

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

[LB85 LB183 CONFIRMATION]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, January 27, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB183, LB85, and gubernatorial appointments. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Tyson Larson; and Merv Riepe. Senators absent: Burke Harr and Ken Schilz.

SENATOR JOHNSON: Good afternoon. We will start the Ag Committee hearing. It is 1:30. We have some senators that are going to be coming in a little bit later. We have one that's testifying in another committee, one that had to leave the building because of family sick and that's Burke Harr. Others I think will be joining us as we move forward. Go through some procedures: First of all, we did not know we would have this crowd for this hearing so we did not take the...try and attempt to get a larger hearing room. That's a process that you have to go through, but we did have the one 1524 that is vacant today so we're using that as an overflow. As the Sergeant at Arms identified, we'll be having the pro for the hearings first, pro and then opponents. And then we will finish that, and we'll start in on the opponents for Senator (sic) Ibach's confirmation, which I think is where we're going to be switching the crowd from basically. So with that, I want to give some directions here. First of all, of course, turn off your cell phones to silent or to vibrate. If you're going to testify, you need to fill out one of the green sheets. If you're going to testify on more than one bill or one confirmation, we need a green sheet for each one; ask you to bring that when you come to the mike and put it in the box by the mike. If you're not going to testify but you want to show your support or opposition to one of the appointments or one of the bills, we ask that you sign the white sheet and indicate your support, yes or no. If you have materials to hand out to the committee, we ask that you have 12 of them. If you don't have them already, bring the original copy and we'll have the page make some copies for the committee. Today we're going to be using the lights because of the crowd. We'll start with the very first confirmation hearing using lights. And we're going to be five minutes for those people that are presenting their confirmation presentation or presenting the bill, introducing the bill. After that we will go to three minutes for all of those others that are going to be testifying, both pro and against any of the discussion today. For all of them, and I think we probably only need it for the one confirmation, but we will be enforcing a one-hour limit, one hour on the proponents and one hour on the opponents, so we are able to control that a little bit. The green lights will be used, the five minutes you'll have a green light; when there's one minute left, you'll get an amber light; and the red light comes on and we ask you to conclude. When we get to the three minutes, again, when there's one minute left on your time it will turn amber and then it will go red. So that's pretty much the procedure today. I want to introduce the committee that's able to be here. I just got another note that another senator has come down ill so hopefully we make it through today. But I'll start on my far left, Senator Chambers; and Senator Merv Riepe is next to him. Burke

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

Harr is a member that's home sick. We have Senator Bloomfield, but he's testifying on another bill in the Judiciary Committee right now so he hopefully will be coming in. On this side we have Senator Tyson Larson we hope will be here before too long; Senator Ken Schilz is sick; and Mark Kolterman is here and he's the Vice Chair of the committee. To my right is research analyst Rick Leonard. To my left is committee clerk Travis Moore, and he is assisted today by Barb DeRiese with the lights. Our page today is Jay Linton from Dalton, a UNL student. Downstairs in 1524 we have Kelli Bowlin from Cody who is also a UNL student. During the process this afternoon sometime, I will be introducing a bill in another committee. At that point the page will let me know when I'm up. I will relinquish the Chair to our Vice Chair, Mark Kolterman, and he will chair the committee until I return. I think we're ready for the first confirmation so if William Marshall will come forward, and you have five minutes for your presentation. Welcome, Mr. Marshall.

WILLIAM MARSHALL: (Exhibit 1) Thank you. I guess I wasn't aware I was to make a presentation. I'm to be confirmed as a member of the Nebraska State Fair. I have been...this would be my third three-year term with the Nebraska State Fair. I'm from Grand Island. I'm the local representative on the Fair Board from Grand Island. I was originally appointed or recommended by the mayor of Grand Island to go on the Fair Board. I was born in Niobrara, Nebraska. I received my elementary education in Niobrara, Nebraska. I received my secondary education in Grand Island and my higher education at UNL. I have been involved, as I said, in the fair activities for the last six years; one year while the fair was here and the rest of them while they were in Grand Island. I guess that's about all I would have to say. [CONFIRMATION]

SENATOR JOHNSON: Okay. Is there any questions from the committee? Senator Chambers. [CONFIRMATION]

SENATOR CHAMBERS: Mr. Marshall. [CONFIRMATION]

WILLIAM MARSHALL: Yes. [CONFIRMATION]

SENATOR CHAMBERS: Are you acquainted with the appointee? [CONFIRMATION]

WILLIAM MARSHALL: Yes. [CONFIRMATION]

SENATOR CHAMBERS: How well acquainted with him are you? [CONFIRMATION]

WILLIAM MARSHALL: Pretty well. [CONFIRMATION]

SENATOR CHAMBERS: How long have you known him? [CONFIRMATION]

WILLIAM MARSHALL: Seventy-one years. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR CHAMBERS: Is he a man of good character? [CONFIRMATION]

WILLIAM MARSHALL: Well, I think so. [CONFIRMATION]

SENATOR CHAMBERS: Is he reliable? [CONFIRMATION]

WILLIAM MARSHALL: I think so. [CONFIRMATION]

SENATOR CHAMBERS: Would you take what he says as being true?
[CONFIRMATION]

WILLIAM MARSHALL: Yes. [CONFIRMATION]

SENATOR CHAMBERS: So then you second everything that has been told to the
committee by the appointee today? [CONFIRMATION]

WILLIAM MARSHALL: I believe so. [CONFIRMATION]

SENATOR CHAMBERS: And I think you're a man of integrity and character so based
on your recommendation I'm going to agree to the appointee. [CONFIRMATION]

WILLIAM MARSHALL: Okay. [CONFIRMATION]

SENATOR JOHNSON: Any other questions from the committee? If not, thank you for
your testimony. Are there other testifiers in favor or a proponent of this appointment?
Seeing none, that's not bad. Are there any opponents? Again, seeing none, anyone in a
neutral position? Seeing none again, thank you, Mr. Marshall, for coming in. That will
conclude the hearing for William Marshall for the State Fair Board, the reappointment,
and thank you for coming in. We'll move to the second appointment and that is the
appointment of...reappointment of Greg Ibach, director of the state Department of
Agriculture. Come forward, please. Again, five minutes. [CONFIRMATION]

GREG IBACH: (Exhibit 1) Members of the Agriculture Committee, my name is Greg
Ibach, G-r-e-g I-b-a-c-h. I come before you today as you consider confirmation of my
appointment as the director of the Nebraska Department of Agriculture. For the past
decade, I have been honored and privileged to serve as director, and I've worked
diligently with others to grow, promote, and regulate the state's number one industry.
While I am pleased with the progress we have made during my tenure at NDA, I am
also excited for the road ahead. My farm and ranch near Sumner provide me important
insight into the policy and promotion decisions we make every day. I have seen exciting
changes and growth for agriculture in Nebraska. In the past ten years, Nebraska has
exported \$23 billion in agricultural products, with a third of those sales being

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

represented by beef and pork. Asia has been a critical market, targeted promotional and outreach efforts in China, Japan, and Korea, some of our best trading partners. We have also focused on the European Union where we have seen Nebraska exports grow from \$35 million in 2004 to \$272 million in 2013. We reached a milestone in 2014 when Nebraska exported over \$1 billion in beef. The impact of agriculture on Nebraska's economy not only comes from exports but from adding value to our commodities, such as corn and soybeans, before they leave the state. Raising livestock and then harvesting the meat, milk, or eggs is part of our cultural heritage, and we lead the nation in red meat production. However, research by the department, the University of Nebraska, and our commodity organizations has shown we need to do more to keep pace with our neighboring states. We've openly accepted this challenge and are collaborating with these partners to grow the livestock sector. Conversations about the importance of livestock production to local economies are happening across Nebraska as evidenced by the addition of 15 new livestock-friendly counties to the state program in the last three years. Livestock development will continue to be a focus for the department. Many people do not realize the great diversity we have within Nebraska agriculture, including major Nebraska crops such as dry edible beans and potatoes. NDA manages a federal USDA grant called the Specialty Crop Block Grant Program and over the past ten years approximately \$2.6 million in funds have been allocated toward projects in Nebraska. In addition to traditional fruit and vegetable projects, we have funded research, promotion, and education projects to benefit dry edible beans, potatoes, grapes, nuts, and even just this year, hops. We also have a thriving organic sector and the department has implemented the federal Organic Certification Cost Share Program for several years to aid producers with certification costs. I note these specific programs because I believe the director should represent all sectors of agriculture, and NDA has worked toward that goal during my tenure. Collectively we are responsible for 92 statutes. However, the bulk of our budget, 85 percent, is tied to regulatory programming that preserves health, safety, fairness, and standards for those in the agriculture sector as well as the general public. We are working to enhance our efficiency through the implementation of a paperless inspection system using tablet computers on site and in real time. We hope to improve accuracy as well as efficiency with this focused project. We continue to see public interest in the activities of our commercial dog and cat operator inspection program. Over the past 18 months, we have worked to improve this program on three fronts in an attempt to more effectively deal with chronically substandard facilities. We have updated our enforcement procedures, are making changes to existing program regulations, and are working cooperatively with others who have offered legislation this session that contain amendments and changes designed to improve the program. In closing, I believe that agriculture in Nebraska is moving in the right direction. The 2012 Census of Agriculture released last year found the number of young farmers, those under 34 years of age, was up 42 percent from 2007. Our state's youth are excited about the future of agriculture. The department's Agricultural Youth Institute, a program for high school students, last year had over 200 delegates, highest attendance in the 43-year history of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

the program. Again, I thank you for your time. I appreciate your consideration for confirmation and I am excited about the work ahead. [CONFIRMATION]

SENATOR JOHNSON: Thank you, Mr. Ibach. Let me lead with the first question because I know there will be continued questions with the time limit there. What...one of the things I was reading in the legislation, the work that you have to do with the counties dealing with the inspections and the process, is that one of the issues in being able to do the best job out there or what are the shortcomings of the Commercial Dog and Cat Act, put it that way? Let you expound on that a little bit. [CONFIRMATION]

GREG IBACH: So about a year ago we made a...I made an administrative policy decision that we needed to be more aggressive in our administration of our authority under the statutes. And at that time we also then engaged the Nebraska Humane Society to help us review our statutes and even identify different parts of the statutes that might aid us in upping our enforcement there. And so that, over the past 12 months that has led us to review our enforcement procedures. We've updated them in an attempt to more effectively deal with chronically substandard facilities. And the goal of these new enforcement procedures is to either bring these facilities quickly and consistently into compliance or, if compliance is not attained, to have the necessary due process record in place to take action against their license. In addition, we're making the changes to program regulations. A hearing was held just last week to try...and we will be sending those over to the Attorney General perhaps yet this week. And like the updated enforcement procedures, the revised regulations are designed to allow the department to move more efficiently and effectively against the substandard facilities. We worked ahead of the hearing process to share draft regulations with stakeholder groups, including the Nebraska Humane Society and Hearts United for Animals, and we did tweak those regulations ahead of the hearing based on feedback that we received from those stakeholders. We hope to finalize these regulations, as I've said, very quickly. And finally, we have worked cooperatively with groups and individuals who have offered legislation this session that we think will contain amendments and changes that will help us meet the great expectations placed on the program. [CONFIRMATION]

SENATOR JOHNSON: Okay. Thank you. Questions? Senator Chambers.
[CONFIRMATION]

SENATOR CHAMBERS: Mr. Ibach, you had mentioned the need to do more as far as enforcement of the commercial dog and cat licensing act. What or how many of these operations have you moved against because they were out of compliance?
[CONFIRMATION]

GREG IBACH: So what has typically, you know, in the past been a problem or a concern of the department is that, you know, by statute we're required to inspect once every two years on the licensee which is not very frequently. But when we would go out

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

there, they might be out of compliance or have violations, and so we would return, you know, in a few weeks or a month to reinspect them and then they would be back in compliance. And so then, you know, we would assume that they had fixed their problems and addressed the concerns and then we'd go back again later and then they'd be back out of compliance. So they have a pattern of coming in and out of compliance. And so each, you know, in our previous rules and regulations and enforcement procedures those operations, each one of those, would be a new due process. And so under the new enforcement procedures and rules and regulations, we're moving those to be a history of in and out goes together to allow us to use that as part of the due process record to be able to take action against their license. So I'm hoping that will help us address some of those concerns that we have.

[CONFIRMATION]

SENATOR CHAMBERS: Okay. That explains your procedure, but my question was, how many of these operations have you actually taken action against because they were out of compliance? [CONFIRMATION]

GREG IBACH: So, you know, probably we haven't taken action formally against very many. And the ones that we have taken action against we have...there's been several cases that have gone to court where the county attorney, working in cooperation with us, we haven't had the result we wanted out of some of those cases as well as some, rather than going clear to hearing, many of the licensees have either relinquished animals, given up their licenses, or taken other steps to try to either not be subject to license so not all...not the number of actual cases are reflective. [CONFIRMATION]

SENATOR CHAMBERS: I don't want to take too long because others, you know, there are people here to speak and I want to give them the chance. But there are a couple of things I'm trying to get clear in my mind. If complaints are made to your department, how long before somebody would go out and inspect based on that complaint?

