this resolution because I believe that the consumer has a right to know and I believe that when we allow that consumer to know, it strengthens the demand for our product. And I'm certain that it increases the confidence from the consumer side. [LR414]

SENATOR HANSEN: I want to know if I'm eating beef from Tennessee. [LR414]

ERIC SWAFFORD: I'm sorry? [LR414]

SENATOR HANSEN: I want to know if I'm eating beef from Tennessee. [LR414]

SENATOR BLOOMFIELD: It'll be stringier. (Laughter) [LR414]

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SENATOR HANSEN: But I'm not going to know. Thank you. [LR414]

ERIC SWAFFORD: I understand. [LR414]

SENATOR SCHILZ: Okay. Senator Chambers. [LR414]

SENATOR CHAMBERS: This type of subject came up in a routine done by--he's dead now--a comedian named Richard Pryor and I'm sure there have been a thousand versions of it. He was a street seller of various items and so he went to his friend's house and got some statues and all kind of things and he got labels that he stuck on them, "Made in Jamaica," and put a Jamaica label on every one and put them out in the street. And this one guy came and said, Richard, you're not an honest man. Richard said, well, yes, I am, how long have you known me? He said, all your life. He said, have you ever known me to be dishonest? He said, not until now. Richard said, well, why do you say I'm dishonest now? He said, I'm looking at this label on this statue and it says, "Made in Jamaica," and I saw that very thing down the street at Walmart and it was made in some town in Tennessee. (Laughter) So he said, Richard, you're telling a lie. And Richard said, no, I'm not, why do you say I'm lying? He said, that label says, "Made in Jamaica." He said, that's right, that label was made in Jamaica. (Laughter) And here's kind of what I'm getting at, something like what Senator Hansen said, although I'm not saying it would happen. There is a lot of skepticism on the part of the American consumer now. [LR414]

ERIC SWAFFORD: I agree. Yes, sir. [LR414]

SENATOR CHAMBERS: And a lot of times, consumers don't even believe labels that they read. So they try to use some other way of determining if they want this product in the first place, and then which version of it do I want. And it turns out something like what Senator Hansen said about his tie. Do I like the color of it? Do I like the material? And do I like the price? And that's what really counts. So you had mentioned that labeling these things, these products, would give Americans, if I understood you correct, a competitive advantage because Americans would be patriotic and spend their money...you didn't use the word "patriotic," but they'd be willing to spend more for American-produced products. Is that basically what you had argued? [LR414]

ERIC SWAFFORD: We believe so, yes. [LR414]

SENATOR CHAMBERS: I have never bought an American-made car in my life. I bought a...I started by buying a Volkswagen because it didn't have a heater. It really...it didn't. When the engine got warm, that's...then I went to Honda. You know how many miles I got on my last Honda? Five-hundred-ten thousand miles, the original engine. I have not seen, even in these lying spiels by a used car salesman, the claim that they will sell a car that will get 510,000 miles. Would you recommend, if I would accept the

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recommendation, that I buy an American car, which is not going to give me that kind of mileage, because it's made in America? Or would you say that Americans should make a car that gives comparable mileage? Or do you know an American car that gives comparable mileage? (Laughter) [LR414]

ERIC SWAFFORD: You know, I know very little about cars, to be honest. And I'm not even a good shade-tree mechanic. But I would recommend that we build a car in America that would be comparable to getting 510,000 miles. [LR414]

SENATOR CHAMBERS: All right. Okay. I have a hard... [LR414]

ERIC SWAFFORD: If I could pick one of those things, if I could say, all right, I get to be a magician for a day and I could either tell Senator Chambers to buy an American car or tell Senator Chambers to buy a foreign car that got 510,000 miles or I could tell the...or I could build a car in America that would get 510,000 miles, well, I'd pick "C." [LR414]

SENATOR CHAMBERS: I think you're right. So until that happens, I'm going to have to do like my seatmate here, Senator Hansen, look it over and get the best that I can get for the dollars that I have to spend. But I understand your position. [LR414]

ERIC SWAFFORD: Okay. Thank you, sir. [LR414]

SENATOR SCHILZ: Senator Bloomfield. [LR414]

SENATOR BLOOMFIELD: Thank you. I'm going to go back a little bit to what I was trying to get to when Senator Davis was up here. If I bring in a bunch of feeder pigs from Canada and I end up running them with some feeder pigs that I had here and they go to market, how do I...when they get to the packer, how does he know where they came from so he can label part of them "Canada," part of them here? Or are we going to put a trace on every animal that they're going to have to go back and check or...do you know how that's...? [LR414]

ERIC SWAFFORD: I don't...I cannot speak to the exact implementation of that situation. I...Senator, I'm sorry, I can't speak to that exact implementation because I don't know exactly. [LR414]

SENATOR BLOOMFIELD: Neither can I. I was hoping you could. Thank you. [LR414]

ERIC SWAFFORD: Yeah. [LR414]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you for your testimony, sir. [LR414]

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ERIC SWAFFORD: Mr. Chairman, members of the committee, thank you so much.
[LR414]

SENATOR SCHILZ: All right. Next proponent. Welcome back. [LR414]

JOHN HANSEN: Again, good afternoon, Chairman Schilz, members of the committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I am the president of Nebraska Farmers Union and also our lobbyist. We first brought this issue forward from our District 7 meeting in I believe it was Neligh in 1984, and it was to set up a system of labeling so that consumers could know what it is they're eating and where it is it came from. It came from John Goeller, who is the District 7 director and a cattle feeder from Pilger, Nebraska. That went on to the Farmer's Union, Nebraska Farmer's Union convention. It was approved. We have helped advocate the benefits of this issue to other farmers' unions, to other organizations urban and rural, for, well, 30 years. So we have had a lot to do with getting this included in the 2002 farm bill, getting, hopefully, the issue resolved in the 2008 farm bill. That agreement that was reached in the 2008 farm bill to clarify the labeling was not honored, and so, as a result of that, there has been lawsuits brought. There's lawsuits right now in place, and so we are in the middle of the business of defending USDA's ability to be able to develop and promulgate rules and regulations relative to country-of-origin labeling. It's a mighty expensive lawsuit, I would point out, and so Nebraska Farmers Union is helping pull our end of the financing of that lawsuit. We're also...National Farmers Union is one of the intervenors in that lawsuit, and so we are siding with USDA in that matter. We, if you've been following the farm bill, know that there was a nasty dustup in the ag corral over country-of-origin labeling. In the Senate version, there was no reference to country-of-origin labeling whatsoever. In the House version, there was a study, language, and that the effort on the part of the meat packers and their allies was to repeal country-of-origin labeling or to set it aside. That did not happen in the farm bill. The lawsuit continues to roll forward. I suspect that we'll win. There's also an action in the WTO that was aided and helped by our U.S. meat packers for the folks in Canada and Mexico to bring an action against our country-of-origin labeling standard. And it was the result of that WTO action that caused USDA to have to promulgate new rules and regulations relative to the enforcement of country-of-origin labeling. So rather than withdraw from the issue, they did that which we had said needed to be done earlier, which is to identify the country that the animal was born, raised, and processed, and that that would satisfy the basis for the WTO complaint. I believe that as we go forward in that, I think that that will be the case. I think the WTO will recognize that standard. And there are...the reason that we have spent 30 years working on this issue is because of several things. One is that from a market standpoint and a market performance standpoint, there is really four characteristics that need to be in a marketplace in order for a market to do the two things that you want it to do. And that is that the market has to be accessible, has to be transparent, has to be competitive, and it has to be fair. And by fair, that means that you can't be passing out preferential pricing

to your buddies. And when those things are present and things are functioning as they should, then the two things that a market should do should be in place, and that is that that market function should be able to do price discovery based on supply and demand in the marketplace; and it ought to fairly allocate value. And so if your marketing system is broken, you have to fix it. So what country-of-origin labeling represents in market terms is simple transparency. We're able to know where it is all other kinds of consumer goods that we use on a regular basis comes from. What is more important, the shirt that you wear or the food that you put in your body? And we're seeing a, I think, a heightened awareness on the part of an awful lot of consumers to know how their food was grown, where it came from, and a lot more particulars about it than what they used to know, which is useful to those of us who produce higher-quality products. So maintaining the integrity of the market is certainly one of the reasons that we've been involved in this for as long as we have. The country-of-origin labeling offers consumers the ability to be able to have the facts and information they need in order to make informed decisions. That's essential to being able to make an informed decision. And in terms of a producer's view of this, if you cannot identify and differentiate your own product in your own market, then that's not really marketing, is it? You're not really able to reap the advantages or the disadvantages of the quality of the products that you grow. It is our assumption and our belief that we produce the best meat products in the world. We go to considerable effort to do it. We're not only proud of that but we're entitled to the marketplace rewards of producing the best meat products in the world. And we spend a lot of time on commodity checkoffs; we spend a lot of time on doing all those kinds of things. And I don't know what the value of a checkoff would be if it wasn't to convince consumers that we do a better job of producing a product that they could buy from some country that you haven't ever heard of. I mean, part of the...it's not a generic "we want you to eat just beef." We want you to really eat U.S. beef. And so if we're proud of our products, if we believe in them, we should be entitled to the premium that we deserve, based on the way that we grow our meat products. So we feel very strongly about this. There has been a lot of public discussion about it. We have consistently had, in our efforts to move this issue forward, the support of some of the largest consumer groups in the country, including the National Consumers Federation who stands with us as an intervenor in this lawsuit. USDA has acted, in this case, appropriately, and they have, I think, responded in an appropriate way to the WTO ruling. I think that we need to stand back, we need to let the process work, and it would be completely and totally inappropriate to make any kind of a major in...a major change in country-of-origin labeling implementation until the outcome of the WTO process had run its course. I think that the likelihood is that we're going to be successful, although predicting the performance of either the grain market, the meat market, or the WTO are problematic that I would say that I like the position that we're in and I think that we should do, in this matter, the same as we do in all other matters before the WTO, and that is it would be an extremely bad idea to fold and not play out your hand until all avenues of recourse had been provided. And that is the same process that all of our trading partners use, by the way. I looked at the quick USDA site to see how many

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countries that we produce our products and sell into that have country-of-origin labeling, and my quick count was 58 this morning. So with that, I would be glad to answer any questions if I could and encourage the committee to look favorably upon LR414. [LR414]

SENATOR SCHILZ: Thank you, Mr. Hansen. Any questions? Senator Chambers. [LR414]

SENATOR CHAMBERS: As I look at the resolution, President Hansen, it says...well, I'll read this: Whereas, the United States Department of Agriculture issued a rule effective November 23, 2013, that corrected the COOL regulations by disallowing mixed-origin labels on meat exclusively born, raised, and slaughtered in the United States. What is that saying, that if it's exclusively born, raised, and slaughtered in the United States it cannot carry a mixed label, or it can, a mixed-origin label? It seems to me that if it is exclusively born, raised, and slaughtered, that means every step was done in America. There wouldn't be a mixed-origin label. [LR414]

JOHN HANSEN: The mixed-origin label was a catchall label that reflected the fact that animals could be born in one country, fed in another, and processed in another. And so it was a catchall. It was a label that was applied to a whole host of situations relative to North America livestock, including Mexico, Canada, and the United States. [LR414]

SENATOR CHAMBERS: So what...how... [LR414]

JOHN HANSEN: And so part of the critique of that particular label was that it was not specific enough and that it didn't really tell you where it was born and didn't tell you where it was... [LR414]

SENATOR CHAMBERS: So then the label now would say: Born in Canada, fed and slaughtered in America. [LR414]

JOHN HANSEN: Yes. [LR414]

SENATOR CHAMBERS: It would put each item... [LR414]

JOHN HANSEN: Yes. [LR414]

SENATOR CHAMBERS: If each one of those three things, in other words, occurred in a different country, you would put each item and then the country in which this particular... [LR414]

JOHN HANSEN: Yes. [LR414]

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SENATOR CHAMBERS: ...part took place. [LR414]

JOHN HANSEN: Yes. [LR414]

SENATOR CHAMBERS: And the American consumer would look at that and have to figure which step was the most significant. Was it born of good stock? Or was it fed properly, maybe no antibiotics? Or was it slaughtered in a way that was humane? What is the consumer supposed to get from the label that would persuade that consumer...what good is the label, really? How would that give American beef an advantage over any other country if three countries participated in the production of this piece of meat? [LR414]

JOHN HANSEN: If you were familiar with the production and you cared about these issues, you could certainly make judgements, as a consumer, about what the healthcare standards are for animals in Mexico, Canada, or the United States, or other countries, not just those three. But just to look at the North American corridor, you could make some generalizations about the quality of the processing system in that particular country and you could look at, you know, the kind of care that was...likely kind of goes with each of those three different processes and make it... [LR414]

SENATOR CHAMBERS: Okay, now so... [LR414]

JOHN HANSEN: ...hopefully make a decision. [LR414]

SENATOR CHAMBERS: So it won't give cost... [LR414]

JOHN HANSEN: And if it didn't matter to you,... [LR414]

SENATOR CHAMBERS: Would that USDA label be...continue to be on meat if it had a mixed origin? [LR414]

JOHN HANSEN: There needs to be a label that says that it was inspected by USDA. The problem in the past is that that label, when you see it...when you saw the label without the country-of-origin labeling designation, is that the implication was that since it was inspected by USDA, it was a product of the USA and, in fact, it was not. [LR414]

SENATOR CHAMBERS: But as a consumer, which I am, if I saw "USDA," that would mean to me it doesn't matter where any of this occurred because it wouldn't be here for me to purchase if the USDA didn't say it was all right. So to me, beef is beef is beef, and USDA says that exact same thing by putting its label. Now after having said all that, what would be the advantage that American producers would expect to derive from this type of labeling? [LR414]

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JOHN HANSEN: We feel that as we interface with organizations that represent consumers and we talk to folks and we look at the polling data, there are a substantial number of Americans who want to know where their food comes from. It's not an unreasonable request. It's a cost of doing business, we think. And if it's important enough to put a label on a pair of jeans or a T-shirt, it ought to be important enough to put on a package of meat so that we might ought to know where it is it came from. [LR414]

SENATOR CHAMBERS: But... [LR414]

JOHN HANSEN: And for folks who will just eat about anything, well, there's a market for those folks. [LR414]

SENATOR CHAMBERS: They would not say... [LR414]

SENATOR HANSEN: But for the kinds of folks that care about their food, you've got to give them the information they need to make an informed decision. [LR414]

SENATOR CHAMBERS: On this sweatshirt, it might say "Made in China." Maybe the thread came from Thailand. Maybe the dye came from America. Maybe the cotton came from Venezuela. So they don't mention all of the products that are combined to produce the end item. They just put the country where it's all assembled and put together. [LR414]

JOHN HANSEN: That's because I think that none of those items have ever really had to withstand the scrutiny and the legal challenge of a bunch of U.S. meat packers who have a vested interest in being able to bring in lower-quality products and be able to mix it in with our higher-quality domestic U.S. pool. [LR414]