[CONFIRMATION]

GREG IBACH: So when we receive a complaint, we try to go out as soon as we possibly can to make that inspection. [CONFIRMATION]

SENATOR CHAMBERS: And I need to know... [CONFIRMATION]

GREG IBACH: So within a week is our goal. [CONFIRMATION]

SENATOR CHAMBERS: And if there are, as I've seen photographs and had people tell me, there are dogs with hair too matted to comb out, they're urine soaked, they have jaws that are rotted away, teeth that don't exist and yet that operation continues to function and I was even told that there are some...there were some inspectors who were told to kind of back off and lighten up and that there are some of these operators

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

who have undue influence with your department. I'm telling you what is out there and what I've heard. And I'm going to even get more involved now because you are being appointed by a new Governor. Have you and that Governor, and I don't want the details, discussed the problems that exist, in fact, with these commercial operations? Did you and he discuss any of those things specifically? [CONFIRMATION]

GREG IBACH: Not specifically but I think that, you know, quite a few people have been aware of the steps we've been taking to become more aggressive on this front. [CONFIRMATION]

SENATOR CHAMBERS: And if I'm dissatisfied, I'll go directly to the Governor because he has to be aware of these kind of issues. I shouldn't get the number of complaints I'm getting, the types of complaints I'm getting, such as some inspector being pulled back, inspections are not made on a regular basis, animals which are in such bad shape ought to be taken immediately. And if I get those complaints, I'm going to take them right to the Governor and lay them on his doorstep so he will say like the sergeant I had when privates didn't do what they were supposed to and the sergeant would look bad; the sergeant would tell us, you can't be as hard on me as I'll make it for you. So I'm going to see how hard the Governor will let you make it on him, just so you know that I'm very serious about this. [CONFIRMATION]

GREG IBACH: And I also, you know, would hope that you would also reach out to me and work with me... [CONFIRMATION]

SENATOR CHAMBERS: Then I will come to you first. [CONFIRMATION]

GREG IBACH: And I think this program is one that the public has great expectations out of. And I think sometimes what the public is expecting out of our program isn't necessary consistent with the statutory authority that we've been given at the department. [CONFIRMATION]

SENATOR CHAMBERS: Well, and then I'll be through, I'm going to get involved. And if you need more statutory authority, I'll get it. But I feel that if the statutes that are there now are not being enforced, to add more won't do any good. The will has to be there, the determination. And your department is not going to be intimidated by some of these commercial operators anymore as long as I'm here. And I'm going to make sure that the Governor shares my view. You are not beholden to any of these commercial operators. And I'll back you up if any of them try to put heat on you. [CONFIRMATION]

GREG IBACH: I do not feel that we're giving special treatment to anybody. And if that is the case, then I want to find that out and we'll make sure that doesn't happen. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR CHAMBERS: And I will stop now so that I won't take up too much of the time. Thank you. [CONFIRMATION]

GREG IBACH: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Thank you, Senator Chambers. Senator Riepe. [CONFIRMATION]

SENATOR RIEPE: My question is this: Do you go unannounced on terms of your inspections so that it's not... [CONFIRMATION]

GREG IBACH: Yeah. The inspections are...we attempt unannounced inspections. Some of the licensees have other occupations and this is a part-time effort on their part and so they're not always home. So then we have to make other arrangements so then we lose the element of surprise. We also have problems with licensees that refuse access when we show up at the property. And so then we have to go get law enforcement to bring with us to the inspection so we also lose the element of surprise there as well. And so, yeah, we attempt to have that element of surprise a major component, but it's...because of factors beyond our control, that's not always the case. [CONFIRMATION]

SENATOR RIEPE: And one follow-up question. [CONFIRMATION]

SENATOR JOHNSON: Yes, follow up. [CONFIRMATION]

SENATOR RIEPE: Within your department do you have one individual who's accountable so that you can look to, to hold them accountable, to be responsive, and to take corrective action? [CONFIRMATION]

GREG IBACH: So the dog and cat program is operated in the Bureau of Animal Industries so the State Vet would be the administrator for that department... [CONFIRMATION]

SENATOR RIEPE: And reports to... [CONFIRMATION]

GREG IBACH: ...or the program. The administrator reports to me. Under him we actually have an administrator for the program that is a veterinarian. Then we have three inspectors. We also have an attorney assigned to assist with implementation of the program and the legal ramifications or enforcement ramifications from the inspections. And then over the past year both the assistant director and myself have taken a very active role in trying to transform this program into something that we can be more proud of. [CONFIRMATION]

SENATOR RIEPE: Have they received as many expressed concerns as we have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

received? Because, you know, it works this way. The light shines on you and the minute it doesn't, it shines a little bit over here and then it shines a little higher if they don't think they're getting results. And that would be my read on the number of calls that we get, that they're frustrated and they've not found response or satisfaction. [CONFIRMATION]

GREG IBACH: So to be honest with you, we have reached out to the Nebraska Humane Society. We've had conversations with Hearts United. They were actually...Hearts United was actually at our hearing last week and didn't offer any comments at the hearing process. So to be completely honest, been a little bit surprised by the efforts of the last week on their behalf. And, you know, we would still like to open the line...have the open lines of communication, work with them to help not only them but others that are concerned about the dog and cat program, understand what we are statutorily allowed to do and where that line moves between us and county responsibility and also just input for implementing the program as well. [CONFIRMATION]

SENATOR RIEPE: I would only encourage you to maybe reassess what are your top five things or maybe what keeps you awake at night. This might keep you awake at night. [CONFIRMATION]

GREG IBACH: This would be one of them, yes. But, you know, also, you know, and not to try to diminish the importance and for those people that feel strongly about it, many of them because they're philosophically opposed to dog breeding in the state of Nebraska, and so, you know, that, you know, they feel very strongly that what is allowed under the statute isn't acceptable. So, you know, they have valid concerns. But the dog and cat program is also around 2 percent or less of the department's budgetary responsibility. So there's many other programs within the department that also from time to time keep me up at night that have concerns, and also programs that we have very dedicated employees across the department that are working hard to promote Nebraska's agriculture industry and have successes that we mentioned earlier in our comments today. [CONFIRMATION]

SENATOR RIEPE: One of my concerns always is, too, is delegation without follow-up is buck passing. And so someone there needs to close the loop to make sure that issues are at least addressed. [CONFIRMATION]

GREG IBACH: So that also gets into, you know, employee discipline issues and things like that... [CONFIRMATION]

SENATOR RIEPE: Absolutely. [CONFIRMATION]

GREG IBACH: ...and we've taken a look at all of those as we feel necessary as we move forward in trying to start a new day. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR RIEPE: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Senator Chambers, follow up? [CONFIRMATION]

SENATOR CHAMBERS: One question based on the response you gave. You actually...your investigators may be denied access. I'm not talking about somebody not being home, but they're there and they deny access? [CONFIRMATION]

GREG IBACH: They won't answer the door in some cases and we know they're in the house or we can tell by a walk-around that they're present. We've had people that were employees of the licensee that refused us access until the owner of the facility arrived so, yes. [CONFIRMATION]

SENATOR CHAMBERS: What I'm willing to do because I want you to have the tools you need to do the job, that should be a basis for taking a license if you are not granted access. And if these people know that their license is jeopardized, then maybe that's something that will be done away with because you don't have enough people to go today and somebody be there, you can't get in, and however else these people want to do. So I will talk to you about that. I'll take into consideration due process and those things. But I want these people to know that I want their licenses taken, and I'm going to do everything I can in that regard because it would be unfair for me to tell you to do what under the law you really don't have the power to do. [CONFIRMATION]

GREG IBACH: I appreciate that. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

SENATOR JOHNSON: Any other questions from the committee? If not, thank you, Mr. Ibach. [CONFIRMATION]

GREG IBACH: Thank you. [CONFIRMATION]

SENATOR JOHNSON: And we will now move to testimony in support of his appointment. And again, I didn't state before but state your name and spell your name. Most of you know that. Thank you. [CONFIRMATION]

JESSICA KOLTERMAN: (Exhibits 2, 3, 4, 5) Thank you, Senator Johnson, members of the committee. My name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I come before you today on behalf of Nebraska Farm Bureau Federation where I serve as director of state governmental relations. I do have several letters of support I would like to place into the record. One is from the Nebraska Wheat Growers Association, one is from Nebraska Corn Growers Association, one is from the Nebraska Soybean

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

Association, and one is from the Nebraska State Dairy Association. Those organizations, along with Nebraska Farm Bureau, wants to just come forward and stand in support of Director Ibach's appointment. I also have a letter from our president, Steve Nelson, and I'll enter that into the record as well. On a personal note, myself and my colleagues, we've had a great working relationship with the director and his department. We've always found them to be cooperative, willing to work with us on challenges that have come forth and under the purview of the Director of Agriculture. They've done great work with trade missions, promotion of agriculture, promotion of our state. And we just really encourage the committee to look at this appointment. Any questions?
[CONFIRMATION]

SENATOR JOHNSON: Okay. Any questions of Ms. Kolterman? Senator Chambers.
[CONFIRMATION]

SENATOR CHAMBERS: Not to discuss it, are you familiar with a recent New York Times article about what's happening in Nebraska with reference to the animals where experiments are conducted and things of that kind? [CONFIRMATION]

JESSICA KOLTERMAN: I believe that was a program that was with the USDA and also something to do with the university. [CONFIRMATION]

SENATOR CHAMBERS: And that wouldn't be under the state Department of Ag.
[CONFIRMATION]

JESSICA KOLTERMAN: I believe that's under the USDA. [CONFIRMATION]

SENATOR CHAMBERS: Okay. Thank you. [CONFIRMATION]

JESSICA KOLTERMAN: Certainly. [CONFIRMATION]

SENATOR JOHNSON: Any other questions of Ms. Kolterman? If not, thank you.
[CONFIRMATION]

JESSICA KOLTERMAN: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Next proponent. [CONFIRMATION]

LAURA FIELD: (Exhibit 6) Good afternoon, Senator Johnson, members of the committee. I'm Laura Field, L-a-u-r-a F-i-e-l-d. I'm going to sound very similar to Jessica. I'm here today on behalf of Nebraska Cattlemen. I'd also like to submit a letter from our president, Dave McCracken, and also from the Pork Producers, Nebraska Pork Producers in support of Director Ibach's appointment. We, too, have had a really good working relationship with him during his tenure. We look forward to that continuing.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

[CONFIRMATION]

SENATOR JOHNSON: Okay. Do you have anything...anything to hand out?

[CONFIRMATION]

LAURA FIELD: I just put the two letters to enter into the record. That's all I have.

[CONFIRMATION]

SENATOR JOHNSON: Okay. Any questions? Senator Chambers. [CONFIRMATION]

SENATOR CHAMBERS: Do you raise cattle? [CONFIRMATION]

LAURA FIELD: Do I personally? [CONFIRMATION]

SENATOR CHAMBERS: Uh-huh. [CONFIRMATION]

LAURA FIELD: I do. [CONFIRMATION]

SENATOR CHAMBERS: Are you in the cattle... [CONFIRMATION]

LAURA FIELD: I am in the cattle business. [CONFIRMATION]

SENATOR CHAMBERS: I just want to be sure because I always hear "cattlemen" and I wonder where the "cattlemen" are. (Laughter) [CONFIRMATION]

LAURA FIELD: I know. [CONFIRMATION]

SENATOR CHAMBERS: Or they don't want that term. [CONFIRMATION]

LAURA FIELD: We are all encompassing. When we say men, we include men, women, children, and cattle all into our cattlemen realm. [CONFIRMATION]

SENATOR CHAMBERS: I'm thinking about that. That's all I have today. Thank you. [CONFIRMATION]

LAURA FIELD: Thank you. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

SENATOR JOHNSON: Okay. Thank you. Next proponent. Welcome to the committee. [CONFIRMATION]

JUDY VARNER: (Exhibit 7) Thank you. Just... [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR JOHNSON: Bring it over here and we'll get it distributed. Thank you.
[CONFIRMATION]