SENATOR CHAMBERS: How about ground... [LR414]

JOHN HANSEN: And so I think that those labels have gotten by without that same level of scrutiny, frankly. [LR414]

SENATOR CHAMBERS: How about ground beef that comprises animals from different countries? [LR414]

JOHN HANSEN: It would have to...ground beef is, I believe, on that list of items that are covered. I could be wrong, but I think it is. [LR414]

SENATOR CHAMBERS: Okay. That's all that I would have. I was just curious. [LR414]

SENATOR SCHILZ: Thank you, Senator Chambers. Senator Hansen. [LR414]

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SENATOR HANSEN: One very quick question. Canada is a country with 10 million people. United States has many, many times that. There are ranchers that...in Canada that raise just as good of quality of animals as we do here, even here in Nebraska. I've sold them some of those...some of that seed stock years ago, so I know it's good. This meat that, for a Canadian consumer, would be possibly born in Canada, fed in the United States, processed in the United States, turned around and sold back to Canada because they're one of our best trading partners. Does that do the Canadian consumer any good, or are you worried about them? [LR414]

JOHN HANSEN: Our labeling system applies to stuff that's bought in our market. [LR414]

SENATOR HANSEN: Yeah, but it's going to be bought in Canada, too, because it's...it has that...I mean, that requirement. [LR414]

JOHN HANSEN: Sure. And if it's bought in...and calves that are bought, isowears that are bought from Canada, they're labeled. They're primarily sold in the U.S. market. Some of them are also exported. And so, you know, when they're exported, they're sold with whatever requirements that that market requires when they're sold into. [LR414]

SENATOR HANSEN: The fact that they...that country of 10 million people we call Canada doesn't have any...has very little feeding capacity because of their short growing season, so they grow a lot of wheat. [LR414]

JOHN HANSEN: Yep. [LR414]

SENATOR HANSEN: But they raise good cattle. They come down here where we do have the feed and the packing industry and sold back...Canada is our number-one consumer of beef, anyway, and I don't know about all the other commodities that are here. But Canada is our number-one; Mexico is our number-two beef buyer. [LR414]

JOHN HANSEN: Well, all I... [LR414]

SENATOR HANSEN: And it goes across the border. That's...I told the senator...I told Senator it'd be a short question, so. [LR414]

JOHN HANSEN: When it's bought in that market, it has to comply with that standard, just like all of the other markets that we sell our products into. And so what we're saying in our market is that it ought to have the same kind of reciprocity and the...and, you know, this is a comparable issue for us. Our products are having to comply with country-of-origin labeling standards in other countries. And so we're saying that the products that we grow and the products that are shipped into our market and, you know,

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we struggle to export more beef than we import. [LR414]

SENATOR HANSEN: I think we've got to go. [LR414]

JOHN HANSEN: It ought to meet the same standard is what we would say. And I've sold cattle to Canada, as well, and breeding stock, and it was the only time in the...while I was in the breeding business I didn't get paid. [LR414]

SENATOR SCHILZ: Appreciate that. Any other questions? Seeing none, thank you, sir, for your testimony. [LR414]

JOHN HANSEN: Thank you very much. [LR414]

SENATOR SCHILZ: Other supporters, proponents? Welcome back. [LR414]

JIM PAPPAS: I'm Jim Pappas. Committee Chairman, members of the committee, I'll be very brief--P-a-p-p-a-s--to add a couple of things to what was said. One of the things is advantage for the people buying American beef, especially if it's fed in America, because in America we feed a higher standard and a higher amount of corn or grains to the beef, which adds a lot to the taste and the texture of the beef. And so if it is fed in America, it means a lot more to people, even outside of the country, as in Canada, if it's fed down here and sent back up there, than something raised someplace else that's maybe grass fed a lot longer or fed a different roughage for a lot longer. America has been known to feed more of a grain product to our beef cattle. I do most of the shopping in my family because I've been the cook for the last 15 years. And when I do shop, I do look at where the country label is from everything I find. And even when I look at fish, I always look at fish, where it's from, and also if it's farm raised or not, because if it's farm raised, it's usually got a milder taste, although, if I was a cattle rancher, the last thing I'd ever do was admit to somebody that I ate fish. But I, you know, I don't want to say anything about that. But it does make a difference. Like I said, time is getting late, I'd be real brief. I'll concur with all...everything the senator said, and the other person, senator, testifier said too. [LR414]

SENATOR SCHILZ: Thank you. Any questions? Senator Chambers. [LR414]

SENATOR CHAMBERS: Is this by-product which comes from producing ethanol, which is converted into animal feed, more nutritious than the corn? [LR414]

JIM PAPPAS: Yes. Yes, it's iron... [LR414]

SENATOR CHAMBERS: What makes it more nutritious? [LR414]

JIM PAPPAS: When the process of fermentation goes through, it actually increases the

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protein amount in it. And then as an additive, it's more efficient overall than the corn itself. And so... [LR414]

SENATOR CHAMBERS: You mean protein that doesn't exist is created by the process of fermentation? [LR414]

JIM PAPPAS: Is created, yes. [LR414]

SENATOR CHAMBERS: Where did you get that from? I'm not saying it's false. Where did you get that from? [LR414]

JIM PAPPAS: I read that in a book, Senator. (Laughter) [LR414]

SENATOR CHAMBERS: Put out by the ethanol industry, I'm sure. [LR414]

JIM PAPPAS: No. (Laugh) Actually, I Googled it I think. [LR414]

SENATOR CHAMBERS: Actually, the cattle seem happier, and that is because of the fermentation process. (Laughter) [LR414]

JIM PAPPAS: Fermentation, there's a lot to be said for that, too, I might add. [LR414]

SENATOR CHAMBERS: That's all that I have. [LR414]

SENATOR SCHILZ: Mr. Pappas, I do have one question for you. And coming from a cattle-feeding background and understanding how that works, as we sit here and we hear about a product of Mexico, raised in the United States, slaughtered in wherever, as we start to go through the logistics of that and how that fits, do you agree that there will be an extra cost to the packers in order to maintain these separations and maintain where these have come from and where they're slaughtered and how they're packaged, as well as how they're labeled? [LR414]

JIM PAPPAS: That would be extremely...I'm a former pork producer myself. It'd be extremely difficult in the pork industry to be able to differentiate, particularly feeder pigs, from across the border. Cattle industry would be also very difficult, too, and I think it'd be an extreme cost increase to the packer if he had to do both. And how they keep track of it I have no idea. [LR414]

SENATOR SCHILZ: Right. Well, so then my question is, is if we're asking for that to be labeled as a product of this and that and everything else, then when, first of all, when I put my cattle together in a pen, and you know as well, is cattle are commingled sometimes and put together. [LR414]

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JIM PAPPAS: Um-hum. [LR414]

SENATOR SCHILZ: And I've put cattle from...that I know I've bought from Canada together with cattle from the United States. And we don't necessarily have an identification system here to maintain that. And when those cattle are shipped to the packing plant and they're killing or slaughtering 4,000 head a day, do they have to segregate all those? And if they do, then... [LR414]

JIM PAPPAS: I don't know if they do or if they can. To me, like I said, the most important factor for the consumer, as far as I'm concerned, is how that cattle, how that product is fed, because I think the cattle or pork, either one, fed in the United States is as a much a superior product than any other country. [LR414]

SENATOR SCHILZ: And then my last question for you, and this is going back, and we've heard that packers will take advantage of things when they have the opportunity. If it does cost more, who do you think will bear that cost? [LR414]

JIM PAPPAS: The consumer. [LR414]

SENATOR SCHILZ: The consumer will bear the cost. [LR414]

JIM PAPPAS: Yeah. [LR414]

SENATOR SCHILZ: Or will they turn around and offer the feeder less to make sure that it gets out there more because they don't want to take less for what they...? [LR414]

JIM PAPPAS: Well, they'll try. They can try, but sooner or later the consumer is going to pay for it. [LR414]

SENATOR SCHILZ: But it'll...you know which way it'll go first. [LR414]

JIM PAPPAS: Yeah. A footnote I might add to one of the cars with your Honda and stuff like that: A lot of American car companies now have partnerships with a lot of foreign car companies and actually are putting the drivetrains and motors and transmissions from Hondas and Toyotas into American cars. My wife has one. [LR414]

SENATOR CHAMBERS: Just one thing, I just thought of it. In grammar, two vowels together will be labeled a diphthong. When you have the o-u diphthong, Americans pronounce it "ow," like "about." People from Canada pronounce it "oh," like a "boat." [LR414]

JIM PAPPAS: (Laugh) Okay. [LR414]

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SENATOR CHAMBERS: So maybe American cattle would go "moo" and Canadian cattle would go "moh." (Laughter) [LR414]

JIM PAPPAS: This is deteriorating rapidly. [LR414]

SENATOR SCHILZ: Okay. Senator Chambers, I... [LR414]

SENATOR CHAMBERS: He caused this. [LR414]

SENATOR SCHILZ: Bloomfield, be careful. [LR414]

SENATOR BLOOMFIELD: I will. I just wanted Senator Pappas to know that the good senator to my left, along with fish, also enjoys mutton every once in a while. (Laughter) [LR414]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? [LR414]

SENATOR JOHNSON: I'd better not. [LR414]

SENATOR SCHILZ: Okay. Mr. Pappas, thank you for your testimony. Any other proponents? Seeing none, any opponents? Good afternoon. [LR414]

KRISTEN HASSEBROOK: Good afternoon. Chairman Schilz, members of the Ag Committee, my name is Kristen Hassebrook, K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k. I'm a lobbyist for the Nebraska Cattlemen's Association and I'm here today to share with you our membership's opposition to LR414. You've heard a lot about what the COOL regulations are, the WTO lawsuits. I'll just resummarize that in that the original country-of-origin rule was found to not only be confusing but to discriminate unfairly against foreign-imported livestock. As a result, the U.S. was required by our membership in the WTO, which binds us to responsibilities both in our market...in our markets to treat products fairly from those foreign countries, to revise them or eliminate them. They were revised and Canada and Mexico refiled their complaint with the WTO. And so a question of whether the revised rule is compliant with our WTO obligations is still up in the air currently. There has been a lot of discussion today about American consumers and the impacts of COOL in the American markets. But really, the bigger ramifications of this resolution and not having a compliant country-of-origin labeling program are in the foreign markets, and that's what I really want to share with you today. Ninety-five percent of the world's population lives outside of the United States. And so when we're found to be violating our WTO obligations, countries who we are unfairly discriminating against through trade are allowed to impose trade barriers, legally, upon us. And so if our country-of-origin labeling program is deemed noncompliant, which is still up in the air today, Canada and Mexico will be allowed to legally impose trade barriers on our products. At the top of their list for products they

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intend to discriminate against legally are live beef animals and fresh, chilled, and frozen beef products. Imagine what that would do to the Nebraska beef industry, let alone the U.S. industry. Foreign exports of beef in 2013 just topped over \$6 billion and they...and access to these foreign markets added approximately \$251 per head, per slaughtered beef animal, in 2013. Canada and Mexico are Nebraska's top export markets and in 2012 beef exports made up more than 15 percent of all of Nebraska's exports alone. Nebraska Cattlemen has had a longtime policy supporting free and fair international trade. We also have policy supporting a voluntary country-of-origin labeling program. The benefits of being a compliant participant in the WTO are countless, and the ramifications for the beef industry in this country if we're not compliant are very serious. And so it is our position that it's important for the United States to work to come into compliance with WTO obligations and ensure that access to these markets without trade barriers are allowed, rather than taking an antagonistic approach and threaten the countless benefits that exist by free and open export markets. On behalf of our members, we would ask that the committee not advance LR414 and I would be happy to answer any questions. [LR414]

SENATOR SCHILZ: Thank you, Kristen. Any questions? Senator Johnson. [LR414]

SENATOR JOHNSON: Thank you. I have a question, and I'll make it multiple choice. Maybe the answer will be shorter. The value of COOL, I'll put it this way, is it for taste and flavor? We've talked about that quite a bit. Is it for value/pricing? That's the next...second point. Is it because of the ability to trace the animal for health or disease background? Is it all of the above or none of the above? [LR414]

KRISTEN HASSEBROOK: I'll go with "d," but if I could explain a little bit? [LR414]

SENATOR JOHNSON: "D," okay. [LR414]

KRISTEN HASSEBROOK: USDA has clearly stated that the country-of-origin labeling rule has nothing to do with food safety or traceability. It is purely a consumer information rule. It does not modify a single food safety or traceability regulation. Any foods imported into the United States must also meet the same USDA and FDA safety standards. So other than just being purely consumer information, it provides no food safety or traceability benefits. [LR414]

SENATOR JOHNSON: Thank you. [LR414]

SENATOR SCHILZ: Thank you, Senator Johnson. Senator Hansen. [LR414]

SENATOR HANSEN: Thank you. I've got a couple of questions. I'll combine them, make this shorter. The WTO, is it, in your mind, a fair organization across the globe? And number two, what would happen if we don't comply with WTO regulation? [LR414]

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KRISTEN HASSEBROOK: Okay. The WTO is a vital international trade organization. One hundred fifty-nine countries around the world are members. And what that organization does is all the member countries agree to abide by some of, you know, the same trade rules. And so by doing that, we are all granted admission to worldwide trade agreements where our products get access without trade barriers in all of these 158 other countries outside the United States. And it has been widely recognized as a rules-based system, which is why I think you'll see so many countries are members. It provides concessions that each country must make. You must also share publicly what your trade rules are and any time you change them so everyone knows what rules they're operating under. And its core component is actually its dispute resolution mechanisms, which the U.S. is going through with the country-of-origin labeling lawsuits, where countries who feel they have been adversely impacted can go through a WTO process to sort these trade issues out, rather than just upon a whim imposing trade barriers and then, you know, a mess of trade rules. [LR414]

SENATOR HANSEN: In our LR just before this, LR413, the cattlemen testified that they were in support of the resolution that would keep Brazilian meat out of the United States. How do we do that without country-of-origin labeling? [LR414]

KRISTEN HASSEBROOK: So when a country has a legitimate concern about food safety, disease, those are allowable trade restrictions under WTO, but they have to be based on a legitimate, scientifically based issue. I want...would like to get back to your other question, if you'd let me, about not complying. [LR414]

SENATOR HANSEN: Sure, go ahead, briefly. [LR414]

KRISTEN HASSEBROOK: If we don't comply on this issue, like I said, Canada and Mexico will be allowed to retaliate against us, meaning they could impose quotas, tariffs, making it difficult for our products to get into those markets or costing significantly higher once they're there. If we don't comply with...if we were to remove ourselves from the WTO, we would lose all of the 158 worldwide trade agreements that we're automatically entitled to by being a member and we'd have to negotiate those separately and individually by country. [LR414]

SENATOR HANSEN: Thank you. [LR414]

SENATOR SCHILZ: Thank you, Senator Hansen. Any other questions? Seeing none, thank you for your testimony. [LR414]