JUDY VARNER: I am Judy Varner, J-u-d-y V-a-r-n-e-r. I am the president and CEO of the Nebraska Humane Society. Thank you, Senator Johnson, and members of the committee for allowing me to testify. Our interest has been and always will be what is best for the dogs. I have sat in this chair many sessions to urge the support of the Legislature to stop the horrible suffering of dogs in puppy mills. I've brought graphic pictures that show exactly what Senator Chambers is talking about: dogs with missing jaws, dogs with horrible tumors and abscesses. It's sad. The Legislature has continued to send a strong message of support of the dogs and cats as every bill that we worked on became law. Sadly, many times these were introduced to try to urge the Department of Agriculture to act. No matter what legislation passed, there was little change in the enforcement by the department. It was very frustrating. About a year ago, however, things changed. We've been having meaningful conversations with Director Ibach and others in the administration of the department. We are very pleased with changes that are taking place to upgrade enforcement of the law by changing the rules and regulations and the statutes. LB360 being introduced by Senator Johnson will add new language to the statutes that will allow the inspectors to address significant threats to the health and safety of dogs and cats and put new emphasis on future inspections. This is a huge step in the right direction. The inspection procedures are being strengthened and better documentation will be taking place to build stronger cases. Senator Kolterman is introducing LB377 which will make it much easier for the department to seize animals by allowing for a hearing in front of a judge to determine ownership shortly after the seizure. After the conversations, and there have been a lot of them, that we have had with the department, I feel much more confident that the department wants the same thing we want--a better future for the dogs. This does not mean that everyone will be happy all the time. As the agency that provides animal control services for Omaha and all of Sarpy County, we know the reality of enforcing the law. Sometimes it takes longer than we want to gather enough proof to act, and sometimes we don't get what we want because of due process. Greg Ibach has reached out to the Nebraska Humane Society and pledged a renewed effort to do what's right for the animals. He has listened to my concerns and, more importantly, agreed that his department needs to get better when it comes to removing dogs from horrendous situations. This will not happen overnight, but he is moving the department in the right direction. There will still be times when we question the department, but we feel that we have an open line of communication. I applaud his honesty and his efforts. NHS is recommending that Director Ibach be reappointed as director of the Department of Agriculture to enable him to continue enacting the promises he has made to us. And if I could add one other statement, Senator Chambers, the last thing we want to do is remove licenses because once they have no licenses, nobody is looking in those kennels. So we got to figure something out that doesn't require... [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR CHAMBERS: Well, if they are unlawful...we can make it unlawful to do certain things, and if they're doing these things, we can let that be something that the department would look at. And that particular area can be refined, but it's good that you raised it. [CONFIRMATION]

JUDY VARNER: Yeah. We just need the safety net. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

JUDY VARNER: As somebody said, they'll shut the doors, shut the windows, and just keep doing what they're doing. It's very challenging. [CONFIRMATION]

SENATOR JOHNSON: Thank you for your testimony. We'll officially go to question and answer. Does anybody have any questions from the committee? Senator Kolterman. [CONFIRMATION]

SENATOR KOLTERMAN: Yeah, thank you for testifying. The question that I have...I've only been doing this job for about 12, 13 days now. But until ten days ago, I didn't know this problem existed with dogs to the extent that I hear. My question to you is, I don't understand how this happens and I'd like you to walk me through a typical situation where you have a complaint, whether it's in a county, who responds, when do you get the Department of Agriculture involved? I just don't understand how that all works. I know that's going to take a few minutes, but I'd like to kind of understand. [CONFIRMATION]

JUDY VARNER: Right. And I'm probably not the best one to answer that in terms of how the department operates. It's my understanding that they receive a complaint and I think...I know they respond to those complaints as quickly as they can. I know how we do it in Omaha and in Sarpy County, but that level of detail from the department would probably be better addressed by them. [CONFIRMATION]

SENATOR KOLTERMAN: Okay, thank you. [CONFIRMATION]

JUDY VARNER: But the question of why there are puppy mills is a really good question, and I don't think anybody has the answer. And there are good commercial breeders. I think that needs to be made clear. There are good commercial breeders. My definition of a good commercial breeder is one that invites me to tour their kennel. And so far one breeder in the state of Nebraska has done that. But there are good ones. The puppy mills are the ones that are deplorable and horrible and need to be shut down right now. [CONFIRMATION]

SENATOR KOLTERMAN: Okay. Thank you. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

JUDY VARNER: Um-hum. [CONFIRMATION]

SENATOR JOHNSON: Other questions? I have a question. With the relationship with the Department of Agriculture and Nebraska Humane Society, you go to them when you receive a complaint? What's the process...what's the best process for a citizen to go to in order to get some action taken? Is it best to go direct to the Department of Ag or is it through you and try and help people out? [CONFIRMATION]

JUDY VARNER: No. In our jurisdiction if someone...if there's an issue with a breeder, we'll take care of it. We may call the department to help, but that's in our jurisdiction. The rest of the state I have every...I am completely comfortable in citizens calling the department directly and complaining. I have never questioned the department's going out and investigating complaints. The ball got dropped in the past after that point, but I do feel the department is very responsive to that. And if someone questions a breeder, wants to make sure that a breeder is licensed with the state, anybody thinking of buying any dog from a breeder should be calling the Department of Ag to make sure they're licensed and that they've had clean inspections. [CONFIRMATION]

SENATOR JOHNSON: Okay. Thank you. Other questions? If not, thank you for your testimony. [CONFIRMATION]

JUDY VARNER: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Next proponent. [CONFIRMATION]

BRADLEY BEAM: Good afternoon, Chair, Vice Chair, committee members. My name is Brad Beam, B-r-a-d B-e-a-m, and I'm a resident of Lincoln. I am a companion animal welfare advocate, and I'm here to speak in favor of the reappointment. Many animal advocates in the state of Nebraska are not going to know me because I've been in Texas for the last 20 years. I was born and raised in Lincoln and came back to Lincoln this summer. However, in my time in Texas, I've been very active in animal welfare issues, specifically, there is a shelter reform movement called No Kill which is trying to help municipalities increase live outcomes at their city shelters. Additionally, I was present when the state of Texas reviewed their code as it relates to commercial dog and cat breeders. And I'm here, instead of opposing the reappointment, I'm here to say I want to help and I want to offer assistance. You know, I have friends that are in the production agriculture community, and I contacted them about this reappointment. And they all had favorable opinions of the director, including one of my brothers who works for Clayton Yeutter in the Department of Agriculture. He was a representative for Governor Johanns to western Nebraska, he worked for Congressman Barrett out of the Third District, and he was an ag person for Senator Grassley over in Iowa. And he had favorable comments. While I have concerns regarding the enforcement regarding

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

commercial dog breeders and cat breeders, I think it makes sense for people to help be part of a public-private response to those issues. And it was nice to see the Nebraska Humane Society take a positive attitude towards this. And I think that's how you resolve these kinds of issues. So again, I wanted to come before your committee to say I'm glad to be back in Nebraska. I'm very well versed on animal welfare issues. I don't know a lot of the players here in Nebraska, but I have a great deal of respect for Hearts United for Animals also. They have a wonderful reputation around the country of trying to address puppy mill issues. And so while they might have some concerns, I do want to also recognize that they have a national reputation and they help with this issue in the middle part of the country. But again, I'm here to speak in favor of the reappointment. And instead of opposing it, I want to reach out and help try to be a part of the solution. And I feel very positive that that's how you try to get things done in getting the public and the government together in trying to resolve issues. Thank you very much.
[CONFIRMATION]

SENATOR JOHNSON: Thank you for your testimony. Any questions? Yes.
[CONFIRMATION]

BRADLEY BEAM: Yes. [CONFIRMATION]

SENATOR CHAMBERS: Not so fast. You're a young buck under me, I can call you sonny. So I can say simmer down, keep your powder dry. But here's what I want to ask you. I think the approach you're taking is commendable. But I have to look at something else as a policymaker and that something else is accountability. People can say, not you, a director of any agency who is up for reappointment could say any and everything that we would all like to hear. But after those things have been said, there has to be accountability. And suppose we arrive at a point where you, as tolerant and patient as you try to be, knowing how difficult it is in this area to get the right thing done, but you become convinced that the department is not doing what it ought to do and what it could do, would your attitude change then and not be quite so supportive and you'd begin to demand that they do what it is their responsibility under the statute to do?
[CONFIRMATION]

BRADLEY BEAM: I think we ought to do everything, both as a governmental unit as well as a public person, to make sure that these commercial breeders that abuse and neglect animals are put out of business. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

BRADLEY BEAM: Right. And so...but what I want to get back to is in the state of Texas we have actually advisory commission that is part of the Texas Department of License and Regulations. That is the entity in the state of Texas that goes out and inspects commercial breeders. And we have an advisory commission for this particular program.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

I'm talking about the breeder program. And I'm just convinced that in order for any department head to be successful they have to have support from the community. And there are people within the state of Nebraska that are very interested in this issue. And I think you can tell that they're interested because Hearts United for Animals...there is a giving program back here in the city of Lincoln. And for the last two years they've got the greatest amount of contribution from...for any nonprofit for that 24-hour period. And they're in Auburn, Nebraska, 75 miles away. So that shows that there's support out there for these types of entities. I just wanted to come forward and share some of my experiences being in the state of Texas because we have a puppy mill problem down there also. [CONFIRMATION]

SENATOR CHAMBERS: Have you heard the expression, nothing gets a duck in trouble but his bill? [CONFIRMATION]

BRADLEY BEAM: I haven't, but you... [CONFIRMATION]

SENATOR CHAMBERS: All right. I would like really to talk to you about this commission you mentioned and some of the experiences you had in Texas. And my name is Chambers. My office is on the first floor in the Capitol. So at your convenience...and I'm serious. I wouldn't waste your time. But I'm looking for ideas. [CONFIRMATION]

BRADLEY BEAM: Senator, I know where your office is. You may not recognize me, but I probably met you 30 years ago. And I know you wouldn't recognize me. But I grew up in Lincoln and, again, I was very active many years ago. I've just been out of the state for 20 years. [CONFIRMATION]

SENATOR CHAMBERS: Well, see, 30 years would change you. But if you're like the Rock of Gibraltar, 30 years won't make any difference. So you'll recognize me, but I might not recognize you. But it's good to renew your acquaintance then. [CONFIRMATION]

BRADLEY BEAM: Well, again I appreciate the opportunity to address the committee today. Thank you so much. [CONFIRMATION]

SENATOR CHAMBERS: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Thank you. Any other questions? [CONFIRMATION]

SENATOR KOLTERMAN: I would just make a comment. [CONFIRMATION]

SENATOR JOHNSON: Senator Kolterman. [CONFIRMATION]

SENATOR KOLTERMAN: If you go to Senator Chambers' office, just knock softly.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

(Laughter) [CONFIRMATION]

SENATOR JOHNSON: Okay. Thank you for your testimony. Any other proponents? Thank you for coming in. Please give your name and spell it for us. [CONFIRMATION]

CHRIS ABBOTT: Mr. Chairman, members of the Ag Committee, my name is Chris Abbott, C-h-r-i-s A-b-b-o-t-t. On behalf of the Independent Cattlemen of Nebraska, we're happy to not only hear and see, but we're looking forward to working another four-year term with Mr. Ibach. And on a personal note, I'm also on the Nebraska Beef Council. And I can vouch that with my own eyes I've seen the work that the Nebraska Department of Ag has done overseas promoting especially Nebraska beef. I just recently returned from the little island of Macau where we did the third annual Nebraska beef barbecue. And all the Nebraska cattlemen in this room that produce beef, we're making great headway overseas. Thank you. [CONFIRMATION]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you for your testimony. [CONFIRMATION]

CHRIS ABBOTT: I'm off the hook? [CONFIRMATION]

SENATOR JOHNSON: Mr. Hansen. [CONFIRMATION]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. And I am the president of Nebraska Farmers Union, and I appear before you today in that capacity in support of the confirmation of Greg Ibach. Do we agree on all of the issues? No. But what we do agree on is the need to be knowledgeable and involved and engaged in doing what you can to help improve agriculture in our state and to have an open-door policy. And we have had a good working relationship with Greg Ibach and we appreciate that. And so while we do have differences, we also have the opportunity to communicate and discuss those issues. And I appreciate the fact that he is inclusive of all members of the ag community. And so I would opine that if you can get the Nebraska Farm Bureau and the Nebraska Humane Society and Nebraska Farmers Union all to support his confirmation that that would be considered broad-based. (Laughter) With that, I would end my comments and be glad to answer any questions if there are any. [CONFIRMATION]

SENATOR JOHNSON: Any questions of Mr. Hansen? Seeing none, thank you. [CONFIRMATION]

JOHN HANSEN: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Other proponents? Okay. Now we have a process to go through. We need to make room for those people that are the opponents so if you wish

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

to go down and continue being involved in the hearing, 1524 on the first floor will be the room you go to. Those other opponents will be coming up. Mr. Ibach, it's your choice to stay here if you want to stay up here, that's fine. So ask to make room if you would and we'll take about whatever it takes here I guess to make the move. Okay. We will continue with the hearing. I will go through some of the procedures again. You might have heard them, but you might have been en route down to Room 1524. Again, we ask everybody to turn their cell phones off, at least to vibrate or silence. If you're going to testify, you need to have a green sheet filled out and put into the box by the mike when you come forward. When you come forward, I ask for you to give your name, first name and last name, and spell it. We need that for the transcribers. If you're going to be here but not testify and you want your opinion recorded into the official record, there's a white sheet as you came in. You can fill that out, put your name there, and indicate whether you are a proponent or an opponent. We are going to use the light system today. The green light is on. We had five minutes for the presenter and now we'll have three minutes for each testifier. When there's one minute left, it will turn to amber. And when the three minutes are up, it will turn to red; and I would ask that you complete your presentation at that point. If you have copies of anything that you want the committee to take into the record, if you have 12 copies that's great. But if you don't, let our page know and we will make copies for the committee so everyone will have a record of it. We do not want any expressions or demonstrations of support or opposition to this. We've not had any so far, and I don't anticipate we would have any here. I will comment we have two of our senators...three of our senators that are gone because of illness. Senator Chambers is here from Omaha. Senator Riepe is here. Senator Bloomfield has been testifying on a bill in front of Judiciary Committee. Senator Burke Harr is home ill. Tyson Larson is in other hearings. Ken Schilz is sick. And Mark Kolterman is our Vice Chair and is here and present. Our research analyst is Rick Leonard, to my right. Committee clerk is Travis Moore, to my left, and assisting is Barb DeRiese. We have Jay Linton from Dalton as our page here, and you had a page downstairs also. It's quite possible during this part of the confirmation hearing that I will be called to go down and introduce another bill in front of another committee. When that happens, Vice Chair Kolterman will chair the meeting until I return. So that's the ground rules for today. Again, three minutes for your testimony, and we are allowing one hour for the testimony. It is 2:30 right now, so we will conclude at 3:30 or sooner, depending on the testimony. So with that being said, I would invite the first testifier in opposition of the appointment to come forward, give your first and last name and spell it. [CONFIRMATION]