KRISTEN HASSEBROOK: Thank you. [LR414]

SENATOR SCHILZ: Other opponents? Welcome. [LR414]

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JORDAN DUX: Hello. Mr. Chairman, members of the Ag Committee, again, my name is Jordan Dux, J-o-r-d-a-n D-u-x, and I'm, again, the director of national affairs for the Nebraska Farm Bureau Federation and I'm here today to testify on behalf of the organization and express our opposition to LR414. The Nebraska Farm Bureau Federation, along with our national affiliate, the American Farm Bureau Federation, have a considerable amount of policy on food product labeling and, specifically, federal country-of-origin labeling, otherwise known as COOL. While our policy does support COOL, it also lists an important caveat that that labeling must be WTO compliant. And when the United States Department of Agriculture released their new COOL rule for comment back in March of 2013, the new rule looked to require, as has been said before, more detailed origin labels as to where...as to what the previous rule was in 2009. USDA's rule change was issued as a response to the Canadian government and their complaint to the WTO which stated that USDA's initial COOL regulations were, essentially, not in compliance with those WTO requirements. And in providing any additional detail on where...in providing additional detail where animals are born, raised, and slaughtered, USDA hoped that the new rule issued back in May of 2013 would open up for public comment in May of 2013, would address those WTO concerns. While the attempt to convey more relevant information to consumers is commendable, the changes USDA made to the rule, in our opinion, will again be challenged by the WTO, as it was and just heard last week by...the complaint came from Canada again. And it is our opinion that it is doubtful that the challenge will result in a more satisfactory outcome for the U.S. when the complaint is moving forward. So let me conclude again by saying that while we do support country-of-origin labeling and it is a noble goal, we cannot support this resolution as we continue to believe that the WTO compliance component is important to ensure that continued trade relations remain strong with our foreign customers. Thank you very much, and I'd be happy to answer questions. [LR414]

SENATOR SCHILZ: Thank you, sir. Any questions? [LR414]

SENATOR WALLMAN: Chairman Schilz. [LR414]

SENATOR SCHILZ: Senator Wallman. [LR414]

SENATOR WALLMAN: Thank you. What was their specific complaint, WTO? [LR414]

JORDAN DUX: Again, that it was Canadian beef; we're at a disadvantage when it comes to U.S. products. [LR414]

SENATOR WALLMAN: Well, how... [LR414]

JORDAN DUX: So because it's labeled a Canadian product, it would be at a competitive disadvantage. [LR414]

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SENATOR WALLMAN: I guess I don't quite understand why they would think that. Their beef inferior then? (Laughter) [LR414]

JORDAN DUX: I think we've...as we've talked about some of these things, it's a larger question, I think, to...as we look at all of these different reasons, the reason the WTO...the reason the COOL labeling was put in place initially was mainly, again, purely a consumer information standpoint and, as members of the committee have expressed before, it's, you know, up to individuals to decide what they so choose to purchase. [LR414]

SENATOR WALLMAN: Thank you. [LR414]

JORDAN DUX: Um-hum. [LR414]

SENATOR WALLMAN: Thank you, Senator. [LR414]

SENATOR SCHILZ: Thank you, Senator Wallman. Any other questions? Seeing none, thank you for your testimony. [LR414]

JORDAN DUX: All right. Thank you. [LR414]

SENATOR SCHILZ: Further opposition. Seeing none, any neutral testimony? Seeing none, Senator Davis, you're welcome to close. [LR414]

SENATOR DAVIS: Thank you, Chairman Schilz, an interesting conversation today. I appreciate everybody's attention. And I'll try to answer a couple of questions and make a few observations. I think COOL sort of caught fire back in the '90s when a lot of cattle were being brought in from Canada. And because of the Packers and Stockyards Act of 1921 which prohibited packers from owning cattle, prices started to increase. Canada did not have those rules, so the packers owned cattle in Canada and they would go and bring those in, drive down the price here. That's where a lot of the initiative took off. And then it became a very important thing to consumers. The consumers want to know where their products come from, and I think they're entitled to know that. It strikes me as sad that our U.S. government would deny that right to people based on some treaty that we've made with some other nation. We talked a little bit about Brazil earlier, and I would warn the members of this committee that the industry will eventually move to South America and it'll be quick. JBS has bought these packing plants in this country. Brazil can produce cattle in feedlots; they can produce the grain; they can do the whole thing. COOL is a tool for us to protect our industry, and I'll certainly admit that. And I'm all for that, protecting what we do here in this country. I thought I would tell Senator Hansen that my tie was made in the United States, just so you all know. (Laughter) And, Senator Chambers, my Volkswagen, when I bought that, I said to the dealer, I want to

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buy this car but I want to know where it was made, because I wanted to buy an American car. It was made in Tennessee. So those are good things to know. U.S. beef years ago, back in 19...I believe it was 1995, I had a BEEF magazine and in that particular magazine there was a picture of some Japanese consumers at the grocery store. And there was a map on the wall and it was a map of Nebraska. And right on that map was Lexington, Nebraska, and the caption was: U.S. Beef is Highly Desirable Overseas. And being able to...you know, and this came from Nebraska. The people want to know where their beef came from in Japan. Honestly, why would we want to deny that to the people that live in this country? Doesn't make a bit of sense. The last thing I want to say, and this happened some three or four year...well, two other things to say. The National Cattlemen's Beef Association has been in opposition and was part of the lawsuit against COOL, against the W...the first COOL rules, which I thought sort of accommodated the Canadian and the Mexican elements of the industry when you had a mixed product, product of Canada, the United States, and Mexico. That wasn't good enough. They wanted to do away with it. So we went to a new standard, which is more restrictive, given, but it should meet the criteria of WTO and we will find that out soon enough. At one time, the Nebraska Cattlemen had a program called the Nebraska Corn Fed Beef Program. You guys may remember that. And I had cattle in...on the ranch and I had some cattle in the feedlot in Kansas. So I called Nebraska Cattlemen. I said, is...I'd like to feed those cattle into the Nebraska Corn Fed Beef Program, what's the criteria? They said, well, they have to be fed in Nebraska. I said, well, mine were raised in Nebraska, but they weren't fed there. Well, no, this is just is just raised in Nebraska...fed in Nebraska because it was the Nebraska Corn Fed Beef Program. So that...the...in some ways, with what we're doing with our COOL rules is we're saying, this is a U.S. product. And he last thing I'll say: Forrest Roberts, who is the head of NCBA, was in Thedford about four years ago. And he was talking about how COOL didn't do any good, it doesn't increase the price, it doesn't help a thing. So I submitted a question. I said, well, if that is true, Mr. Roberts, why do people support it and why...what is your motivation to try to get rid of it? Honestly, this was the answer he gave me. He said, well, Mexican cattle are being unfairly discounted. And you can look at it however you want to. But if Mexican cattle are being unfairly discounted because of COOL, whatever "unfair" means, that looks like a premium to me. I think it's good for the consumer. I think it's good for the industry. And I'd urge you to pass this resolution. Thank you. [LR414]

SENATOR SCHILZ: Any questions? Senator Bloomfield. [LR414]

SENATOR BLOOMFIELD: Thank you. Is there any chance that at some point we would break that labeling down to state? Say what you want, Nebraska beef is better than Texas beef, just like it's better than Mexican beef. [LR414]

SENATOR DAVIS: You know, I'd like to see us redevelop a Nebraska product, a Nebraska image. I think it'd be a great idea for the industry, and I'd urge the Nebraska

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Cattlemen and Independent Cattlemen and the cattle feeders to get behind trying to do that. I think there are some complications that go along with that, Senator Bloomfield. It's been tried before and there are a lot of issues with supply and demand. But it's certainly a goal of mine. [LR414]

SENATOR BLOOMFIELD: Okay. Thank you. [LR414]

SENATOR SCHILZ: Any other questions? Senator Johnson. [LR414]

SENATOR JOHNSON: Can I just follow up on that? I'd like to have S-O-O-L, which has the state of origin. I've driven enough in...been in Florida some and when I see the cattle in there, out there, eating orange peels and stuff like that...I can't tell that always when it's served on the plate in Nebraska, so. [LR414]

SENATOR DAVIS: There's nothing like good Nebraska beef, no question about it. [LR414]

SENATOR JOHNSON: I agree. [LR414]

SENATOR DAVIS: And, you know, one of the sad things about our beef checkoff is it's for beef, it's not for U.S. beef. [LR414]

SENATOR JOHNSON: Yeah. [LR414]

SENATOR DAVIS: United...U.S....I'm on the Cattlemen's Beef Board, you know, so USMEF has even...is even considering using that U.S. label when they promote things overseas. But we can't do it in this country, so it's a disservice to the production of animals here. [LR414]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other questions? Seeing none, thank you for introducing that. [LR414]

SENATOR DAVIS: Thank you. [LR414]

SENATOR SCHILZ: That will close our hearing on LR414, and with that we will move to LR427. Senator Carlson I see is here. Welcome, and you're welcome to open on LR427. [LR414]

SENATOR CARLSON: (Exhibits 5 and 5A) It's still afternoon. Good afternoon, Senator Schilz, members of the Ag Committee. I am Tom Carlson, T-o-m C-a-r-l-s-o-n, senator representing District 38, here to introduce LR427. It's nice to be back with the Agriculture Committee. I think this is my second time back in the last two years. This legislative resolution asks the United States Environmental Protection Agency, EPA, to

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support and maintain the current renewable fuel standard in light of that agency's proposal to reduce ethanol and biodiesel choices for consumers. Beginning in 2005, the United States committed to the long-term policy of increasing the production of clean, renewable fuels by enabling more domestic production of ethanol, cellulosic, and advanced biofuels. This renewable fuel standard, referred to as RFS, has the capability to reducing dependence on foreign oil, decreasing the price of transportation fuels, reducing emissions, increasing farm incomes, and in the end promoting economic growth, particularly in our agricultural Midwest. The ultimate goal is to reduce dependence on foreign oil and diversify our nation's energy portfolio, and currently Nebraska is third in corn production in the states and second in ethanol production and in 2012 was responsible for \$30 million in tax revenues. There are two letters being distributed: one from the Governors of Nebraska, Kansas, South Dakota, North Dakota, Minnesota, and Iowa; and the other is from our Lieutenant Governor, Lavon Heidemann. Both were sent to the EPA and the Governors' letter was also sent to President Obama and Secretary of Agriculture Tom Vilsack. Both encouraged the EPA to maintain or increase current levels of the renewable fuel standard. There are others here to testify on this important resolution, but I appreciate your attention and would be happy to attempt to answer questions. [LR427]

SENATOR SCHILZ: Thank you, Senator Carlson. Any questions? Senator Chambers. [LR427]

SENATOR CARLSON: Senator Chambers, Senator Chambers, Senator Chambers. (Laughter) [LR427]

SENATOR CHAMBERS: I wanted to wait till he looked up and was ready, so it wouldn't seem like I was stalking and ambushing. Senator Carlson, without the subsidy, and I know some people say that formally a subsidy was dropped, without the subsidy, ethanol as an industry could not exist, could it? [LR427]

SENATOR CARLSON: Well, that's probably arguable. [LR427]

SENATOR CHAMBERS: This compulsion by the federal government that a product on the right side be compelled to contain a certain percentage of a product on the left side is really a subsidy for the product on the left side, isn't it? [LR427]

SENATOR CARLSON: It is. [LR427]

SENATOR CHAMBERS: Are you in favor of subsidies in general if they're not involving Nebraska issues? [LR427]

SENATOR CARLSON: Well, I'm in favor of subsidies in the instance that it helps some production, some part of the economy get to a point that it can stand on its own.

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[LR427]

SENATOR CHAMBERS: And ethanol hasn't reached that point yet, obviously. [LR427]

SENATOR CARLSON: Again, I'd say that's arguable, but I understand the reason for asking for a continuation of the renewable fuel standard. [LR427]

SENATOR CHAMBERS: Oh, I understand why--money, filthy lucre (laughter). And the love of filthy lucre is what? [LR427]

SENATOR CARLSON: It's the source of many kinds of evil. [LR427]

SENATOR CHAMBERS: (Laugh) Okay. That's all I have to ask. Thank you. [LR427]

SENATOR SCHILZ: Thank you, Senator Chambers. Senator Wallman. [LR427]

SENATOR WALLMAN: Thank you, Chairman Schilz. Welcome, Senator Carlson. [LR427]

SENATOR CARLSON: Thank you. [LR427]

SENATOR WALLMAN: Now would you say fuel, oil companies, get subsidized? [LR427]

SENATOR CARLSON: They certainly do. [LR427]

SENATOR WALLMAN: Thank you. [LR427]

SENATOR SCHILZ: Thank you, Senator Wallman. Any other questions? Seeing none, will you stay around to close? [LR427]

SENATOR CARLSON: Yes. [LR427]

SENATOR SCHILZ: Okay. Thank you, Senator Carlson. With that, we will move on to proponents for LR427. Good afternoon. [LR427]

CARL SITZMANN: (Exhibit 6) Good afternoon, Chairman Schilz and members of the Ag Committee. My name is Carl Sitzmann, C-a-r-l S-i-t-z-m-a-n-n. I'm the CEO of E Energy Adams, an ethanol producer located approximately 30 miles south of Lincoln. I am testifying today on behalf of E Energy Adams and also on behalf of the ethanol industry in the state of Nebraska. E Energy Adams began operations in October 2007 as a 50 million gallon per year nameplate facility. Today we produce approximately 65 million gallons per year of ethanol and approximately 200,000 tons of distillers grains for

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livestock feed. Our company's 30 percent growth over the last six years has continued to support the state's economy in the form of capital investments, increased buying and selling of products to the local community, and increased tax revenues both from us and from others whose bottom lines have been enhanced by our presence. As an industry, our positive impacts to the state are numerous. Nebraska has 24 ethanol plants that produce in excess of 2 billion gallons of ethanol per year and 6 million tons of distillers grains. This in turn creates a total economic output of approximately \$5 billion per year. Nebraska ethanol is creating jobs and fueling economic growth. Over 1,300 jobs have been created as a direct result of the ethanol industry in Nebraska. Tax revenues created by ethanol production and related industries in the state tops \$30 million per year. Because of the ethanol industry's presence, only 18 percent of the state's corn is shipped out of state. By using more Nebraska corn in Nebraska, we're keeping more of the corn's value right here in the state. That's good for our farmers, our rural communities, and the state's economy. Last October, the EPA proposed a rule for 2014 which for the first time will roll back corn ethanol mandate levels in the renewable fuel standard, the RFS, from 14.4 billion gallons to 13 billion gallons. This means that approximately .5 billion bushels less corn will be required to make ethanol. That means lower prices for corn and less revenue for our farmers. It also means approximately 4.2 million tons less distillers grains available for our livestock industry. These are real impacts and we should not take this lying down. Nebraska, which has prospered over the last six years while most other states have struggled, has done so primarily because agriculture has prospered, and that's primarily due to ethanol production in the state. We need to let Washington know that the RFS that was created in 2007 as part of the Energy Independence and Security Act is critical to agriculture and the economy as a whole in Nebraska. Washington needs to keep their word and not change the rules in midstream. I ask that the Agriculture Committee vote to advance LR427 so that it can be passed by our Legislature and forwarded to the EPA as a comment to their proposed rule. This is a unique opportunity for all of our state senators to go on record in support of ethanol, which has fueled our state's economy especially over the last seven years. I encourage the committee and all of the senators to cast an affirmative vote for LR427 and thereby demonstrate their support for ethanol and for agriculture in the state of Nebraska. Thank you for the opportunity to testify and I will be glad to answer any questions. [LR427]

SENATOR SCHILZ: Thank you, Mr. Sitzmann. Senator Wallman. [LR427]

SENATOR WALLMAN: Thank you, Chairman. Welcome, Carl. [LR427]

CARL SITZMANN: Senator Wallman. [LR427]

SENATOR WALLMAN: And would you say also it's a better product as far as when you blend this off for EPA concerns, air quality? [LR427]

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CARL SITZMANN: Absolutely. The emissions are much better than with gasoline. [LR427]

SENATOR WALLMAN: Thank you. [LR427]

SENATOR SCHILZ: Senator Johnson. [LR427]

SENATOR JOHNSON: Yeah. Thank you, Mr. Sitzmann. For the record, I'm on the Ethanol Board, at E Energy, but I'm not an investor, strictly on the board. (Laughter) I knew you'd know sometime, Senator. My question is, we've heard a comment made by one of our committee members about DDG that has grown over the years as far as a valuable product for livestock feed. What effect will the reduction in ethanol production have, do you feel, in the growth of the livestock industry in Nebraska? [LR427]

CARL SITZMANN: Well, it obviously affects the availability of the volumes of distillers grain. And just for the record, I heard Senator Chambers' question earlier about the protein. The reason that distillers grains has a higher protein than corn is strictly a math thing. You take the corn, you take out the starch, what remains is less. And so the protein, we're not making protein. Fermentation isn't magic. So the protein that was there is just a bigger part of a smaller leftover, just to answer that question. [LR427]

SENATOR JOHNSON: You took my second question. (Laughter) [LR427]

CARL SITZMANN: Okay. I thought it was coming, so. [LR427]

SENATOR SCHILZ: Any other questions? Senator Hansen. [LR427]

SENATOR HANSEN: Thank you. It's good to have you come in today. Nice to hear your story. So seven years ago your ethanol plant started, so you're in the seventh year. How much longer do you think you need, you know, the subsidy to continue to be an essential part of your ethanol plant? [LR427]

CARL SITZMANN: Well, first of all, I don't agree that it is a subsidy. Ethanol is not subsidized. [LR427]

SENATOR HANSEN: But it has a renewable fuel standard that... [LR427]

CARL SITZMANN: There's a standard created, that's right,... [LR427]

SENATOR HANSEN: ...that the country has to... [LR427]

CARL SITZMANN: ...for the purposes that Senator Carlson pointed out, for those reasons: national security, fossil fuel decreases, emissions, agricultural economy

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support. [LR427]

SENATOR HANSEN: With this reduction in the renewable fuel standard, you have here that it also means 4.2 million tons less of distillers grains will be available for livestock. Are those dry or is that wet? [LR427]

CARL SITZMANN: That would be dry equivalent. [LR427]

SENATOR HANSEN: Okay. How many tons do you make now? [LR427]

CARL SITZMANN: How many tons does the industry make or... [LR427]

SENATOR HANSEN: No, E ethanol. [LR427]

CARL SITZMANN: We make about 200,000 tons per year of distillers grains, dry weight, dry product. [LR427]

SENATOR HANSEN: And no wet distillers at all? [LR427]

CARL SITZMANN: We make a combination of...that's the dry equivalent. We make both dry and what's called modified, which is about 50 percent moisture product. It's somewhere between wet...it's partially dried, okay? [LR427]

SENATOR HANSEN: Kind of sort of wet and dry? [LR427]

CARL SITZMANN: Kind of sort of. [LR427]

SENATOR HANSEN: Okay. Thank you. [LR427]

SENATOR SCHILZ: Thank you, Senator Hansen. Senator Chambers. [LR427]

SENATOR CHAMBERS: Mr. Sitzmann, I'm glad to see you here today. Does the utilization of corn to produce ethanol have any effect on food prices that consumers pay for products that use corn? [LR427]

CARL SITZMANN: Virtually none. The reason for that is the corn itself, the product, first of all, the corn we use is not sweet corn so it's not used very much in food at all. [LR427]

SENATOR CHAMBERS: Okay, then that...was there land previously planted in food corn that is now planted in ethanol corn? [LR427]

CARL SITZMANN: No, there...in fact, there is less corn acres for ethanol than there

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were 10-20 years ago. [LR427]

SENATOR CHAMBERS: How much water is used to produce a gallon of ethanol?
[LR427]

CARL SITZMANN: Actually, it's about three, a little less than three gallons per a gallon
of ethanol. [LR427]

SENATOR CHAMBERS: And we are having problems with water in Nebraska now, so
the production of ethanol, by drawing away water, is adding to that situation. And notice
I didn't say "problem." I said "that situation." [LR427]

CARL SITZMANN: Uh-huh. [LR427]

SENATOR CHAMBERS: Does this water convert into some other kind of liquid or does
the water become ethanol? [LR427]

CARL SITZMANN: The water is used in the processing, but it doesn't become ethanol
because ethanol has almost no water in it. [LR427]

SENATOR CHAMBERS: And what becomes of that water then? [LR427]

CARL SITZMANN: That water, most of it is recycled, but a small part will be passed into
streams or creeks. Some will be evaporated and go into the air. [LR427]

SENATOR CHAMBERS: When ethanol is moved from place to place, it's not done by
way of pipeline anywhere, is it? [LR427]

CARL SITZMANN: That's correct. [LR427]

SENATOR CHAMBERS: Why is that? [LR427]

CARL SITZMANN: Well, I mean there may be one exception in Florida, but. [LR427]

SENATOR CHAMBERS: Why is that, in general, that it is not done by way of pipeline?
[LR427]

CARL SITZMANN: Because the infrastructure just hasn't been built out yet. [LR427]

SENATOR CHAMBERS: But it's not due to any corrosive property of ethanol. [LR427]

CARL SITZMANN: Ethanol would be corrosive to the current piping that is used for
gasoline. [LR427]

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SENATOR CHAMBERS: So you'd have to have a different kind of pipeline system if you were going to move ethanol by pipeline, and that would entail considerable expense. [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR CHAMBERS: So it's moved by truck and rail. [LR427]

CARL SITZMANN: Correct. [LR427]

SENATOR CHAMBERS: Which one the more: more by truck or more by rail or fifty-fifty? [LR427]

CARL SITZMANN: More by rail, much more by rail. [LR427]

SENATOR CHAMBERS: And you don't...I'm going to phrase it as a question, not a leading question by putting "you don't." Do you see, and I'm tailgating on what Senator Hansen asked you, any day...I don't want to ask that question. Nebraskans don't like...they don't like government mandates. Are you aware of that? [LR427]

CARL SITZMANN: It doesn't surprise me. [LR427]

SENATOR CHAMBERS: This is a government mandate, isn't it? [LR427]

CARL SITZMANN: Yes, it is. [LR427]

SENATOR CHAMBERS: And it's mandating that one industry allow another industry to piggyback on it. Isn't that true? [LR427]

CARL SITZMANN: I wouldn't use those words, but you can, yes. [LR427]

SENATOR CHAMBERS: Ethanol cannot be used as a fuel just as ethanol. It must be mixed with petroleum products if it's going to be a viable, commercial selling product. Is that true or false? [LR427]

CARL SITZMANN: As it is right now, but it's not completely true. As an example, you can get 85 percent ethanol and used in flex-fuel vehicles. And in Brazil, since we've been talking about Brazil, Brazil actually uses pure ethanol in their vehicles. So it can run in vehicles. [LR427]

SENATOR CHAMBERS: Which industry in Brazil is subsidized by the government? [LR427]

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CARL SITZMANN: I don't know. [LR427]

SENATOR CHAMBERS: Ethanol or the automobile? [LR427]

CARL SITZMANN: I don't know that. [LR427]

SENATOR CHAMBERS: Do you think a day will come in America where automobiles will all use 85 percent ethanol? [LR427]

CARL SITZMANN: Flex-fuel vehicles have...production has increased dramatically. Will we ever get there? Probably not. [LR427]

SENATOR CHAMBERS: And you couldn't produce enough ethanol to do that anyway, could you? [LR427]

CARL SITZMANN: Not currently. [LR427]

SENATOR CHAMBERS: You never... [LR427]

CARL SITZMANN: And the RFS, this renewable fuel standard, does not call for 100 percent. It caps at about 25 percent, depending on gasoline demand. [LR427]

SENATOR CHAMBERS: But that's not what I'm into right now. I appreciate that. If ethanol can make it on its own, you know that it was given a subsidy, outright subsidy by Nebraska and the federal government in the early days, wasn't it? [LR427]

CARL SITZMANN: Yes, sir. [LR427]

SENATOR CHAMBERS: Was Archer Daniels Midland the biggest ethanol producer at one time? [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR CHAMBERS: Is it still? [LR427]

CARL SITZMANN: Yes, I think they are still number one. [LR427]

SENATOR CHAMBERS: Did an ethanol plant in Nebraska close recently? If it didn't, then I could have misread something. [LR427]

CARL SITZMANN: Do you know where? I'm sorry. [LR427]

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SENATOR CHAMBERS: No, I don't know the location. All of Nebraska looks the same to me once you get outside of Lincoln. (Laughter) I'm kidding. I'm kidding. I'm kidding. Once you get outside of Hastings. (Laughter) I have never supported ethanol and people who have hawked the product know that. I see it as a boondoggle. I've seen attempts in the Legislature to even mislead the public by not...by saying that pumps that use ethanol cannot be labeled that way. That...laws...bills were presented and I fought them on that notion that the public has a right to know what they're putting in their car. I have a power lawn mower. I often point out that I'm a man of means by no means. That lawn mower says don't use ethanol. If the temperature is low enough, will the moisture...will the water separate from the alcohol in ethanol? [LR427]

CARL SITZMANN: Normally not. I don't know what you're doing with the water in your tank though, but. [LR427]

SENATOR CHAMBERS: Will moisture separate from the alcohol or will moisture show up in the tank where ethanol is found? [LR427]

CARL SITZMANN: Well, it's not going to attract moisture, and if it...it will normally burn with the ethanol. The water will burn off with the ethanol. [LR427]

SENATOR CHAMBERS: Ethanol does not attract moisture. [LR427]

CARL SITZMANN: It's miscible with ethanol, whereas gasoline is more like trying to blend water and oil. It doesn't mix. [LR427]

SENATOR CHAMBERS: This mandate is a subsidy. Politicians try to alter reality by applying a different word to the same item. This mandate, however, is not one that comes directly from tax money being given to the ethanol industry. Is this mandate going to be born primarily, in its impact, by the petroleum industry? [LR427]

CARL SITZMANN: Yes. I would say, yes, in the form of competition. [LR427]

SENATOR CHAMBERS: Does the petroleum industry object to being required to mix a competitor's product with their product? You said it's competition. [LR427]

CARL SITZMANN: Yeah. Generally, I would say yes. [LR427]

SENATOR CHAMBERS: And in the market, free-market system in America, because I've never understood that, how can it be a free market when the government mandates that one product allow a competitor to piggyback on that product? Is that the free-market system in operation, because I admit I don't understand it. You can give me any answer. I can't challenge it. [LR427]

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CARL SITZMANN: Some would say that we formerly had a 100 percent mandate for fossil fuel gasoline--another way of looking at it. And... [LR427]

SENATOR CHAMBERS: Why do they say that was a mandate? Did they mandate that... [LR427]

CARL SITZMANN: Because it's not really a free market. You can't break in easily. We needed some subsidies to start with. The RFS standard is not about subsidies. It's about a much bigger picture: national security, and emissions. [LR427]

SENATOR CHAMBERS: What percentage of energy produced in America or used in America, what percentage of that is ethanol, or ethanol comprises what percent of that? [LR427]

CARL SITZMANN: Of the total energy? [LR427]

SENATOR CHAMBERS: The total. [LR427]

CARL SITZMANN: I don't know. [LR427]

SENATOR CHAMBERS: Is it more than 5 percent, because you can have an idea if you don't know the exact percentage. [LR427]

CARL SITZMANN: Well, it's 10 percent of transportation fuel, and I would assume of all energy it could be less than 5 percent, yeah. [LR427]

SENATOR CHAMBERS: So we calculate something. Now how is that amount going to...first of all, what percentage of American fuel is based on a reliance of what they call foreign oil? [LR427]

CARL SITZMANN: I believe it's about 45 percent. [LR427]

SENATOR CHAMBERS: Are you aware that America exports oil? [LR427]

CARL SITZMANN: They export refined products. I don't think they're allowed to export oil. [LR427]

SENATOR CHAMBERS: Let's...I'm glad you said, but petroleum products are exported by America. [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR CHAMBERS: Does America...let me rephrase the question. When ethanol is

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produced, is the source of the energy used to produce ethanol derived completely from ethanol? [LR427]

CARL SITZMANN: I'm not... [LR427]

SENATOR CHAMBERS: Let me ask it a different way. [LR427]

CARL SITZMANN: Yeah. [LR427]

SENATOR CHAMBERS: Are petroleum products used to produce ethanol? [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR CHAMBERS: So if ethanol cannot end its own reliance on petroleum products, how is it going to cause the whole United States to reduce its reliance? [LR427]

CARL SITZMANN: To answer that I'll just say that when gasoline is produced there is a net loss of energy. It takes more energy to produce a gallon of gasoline than it does the energy value in the gasoline. With ethanol that's not true. It's about two and a half times what you put in you get out. So I think that's noteworthy. [LR427]

SENATOR CHAMBERS: But the amount of energy produced by ethanol does not equate to that produced by petroleum, is it? [LR427]

CARL SITZMANN: I'm sorry, I think I just said it was. [LR427]

SENATOR CHAMBERS: Well, a gallon of...a gallon of ethanol in a tank, you're saying it produces as much energy as a gallon of petroleum in the tank of a car. [LR427]

CARL SITZMANN: That's a different question. The issue I was addressing was how much energy does it take to produce each of these products. So it takes more energy to produce a gallon of gasoline than the energy in that gallon of gas. [LR427]

SENATOR CHAMBERS: And I'm accepting that. [LR427]

CARL SITZMANN: Okay. [LR427]

SENATOR CHAMBERS: You say there's a net loss of energy when you produce gasoline. [LR427]

CARL SITZMANN: Correct. [LR427]

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SENATOR CHAMBERS: And a net gain when you produce ethanol. [LR427]

CARL SITZMANN: Right. [LR427]