CAROL WHEELER: (Exhibit 8) Carol Wheeler, C-a-r-o-l W-h-e-e-l-e-r, 1910 16th Street, Auburn, Nebraska. I am a director and founder of Hearts United for Animals. I have brought with me copies of pictures taken by Nebraska inspectors when they were inspecting Nebraska breeding facilities. These are recent pictures. These pictures illustrate almost every violation of regulations and overall rampant, cruel neglect. The accommodations for animals provide no comfort or any provisions for a normal animal's life. They are makeshift, jury-rigged, and easily become torn up, causing sharp wires

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

and injuries. The dogs are crowded in pens, often unable to turn around without running into each other. One small pen has six dogs in it. The notes accompanying an inspection state that there was one 3-foot-by-3-foot dog house for six medium-sized dogs on a day when the temperature was one degree. Lack of cleanliness is noted continuously in inspectors' reports. Breeding operations are supposed to have an adequate number of employees to maintain the facilities and take care of the dogs. In all the years I have dealt with breeders, I have actually seen only one employee one time when the breeder had a knee injury and was in a walker. Likewise, the dogs are typically in foul condition with coats matted in filth. It would take a staff of hardworking people to care for these dogs in the environments provided for them. Even feeding them would be difficult to make sure that each one of them has adequate food without some overdoing and guarding and others starving. Taking them out for exercise or providing human interaction is impossible. There are pictures of water buckets that are full of ice or foul, green water or empty. In one picture with the dog pawing at the bucket of ice, the inspector noted in the report that the breeder said the dogs had not had water for 24 hours. In another report, the inspector states that he is concerned because the dogs look emaciated and their food dishes are scattered and empty. Several pictures show tiny, sickly looking puppies on a hard surface scattered with wood chips. This is only a small sampling of pictures. If all the pictures available and inspection reports along with USDA reports were included, there would be a monstrous volume of offenses.

[CONFIRMATION]

SENATOR JOHNSON: Can I...I hate to interrupt. The red light is on. [CONFIRMATION]

CAROL WHEELER: Sorry. Oh, okay. [CONFIRMATION]

SENATOR JOHNSON: If you could kind of wrap up. [CONFIRMATION]

CAROL WHEELER: Okay. Certainly, I will. [CONFIRMATION]

SENATOR JOHNSON: You'll have some opportunity I'm sure as we ask questions.
[CONFIRMATION]

CAROL WHEELER: Okay. Certainly, I will. [CONFIRMATION]

SENATOR JOHNSON: Thank you. [CONFIRMATION]

CAROL WHEELER: Yes. Most of the reports deal with repeated offenders. And what happens is that the breeders, the inspector notes the most obvious problems on the report. And when he goes back for a reinspection, those items are corrected but then later it all happens all over again. In conclusion, I wish to say there is obviously a failed system, a state agency charged with enforcing the laws and regulations that has no accountability. It is though it is patterned for failure and equipped only with feeble

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

excuses. As in any business, managers need to be problem-solving, goal-oriented people. Thank you. [CONFIRMATION]

SENATOR JOHNSON: Thank you for your testimony. [CONFIRMATION]

CAROL WHEELER: Yes. [CONFIRMATION]

SENATOR JOHNSON: Any questions from the committee? Senator Riepe.
[CONFIRMATION]

CAROL WHEELER: Yes. [CONFIRMATION]

SENATOR RIEPE: Thank you. I guess when I look at the pictures it appears to me that there are a number of fully grown dogs. [CONFIRMATION]

CAROL WHEELER: Um-hum. [CONFIRMATION]

SENATOR RIEPE: I would think that like a crop, you know, when it's ready to go to market, if I may use that term, that puppies would be the biggest thing. So why would an owner retain or hang onto these full adult dogs if they're not personal dogs?
[CONFIRMATION]

CAROL WHEELER: Those are breeder dogs. [CONFIRMATION]

SENATOR RIEPE: Oh. [CONFIRMATION]

CAROL WHEELER: They're breeder dogs. [CONFIRMATION]

SENATOR RIEPE: Even the rough-looking ones? [CONFIRMATION]

CAROL WHEELER: Some of the dogs in these pictures I think were left over from litters that did not sell, and that has been a real problem for one particular breeder where there are major problems I would say. And he has turned them over to rescue groups. We took 68 of them one time. I'm very familiar with that breeding operation.
[CONFIRMATION]

SENATOR RIEPE: So any unsold inventory then obviously you would think he would want to move that to someone else's expense sheet. [CONFIRMATION]

CAROL WHEELER: Certainly they don't want the expense of it, no. And they don't want the trouble and they don't want the work and they don't want to clean up those dogs. And they don't want to provide anything for them. And, yes, they want a rescue operation to step in and do the work and spend the money and find the homes for those

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

dogs. And it's very difficult, very difficult when they're a lot of big dogs.
[CONFIRMATION]

SENATOR RIEPE: And they're unwilling to pay a fee for that? [CONFIRMATION]

CAROL WHEELER: I'm sorry. [CONFIRMATION]

SENATOR RIEPE: They're unwilling to pay a fee to your organization or any other rescue group? [CONFIRMATION]

CAROL WHEELER: There's no fee paid by any breeder to an animal welfare organization. Yes. [CONFIRMATION]

SENATOR JOHNSON: No. Behind you there was somebody trying to come in. I wasn't signaling to you. [CONFIRMATION]

CAROL WHEELER: Oh, okay. [CONFIRMATION]

SENATOR JOHNSON: Another senator came in. Senator Hadley, if you want to sit up here... [CONFIRMATION]

SENATOR HADLEY: No, I'm fine. [CONFIRMATION]

SENATOR JOHNSON: Okay, thank you. Speaker Hadley just arrived so. Senator Chambers, did you have a question? [CONFIRMATION]

SENATOR CHAMBERS: Did you happen to hear Mr. Ibach's testimony today?
[CONFIRMATION]

CAROL WHEELER: Yes, I heard as well as I could downstairs. [CONFIRMATION]

SENATOR CHAMBERS: If he... [CONFIRMATION]

CAROL WHEELER: I would like to think improvements are on the way. I don't know.
[CONFIRMATION]

SENATOR CHAMBERS: If he delivers on what he said, would that make a difference?
[CONFIRMATION]

CAROL WHEELER: At what point are we going to decide that, would you say?
[CONFIRMATION]

SENATOR CHAMBERS: I'm asking the question (laughter). Here's what I'm getting to.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

[CONFIRMATION]

CAROL WHEELER: Yes. [CONFIRMATION]

SENATOR CHAMBERS: In the interest of full disclosure, I've worked with you for years. We've worked together, known each other for years. [CONFIRMATION]

CAROL WHEELER: Yes. [CONFIRMATION]

SENATOR CHAMBERS: And you have brought information to my attention about some of these very problems that exist. I've participated in at least one demonstration with Hearts United and others who were sympathetic. And the feeling was that nothing is going to be done to address these issues. Would you agree that basically that was the feeling that we had developed? [CONFIRMATION]

CAROL WHEELER: I think it's entirely possible, yes, that's the feeling, yes. [CONFIRMATION]

SENATOR CHAMBERS: And I heard what Mr. Ibach said. The Legislature is going to confirm him. But I think it is very important that the information that people who are opposed will bring so that the senators who may not know and anybody else who is listening who may not know how horrendous the mistreatment of these animals really is in a state which thrives on agriculture, where there's a pretense of being concerned about the welfare of animals. And for this kind of horrific cruelty, tortuousness to go on and be known about by a state department is inexcusable. So I'm in a position where I will deal with...people usually in the expression say deal with the devil that you know instead of the one you don't know--I won't refer to Mr. Ibach as the devil--but deal with the person who has been in charge and with whom I am familiar to some extent rather than hope that somebody new is going to be put in place which will not happen. But I want to assure you and everybody else that the way things have been in the past, they're not going to continue that way. And when these senators vote to confirm Mr. Ibach, I'm going to put some heat on them to make sure that the person they voted for did not mislead them and that this responsibility and accountability that should be a matter of course will be enforced, at least as far as I'm concerned. And the reason I tell you that, I don't want you to feel that your coming here has been in vain. And I hope you all continue to do the work you're doing. They say you can't win the lottery if you don't play so I never win the lottery. But if somehow I come into a great amount of money, Hearts United will not be forgotten by me. (Laughter) [CONFIRMATION]

CAROL WHEELER: Thank you. Thank you. That's very promising. [CONFIRMATION]

SENATOR JOHNSON: Any other questions from the committee? Thank you for your testimony. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

CAROL WHEELER: Yes. [CONFIRMATION]

SENATOR JOHNSON: The next testifier, opponent. I see you got the message on the copies. (Laughter) [CONFIRMATION]

JASON PAINE: (Exhibit 9) I was told. Senators, my name is Jason Paine, J-a-s-o-n P-a-i-n-e. I live at 1340 Piedmont Road in Lincoln, Nebraska 68510. I'm a volunteer and supporter for Hearts United for Animals and their magnificent animal welfare work. What I have to say is very simple. One of two scenarios are possible for Governor Pete Ricketts' decision to reappoint Greg Ibach to the position of director of Nebraska Department of Agriculture. Either the Governor does not know or does not care, neither of which I find acceptable. Either he's unaware of the history of decisions Greg Ibach has made during his tenure, his complete lack of compassion or moral integrity in regards to the way companion animals are treated, and his complete disregard for fiduciary duty. Or more disturbingly, if Governor Ricketts is aware, then he just doesn't care. I sincerely hope that you senators take the responsibility to your constituents, your state, and basic human compassion and integrity a little more serious than our Governor and a whole lot more serious than Mr. Ibach. Please vote to block his appointment in the hopes that someone with a little more compassion and a much better sense of right and wrong will take his place. And, yes, Senator Chambers, I was paying attention when you said he will get appointed and I understand that. The public is appalled at the protection of the worst dog breeders in Nebraska at the expense of the animals. We have the evidence to prove it, although it only takes plain common sense to know that the horrendous conditions of the breeding facilities in this state are not acceptable. Hearts United for Animals started a petition on Change.org late Friday afternoon. As of this morning, there were over 3,800 signatures and over 98 pages of comments made by individuals who wish to express their thoughts on the subject of the state commercial breeding facilities under Greg Ibach's leadership. We have included these for your review. Each one of them is asking you to decide today to vote against the appointment of Mr. Ibach. Separately from the petition, a survey is being conducted by Hearts United for Animals. Out of 1,051 current respondents, 51 percent of which are from Nebraska, the answers were as follows: To the question, do you think that all government inspectors of mass breeding facilities should be required to look at the condition of the dogs as well as the facilities, 99.9 percent said yes. To the question, do you think that because mass breeding facilities are inspected by the USDA or state departments of agriculture it ensures that the parent dogs and puppies are healthy, safe, and well cared for, 96.1 percent said no. And finally, to the question, if inspectors find dogs in a breeding facility or the facility itself to be in unacceptable condition, what do you think they should do about it, 97 percent said use criminal authority to seize the dogs and move them to a humane organization, then let a court of law decide if the breeder should have the dogs back. Only 3 percent said work with the breeder to downsize in hopes that he or she can take better care of fewer dogs, even if it takes

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

months or years. In conclusion, the current practices of trying to oblige everyone and pleasing no one, of not doing the job he was charged to do, and allowing animals to languish and suffer is a travesty, one that we ask you correct. Today we can keep this in Nebraska, but that may not always be the case. This could easily have the potential to be the next New York Times article similar to the one last week about the atrocities at the Clay Center Research Facility, giving Nebraska yet another black eye. Thank you. [CONFIRMATION]

SENATOR JOHNSON: Thank you for your testimony. Any questions? Senator Chambers. [CONFIRMATION]

SENATOR CHAMBERS: When I say that he'll be appointed, I'm being realistic. [CONFIRMATION]

JASON PAINE: Yes. [CONFIRMATION]

SENATOR CHAMBERS: I voted against and spoke against the confirmation of former Director of Corrections Kenney. [CONFIRMATION]

JASON PAINE: Yes, sir. [CONFIRMATION]