SENATOR CHAMBERS: When we get to the products, and we're talking about that which is used as an energy source, would a gallon of gasoline in the tank of a car produce as much energy as a gallon of gasoline? [LR427]

CARL SITZMANN: It can if the engine is designed for it. [LR427]

SENATOR CHAMBERS: And to design the engine would require a modification by the car manufacturer. [LR427]

CARL SITZMANN: Yes, sir. [LR427]

SENATOR CHAMBERS: And that would cost money to the car manufacturer. Does the car... [LR427]

CARL SITZMANN: All innovation does, yes. [LR427]

SENATOR CHAMBERS: Does the car manufacturer use energy to produce those vehicles? [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR CHAMBERS: Are any petroleum products utilized in the production of that energy used to produce those vehicles? [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR CHAMBERS: Is ethanol used by car manufacturers to produce automobiles? [LR427]

CARL SITZMANN: Not to my knowledge. [LR427]

SENATOR CHAMBERS: We've got a complicated issue here, don't we? [LR427]

CARL SITZMANN: It's sounding more complicated as we go. (Laughter) [LR427]

SENATOR CHAMBERS: You've been very helpful. I don't want to keep us here all day. I'm not going to ask everybody the questions I asked you, but since you're in the business I just thought you'd be the appropriate person for me to ask. And I'm through and you have been very cooperative and I appreciate it. Thank you. [LR427]

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CARL SITZMANN: I appreciate your questions. [LR427]

SENATOR SCHILZ: Thank you. Mr. Sitzmann, I...just to circle back around, Senator Chambers had asked you about feed costs and whether or not ethanol is causing food to go out of...or a higher cost of food and just in my experience with it, and when we...in our feedyard we started feeding the ethanol probably, oh, late '80s, early '90s when it was first starting to come out. [LR427]

CARL SITZMANN: Distillers grains you mean? [LR427]

SENATOR SCHILZ: What's that? Distillers, I'm sorry. Yeah, and...it's getting a little late. Excuse me. And what we noticed about it, of course, as we started out it was very inconsistent. You had to...but what we found out over time was, first of all, you didn't want to run out of it because it was probably, well, hands down, it's the best cattle feed that we've seen in probably the last 50 years as far as being created, and it made feeding cattle much more consistent and much more smooth than it was in the past. And the other side of that is, while, yes, it does not use sweet corn and it uses field corn to make that ethanol, you don't really waste the corn because you're able to use the by-product, the distillers grain, at a much lower level to get the same bang for the buck that the corn would have done, so. [LR427]

CARL SITZMANN: That's right. It's actually a value-add. [LR427]

SENATOR SCHILZ: Absolutely. And so as you look at that, you are able to truck less to get the same amount of, quote, unquote, food energy there. Let's call it that. But not only that. It also gave people that feed especially cattle, only cattle, the opportunity to use less quality roughage than they had to use before. So they don't have to worry about raising alfalfa or they don't have to worry about raising corn silage. They can use grass or straw or anything to do this. [LR427]

CARL SITZMANN: Or stover. [LR427]

SENATOR SCHILZ: All of that can be used. And so in that sense, I would say that overall that it probably has, as far as the effect of ethanol and distillers grain on the food industry and the products that it actually touches, its effect has probably been to cheapen that product over time. Now we can talk about the reasons why food prices have gone up, but I contend that that's more a function of monetary policy that we've had over the past ten years rather than it is the fact that distillers and ethanol has come on board. [LR427]

CARL SITZMANN: What people...what the world needs and has a shortage of is protein. That's food. And what we do is we take out the starch. There's not a shortage of

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starch in the world, you know. We take out the starch and make a fuel of it, and then the rest, with the higher protein value because of the calculation, is there to feed our cattle, which in turn puts food on the table. [LR427]

SENATOR SCHILZ: Appreciate that. Thank you very much. Any other questions? [LR427]

SENATOR CHAMBERS: Excuse me. [LR427]

CARL SITZMANN: Yes. [LR427]

SENATOR SCHILZ: Senator Chambers. [LR427]

SENATOR CHAMBERS: Before I came down here I saw Senator Schilz' name and I asked if it was a misspelling of Schlitz, and the person I was talking to was from a part of Nebraska that's not in either Lincoln or Omaha, and said, you know about that? I said, know about what? They said, well, in some parts of the country they call it moonshine but in another part of the country they call it something else. And a guy named Schlitz was doing it but he changed his name and joined the Legislature. And I'm listening to him (laughter) talk about all of this distillers grain and added value here and all of the rest. And look how cheerful he is now. That's all I have though. [LR427]

SENATOR SCHILZ: Who says fermentation isn't magic, right? (Laughter) Thank you, sir, very much. [LR427]

CARL SITZMANN: Thank you. [LR427]

SENATOR SCHILZ: Next proponent. Go ahead, don't be bashful. Welcome back. [LR427]

JOHN HANSEN: Again, 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 am still the president of Nebraska Farmers Union. We have...we're 100 years old this year so we've been going back through our records. And we first started advocating for the development of ethanol in 1940--I believe that precludes Senator Chambers' service to the Legislature--so a long time. And so we've talked about it in general kinds of terms. We did a major public education effort in the '60s, late '60s, mid-'60s in advance of Senator Schmit's introduction of the authority to create the Nebraska Ethanol Board. We have consistently thought that it made good sense to take advantage of the natural resources and agricultural products that we already produce and get as much value out of them as we can. And this product has been not only a good product for the environment. It's been the prescription for nonattainment areas who had...who were well above the air quality standards. And so we've been able to move ethanol into those areas. We've

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been able to lower the pollutants in the air. And as we've gone through this experience, it's been good for the environment. Tailpipe drippings are better. Air quality emissions are better. It's been good for our cattle-feeding industry. We think it's a tremendous plus. I was in Texas several weeks ago giving a speech to the Texas Farmers Union and they were quick to point out that they were at a huge competitive disadvantage to Nebraska because of the amount of ethanol by-products that we could feed our livestock, and I said, yes, you are. Good for us. And so as we look at this resolution, it is a welcome one. We participated in the effort to get in written comments to EPA, along with other folks in the state of Nebraska. And we...I'm not sure what the total number is, but thousands of comments came from Nebraska. Our members were a part of that. We did a mailing to our membership. They responded overwhelmingly. This is an important issue to us. The role of EPA is troubling in that they seem to all of a sudden do a whoa, halt, and it looks like to us they're rolling backwards relative to where they have been with their proposed regulations. And so what we're really...if there is any kind of a blend wall, it would be self-manufactured blend wall because the oil companies who own the retail fuel distribution network in this country did not do any of the things that they were supposed to be doing relative to trying to create infrastructure so that consumers could make choices when they go to the pump. And so they have fought us every step of the way on 10 percent, they fought us on E-15 and its use. And you know when consumers have the opportunity to make choices at the pump, they're in a lot of cases using 30 percent blend products. That's the primary blend that gets used in the state of South Dakota, interestingly enough, I understand from both E-85 compliant vehicles and just regular vehicles. And I find that interesting that folks are volunteering to put E-30 in their car and do so voluntarily and are not complaining up there. And yet we're worried about whether we could go to E-15. So as you look at the resistance of the retailers, EPA is sending the wrong signals to those folks and they're also sending very conflicting signals to the ethanol industry as a whole. This is a part of a newer, cleaner-burning, renewable energy national policy, and we do a lot of things in this country in order to achieve public policy benefits and for public policy reasons. This is a policy that was made necessary. It has worked. I think it's a good policy for a whole host of reasons. And from an economic development standpoint in the state of Nebraska, our state has never developed or implemented any kind of rural economic development policy that has been as remotely as effective and beneficial to rural Nebraska as has been the development of ethanol for rural Nebraska, looking at the quality of jobs, looking at the overall indirect benefits, looking at everything across the board, cattle feeding, and not to mention the price of corn. So it's been a win-win-win across the line as far as we're concerned. We encourage you to think favorably of this resolution and we would thank Senator Carlson for bringing it. [LR427]

SENATOR SCHILZ: Okay. Thank you, Mr. Hansen. Any questions? Senator Chambers. [LR427]

SENATOR CHAMBERS: President Hansen, I can understand why the purveyors of

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ethanol want this subsidy, but I've been in the Legislature a long time and I hear my rural colleagues holler louder than anybody else about overregulation by the government and government mandates. And I have always said whenever anybody says that they're against mandates that don't benefit them, they're for regulations on others that benefit them. And I see this strictly as a self-interested move, which I understand. People who make money do everything they can in their own interest. I pay generally 25 cents more a gallon for regular than ethanol, and I told the man I will pay that amount for gasoline and I wouldn't put ethanol in my car if you gave me a nickel for every gallon I put in. That's just the way I feel about it. And I did have a car that I put ethanol in and I didn't get the mileage and my car would sputter. And when the weather got cold, I could be driving and it would start jerking. Now people can say that's an aberration, that doesn't happen. Well, the only one that it needed to happen to me...happen was me, and I won't risk it no matter what anybody says. But here's the question I will ask you. Are you so confident that ethanol is good that I should disregard the notation on my power mower, it might be...it's...it might be a Briggs and Stratton but it's one of those brand names that says do not use ethanol. Should I disregard that and use ethanol? [LR427]

JOHN HANSEN: Senator Chambers, I am unaware of...I assume that there is that denotation on your small engine. I have a whole host... [LR427]

SENATOR CHAMBERS: If I photograph it and bring it to you, will you accept it? [LR427]

JOHN HANSEN: ...I have a whole host...oh, sure, I assume that it's there,... [LR427]

SENATOR CHAMBERS: Okay. [LR427]

JOHN HANSEN: ...but I have a whole host of small engines myself. I don't...I'm not familiar with that, but I would tell you that all of my small engines, for a very long time, have been burning E-10 and the only problem that I have with my small engines is that I actually have to help the engine do the work that it was performed to do. So I have to run the lawn mower. I have to run the tiller. I have to run all those other things. But I have not encountered that. I have not encountered a problem myself. [LR427]

SENATOR CHAMBERS: Well, you've got a host of them. If one breaks down, you rich farmers, you just throw it away. (Laugh) [LR427]

JOHN HANSEN: (Laugh) I've put hundreds and hundreds of thousands of miles on my cars with...I've had vehicles that didn't have ten tanks of anything but E-10 in them, and I've put several hundred thousand miles on my vehicles. But of course, my vehicles were made in the U.S.A. [LR427]

SENATOR CHAMBERS: Have you got one that went 510,000 on E-10 or anything

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else? [LR427]

JOHN HANSEN: My wife always makes me sell them when they get to 100,000. [LR427]

SENATOR JOHNSON: Yep. [LR427]

SENATOR CHAMBERS: Blame it on the woman all the time. (Laughter) [LR427]

JOHN HANSEN: It is her birthday today. [LR427]

SENATOR SCHILZ: Thank you, Senator Chambers. Any other questions? Seeing none, thank you, sir, for your testimony. [LR427]

JOHN HANSEN: Thank you very much. [LR427]

SENATOR SCHILZ: Next proponent. Good afternoon. Welcome back again. [LR427]

JORDAN DUX: Afternoon. Mr. Chairman, members of the committee, again, my name is Jordan Dux, J-o-r-d-a-n D-u-x, director of national affairs for the Nebraska Farm Bureau, and I'm here today to express our support for LR427. A lot has been said about the benefits of ethanol and I won't go into all of that again. I would note that when EPA originally sent out their proposal to reduce the ethanol mandate back in October or when the proposal was leaked back in October, October 10, corn futures dropped roughly 30 cents. That was already a drop considering some of the market conditions we've had before just on some concern as to what that would mean. The proposal would cut roughly 500 million bushels of corn from corn production, and so leading the market to react the way it did. But I would also note that given the time in which we're sitting today where we're not looking at production where it was back in 2012, where we're looking to produce more, it is our opinion with Farm Bureau that now is not the time to reduce the standard. So with that, I'll just stop right now and answer any questions. [LR427]

SENATOR SCHILZ: Thank you. Yeah, any questions? Senator Chambers. [LR427]

SENATOR CHAMBERS: Have you heard that lying big oil industries say they cannot absorb increased...the increased gallonage that ethanol purveyors are producing and want them to incorporate into their product? Have you heard them tell that lie, that they cannot absorb that? [LR427]

JORDAN DUX: The talk about the blend wall and I think that's what they use? Yeah, I have heard that. [LR427]

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SENATOR CHAMBERS: And they're lying, aren't they? [LR427]

JORDAN DUX: It is our opinion that the blend wall is somewhat fabricated in terms of what it looks like. [LR427]

SENATOR CHAMBERS: But you're saying...but you think they're lying, don't you? Well, do you think they're telling the truth? [LR427]

JORDAN DUX: Not the full truth. [LR427]

SENATOR CHAMBERS: You're the guy who takes both positions. (Laughter) Are they telling the truth or are they lying? [LR427]

JORDAN DUX: We don't think it's the full truth, no. [LR427]

SENATOR CHAMBERS: When...now it's "we." Okay, thank you. I don't have...okay. [LR427]

SENATOR SCHILZ: Thanks, Senator Chambers. [LR427]

SENATOR CHAMBERS: That's all I have. [LR427]

SENATOR SCHILZ: Anybody else? Seeing none, thank you for your testimony. [LR427]

JORDAN DUX: All right. Thank you. [LR427]

SENATOR SCHILZ: Next proponent. [LR427]

LORAN SCHMIT: Hello, Senator Chambers. [LR427]

SENATOR CHAMBERS: Hello, Senator Schmit. And you know you tied my hands, don't you? [LR427]

LORAN SCHMIT: (Exhibit 7) Welcome to a continuation of the 40-years war. (Laughter) I will say, Senator Chambers, that you have not mellowed in the last 43 years but I've also learned that if you really want to get vaccinated for foot-and-mouth disease, the way to do that is to serve in the Legislature with you and that will guarantee you not to put your foot in your mouth. So I try to avoid that. With the permission of the Chairman, I would like to end in and read a very brief letter from Mr. Chuck Hassebrook, and Mr. Hassebrook... [LR427]

SENATOR SCHILZ: Senator, could you please state your name and spell it for the record. Thank you. [LR427]

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LORAN SCHMIT: My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. And Mr. Hassebrook wanted to be here today but could not. Saw him in the Rotunda yesterday and so he sent me this letter. With your permission, I'll read it: Loran, I am writing to express my support for LR427. Please share it with the committee hearing the resolution tomorrow. My statement is below. I strongly support LR427 to voice the support of the Legislature for a strong renewable fuel standard. Farmers and ethanol producers that have made significant investments in the long-term economic and social viability of Nebraska oppose the EPA's proposal to reduce the amount of ethanol used in the nation's fuel supply under the renewable fuel standard. American farmers just harvested a record corn crop, which provides more than adequate supplies to meet the original fuel standard, as well as the needs of livestock producers and other users. Nebraska's corn ethanol industry has created good jobs in small towns all across the state, while protecting farmers from price-depressing crop surpluses and offering drivers an environmentally friendly, cost-effective fuel source. I urge the Legislature to express support for a strong renewable fuel standard and to express opposition to the EPA proposal to weaken the standard. Chuck Hassebrook. And I submit that for the record and thank Mr. Hassebrook. Now for my own part, I always regret providing testimony after having listened to testimony for three or four hours, because I could comment just on the questions that Senator Chambers asked for the next hour and a half or so. I won't do that. But I just want to say that in 1970... [LR427]