SENATOR CHAMBERS: The senators voted anyway to appoint him. Then afterward they said they wished they had listened to me. These are pro forma hearings. People that the Governor appoints he's going to get. So as I've said and I mean it, I'm going to do all I can to hold the Governor responsible for his appointees in a way that former Governor Heineman was not. Not only were the animals not taken care of, but human beings were treated in a subhuman fashion, and the Governor knew it, chose not to do anything about it. The former Attorney General said no prosecution should occur. We have a new Attorney General. I'm going to see if he's any better. So I'm going to do what I think is right, which is not to support somebody who has not done the job. But the fact that he's likely to get supported, I will help him do what he is supposed to do if he intends to do it. But I promise that if he doesn't, we are not going to let happen to the Department of Ag what happened to the Department of Corrections. And these senators are responsible for the vote that they give. And I appreciate the fact that you all went through all the trouble you went because it gives me the ammunition I need. Ordinarily I won't say this much at a confirmation hearing. But the feeling I have for animals could be based on something Gandhi is supposed to have said that you can judge a society by how they treat animals. And those who are the most vulnerable are entitled to the greatest protection. And when I look at these pictures, I feel what could only be described as fury. And for people whose job it is to do something about this to be able to sleep at night and act as though everything is all right... [CONFIRMATION]

JASON PAINE: I don't know how they did. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR CHAMBERS: ...cannot continue to go in that manner. And it's all that I can do to continue sitting here, but it's my job. I'm paid to do it. I'm not paid well, (laughter) but I'm paid to do it so I'm going to discharge my responsibility. [CONFIRMATION]

JASON PAINE: Thank you, sir. I appreciate that. And I know you won't give up the fight. I actually met you about 20 years ago when I was working at the State Penitentiary. [CONFIRMATION]

SENATOR CHAMBERS: Okay. Well, it's good to see you again. [CONFIRMATION]

JASON PAINE: So I know you've been doing this for a long time. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

JASON PAINE: Thank you. [CONFIRMATION]

SENATOR JOHNSON: I have a question. [CONFIRMATION]

JASON PAINE: Yes, sir. [CONFIRMATION]

SENATOR JOHNSON: I'm assuming you were able to hear the testimony when you were down in 1524. [CONFIRMATION]

JASON PAINE: Mostly, sir, yes. [CONFIRMATION]

SENATOR JOHNSON: Most of it, okay. So you probably heard Director Ibach talk about some changes that are in the way...getting put in place that...heading in the right direction, at least we would hope so. [CONFIRMATION]

JASON PAINE: I sincerely hope so. [CONFIRMATION]

SENATOR JOHNSON: And there's probably more that needs to be done. I think we can probably agree with that. I think he would agree with that. Do you feel comfortable that if we can head this in the right direction that you will develop some sort of a comfort down the road? [CONFIRMATION]

JASON PAINE: I would certainly like to think so. I would like to see things get better. I do know that if it took me ten years to get something done at my job I would not have a job. [CONFIRMATION]

SENATOR JOHNSON: Okay. Thank you. Any other questions? Thank you for your testimony and your material. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

JASON PAINE: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Next opponent. Thank you. State your name and spell it, please. Thank you. [CONFIRMATION]

LORI HOOK: (Exhibit 10) Yes. I'm Lori Hook, L-o-r-i H-o-o-k, 12414 Pinewood Drive, Omaha, Nebraska. I'm the executive director for Hearts United for Animals, and I've been with the organization for 12 years. I have witnessed what goes on at these facilities and the inept administration of the Commercial Dog and Cat Operator Inspection Act and regulations. Just last week I attended a hearing at the Department of Ag regarding proposed changes to regulations. On the surface, the changes seem as if they could be meaningful. However, it was made clear through discussion with the attorneys for the department and the State Veterinarians, Dennis Hughes and Annette Bredthauer, that enforcement of the law and regulations is not of interest to them. Department spokesperson, Patricia Moock, stated that the goal of the department is to educate and bring the breeders into compliance, not to punish them. Those were her exact words. That sounds like a great goal, except that in reality it fails miserably. It fails the animals who suffer grave harm month after month and year after year. The root of the problem is that the Department of Ag appears to view themselves as there to protect the breeders and their own self-interests, not the dogs. In my experience in over a decade of dealing with the department, the problem is getting worse. When put on the spot, there have been a variety of excuses but no answers. Past excuses have included that the inspectors are there to look at the facilities, not the dogs. However, the department's own regulations refute this notion. They have always included humane handling, care, and treatment and prescribed what outcomes could be for not providing dogs with proper housing, food, water, sanitation, ventilation, and shelter from extremes of weather temperatures and adequate veterinary care. One main issue is that every section that defines what enforcement procedures could take place is prefaced with the word "may." The department "may" take action but alas they do not. There have only been four administrative hearings for commercial dog breeders in the state in the last decade, although there are inspection reports indicating that there could have and should have been many, many more. Fines are spelled out but not handed down. The expense of seizure is noted as a reason, but the department has refused our offer to house and care for dogs at no charge through court proceedings. Other humane organizations have made the same offer. Since the case of Julia Hudson in Malcolm, Nebraska--see the photos that I have provided for you--the department inspectors have been stripped of their previously held authority to call the local sheriff or county attorney. They must now receive permission from superiors, which is rarely, if ever, granted, even in cases of starvation, dehydration, hypothermia, and extreme filth. New regulations state that the department will contact the authorities the same day in cases of cruel mistreatment, which they have always had the authority to do and, I would argue, the duty to do. They just choose not to do it. There's no reason to believe that they will start

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

to do so now. In fact, during the Hudson case, the department, under Greg Ibach's leadership, refused to cooperate with the Lancaster County Attorney and the judge in this case. This was the case in which the judge told the breeder that what she had created was an animal Auschwitz. The prosecutor, Corey Rothrock, told me on multiple occasions that the department refused to return calls, would not provide records, would not do follow-up inspections and animal counts as requested by himself and the judge. And when he reached out to the inspector, the inspector told him he was not allowed to speak without permission of his superiors, which he did not have. The defense attorney for the breeder used the department in their defense, arguing that the department let the atrocities go on for such a long period of time that it proved that the department must have thought that this animal Auschwitz where dogs were found in piles of feces, with frozen water, no water, no food, moldy food, and no protection from the elements was not so bad. The only... [CONFIRMATION]

SENATOR JOHNSON: Can I... [CONFIRMATION]

LORI HOOK: Oh, yes. [CONFIRMATION]

SENATOR JOHNSON: We have your testimony here. [CONFIRMATION]

LORI HOOK: Okay. [CONFIRMATION]

SENATOR JOHNSON: Could I ask you to kind of wrap up and we can get to some questions. [CONFIRMATION]

LORI HOOK: Yes. The only reason the case went to court was through the diligence of the sheriff's office and the county attorney. And throughout the whole process, the department was a hindrance to justice in this case rather than a help. And we have heard similar from authorities in Gage County that the sheriff and the county attorney there received no cooperation on a case that they were working on. In regard to the... [CONFIRMATION]

SENATOR JOHNSON: I need to stop you so others can go. [CONFIRMATION]

LORI HOOK: Okay. Yeah, that's fine. [CONFIRMATION]

SENATOR JOHNSON: You might have a chance to...if there's some questions, you might have a chance to finish up. [CONFIRMATION]

LORI HOOK: Sure. [CONFIRMATION]

SENATOR JOHNSON: Is there questions from the committee? Senator Riepe, I'll go to you first. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

LORI HOOK: Yes. [CONFIRMATION]

SENATOR RIEPE: I have a question that has to do with in the definition between what is a mill, is that based on the total number of dogs at any one moment or, you know, like a balance sheet at one time or is it in a year? And my second, sister question I guess is, are there equal breeders of large number of dogs that do it right and, therefore, they're not considered puppy mills? [CONFIRMATION]

LORI HOOK: I don't know of any breeders of large number of dogs who do it right. You know, I don't think it's necessarily possible to have 300 or 400 dogs like some Nebraska breeders have or have had and technically do it right because you wouldn't have time to socialize the animals. They'd still be locked in a cage 24/7 or close to 24/7. So, no, I don't think there would be any large-scale breeders that I know of that would do it correctly. I think the definition of a puppy mill is one that puts profits over the health and well-being of the animal. A true good breeder doesn't make money at breeding dogs because they are doing the genetic testing on the animals. They're spending the money on the healthcare of the animals. And as you can see from the photos that we provided today, that is not what goes on here at the commercial breeding facilities in Nebraska for the most part. Now there's some good, maybe some good smaller scale breeders that you never hear about because maybe they do a nice job. They keep the dogs in their home. They raise them in their home. They don't breed the dogs to death until their uterus fall out and they get mammary tumors and that kind of thing. They actually take them to the veterinarian. But the dogs that we see, they don't see veterinarians. You know, the health problems are appalling. [CONFIRMATION]

SENATOR RIEPE: It sounds to me like the definition of a puppy mill is a little bit vague. And if it's vague it's, therefore, more difficult to enforce or set standards for overvagueness. [CONFIRMATION]

LORI HOOK: Yeah. Well, I don't know. You know, I think the department has had standards in their regulations. They've used the Animal and Plant Health scale to enforce so, you know, they have some exact standards. If more than 10 percent of a dog's hair coat is matted, that is a violation. If the dog has no food or no water, that is a violation. And that's really what we're talking about here. There are dogs out there right now in places that have been noted multiple times to have no food and no water for the dogs. That's not really open to interpretation. That's basic animal husbandry. A five-year-old knows to do that. You don't need to be warned over and over I wouldn't think. That should be cruelty. That should be the inspector calls the police immediately that day and has the dogs removed. That, you know, that's not significantly open to interpretation in my mind. [CONFIRMATION]

SENATOR RIEPE: The pictures that we've seen--excuse me, Senator--the pictures that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

we've seen are pretty obvious an abuse. Then there become degrees of that, probably, that some would say, yes, this is severe abuse; others would say it's maybe in poor taste. I'm just trying to get a feel for that. [CONFIRMATION]

LORI HOOK: Yeah, there's borderline ones. There definitely are, yeah. I would agree with that. [CONFIRMATION]

SENATOR RIEPE: Thank you. I'll (inaudible). [CONFIRMATION]

SENATOR KOLTERMAN: Senator Chambers, go ahead. [CONFIRMATION]

SENATOR CHAMBERS: The fact that the time is limited, I'm not going to make extensive comments in response to everything people say because I want those here testifying to get the opportunity to put the kind of information we're getting into the record. I'll just say this: I believe you all before I believe Mr. Ibach. I've had so many complaints brought to me and by people in law enforcement and the lack of cooperation. And if they don't do the right thing and if the Governor does not act, I will seek...well, I won't tell you what I'll seek, but I'll seek some action against the Governor, not to have him prosecuted but to embarrass him in every way that I can. He's already publicly shown great disrespect for me and what he's going to do to put me in my place. So now we're going to see. Mr. Ibach I feel represents the Governor. When he doesn't cooperate with law enforcement, that's the Governor's orders; and that's the way I'm going to take everything he says. So I want you all to keep bringing me complaints and whenever you have one of these issues, bring it to me. And I'm not going to stretch it out. But I like to say what I'm going to say in front of the one who is going to hear it. And I want him to know that I don't play and that I want all of his friends and all of his supporters to know that he is the one I'm looking at. He's the one responsible, but the Governor is ultimately the villain. And I will do what I can with reference to the Governor, and I don't mean doing anything that's criminal. I think he'd rather I slap him than do what I intend to do because, when you can put a man under the laugh, he would rather you slap him than have people laughing at him. That's all that I had. [CONFIRMATION]

SENATOR KOLTERMAN: Thank you, Senator Chambers. Any other questions? Thank you for your testimony. Next testifier, please. [CONFIRMATION]

LORI HOOK: Thank you. [CONFIRMATION]

RACHEL CURRY: (Exhibit 11) Hi, Senators. I am Rachel Curry, R-a-c-h-e-l C-u-r-r-y. I reside in Auburn, Nebraska, at 1218 14th Street 68305. I am 28 years old and I live in Auburn, Nebraska, as I just stated. I have a bachelor's degree in psychology, and I have been employed with Hearts United for the past seven years. I am standing here today, well, sitting, not for me but for the dogs. They cannot speak for themselves except for cries of help. But the ears that should be hearing their cries are ignoring it. I hear their