SENATOR SCHILZ: Use the lights if he's... (Laughter) [LR427]

LORAN SCHMIT: You're going to turn the light on, are you, Senator? [LR427]

SENATOR SCHILZ: Not yet but it's tempting. [LR427]

LORAN SCHMIT: In 1971, when I introduced the first bill, I said the reason for the introduction of LB776 is for three reasons: first, to provide a new market for farm crops, and we weren't hiding that reason; second, to produce a more environmentally favorable fuel; and third, to replace the lead in gasoline which would eventually be phased out. That was two years before there was any kind of understood fuel shortage and it was several more years before the lead was eventually outlawed by the Congress. Mr. George Waters, who was the lobbyist for the Petroleum Marketers at that time, said everyone knows that you have to have lead in gasoline to lubricate the valves; there will never be unleaded gasoline. Number two...and we were paying 30 cents a gallon for gasoline at that time. Number two, if Schmit's bill becomes law, it will raise the price of gasoline 3 cents a gallon and the public will never stand for it. Well, they did raise it, except they raised it \$3 and we're still standing for it (laughter). The last thing he said was that if we need ethanol, we can make ethanol out of oil and why would we buy oil, why would we buy ethanol for a bunch of farmers? And so that is just a rerun of testimony 43 years ago. And we all know there's been some changes since

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that time. I will say this, for Senator Chambers. I don't believe, Senator Chambers, you were as tough on the floor when we discussed ethanol from 1971 through 1992 as you might be today, so to that extent I had the advantage of a more mellow opposition, and I appreciate that. Might also be, Senator, had you been as tough then as you are now, there might not be an ethanol industry, so that's your fault. (Laugh) In any case, in any case it's kind of interesting because we did not have any idea we were going to have a shortage of fuel, and we were told, no, there's not going to be any shortage. All of a sudden, there was a shortage of fuel. You couldn't use the leaded gasoline and so ethanol happened to be something in the right place at the right time that replaced the lead that Congress mandated to be removed. The oil companies didn't do so...didn't do it (inaudible) easily. They invented MTBE, which was an ethanol...an octane-enhancing element. Unfortunately, that turned out to be an element that contaminated underground water. And so the Congress again outlawed ethanol...outlawed MTBE. As a result, with the outlawing of MTBE, there was an instant demand for some kind of octane-enhancing element, which is what really probably precipitated the increased demand for ethanol. And as you all know, there wasn't any ethanol industry to promote the development of ethanol. Politicians developed the ethanol industry, some here, some in the Congress. And I think Nebraska did play a part in that. And I'm not...I was never a proponent of the idea that we would replace gasoline 100 percent with ethanol. It was always an additive. And as is normal, we got 10 percent and then we wanted a little more. And we found out that we could go for up to 30 percent without having any loss of mileage, and so the Congress played around. They had no more idea when they said you'd have to build...have to produce 14 billion gallons of ethanol by 2014 and you have to produce 16 billion gallons of cellulosic ethanol than they did when they said you have to make an automobile that gets 55 miles to the gallon. There are certain laws of physics. It's been a long time since I went to school, but it takes about so much energy to move so much mass at a certain speed and a certain distance. You can't repeal that law. And so, unfortunately, there aren't many engineers in the Congress, and so it was easy for them to pass that kind of a bill. The ethanol industry today, and I had a friend in the oil industry all my life and he died a while back, but he said, we never expected you farmers to get 10 percent of our market; we plainly underestimated you and now, he says, we're going to pull out the stops. I said, well, how are you going to do that, Jerry? We're going to buy you, we're going to buy the opposition. We buy legislators. We buy members of Congress. We buy judges. We buy newspapers. We buy everybody. It's a lot easier. We've got so much money, he said, we can buy everybody. It's kind of interesting, and I should get back to my speech here before Senator Schilz shuts me off, but I just want to say that the ethanol industry developed by political means. And as you were talking a little bit ago, Senator, politics drives the system. We talk about science. We quote science when it suits our purpose, and when it doesn't suit our purpose we don't quote it. We have an whole cadre of respected scientists who say that we have a very serious global warming problem. We also have another whole cadre of scientists who say there is no problem. Well, you can't really go wrong on that because it's going to be two or three or five hundred years before we know if we have a problem.

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And so we can hammer on the desk and rant and rave and propose our own solutions and we can't be disproven. How can a politician go wrong on that? That's a win-win deal any way you go. Let me get back to my speech here. Nebraska Legislature has a history of more than 40 years of support in the development of the ethanol industry. The Nebraska Legislature has initiated many programs designed to encourage business development. I do not believe that any program has achieved the success of the ethanol program. And I did not dream up the subsidized...original subsidized program by myself. I observed the passage of LB775 and I thought, well, shucks, if Vard Johnson in his business encouragement can get his dipper in the bucket for hundreds of millions of dollars, maybe us farmers can do the same. I spoke to Todd Sneller about it and the only really problem we have is that we did not hide the cost of the ethanol program like we hid the cost of LB775. We do not know to this day how much any single recipient of a LB775 benefit got through that program. I asked Vard how much it was going to cost over the life of the program. He said, I can't imagine it costing more than \$100 million. I said, could it be five or ten times that much? He said, as usual, Senator Schmit, you exaggerate. Well, we've now spent about...or lost about \$2.5 billion of revenue. That is why today Senator Schilz, Senator Mello with Appropriations, Senator Hadley have got to scratch and scramble to try to find revenue, because more than \$2.5 billion of revenue was diverted under the theory that we'd encourage new development. We hope that it has done and it has brought some. Whether or not it has brought that much we don't know. But in the ethanol industry we know that Nebraska farmers paid about \$160 million towards the subsidy, and the state of Nebraska paid \$150 million, and so we know that cost was with that program. Those programs are over, done with, kaput, so we don't have that anymore. But again, it wasn't...my idea was not original. I copied it, as I have so many other programs, Senator, that have...some worked and some do not. Anyway, ethanol as an additive to gasoline as a replacement for lead proved to be the right product in the right place at the right time. If it hadn't been for outlawing lead and the inability of MTBE to function, we would not have had the instantaneous demand for ethanol that we had, which ruled its growth. The early opposition to the use of ethanol from the oil industry came because the industry had to find a new method of raising their octane. Expanded use of ethanol has helped reduce our dependence on foreign oil. It has helped reduce the cost of today's motor fuel, and it has produced a cleaner gasoline. It has provided jobs for local people, has provided a new market for crops and a new high-quality feed for livestock producers. A year ago we had \$8 corn because we had a drought and there was a perceived shortage of corn, and the market price, because of speculative factors, was driven to \$8 a bushel. We had one good crop price drop to \$4, and we've not seen a corresponding drop in the price of groceries at the grocery store. Kind of interesting that the oil industry has been expanding their production. They found great new fields all over the United States. What's happened? The price of gasoline has increased, has gone up, and so it makes me wonder. I wish I understood the law of economics of the oil industry when the supply increases you can increase the price. I've not figured that one out. I should have been an oil man. Some oil companies have become ethanol producers. Others have chosen to oppose the use of

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ethanol with the same false arguments that were disproven years ago. If those companies are successful in removing ethanol from the marketplace, we can only expect the cost of all fuels to rise and the American public will pay the price. If we have any doubt, let me remind the members of this committee that even though oil production in this county has increased, so has the cost of gasoline. The best example is a recent tripling of the cost of propane simply because propane customers have no alternative except to pay these exorbitant prices. I'm paranoid enough to believe, as the oil industry says, wait a minute, we had a bunch of farmers out there become big pro-ethanol folks. Most of them use propane for heating purposes, small towns, etcetera. We'll teach those guys a lesson. All of a sudden there's a shortage of propane, a shortage of propane. Ethanol stays pretty flat and has gone down, but propane doubled and tripled in price overnight. If you happen to live in a 100-year-old house like I do, it's like heating a corncrib, and that's when they had open slats, Senator, and the wind blows through. We expect the curtains to move, but when the chandelier moves in the dining room then we know it's serious. But the point is this. Rural Nebraska is paying the price for dominance in the petroleum marketplace. And again, I am suspicious enough to believe that if we reduce the competitive position of ethanol in the marketplace, that the oil companies will do the same thing to the consumer of gasoline that they have done to those of us who burn propane. During World War II, I've been told, 90 percent of all refined fuels for the allies were produced in the United States. I've been told that an actual count of 87 tankers were sent to the bottom by German submarines. There was never a shortage of fuel for the allies and there was never a shortage of fuel for the American public. We always had enough to farm with and to drive. We couldn't do anything we wanted to; we did. Four-engine bomber raids, 1,000-plane raids day and night over Germany, never ran out of fuel. Are we naive enough to believe that the temporary shutdown of a Midwestern oil refinery could cause a spike in the price of gasoline, or the explosion of a train in Canada could cause a spike in the price of gasoline, or a derailment here in the United States should cause gasoline to jump 10 or 20 cents? I don't think so. Why is it that we always see a price increase during Memorial Day weekend and during Labor Day weekend? I believe it's because...well, demand is there. Sure, demand is there. We're all going to fuel up, we're going to do it regardless. We have been told the reason that propane became so expensive was because we used a lot of propane in the corn drying season and they didn't have a chance to replace it. We haven't used propane to dry corn on our farm in five years. We just use air. Furthermore, they had four months' time to restore the supply of propane. Why wouldn't they have a chance to have replaced that propane? It doesn't make any sense. It's a modern miracle that we can provide fresh eggs, fresh milk, fresh meat to 300 million Americans every day and the oil industry can't figure out how to compensate for the shutdown of a lousy refinery in Ohio. Now I may be wrong and probably been wrong before, not very often, Senator, but a couple times, (laugh) not when I worked with you. I couldn't afford to be wrong. But if we wouldn't have ethanol today I'm sure that the replacement for ethanol would be more expensive than the replacement for gasoline. Make one more comment, talk about a subsidy, I freely concede we had subsidies for

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ethanol at the beginning and was...if it was fair for the goose, it was fair for the gander. We got our dipper in the bucket. We got an industry going and we're on our own two feet today. The mandate that was prescribed by the Congress in 2007 was approved and agreed upon by the oil industry. At that time they still had their neck in a noose a little bit because they didn't have the adequate supply of octane enhancers they needed. So they embraced ethanol. Now all of a sudden it's, well, shucks, we've got plenty of gas, plenty of oil, all these new fields, we don't need them anymore; let's get rid of those guys. They may do it, but over my dead body. Thank you, Senator Chambers and Senator Schilz. [LR427]

SENATOR SCHILZ: Thank you, Senator Schmit. [LR427]

LORAN SCHMIT: I'll answer any questions, and even the tough ones from Senator. [LR427]

SENATOR SCHILZ: Good. Senator Hansen has the first question. [LR427]

SENATOR HANSEN: Thank you, Senator Schmit, for being here today. This may be my last opportunity to question you, and so I want to. There was a question last year I wanted to ask you when you were attending some of the Revenue Committee hearings and it goes back to 1971, whenever ethanol was seriously thought of as being a renewable fuel. And I know the idea was to raise...one of the ideas anyway, and you said it today, was to raise the price of corn. Terry Klopfenstein was very...with UNL was very up to speed with trying to find out a use for your waste products in the ethanol business, and they were given away. They were hauled. You paid the freight; you could get as much as you wanted in the late '90s. The university started really experimenting what they could do with these waste products, now we call wet distillers, in the 1990s, 2000 anyway. We waited eight years to get on board using wet distillers but we finally did. Bought a used mixer wagon, which we've never had before, with the scale on it and went all that way. But in...it used to cost about...anywhere from zero to 75 percent of the cost of corn to buy wet distillers. In 2013, after the drought of 2012, ethanol plants had to either shut down...about 20 percent over the nation had to shut down because of high corn prices. Is that correct? I mean I don't want that answer yet but I think that... [LR427]

LORAN SCHMIT: That was, yes, yes, they really...they didn't shut down. Yeah. [LR427]

SENATOR HANSEN: ...nod of the head. But let me finish my thought here before I lose it. [LR427]

LORAN SCHMIT: Sure. [LR427]

SENATOR HANSEN: We paid 115 percent the price of dry corn last year for wet distillers. This year it's the same price, \$79.50 a ton delivered to our place. That's 145

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percent of the price of dry corn, and it may even be higher than that. I'm not sure. I made adds for the Nebraska Corn Growers and I really believed it and I still believe it that it's a triangle thing between corn, cattle, and ethanol, and it can all work together. But I can't see why we're paying so much for wet distillers. We feed a lot of...not a lot of wet distillers. We feed a lot more of dry distillers, great product. I think the ethanol industry has come a long ways in helping our industry too. But there's some inadequacy. I don't raise a kernel of corn, have to buy all that we feed, so we use the wet distillers the same as Senator Schilz said earlier. How we feed it to, you know, we can use rough hay feeding heifer calves and developing cows. But I just want to ask you why, if the reason to raise the price of corn was the emphasis to have an ethanol industry, and then when the price of corn got to \$7.50 or \$8 a bushel the ethanol plants shut down? [LR427]

LORAN SCHMIT: Senator, I had a string of cattle, 700-pound head of cattle and corn got up to those kind of prices, and I took a look at them and I said, you know, I don't know, I've been feeding cattle for 50 years, there's no way I can put that \$8 corn in those cattle. I hauled them to Columbus and I sold them. And the guy who bought them, he said, oh, I got to have cattle for my lot, so he bought them. About six months later he said, I wish I'd had never seen those cattle of yours. I said, why? He said, I lost \$300 a head. I said there comes a time when an item is priced out of its value. I don't care... [LR427]

SENATOR HANSEN: But the reason to start the ethanol industry was to raise the price of corn, but it was only to raise it so much and not to \$7.50. [LR427]

LORAN SCHMIT: Well, that was the same reason we started the corn checkoff for it also to raise (laugh)... [LR427]

SENATOR HANSEN: Yeah. [LR427]

LORAN SCHMIT: We get out of hand, no doubt about it. You know, (inaudible) all the members of the Legislature, probably the most...the three words you heard most often on that floor was "it was never intended." Best intentions, we introduce LB102 or LB304, but all of a sudden it didn't turn out the way we expected, and we have to fight that all the time. [LR427]

SENATOR HANSEN: Yeah. Thank you. [LR427]

SENATOR SCHILZ: Thank you, Senator Hansen. Any other questions? Seeing none, thank you for your testimony. Appreciate it. [LR427]

LORAN SCHMIT: I'll take that as a good sign, Senator. [LR427]