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

cries. I see their pain and suffering. Dogs are not livestock. They are companion animals and deserve better treatment. I have seen firsthand the cruel neglect and abuse the dogs rescued from Nebraska puppy mills have endured. As a caregiver, I'm one of the first people to see the dogs after they have been rescued. The conditions I have seen with my own eyes are deplorable. We can show you picture after picture of neglected and abused dogs that are...and their living conditions that have been rescued from Nebraska puppy mills. But until you see, feel, and smell it for yourself you will never understand. Don't you have compassion for all of God's creatures? How can you continue to let this happen to man's best friend? If any of you are dog owners, you should be ashamed of yourselves. I invite you from the comfort of your cozy desks to get your hands dirty and see for yourself what's happening under Greg Ibach's jurisdiction. I have seen the sad, ugly truth of our state's puppy mills as my time as a caregiver for the rescued puppy mill survivors. It is heartbreaking that this still continues. I would like to say that I've seen it all, but with every rescue it never ceases to amaze me what the dogs have been through. Some dogs have never touched grass or been touched with a gentle hand. I have seen dogs so matted with feces and filth that I couldn't recognize what breed the dog was until all its fur was shaved off. I have seen mammary tumors from overbred females the size of softballs, nails so overgrown and embedded in the paw pad that needle-nose pliers had to be used to remove the nail. I have seen broken jaws and bones that were never treated and required amputation. I have seen rotten and infected teeth and gums to the point where the bottom jaw has fallen off. I can go on and on about what I've seen, but you can see the pictures for yourself. We cannot move forward in a positive direction under Ibach's leadership as director. It's time for a change. It's time to end the suffering that the administration is continuing to allow. The proof is right in front of you. Reports from inspectors in Mr. Ibach's own department show repeat violations. If Mr. Ibach continues in his current position, we as a state are doing the dogs injustice. I myself have read Section 54-640 of the Commercial Dog and Cat Operator Inspection Act and the duties as breeders they are to abide by. Are these nine statutes a joke? No puppy mill owner in Nebraska follow these rules. These rules that they should follow would cost them money. Puppy millers do just enough to keep the dogs alive in order to breed the parents over and over to make puppies to sell to pet stores and uninformed members of the community. Haven't you ever wondered where those cute little puppies in pet stores come from? Their parents are why we are here today. I sit here asking today that Mr. Ibach's tenure as director end as soon as possible. As a lifelong Nebraskan, I love my state but I hate what is happening in our puppy mills. The dogs deserve better. Do the right thing for those who cannot speak for themselves. Thank you for your time. [CONFIRMATION]

SENATOR KOLTERMAN: Thank you, Rachel. Any questions for Rachel? Thank you very much. Thanks for testifying. Next testifier. [CONFIRMATION]

JULIE LAVIN: (Exhibit 12) My name is Julie Lavin, J-u-l-i-e L-a-v-i-n, and my address is 73418 638th Avenue, Auburn, Nebraska 68305. Senators, ladies, and gentlemen, my

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

name is Julie Lavin, a manager at Hearts United for Animals in Auburn, Nebraska. Over the years, I have witnessed extreme cruelty and neglect on the part of Nebraska's dog breeders. It disheartens me to know that it is allowed to continue and, in fact, in many cases appears to be getting worse. I began working with Hearts United for Animals in the year 2008 in regard to Wanda Reed of Wanda's Little Pets in Wilcox, Nebraska. Wanda was cited on multiple violations by the USDA, fined \$27,000, and had her license revoked. Violations included issues with health, sanitation, space, compatibility, number of employees, disease control, euthanasia methods, and veterinary care. Although her license was permanently revoked, she still operated as a dealer and was further penalized in 2014. Through all this, the Nebraska Department of Agriculture did very little with Wanda and was happy to have her continue to hold a Nebraska license, even though their own inspection act states that revocation by another agency is grounds for revocation in Nebraska. Nebraska chose to ask Wanda to downsize, hoping that she would be able to better care for fewer dogs. She is not able to care for fewer dogs and seven years later dogs still suffer there. Just this year, Wanda delivered a dog to a rescue group who had been suffering with a prolapsed uterus, and that photo is attached, arriving with her uterus hanging half out because she would not put any money into veterinary care. The dog survived, just barely, after a week's stay at an animal hospital. In the past, Wanda has told me that she would club a dog over the head to kill it. Educating her on humane animal husbandry practices is clearly not successful, yet the department allows the horrors to continue. The department's general mode of operation is to try to get the bad breeders to clean up their act even if briefly. They get the breeders to off-load dogs onto rescue groups, giving away the ones who are oldest and in the worst health so the evidence no longer exists. A person who does not have the basic decency to provide shelter for an animal or the minimal needs of food and water is not one to be coaxed into compliance. If the law is being broken, deal with it immediately, gather the evidence rather than destroy it, and call in law enforcement. If I were to starve my children and leave them lying in feces with broken bones, no food and no water, I doubt I would be able to receive too many chances. And I would hope that anybody who looked the other way at such atrocities would be held accountable, especially the director of a state agency. [CONFIRMATION]

SENATOR KOLTERMAN: Julie, thank you. Thank you for your testimony.
[CONFIRMATION]

JULIE LAVIN: Okay. [CONFIRMATION]

SENATOR KOLTERMAN: We'll stop there. [CONFIRMATION]

JULIE LAVIN: Okay. [CONFIRMATION]

SENATOR KOLTERMAN: I appreciate your testimony. Any questions?
[CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR CHAMBERS: Just a comment. Keep doing what you're doing and you're not alone. [CONFIRMATION]

JULIE LAVIN: Thank you, appreciate that. [CONFIRMATION]

SENATOR KOLTERMAN: Senator Riepe. [CONFIRMATION]

SENATOR RIEPE: I'm good, thank you. [CONFIRMATION]

SENATOR KOLTERMAN: Okay. Again, thank you. [CONFIRMATION]

JULIE LAVIN: Thank you. [CONFIRMATION]

SENATOR KOLTERMAN: Additional testifiers? Okay, we'll take closest first and then we'll... [CONFIRMATION]

ANN TYLER: (Exhibit 13) My name is Ann Tyler, A-n-n T-y-l-e-r, and I am here today on my own behalf to oppose the reappointment of Greg Ibach as director of the Department of Agriculture. I am sure there are many other duties that Mr. Ibach is responsible for as agriculture director, but I want to talk about his department's dismal record in regulating animal breeding facilities, specifically puppy mills. You've already seen the petition protesting Mr. Ibach's appointment. And, Senator Chambers, I hope that you are wrong in thinking that this is a done deal and that the appointment will sail through. Thirty-eight hundred people have signed a petition against reappointment of Mr. Ibach. That's 3,800 votes, just in case anyone is wondering about that. So that's something that should be taken seriously. I'm not going to go into what the petition states. The abuse and neglect is very well documented. I just ask you to read it. [CONFIRMATION]

TRAVIS MOORE: Senator Kolterman, we're having difficulties with the recording device. So if we could just hold on so we get that corrected and so the testimony will be recorded. [CONFIRMATION]

SENATOR KOLTERMAN: Excuse me for a minute. [CONFIRMATION]

ANN TYLER: Okay. [CONFIRMATION]

SENATOR KOLTERMAN: We're going to... [CONFIRMATION]

TRAVIS MOORE: Sorry about that. [CONFIRMATION]

ANN TYLER: No problem. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR KOLTERMAN: Isn't modern technology great? [CONFIRMATION]

ANN TYLER: What? [CONFIRMATION]

SENATOR KOLTERMAN: Isn't modern technology great? [CONFIRMATION]

ANN TYLER: Always. It's great when it works. [CONFIRMATION]

SENATOR KOLTERMAN: Yeah. Welcome, Senator Bloomfield. [CONFIRMATION]

SENATOR BLOOMFIELD: Thank you, Senator Kolterman. I apologize for the lateness of my arrival. I've been in front of the Education Committee for the last... [CONFIRMATION]

SENATOR KOLTERMAN: No apology needed. Are we ready? [CONFIRMATION]

TRAVIS MOORE: Yes, we are. Thank you. [CONFIRMATION]

SENATOR KOLTERMAN: Okay. Go ahead. [CONFIRMATION]

ANN TYLER: All right. Thank you. I was saying that I would just ask you to read the petitions and the comments about them. Read it carefully and think about whether this is the way any creature should be treated. We all need food, water, shelter, and healthcare. When a member of any vulnerable population is found living without these basic necessities, we're shocked and we hold the responsible agencies accountable. This has happened in our Corrections Department and at DHHS where severe deficiencies have been found and directors replaced as a result. But when innocent animals are found living in these conditions, no action is taken. This has continued for years with state inspectors noting violations but no law enforcement action being taken. The attitudes and policies of a department begin at the top, and Mr. Ibach has obviously placed no importance on the welfare of animals being held by Nebraska breeders. This department needs the kind of examination that Corrections and DHHS have received. Some of you have pets, I'm sure, and I hope they're all healthy and happy. I have a puppy mill dog, Hooper, who lived in a cage for five years. And, Senator Riepe, that's what those dogs are. They're breeding dogs. They're used entirely for breeding purposes. He'd never walked on grass. He trembled and hid when anyone approached him. He still doesn't know what a toy or a treat is. He can't accept affection. The things you take for granted with your pets I'll never know with mine. Sorry (choking up). But at least he's safe now, and the only reason he's safe is because of a rescue organization. Mr. Ibach's department turns its back on dogs like Hooper. Rescue organizations are leading by default because the Department of Agriculture is not doing its job. The rescues are overwhelmed and underfunded. This could change dramatically if the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

department had a director who insisted on the enforcement of Nebraska's existing laws and hired staff willing to take action. I am asking you to appoint someone who will stand up for and protect the animals who depend on us for their care and protection. Thank you. [CONFIRMATION]

SENATOR KOLTERMAN: Thank you for your testimony. Senator Chambers, you have a question. [CONFIRMATION]

SENATOR CHAMBERS: The Legislature doesn't appoint; the Governor does. It would be good with the information that you all have on the petitions to get them to the senators, those who have senators in the Legislature, get the information to them. I hope for the best. I prepare for the worst. And it's one of those situations where I think of two lines by William Blake, a poet: "A Robin Redbreast in a Cage/ Puts all Heaven in a Rage." Well, now if merely encaging a bird puts heaven in a rage, I want you to know that one who has no prospects of going to heaven would say that the rage which heaven feels is like a walk in the park compared to what I feel. And unlike heaven, I will do something. I have a responsibility, I have an obligation. And these politicians and their appointees are not going to get a free ride. The Legislature will be my bully pulpit. And I'll see how much heat the Governor wants to take as a result of his appointees who don't do the job that they should do. [CONFIRMATION]

ANN TYLER: Does this committee then make recommendations to the Governor based on these hearings? [CONFIRMATION]

SENATOR CHAMBERS: It's over now. No, he's not going to back off. He's made the appointment. The Legislature... [CONFIRMATION]

ANN TYLER: It must confirm it. [CONFIRMATION]

SENATOR CHAMBERS: The Legislature either says yea or nay. [CONFIRMATION]

ANN TYLER: So there is a possibility to still say nay, and I would encourage you to do so. [CONFIRMATION]

SENATOR CHAMBERS: Work on it. That's for you all to do. [CONFIRMATION]

ANN TYLER: That's why we're here today. [CONFIRMATION]

SENATOR CHAMBERS: But I just wanted you to be aware of how the process operates. [CONFIRMATION]

ANN TYLER: I understand. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

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

SENATOR KOLTERMAN: Thank you, Senator Chambers. Any other questions? Thank you for your testimony. [CONFIRMATION]

ANN TYLER: Thank you. [CONFIRMATION]

ELAINE FRAIN WELLS: Good afternoon. My name is Elaine Wells. I'm a licensed mental health practitioner in Omaha, Nebraska. That's E-l-a-i-n-e W-e-l-l-s. Do you need my address? [CONFIRMATION]

SENATOR KOLTERMAN: No. [CONFIRMATION]

ELAINE FRAIN WELLS: Okay. I've been a dog lover since I was age 5 and my mother brought a little puppy that could sit in the palm of my hand. And I now am the proud owner and parent of a beautiful animal that I got from the Nebraska Humane Society in Omaha. I want to comment on what Senator Chambers said about India and about Gandhi. I went to India in 2010. I went to Thailand, and in Thailand there were lots of stray dogs who sat in the temples and sat in the restaurants, but they didn't look terribly malnourished. People loved them and somebody took care of them to some degree, and I took lots of pictures of those animals. But when I went to India, the animals were so pathetic that I couldn't even bear to take their picture and have it in my camera. That's in a nation where even people don't receive adequate food and clothing on a massive scale. America is the richest country in the world. Surely we can do better than this and surely we will not let some people's selfish monetary gain overrule the moral obligation to take care of helpless animals. Thank you very much. [CONFIRMATION]

SENATOR KOLTERMAN: Just...yeah. Any questions? [CONFIRMATION]

SENATOR CHAMBERS: Just one comment. The Governor and other politicians in Nebraska every time something bad happens they say this is not the kind of people Nebraskans are, but it is exactly the kind of people that Nebraskans are because they know and choose to look the other way. And the only time they will react at all is if it becomes public, an embarrassment, and makes the state of Nebraska look in the eyes of the nation exactly like it is. [CONFIRMATION]

ELAINE FRAIN WELLS: So what do we need to do next exactly? We're all willing. [CONFIRMATION]

SENATOR CHAMBERS: I think you need to find everywhere you can to publicize this kind of thing that's happening. I don't use the gadgets like...whatever they call the computers. Put as much of it out there as you can, because it goes beyond the borders of Nebraska, so people will know what is tolerated in this state. It's known by the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

Governor. It's known by the elected officials in the Legislature. And they choose to do nothing about it. [CONFIRMATION]

ELAINE FRAIN WELLS: We'll get the media right on it. [CONFIRMATION]

SENATOR CHAMBERS: Okay. [CONFIRMATION]

SENATOR KOLTERMAN: Thank you for your testimony. [CONFIRMATION]

ELAINE FRAIN WELLS: Thank you. [CONFIRMATION]