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SENATOR SCHILZ: Next proponent. Welcome. [LR427]

TODD SNELLER: (Exhibits 8, 8A, and 8B) Thank you. Give you a couple pictures to break up the....Mr. Chairman, members of the committee, thank you for an opportunity to testify. My name is Todd Sneller, T-o-d-d S-n-e-l-l-e-r. I serve as administrator of the Nebraska Ethanol Board. I'm testifying in that capacity today. I'd like to focus just on a couple things that haven't been touched on much, because I think the subject of ethanol has been covered pretty well this afternoon so far. One of those points with regard to the renewable fuel standard is that we have an opportunity that I believe we can seize and build on that goes beyond what we've realized today. And I think with that comes a number a benefits for consumers as well as the agricultural sector and the manufacturing sector, and one of those is the fact is we've added more ethanol into the marketplace. One of the things we've done is to put some pressure on the conventional pricing of fuels that we're accustomed to, and one example of that benefit is what we see at the pump today with the ethanol fuels costing less. Provides us a choice and one of those choices is we can spend less in the motor fuels we purchase today. To show you how dramatic that difference is, today we checked the oil pricing system, OPIS, which is a pricing system. We subscribe to that service and we monitor terminals around the state. And yesterday, for example, at the Omaha terminals the price of a gallon of ethanol was more than \$1 less than a gallon of gasoline. So when we see that significant decrease in the price of liquid transportation fuels, it does in fact translate to the consumer. Now that gallon of ethanol, while it's \$1 a gallon less than gasoline, is a gallon of fuel that's refined here in the state of Nebraska. It's produced here, manufactured here, refined here, for large part used here at a lower cost to consumers. So we receive not only the benefits of that economic activity that comes with the production of that fuel, but we see the economic benefits that come with the lower costs of the price of that fuel for the consumers. Second is the fact that one of the examples I've shown here is the renewal fuel standard chart, and it shows the growth of the standard. And it's why there's so much debate between the biofuels sector and between the oil sector is because you can see the significant opportunity for growth in biofuels used in the United States. The standard here calls for a cap on corn-based ethanol in 2015 at 15 billion gallons. The standard for this year called for about 14.5 billion in 2014. It's capped next year. That's the most corn-derived ethanol can grow through the life of this program, which is set to reach it's goal of 36 billion gallons of biofuels by 2022. So that increment of growth that we're going to see beyond corn ethanol today is going to have to come from things other than corn. Twenty-one billion gallons of biofuel from a whole variety of different feedstocks, that's the goal of this program is to replace conventional oil products with biofuels. And with that comes a variety of opportunities. The line of sight charts, the two diagrams I showed you, get to some part a question Senator Chambers raised here about what happens in this process and what products come from this process. And here is the future of biofuels in Nebraska, from my perspective. We have 25 campuses in Nebraska today that host ethanol plant sites, and on those campuses is extraordinary infrastructure. There's energy. There's water.

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There's infrastructure. There's talented management. There's grain origination, sophisticated transportation and communication structure, and that's where this next generation of biofuels plants are likely to be located. That's our experience in recruitment to this point and the experience of investment that we've seen at three different locations in Iowa where they have three different facilities, each of which are about a quarter billion dollars in investment in these new advanced biofuel technologies that go behind the corn kernel that's been used historically. This is the opportunity for Nebraska and it's why I appear today to ask you to support the standard that is in the federal law today in the form of renewable fuel standard because it provides an opportunity for growth, provides an opportunity for prosperity in agriculture, but well beyond agriculture, prosperity in a variety of different sectors. We think from time to time that this is just an agricultural program. I would argue that when we take a look at the sophisticated transportation infrastructure that's been put into place to move ethanol, we take a look at the business, at the railroads that are headquartered in one case here in Nebraska are receiving, in another case major railroad ownership exists here in Nebraska as well. We see the engineering firms that are designing these very sophisticated facilities. We're seeing manufacturing companies making grain bins and storage facilities that house these. We see the public power district that's selling the electricity to those facilities. And we see more than 7,000 direct and indirect jobs that have been created, oftentimes in some of our smallest communities in the state. Probably most importantly is not just the fact that there's a number of jobs in our smallest community. Probably the most important factor is that these are salaries that are paid nowhere else in those counties. In most cases, the average wage rate in the biofuel sector in Nebraska today is about \$58,000. Now that's not such a big deal in Lincoln or Omaha, perhaps, but when you go out to Trenton, Nebraska, you go to Plainview, Nebraska, you take a look at these salaries in Bridgeport, Nebraska, and compare that to what these wage rates are, these are significantly higher wage rates than we see almost anywhere in the state. And these are wage rates that are for engineers, they're for logistic managers, they're for grain handlers, they're for operations personnel. So it creates a terrific economic development opportunity for the facility to grow to the point it has today and to prosper in the future if the standard is upheld. But it creates a terrific opportunity to diversify local tax base, creates a terrific opportunity for employment, particularly when people want to go back to the smaller communities and raise families. And it provides a wage rate that really is significantly greater than about anything we're seeing across the sectors of Nebraska. So the fact that we can produce these products here and see economic activity, see benefit in terms of lower costs at the pump, retain those dollars in the Nebraska economy and benefit from that. And perhaps if this standard is upheld, see this next generation of advanced biofuels continue to grow and to use a variety of different renewable products. In fact, they must be renewable to qualify for the standard. They will in fact go beyond the corn kernel that we're seeing today. And it offers a terrific opportunity here to see more technology and more jobs and more investment occur in the state if we have a stable standard maintained by the federal government. Finally, to a point that Senator Chambers asked

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earlier, I believe the biofuels standard does a number of different positive things, but perhaps one of the most important things, it gives us choice at the pump. You chose to buy a car. You chose to buy a car that runs on gasoline. And when you pull up to the pump, you have a choice of fuels, and you choose to pay more than you need to pay, in my opinion, for that gallon of gasoline. You could have chosen a natural gas propelled car. You could have chosen an electric car. You could have chosen a propane car. You chose a gas car. So when you pull up to the pump, if we don't have biofuels there, you don't have a choice. You have had a mandate imposed on you. You've had a subsidy imposed on you because you don't have a choice. With biofuels in the marketplace today, you can pull up and in your car you can choose several different fuels, biofuels in several cases, hydrocarbon gasoline if you choose. If you pull up in a flex-fuel vehicle, it costs no more than the conventional car you were driving. You can choose, in some cases, four or five different products, many of which contain biofuels. The fact is, you have a choice and in each of those choices you'll pay less money for that gallon of fuel than for the hydrocarbon. I would argue that that's a benefit worth having. So for that reason, I applaud the introduction of this resolution. I ask that you support it, convey your support for this resolution to the Environmental Protection Agency and to the administration, because I think it offers a variety of different prospects for prosperity across the state and within our economy. Thank you. [LR427]

SENATOR SCHILZ: Thank you, Mr. Sneller. Any questions? Senator Johnson. [LR427]

SENATOR JOHNSON: Thank you. Thank you, Mr. Sneller, for coming in. When I was involved in the grain business, early development of the ethanol industry in Nebraska, there was a lot of discussion about whether we should be transporting the grain out to other states, develop ethanol plants out there and, you know, manufacture it out there. The decision was it was the best of both worlds or all worlds, in my mind, for that production to stay here, the ethanol production, keep the corn here, especially now with DDG could have been fed out there to dairy. But dairy is coming this way, too, because of the lack of water out there. The technology is going to change and now we're using corn as the base and there's a mandate for the cap on that. The new technology out there, do you feel that the input stock that's going to go in and make ethanol, will that be something produced in Nebraska, or are we going to see ethanol plants being developed where other type of stover or other type of products might be the best stock? [LR427]

TODD SNELLER: The investments in technology today are really geared at the corn plant, the entire plant. All the inputs, as you know, go into raising that entire plant. And that plant has got a number of different uses. It can be those stocks can go to livestock feed. They can stay for ground cover, provide soil nutrition. They can be used as a sale as feedstock in a biofuel or biochemical plant. So the fact is, again, farmers have a choice as to how to allocate that resource. They can sell it to the market. They can use it for their own inputs. In livestock feeding they can keep it on the ground for soil

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nutrition. So I think it provides an opportunity, it provides choice. And in my view, again, that's the beauty of this. There are choices for the raw material producer, for the end user. There are more choices than otherwise there would have been had not the biofuels industry emerged. [LR427]

SENATOR JOHNSON: So you think the industry that we have right now is going to continue to be suited well for the future of the ethanol industry producing the corn here. New plants might be someplace else then? [LR427]

TODD SNELLER: Part of my professional experience is in business recruitment. I worked for the Department of Economic Development, doing business recruitment for about a year and a half, and I continue to play an active role in business recruitment so I'm working with these technology companies. I work very closely with DuPont before they made the decision to put that facility in Iowa, worked very closely with DSM, which is an international company that's got a joint venture with POET Companies in Iowa, unfortunately, and worked very closely with Green Plains Renewable Energy, which has a facility in...which is headquartered in Omaha. They've made investments in four assets in Nebraska. They're putting in some new technology, including corn oil extraction technologies. They've put in an algae extraction and production facility at their corn plant in Shenandoah, Iowa. So I think what those companies have concluded is that they've made a terrific investment in infrastructure and to go back to those same campuses. And this is the recruitment philosophy that I'm embracing now, because I think that's where these facilities are going to be located, as witnessed in the experience in Iowa at this point. We have this opportunity to bring new companies in to be conjoined with those plants in some sort of an operation where they can take advantage of all the infrastructure but also the expertise. These are people now that know how to originate raw materials. They have relationships with farmers and other providers in the area. They have gas relationships and they have relationships to the local electric utilities. So to learn all those lessons again is time-consuming and expensive, so I think the easy, smart place to go is invest in a collocation with the existing facilities. [LR427]

SENATOR JOHNSON: Thank you. [LR427]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other question? Senator Bloomfield. [LR427]

SENATOR BLOOMFIELD: How much knowledge do you have of the beef by-product being used to make jet fuel? [LR427]

TODD SNELLER: To...I'm...how much...the... [LR427]

SENATOR BLOOMFIELD: Up in Dakota City, South Sioux City. [LR427]

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TODD SNELLER: Oh, excuse me, using rendered fats or whatever? [LR427]

SENATOR BLOOMFIELD: Yeah. [LR427]

TODD SNELLER: Not a lot of knowledge. I simply know that that's a qualified renewable biofuel under this, that those oils and the aviation fuels are in high demand, particularly by the Department of Defense. We're taking a look at those applications that go into aviation fuels, into marine engines. A lot of these heavy duty pieces of equipment are diesel-fuel based, and so the bio oils, the algae oil is going in there, the rendered fats, the corn oils and soy oils, a variety of different oil products will continue to go into that. And ultimately it will be the technology that yields the low-cost, high-producing beef stock. And I think, you know, rendered fats obviously are a smart kind of a waste remediation strategy that probably yields a good high-value product at the end. [LR427]

SENATOR BLOOMFIELD: Okay. Thank you. [LR427]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Senator Chambers. [LR427]

SENATOR CHAMBERS: Thank you. When the purveyors of ethanol are going to take advantage of this mandate, do they give their product to the petroleum industry or must the petroleum industry pay for it? [LR427]

TODD SNELLER: The petroleum industry must pay for it. [LR427]

SENATOR CHAMBERS: Now I have made this as a statement and I'm going to see if you've heard it, that the industry is saying it cannot absorb the gallonage of ethanol that the ethanol producers want mandated for them to incorporate into their product. Have you heard them make that allegation? [LR427]

TODD SNELLER: I have. [LR427]

SENATOR CHAMBERS: If they're telling the truth and that mandate is placed anyway, will the industry be required to purchase that amount of ethanol whether they can use it or not? [LR427]

TODD SNELLER: They have more than one choice. They are required to purchase that or they can buy a credit in place of the physical product purchase. [LR427]

SENATOR CHAMBERS: And what is a credit? What is that for? How does that operate? [LR427]

TODD SNELLER: It's called a RIN. It's an acronym, renewal identification number. It's assigned. It's in effect a birth certificate that goes with every gallon of biofuel that gets

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born. It's a 36-digit code. [LR427]

SENATOR CHAMBERS: But you pay for that. [LR427]

TODD SNELLER: You can pay for that in lieu of physical gallon. [LR427]

SENATOR CHAMBERS: Okay. But the idea is that the company, the "petroleumites," the "petroleumites" are going to pay that money to the purveyors of ethanol... [LR427]

TODD SNELLER: They can... [LR427]

SENATOR CHAMBERS: ...regardless. [LR427]

TODD SNELLER: When they buy those gallons of ethanol or biodiesel, they, in effect, buy that RIN that goes with that. They need to redeem a certain number of those RINs. There's an assigned number for every refinery in the U.S. every year. It's calculated and that's the number they're provided. They must meet that obligation either by purchasing biofuels in that volume or...and then using the RINs to document that purchase, or they can buy separate RINs and basically comply through paper instead of physical product. [LR427]

SENATOR CHAMBERS: But the key to all of these transactions, regardless of how they're labeled, is that a certain amount of money must flow from the petroleum industry to the purveyors of ethanol... [LR427]

TODD SNELLER: Yes, they must... [LR427]

SENATOR CHAMBERS: ...regardless. If the petroleum industry is not going to make this mixture, they still have to pay that money to the purveyors of ethanol, then determine what they, in their councils, are going to do with either these pieces of paper or the ethanol itself. But they're going to be out of that money regardless of the decision they make internally. [LR427]

TODD SNELLER: Not in every case. And I would offer you the example of Valero Refining Company, the largest North American refining company. That company is one of the largest owners of ethanol plants. They acquired a variety of ethanol plants because it was a smart business move for them. They've made an enormous amount of money in Valero biofuels, which is a new division that formed. And they own that as...those assets, including one in Nebraska. They generate that biofuel themselves. They generate the RINs themselves. So they not only own the liquid transportation fuel that allows them to comply but they have a handful of these RIN certificates beyond that. They sell those into the marketplace. So they are one in the same in that case. [LR427]

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SENATOR CHAMBERS: But that's not the way the industry operates in general. That's...even if they're the biggest, that is not the same as saying they produce at least 51 percent of all of the petroleum products. They are the biggest of those who produce it. So a much greater percentage than that comprised by this company you're talking about do not own those facilities in the way this Valero does. So these are the ones that I'm talking about who are going to be out of that money because of this mandate by the government, and that money is going to benefit the purveyors of ethanol. [LR427]

TODD SNELLER: Senator, they're not out... [LR427]

SENATOR CHAMBERS: Stated simply, that's the way it's going to be. [LR427]

TODD SNELLER: I don't believe that's the case at all. [LR427]

SENATOR CHAMBERS: Then who benefits from that money that comes from the petroleum industry as a result of this mandate? [LR427]

TODD SNELLER: Well, the shareholders for those petroleum companies. The shareholders of the petroleum companies are beneficiaries of the fact that that oil company is buying ethanol at \$2 a gallon and selling it to you for \$3 a gallon, selling it to me for \$3 a gallon. [LR427]