SENATOR KOLTERMAN: Are there additional people that would like to testify in the opposition? Seeing none, are there any that would like to testify in a neutral position? Then I would like to close this hearing. We'll move on to the next...thank you all for coming today. (See also Exhibit 14.) Are we ready to go? We're starting round two. Thank you for coming. The first bill that we're going to address is LB85. Senator Davis, go ahead and make your presentation. [CONFIRMATION]

SENATOR DAVIS: Are you guys ready to go? [LB85]

SENATOR KOLTERMAN: Yes, go ahead. [LB85]

SENATOR DAVIS: (Exhibit 1) Good afternoon, senators of the Ag Committee, Senator Kolterman, and everyone else. I'm Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. I'm here today to introduce LB85 on behalf of the Nebraska Brand Committee. This bill would increase the maximum brand inspection fee that the Brand Committee can impose from the current 75 cents to \$1.25. The Brand Committee voted unanimously in favor of this change at their December 9 meeting. Since there are some new members of the Ag Committee, I want to explain what the Brand Committee does and how it is defined. The western two-thirds of the state are included in territory which is subject to brand inspection laws when cattle are sold or transferred. Handout number one is a map of the state of Nebraska showing the brand area and the criminal investigation areas in those areas. Nebraska statutes call for a bill of sale for each and every bovine animal sold in Nebraska, but west of that line the animals must be inspected by a brand inspector or they must be held in a registered feedlot which has different procedures but is accountable to the Brand Committee for auditing and inspection. Brand inspectors are also responsible for the collection and remittance of the beef checkoff, which is a mandatory \$1 fee assessed on each sale of beef to...each sale of cattle to promote beef products. The members of the Brand Committee are appointed by the Governor. The committee must contain representatives from the feeding industry as well as the ranching or stocker segment of the industry, and members are often promoted by the associated industry groups with which they are affiliated, such as the Nebraska Cattlemen, Farm Bureau, the Independent Cattlemen of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

Nebraska, or the like. Handout two is a listing of the members of the Nebraska Brand Committee with residences and industry segment. The committee members operate like any board of directors hiring staff and setting policy for the entity. Members of the Brand Committee must reside within the territory in which the brand laws apply and must be actively involved in the livestock business. One of the responsibilities for the committee is maintaining adequate funding to assure that the committee can meet its financial obligations and maintain a healthy cash reserve. The committee has some statutory requirements that control the inspection fee, which is tied to their cash reserve. But the statutory ceiling for the brand inspection fee is set by the Legislature. The ceiling was raised to 75 cents per head some seven years ago, and it has stayed there to this day. Just to clarify, the decision to raise the fee itself rests with the Brand Committee and not with the Legislature. The only obligation which the Legislature has is to set the maximum ceiling for the inspection fee. In light of falling numbers of cattle across the United States and in Nebraska, the reduced turnover in animal sales, and also recognizing the increasing costs of inspection, the committee unanimously requested the increase in the ceiling. The Brand Committee inspected a total of about 3,430,000 cattle in 2013-14. Six months into this fiscal year, the running total is down about 9,500 from last year's six-month total. Last year's total is the lowest number of cattle inspected since 1992 and '93. The third handout shows the history of the brand inspection fee. It was raised by 5 cents almost every year between 2003 to 2007 from 60 cents in 2003 to the current 75 cents in November of 2007. It has not been raised since then, and last year's significantly lower number of cattle inspected has greatly decreased the revenues from the fee. The fourth handout shows the total number of cattle inspected by years, beginning in 1980. You'll note that cattle numbers declined drastically between 2012-13 year and the 2013-14 year. The 2012 figures are distorted due to the huge liquidations which took place in 2012 due to the dire drought conditions which the state experienced that year. (Year) 2013 to 2014's lower numbers are in echo of the 2012-2013 sales since it often takes multiple years for restocking to take place. As you can see in handout five, the Brand Committee also imposes a number of other fees and charges for various other types of activities, whether those be grazing permits, brand sales, and the like. One example of this is the annual fee for registered feedlots. In a registered feedlot, the feedlot itself is required to keep detailed records of cattle sales and transactions which are subject to audit by the Brand Committee and its inspectors. In a registered feedlot, the feedlot pays 75 cents per head based on a one-time capacity of the feedlot; therefore, a 1,000-head feedlot will pay an annual fee of \$750 per 1,000 head. Since cattle are not usually held in a feedlot for more than six to nine months, the actual cost per head then in a registered feedlot is significantly lower than for inspections held at the ranch because newer cattle are brought in to replace those which are sold during the annual period and the additional cattle escape the inspection fee because we're paying on the capacity of the feedlot. At the end of the year, the Brand Committee will examine the number of head of cattle that were in the feedlot and prorate that feed down. If, for example, the feedlot holds 80,000 head but only feeds 60,000, then that feedlot fee is adjusted, so they don't pay that. So the benefit to the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

feedlot is ease of convenience when preparing to sell cattle since a physical inspection is not required for each transaction. This is convenient to the feedlot and represents a good business decision on the part of both feedlot and committee because brand inspection means you have to run the animal by an inspector every time, which causes stress for the animal, possible losing of weight. Handout six lists total cattle inspections through December 2014. The Brand Committee estimates the number of cattle in registered feedlots in the three brand inspection areas totals 1,083,464 as of the most recent quarterly checks. These are average inventory numbers, not the exact number of cattle that set foot in a feedlot. Independent Cattlemen of Nebraska, Nebraska Farm Bureau, Nebraska Farmers Union, and the Nebraska Cattlemen all support increase in the authority of the Nebraska Brand Committee to raise its fee. However, the Nebraska Cattlemen have indicated that, while they support this increase in the maximum per-head fee, they would like an exemption from the fee for registered feedlots with 1,000 or more cattle. I will address why I think this is poor policy but would remind the members of the Agriculture Committee that the Nebraska Brand Committee has full authority to negotiate and set fees for any of its activities it controls. It is simply not the place for the Legislature to dictate what terms it will impose to permit the Brand Committee to continue to operate. If local control is important to you, then I urge you to simply raise the ceiling on these fees without any conditions. The cost to the Brand Committee of exempting registered feedlots and moving to a cost recovery fee can only be estimated since they currently don't charge such a fee. But based on fiscal year numbers from 2013-14, they estimate that exempting registered feedlots from the brand inspection fee would cost close to a \$710,000 loss in revenue for the Brand Committee. It would be very difficult to settle on a cost recovery fee that would recoup anywhere close to that amount, and this could create a need to raise a per-head brand inspection fee to at least 97 cents on the ranch or sale barn inspection fees. For purposes of comparison, Colorado is the only other western state that has an exception for inspection fees for certified feedlots. Handout seven is a list of fees imposed in Nebraska and in other western states. All states west of Nebraska have a statewide brand inspection program, as do South Dakota west of the Missouri River and North Dakota. As for the per-head inspection fee, most western states, including Oregon, Washington, Nevada, South Dakota, North Dakota, and Wyoming, currently assess a brand inspection fee of at least close to \$1. In March 2013, the Brand Committee conducted a survey throughout the brand inspection area. I have distributed a copy of that to you in handout number eight. I think it demonstrates overwhelming support for the current brand inspection fee procedures. If you read nothing else I submit, I suggest you thoroughly go over this document. Again, the Nebraska Brand Committee has full authority to set fees for its services, and they have demonstrated a long-term commitment to operating in a frugal and efficient manner. Please move this bill to the floor as soon as possible so that we can implement these fees and help the committee to continue the good work that it does. Thank you. And I'll take any questions. [LB85]

SENATOR KOLTERMAN: Thank you, Senator Davis. Are there questions? Senator

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

Riepe. [LB85]

SENATOR RIEPE: Senator Davis, thank you for being here. One of the questions that I have, you noted the importance of exhibit number eight on terms of the survey and, with an interest in statistics, what is the...what was the...there were 4,385 returns. How many were sent out? I mean, what percentage does this 4,000 represent? [LB85]

SENATOR DAVIS: I don't have the answer to that. [LB85]

SENATOR RIEPE: Okay. [LB85]

SENATOR DAVIS: But someone following me will be able to answer that question. [LB85]

SENATOR RIEPE: Okay. [LB85]

SENATOR DAVIS: The survey was sent out by Steve Stanek, who is now retired. He was executive director. And Shawn Harvey I think can probably answer that, or some of the other members of the committee who are here to testify in support. [LB85]

SENATOR RIEPE: Okay. I think it looks important and I just want to make sure that...you know, when the credibility is on it. [LB85]

SENATOR DAVIS: Thank you. [LB85]

SENATOR RIEPE: And thank you for your explanation to some of us that are new. I have a follow-up question. [LB85]

SENATOR KOLTERMAN: Go ahead. [LB85]

SENATOR RIEPE: What age do they...I'm a farm boy. So we always put clips in their ears and we didn't brand. But what age of a calf do you brand? Is that like on TV where they show this... [LB85]

SENATOR DAVIS: Well, actually, one of the sort of interesting misconceptions about the brand program is that it requires an animal to be branded. What actually is the requirement is proof of ownership. [LB85]

SENATOR RIEPE: Sure. [LB85]

SENATOR DAVIS: So if you can prove ownership in some other manner, you don't have to have them branded. But they have to be inspected and documented in some way that you can take ownership to you. But as to when you can brand them, you know,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

on our ranch, we usually waited until about three months of age. [LB85]

SENATOR RIEPE: Oh, okay. Okay. So you don't wait and let them get too big. They have to wrestle them... [LB85]

SENATOR DAVIS: Right, and some people brand them at birth and actually they do I think maybe sometimes better than they do a little older. They seem to recover really quickly. [LB85]

SENATOR RIEPE: Thank you for the education. [LB85]

SENATOR DAVIS: Thank you. [LB85]

SENATOR KOLTERMAN: Any additional questions for Senator Davis? Hearing none, we'll move into testimony in favor of. We're using the clock today, so you'll get three minutes. With the lights, that's a clock to me, three minutes. Thank you (inaudible). [LB85]

JESSICA KOLTERMAN: Thank you, Senator Kolterman. Members of the Agriculture Committee, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm the director of state governmental relations for the Nebraska Farm Bureau. I come before you today on behalf of the organization. Nebraska Farm Bureau has a policy supporting an increase in the brand inspection fee. Our policy actually states that we support a brand inspection fee increase up to \$1, but of course we recognize that our policy, you know, can be adjusted as you see fit, as you determine the needs and look at that. If you have any questions, we'd be happy to work with the committee. I'll close my testimony and open it to questions. [LB85]

SENATOR KOLTERMAN: Are there any questions for Ms. Kolterman? Hearing none, thank you. [LB85]

JESSICA KOLTERMAN: Thank you. [LB85]

SENATOR KOLTERMAN: Additional testifiers in support? [LB85]

CHRIS ABBOTT: (Exhibit 2) Senator Kolterman and members of the Ag Committee, this is my second time up today. Chris Abbott, C-h-r-i-s A-b-b-o-t-t. I'm here on behalf of Independent Cattlemen of Nebraska, past president to...I think we've got a few newcomers here in the fact that I think everyone sitting here today outside of maybe Senator Larson is out of the Brand Committee. So a little bit about our organization, we are beginning our 11th year of existence. And the big reason we started, we felt that the independent cattleman, the true cow/calf producer, has been neglected. So we began this organization and four years ago we had this same bill brought up to raise it to \$1.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

And following that, ICON did several meetings mainly up and down Highway 20 in several of the different auction markets getting a consensus from our peers out where I live. A little bit about myself before I move on, I am fifth-generation cattle rancher from Cherry County, Nebraska, which is the largest cow/calf/mother cow-producing county in this whole country. So I come from right in the heart of cattle country. But to move on, what you're looking at is just a little over a month ago we had our annual meeting and we passed a resolution to raise the brand inspection fee. And I want to go over these "whereases" a little bit and I want...number one, the hot iron brand is the only permanent form of animal ID to date. I do want you all to know that we are not totally advocates of the hot iron brand. You know, I think with...I think one of the senators here talked about a clip. What we really want to stress in this "whereas" is that it's the only permanent, outside of maybe also freeze branding. Number two I think is really important. I want to really touch on it a little bit. The Independent Cattlemen of Nebraska support the Nebraska Brand Committee in protecting the inspection of proof of ownership of livestock. Maybe you all know this, but you know we're in the top three in cattle/beef production in this country. We became number one in feedlot production just this last year, and we're right up in the top three in processing. And for a state, our number-one industry is cow/calf production and processing. And for us not to take a lead in proof of ownership, you know, about everything we have, our clothes, anything we've purchased, land, vehicles, we have a...we have to have proof of ownership with a bill of sale. Why not for livestock that we grow? I think it's imperative that we should be able to produce proof of ownership. Number three, it amazes me, the job that the past Brand Committees have done. This agency, it's a state agency; but again, it's producer funded. You know, there are no funds that come into this agency other than from producers alone whom we solely represent. And for these folks to charge the 75 cents that they have done, year in and year out, tells me that they've done a heck of a job. The last "whereas," it's the state Unicameral that sets that cap. And with you folks mostly being out of the brand area I think is...at the end of the day, it all comes back to that proof of ownership. I think it's imperative that this state takes that lead because we are the leading...one of the leading, if not the leading, in...throughout the different sectors. So with that, thank you. [LB85]