SENATOR CHAMBERS: That's not what I'm talking about. Leave me out of it. Just take these... [LR427]

TODD SNELLER: They're selling it to me for \$3 a gallon. [LR427]

SENATOR CHAMBERS: ...take these two companies,... [LR427]

TODD SNELLER: Okay. [LR427]

SENATOR CHAMBERS: ...these two industries. The petroleum industry is paying the money; the ethanol industry is receiving the money. And it doesn't make any difference how they try...the petroleum industry could sell it for making Molotov cocktails if they want to. [LR427]

TODD SNELLER: Uh-huh. [LR427]

SENATOR CHAMBERS: I must not be making myself clear, so I'm going to try to use these pieces of paper. [LR427]

TODD SNELLER: Okay. [LR427]

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SENATOR CHAMBERS: This piece on my left and your right is the ethanol industry. The piece of paper on my right and your left is the petroleum industry. The mandate is going to require the movement of money from one of these pieces of paper to the other. If the government did not mandate that the petroleum industry buy this much ethanol--and I'm going to use the term "buy" because that's what it is--the petroleum industry on its own would not do so. That's why they have to be compelled by the government. If it was a good business deal, the petroleum industry would do it. But for whatever reasons, they don't think it's a good business deal so the federal government said, in the blunt terms that I use, you are going to give an amount of money to the ethanol industry that would be sufficient to purchase enough ethanol to blend 35 percent ethanol into your product. That's the way I see it, and you don't have to agree with it at all. That's the way I'm laying it out here. I see it as a government mandate. I see it as a shifting, a redistribution of value. When these conservatives were condemning the President and these so-called liberals, whatever they are, they were called Socialists because they want to take out of one person's pocket and put it in the pocket of another to enrich that other person. That's what these mandates are doing. They're taking value from the petroleum industry and shifting it to the ethanol industry and giving them a guarantee. As that man in Louisiana, who used to be on cable television and cook, he'd say, I gairrontee (phonetic). And that's what ethanol people are here for today, not to get the state to do anything but to tell the federal government, keep those petroleum dollars flowing to the ethanol pockets. That's the way I see it. Now I'm going to tell you what I feel about this resolution. I'm going to apply the Loran Schmit principle. I've immortalized it. It won't...it doesn't help anybody, it doesn't hurt anybody, it doesn't cost anything, it doesn't do anything, so if the committee sends it out there, then the only thing that we've lost is the amount of time we put into the discussion. But it's going to be just another piece of paper and if EPA has decided whether on its own, through its evaluation and analysis, thinking about democracy, the free market and all this stuff, or because the petroleum industry was able to pressure them, whatever the reason is, it's going to do what it's going to do anyway. And I'm not a bookie, but if I were I would take bets today and I'd give odds that that percentage is going to lower. And a resolution from the Nebraska Unicameral is not going to make one bit of difference, but it will make people feel better and they will feel that they took a position that is telling the ethanol purveyors in Nebraska that we're on your side. Then if they got a certain kind of car, they're going to go right out and fill it up with petroleum products, petroleum, gasoline. Do you think there are any people who are in the ethanol industry who use gasoline in their cars without ethanol? Do you think every person in the...the way you're looking at me, am I speaking English? (Laughter) [LR427]

TODD SNELLER: No, I'm... [LR427]

SENATOR CHAMBERS: Oh, okay. [LR427]

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TODD SNELLER: ...I'm trying to understand your... [LR427]

SENATOR CHAMBERS: Are there people in the ethanol industry who own automobile vehicles? [LR427]

TODD SNELLER: Yes, there are. [LR427]

SENATOR CHAMBERS: And are there people in that industry who use gasoline in their automobiles? [LR427]

TODD SNELLER: They are required to do that. [LR427]

SENATOR CHAMBERS: Why? [LR427]

TODD SNELLER: They're mandated to do that. [LR427]

SENATOR CHAMBERS: Huh? [LR427]

TODD SNELLER: They're mandated to do that. [LR427]

SENATOR CHAMBERS: I didn't say ethanol. I said gasoline. [LR427]

TODD SNELLER: They're mandated to use gasoline in their vehicles. [LR427]

SENATOR CHAMBERS: And so they use...they're helping the petroleum industry. [LR427]

TODD SNELLER: They don't have a choice. It's mandated. [LR427]

SENATOR CHAMBERS: Yeah, but they can buy gasoline that's got ethanol in it, can't they? [LR427]

TODD SNELLER: A small portion, sure. But they're mandated... [LR427]

SENATOR CHAMBERS: And do all of them buy ethanol-diluted gasoline? [LR427]

TODD SNELLER: Ethanol-enhanced gasoline perhaps? [LR427]

SENATOR CHAMBERS: You say tomato, I say tomahto (phonetically). (Laughter)
That's all I have. Thank you very much. [LR427]

TODD SNELLER: Thank you, Senator. [LR427]

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SENATOR SCHILZ: Thank you, Senator Chambers. [LR427]

SENATOR CHAMBERS: You're welcome. [LR427]

SENATOR SCHILZ: Mr. Sneller, just one question, and Senator Chambers somewhat alluded to this. What kind of time frame is there for the EPA to reach their final decision on this? And what is that...how is that going to go forward? [LR427]

TODD SNELLER: EPA has received about 40,000 comments to their proposed rollback, so they're going through what they view as a deliberative process, trying to evaluate the substance of those comments. They'll make a political decision, I suspect. They'll try to balance that with what they view as market concerns, and they'll come back sometime probably in early to mid-April with a final decision. That will be a final rule, as posted in the Federal Register. At that point, the litigation will begin. [LR427]

SENATOR SCHILZ: I see. Okay. Great. Any other questions? [LR427]

TODD SNELLER: As my father said, time is our most precious commodity. I appreciate your time. I do want to leave you with one little historical piece because we've talked today about back in the 1970s when Loran Schmit gave rise to ethanol. This body's experience and legacy of ethanol goes back farther than that. In 1932, in fact, they passed a bill to encourage the use of ethanol. This photo was taken about three blocks north of here, just across the street south from Bennett Martin Library. I thought you might enjoy that as I leave. Thank you. [LR427]

SENATOR SCHILZ: Thank you, sir. Any other proponents? Seeing none, I have two letters here; one from the Nebraska Corn Growers in support, I believe, and the other one...I believe it's in support; and the other one is from the Nebraska Soybean Association in support. Any opponents? Good evening, Tim. [LR427]

TIM KEIGHER: Good evening, Chairman Schilz and member of the committee. My name is Tim Keigher, K-e-i-g-h-e-r. I appear before you today as the executive director and registered lobbyist for the Nebraska Petroleum Marketers and Convenience Store Association. I know I'm the only thing standing between you and getting out of here and having a Schlitz, so I will try and make this brief. (Laughter) NPCA represents 180 independent petroleum marketers, wholesalers and retailers, in the state of Nebraska. There are some wholesalers and retailers who are not members of our organization but they are all independent in the state of Nebraska. There was a statement made earlier that they were owned by the major oil companies. To my knowledge, not one major oil company owns any interest in any retail facility in the state of Nebraska today. At one time there was a joint venture between Conoco and Flying J that owned the Flying Js, but today, to my knowledge, they are all owned independently. NPCA has always been a proponent of ethanol. We sell this product. We are in the business of selling motor

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fuel. We don't care if it has ethanol in it or it doesn't have ethanol in it. The consumer cares, but we don't care. We would sell soda pop if it would burn in your car. Well, I guess we sell soda pop. But our concern is the blend wall. Senator Chambers, you asked a question that I'm going to try and answer. The mandate is that a certain number of gallons of ethanol must be blended into the motor fuel pool each year, and that number continues to increase as the sale of gasoline continues to decrease. So you have a rising number on this side and a declining number on this side. What the ethanol industry is after is they want us to blend more ethanol into the gasoline to continue to meet that number. Right now my members sell 10 percent blended ethanol. Some of them sell 15 percent. Some of them sell E-85. Our concern is that as we continue to get close to this blend wall I have a statistic here that says there were, what, 134 billion gallons of gasoline sold in 2011 compared to 12.89 billion gallons of ethanol that same year, so you're getting almost to a 10 percent ratio. So the only way for the ethanol industry to continue to put more ethanol into gasoline is to require the obligated parties, which are the major oil companies, which I do not represent the major oil companies, to continue to blend higher blends of ethanol. Back in September of this past year there was a change made in the fuel that my members are able to get from their suppliers. We took...they were taking a 85 octane gasoline, blending ethanol in with it to make it an 87 octane gasoline which now contains ethanol. At most places you'll go to you'll find that the two lower grades of gasoline have ethanol blended into them. At some locations you will find the premium to have ethanol. Other locations you will find the premium to be a straight gasoline. And at Casey's and maybe a few other independent retailers you are finding an 87 gasoline that is a straight gasoline. I guess my mind has went all around in a circle as I've sat here and listened, so I'm trying to make this brief and cover the points I want to cover. Our biggest concern with it is not the mandate, I guess. Our concern is that if we're going to sell higher concentrations of ethanol, the liability that goes along with that because the current infrastructure that we have of tanks and underground piping does not meet UL approval to sell higher concentrations of ethanol-blended fuel other than 10 percent. Now some of my members who are selling E-85 and put in blender pumps and that have bought equipment that is capable of that, but to convert the existing infrastructure that we have, it costs about \$15,000 for a dispenser that will dispense three grades of gasoline on each side of it. That's not including the tanking and the underground piping. The RINs were discussed earlier. I think I followed your line of questioning. Like I said, the ethanol...or the petroleum industry is required by law to put so many gallons of ethanol in the total pool of gasoline that is sold in the country. In this part of the country, since we have been selling a larger volume of ethanol over the years, we are accumulating some of those RINs or the obligated parties are accumulating those. So in other words, Phillips, Conoco, BP are accumulating those credits because when they sell the gasoline to my members, they are keeping those credits. An independent marketer like Casey's, who is buying on the open market, is able to buy gasoline and ethanol separately and is getting those credits. So Casey's, in this case, has made a lot of money on the RINs. What they are doing with the RINs is they are selling them to ARCO or other companies on the Coast that

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don't have the availability of the ethanol that we have here. But at the end of the day, I agree with what you're saying, is they are required to buy so many gallons of ethanol to meet this mandate. If they don't, the obligated parties will pay a penalty. I don't know what that penalty is, but I'm assuming it's a very large penalty. I guess, you know, like I say, we are not here to be antiethanol. We understand that we live in the state of Nebraska where we grow a lot of corn, we produce a lot of ethanol. Our concern is what liability are we going to have when we are forced to sell larger volumes of ethanol because our suppliers are going to force it down our throat. So with that, I'll keep it brief and be happy to try and answer any questions. [LR427]

SENATOR SCHILZ: Thank you, Mr. Keigher. Any questions? Senator Wallman. [LR427]

SENATOR WALLMAN: Yeah, Chairman Schilz. Thanks. Thanks for coming down here today, a long day. [LR427]

TIM KEIGHER: It has been. [LR427]

SENATOR WALLMAN: Now have you ever approached the Corn Board to help you with funding on this, changing over to blender pumps? [LR427]

TIM KEIGHER: There have been some subsidies or some grants, I guess would be the more appropriate word, to put in blender pumps, but I don't know that anybody wants to come up with the money to replace all the dispensers. I mean last time I checked there are 1,847 licensed retail facilities in the state of Nebraska. Now understand that in that number you have a trucking company who is selling to another trucking company, so I wouldn't consider them to be a full-fledged retail facility. [LR427]

SENATOR WALLMAN: Uh-huh. [LR427]

TIM KEIGHER: But there are a lot of retail facilities in the state, yes. [LR427]

SENATOR WALLMAN: Okay. Thanks. [LR427]

TIM KEIGHER: Uh-huh. [LR427]

SENATOR SCHILZ: Any other questions? Seeing none, thank you for your testimony. Appreciate it. [LR427]

TIM KEIGHER: Time for that Schlitz. [LR427]

SENATOR SCHILZ: Okay. Any other opposition? Seeing none, any neutral testimony? Seeing none, Senator Carlson, you're welcome to close. [LR427]

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SENATOR CHAMBERS: He's neither for, against, nor neutral. (Laughter) [LR427]

SENATOR CARLSON: Well, thank you, Senator... [LR427]

SENATOR SCHILZ: They're getting hard to contain, so. [LR427]

SENATOR CARLSON: ...Senator Schilz and members of the committee. I'll try to do this in 30 minutes or less. (Laughter) [LR427]

SENATOR SCHILZ: Yes, you will. [LR427]

SENATOR CHAMBERS: I take the less. [LR427]

SENATOR CARLSON: Okay. All right. Listening to a couple of things, I may surprise you by one of the things I'm going to say, is that Carl Sitzmann said that it takes less than three gallons of water for a gallon of ethanol, and I believe that. I've heard that figure and even less before. But I don't think, when he talked about it being recycled, that he took the recycling into effect. So it's a pretty small amount of water that's necessary to generate a gallon of ethanol, and I don't even want to talk about how many gallons of water it takes to grow a bushel of corn. There's a huge, huge difference. The other thing is we have a fuel here that can be burned and move a vehicle that if you ingest it, you're not going to die. And just try and swallow some gasoline and see what happens. So there's a big safety factor here. Now when Tim Keigher gave his testimony, I sympathize a little bit because it is a government mandate and that can put a retailer in a bad spot. I have a son who's got a medical practice and he's found out that he's got to change over to a coding system on his patients and he reports procedures that he does. And I think he's been scared into this. I don't think...the fact is that he's going to face this, but he thinks, by what he's read, that his small practice may have to pay anywhere from \$50,000 to \$200,000 to comply with this mandate. And I'm sick of mandates. So as retailers have this on ethanol, I can sympathize with them. Those pumps are expensive and it could put a real hardship on someone. But overall, I think the ethanol industry does a good thing and it's been helpful to society, and I would ask for your support. So thank you. [LR427]

SENATOR SCHILZ: Thank you for less than 30 minutes. Any questions? [LR427]

SENATOR CHAMBERS: Senator Carlson. [LR427]

SENATOR CARLSON: Uh-oh. [LR427]

SENATOR CHAMBERS: No, no, not a question. I was here for the entire time that you had your issue before us and I would have stayed until 10:00. So if you need additional

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time, I (laughter)...oh, well, we both better be wise men now. [LR427]

SENATOR CARLSON: I think we better. [LR427]

SENATOR SCHILZ: Any other, any questions? Seeing none, thank you. [LR427]

SENATOR CARLSON: Okay. [LR427]

SENATOR SCHILZ: And that will close the hearing on LR427. Thank you very much, everybody, for sticking around for a late night. We were going to try to Exec, but I will find a time to do it some other time. [LR427]

SENATOR JOHNSON: Thank you. [LR427]

SENATOR SCHILZ: There you go. Have a good night, everyone. [LR427]