SENATOR KOLTERMAN: Mr. Abbott, thank you for your testimony. Also, you drove a long ways to speak briefly at two different occasions, so appreciate you coming all the way from Valentine. [LB85]

CHRIS ABBOTT: Yes, I did. [LB85]

SENATOR KOLTERMAN: Thank you. Any questions? Senator Riepe. [LB85]

SENATOR RIEPE: I have a question that may be incredibly naive, but my question is, do you copyright your brand? [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

CHRIS ABBOTT: Copyright? [LB85]

SENATOR RIEPE: Well, send it in and... [LB85]

CHRIS ABBOTT: Like a patent? [LB85]

SENATOR RIEPE: It's verified so that you own it and they've... [LB85]

CHRIS ABBOTT: Yes. [LB85]

SENATOR LARSON: Registered, yeah. [LB85]

SENATOR RIEPE: So you could sell your brand but it...you have a transfer on it, just like on a vehicle? [LB85]

CHRIS ABBOTT: Yes. [LB85]

SENATOR RIEPE: Is that how that works? Okay. [LB85]

SENATOR LARSON: Chris, why don't you explain the registration process first. [LB85]

SENATOR RIEPE: And so then you would have...yeah, you would also have a group that would, like a copyright or patent office, they go through to make sure that it doesn't violate someone else's existing patent? [LB85]

CHRIS ABBOTT: Right. [LB85]

SENATOR RIEPE: And it would be nationally even, like the cowboys in Texas or something like that? Okay. I see. [LB85]

CHRIS ABBOTT: No, it's all within the state. [LB85]

SENATOR RIEPE: Just state, okay. [LB85]

CHRIS ABBOTT: The Nebraska Brand Committee has my brand on registration. [LB85]

SENATOR RIEPE: Okay. So it could conflict with a cowboy down in Texas but not here in Nebraska, okay. [LB85]

CHRIS ABBOTT: Right. [LB85]

SENATOR RIEPE: I just know that some of your cattle get sold outside of the state of Nebraska. I'm just curious. [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

CHRIS ABBOTT: You know, and the Brand Committee will be up here and can maybe clarify that a little bit but... [LB85]

SENATOR RIEPE: Okay. Yeah, okay. Thanks. Thank you. [LB85]

SENATOR KOLTERMAN: Any additional questions? Any more, Senator? Tyson. [LB85]

SENATOR LARSON: Chris, do you need a second to clarify the registration process in terms of...do you feel like you have a good... [LB85]

CHRIS ABBOTT: Senator Larson, maybe go ahead if you want to clarify it a little bit. [LB85]

SENATOR LARSON: Each brand is registered with the Brand Committee so no one else...like, our family's brand is the broken-bar "K," so no one else in the state can have that broken-bar "K." But there could be one in Texas with the broken-bar "K." But it's all registered within the state of Nebraska so we're the only ones. And yours is...is it...I guess I don't know your brand right off the top of my head, but... [LB85]

CHRIS ABBOTT: The bent J on the left hip. [LB85]

SENATOR LARSON: That's right, and I've seen it a number of times, but...so nobody else can have those brands in the state, but they could be...or...and they're not necessarily trademarked. It's more of a registration process. [LB85]

CHRIS ABBOTT: Right. [LB85]

SENATOR KOLTERMAN: Senator Bloomfield, do you have a question? [LB85]

SENATOR BLOOMFIELD: No, I just wanted to follow up on Senator Larson's explanation a little bit. He said nobody else could have that brand. I think you could probably have the same brand, but it would have to be in a different area on the critter. You could do a left side or a right side or back or front or... [LB85]

SENATOR KOLTERMAN: Okay. Senator Riepe, you have a question for the testifier? [LB85]

SENATOR RIEPE: Well, I've got...I hate to make this a classroom for me but, you know, if you buy one of Senator Larson's cows, is there a protocol that says then that number-two owner on this cow puts it on the left side or right side or... [LB85]

SENATOR LARSON: You could... [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR KOLTERMAN: Go ahead, Mr. Abbott. [LB85]

CHRIS ABBOTT: Well, if he has a brand on the left hip and mine's on the left hip, I just have to find another place on the left hip. [LB85]

SENATOR RIEPE: Okay. How would you know which one is the first brand on there? [LB85]

CHRIS ABBOTT: Well, you don't, especially on a lot of trader cows. You might have half a dozen brands. [LB85]

SENATOR RIEPE: Okay. [LB85]

SENATOR KOLTERMAN: And with that, we're going to move on. [LB85]

SENATOR RIEPE: Okay, thank you. [LB85]

SENATOR KOLTERMAN: Thank you for your testimony. Anybody else in support? [LB85]

JOE PONGRATZ: (Exhibit 3) Hopefully, I can speak in three minutes. My name is Joe Pongratz, J-o-e P-o-n-g-r-a-t-z. I'm a fourth-generation rancher. Along with my parents, my wife and I operate a cow/calf operation and a backgrounding operation. In addition to cattle, we also have a farming operation with my parents and brother's family. I am active in many organizations, but today I come to you as a member of the Nebraska Brand Committee. I am here to ask for your support in the passing of LB85 and to pass it with no amendments. We the committee voted unanimously last week to support LB85 the way it stands before you today. LB85 raises the cap of per-head inspection from 75 cents to \$1.25. It does not change what producers will be charged. It only changes the cap. We the Brand Committee decide what the per-head inspection fee will be. We only change that fee based upon the amount of cash in our reserve. With the ability to raise and lower the fee, which we have done both of, we have been at the max since November 1, 2007. In the past years, we have had a drop in cattle numbers which has resulted in a lower revenue. This is starting to take a toll on our cash reserve. This is why we are requesting a raise in the cap. We hope to continue to provide the best quality of service for producers. When comparing what we charge our producers with what other states charge their producers, we are anywhere from 25 cents to over a dollar lower. I have attached a sheet to show the differences. We take pride in the fact that we are giving producers the best service while at the same time we are doing it at a much lower cost than other states. However, the time has come to raise the cap so that in the event of...that operating costs continue to rise, we can still protect producers' livestock. When looking at the brand fee, some view it as a tax. I don't see it that way at

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

all. I view it as an insurance premium. When we have raised...when we have our cattle inspected, it is to prove that they are our cattle and we have no strays in them. It also provides peace of mind that when we are short on our count, we are able to go to the brand inspector and have him or her assist us in locating the missing cattle. When cattle are sold at a sale barn, having a brand inspector on location saves a producer who may unknowingly have a stray in his or her herd from committing a crime. The inspector will find it and prevent the producer from selling it. It will also remove liability from the sale barn and the producer in the event that a stray is not found by the inspector and is sold. If this happens, the liability falls on we, the Brand Committee. When I think of how much money my wife and I spend on insurance, whether it be health, home, crop, vehicle, etcetera, these are all necessities, just as the fee for brand inspection is. The only difference is that the total amount we pay in a year for brand inspection is the cheapest premium of all insurances that we have. Also, it doesn't cover a loss. It brings back the missing. I ask you to think of what things cost in 2007. How much was a gallon of gas? Food? Health insurance? A new vehicle? Education? Think of what those things cost now. We are operating an entire state agency on a very tight budget, not to mention we are a self-sufficient agency. Our budget comes solely from what we take in from fees. I have included with my testimony the survey that the Nebraska Brand Committee concluded in 2012, the results reported as of March 14, 2013, with 4,385 responses. In it, you will find valuable information on what producers want to see happen. I personally use this to help guide my decisions when I vote on matters that we the committee decide on. I also ask that you take a close look at what producers are asking for. For example: 91.3 percent feel that the per-head inspection fee is the fairest way to assess fees across the board to all members of the cattle industry; 51.5 say that they would rather see an increase in the per-head inspection fee versus the use of a surcharge; 28.4 were undecided. In response to the survey question, do you believe that one fraction of the cattle industry should be assessed more than another or should the fees be based on the total number of head, 85.1 percent said, no, it should be based on the number of head, and only 3.4 percent said, yes, one fraction pay more than another. Another question read, would you be willing to pay more for inspection fee per head... [LB85]

SENATOR KOLTERMAN: Joe, we've got that in the... [LB85]

JOE PONGRATZ: Okay. [LB85]

SENATOR KOLTERMAN: ...testimony already and I appreciate that. [LB85]

JOE PONGRATZ: Okay. [LB85]

SENATOR KOLTERMAN: Thank you for your testimony. [LB85]

JOE PONGRATZ: Yep. [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR KOLTERMAN: Questions? Senator Larson. [LB85]

SENATOR LARSON: Joe, is the Brand Committee going to come up and talk following you, or are you the representative for the Brand Committee? [LB85]

JOE PONGRATZ: There is three of us in total that will talk today at different times. [LB85]

SENATOR LARSON: Will the executive director? [LB85]

JOE PONGRATZ: Yes, he's behind me, at some point. [LB85]

SENATOR LARSON: All right. I'll save mine for... [LB85]

JOE PONGRATZ: All right. [LB85]

SENATOR KOLTERMAN: Appreciate you coming all the way from O'Neill. [LB85]

JOE PONGRATZ: Any questions? [LB85]

SENATOR KOLTERMAN: Senator Bloomfield. [LB85]

SENATOR BLOOMFIELD: Being the tightwad that I am, that seems like a big increase, from 75 cents to \$1. [LB85]

JOE PONGRATZ: Yeah. [LB85]

SENATOR BLOOMFIELD: And I (inaudible) that's twice as high. [LB85]

JOE PONGRATZ: Well, as long as the...I guess part of it is in the process of the...where we'd have to come and increase the cap, to ask, we just found that it may be easier to ask for an increase. Looking at other states, we don't know. I mean I guess that's what we just... [LB85]

SENATOR BLOOMFIELD: You just... [LB85]

JOE PONGRATZ: Looking at other states, we picked that. We're not necessarily going to raise that much at all. I mean... [LB85]

SENATOR BLOOMFIELD: But you could certainly have... [LB85]

JOE PONGRATZ: We have in our...in our budget, we have percentages that we watch

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

when we raise it and lower it, so we're not... [LB85]

SENATOR BLOOMFIELD: It just seems like a big percentage of an increase. [LB85]

JOE PONGRATZ: Okay, well, I guess... [LB85]

SENATOR BLOOMFIELD: And we'll look at that as we go forward. Thank you. [LB85]

SENATOR KOLTERMAN: Any additional questions? Are you finished? I'm sorry, I didn't mean to... [LB85]

SENATOR BLOOMFIELD: I'm done. [LB85]

SENATOR KOLTERMAN: Any other questions? Joe, thanks for coming. [LB85]

JOE PONGRATZ: Thank you. [LB85]

SHAWN HARVEY: Hello. My name is Shawn Harvey, spelled S-h-a-w-n H-a-r-v-e-y, and I am the executive director for the Nebraska Brand Committee. I'm here today on behalf of the Nebraska Brand Committee in support of LB85 which would increase the maximum per-head inspection fee from 75 cents to \$1.25. This increase would allow the Nebraska Brand Committee to raise the per-head inspection fee if the need arises due to the falling cattle numbers and the rising cost of doing business. In the fiscal year 2013-14, the Nebraska Brand Committee saw a drop in the number of cattle inspected lower than we have seen since 1992-93. Even though this number by the years seems to be a rising and falling number, the number of cattle today is lower due to the drought and rising cattle prices which have caused many producers to sell off larger numbers of cattle than originally planned. Some of these producers have replenished these herds, but many are running fewer cattle to help manage their pasture land and feed reserves. This is a direct impact on the cattle inspection members for the Nebraska Brand Committee. The six-month total for this fiscal year 2014-15 shows a decrease in increased...in inspected cattle of 9,551 head, compared to the fiscal year 2013-14 six-month total. If this trend continues, the Nebraska Brand Committee could be faced with another year of losses which would equal a decline in revenue. The Nebraska Brand Committee creates revenue through the fees it charges for inspection fees, brand recording fees, registered feedlot program fees, and research and administration fees. Many of these fees are at the maximum amount allowed according to statute. The per-head inspection fee generates the largest amount of revenue due to the large amount of cattle inspected over a year's time. With an increase in the maximum per-head inspection fee allowed, the Nebraska Brand Committee would have the ability to increase its revenue to compensate for the rising cost of doing business and the declining number of cattle inspected. A small increase in the per-head inspection fee would have a great impact on the revenue generated but would have a smaller impact

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

on producers as a whole as every fraction of the cattle industry would see an equal increase in the fee. Nebraska Brand Committee has historically only raised the per-head inspection fee when it is extremely necessary and, when they have, it has been in very small increments, such as the last raise of 5 cents back in November of 2007. Since the last increase in the per-head inspection fee in 2007, the cost of doing business has continually risen. In January 2015, the state mileage reimbursement required to pay the inspectors for the miles driven due to the inspections rose from 56 cents to 57.5 cents per mile. Nebraska Brand Committee inspectors historically drive 850,000-950,000 miles per year. Based on these numbers, the mileage increase will cause an estimated increase of \$12,212. Retaining good, quality employees has become another issue with the Nebraska Brand Committee and...faced with today. With the cost of living continuing to rise and many young people entering the job force, we must find a way to stay competitive when it comes to our starting salaries. We have lost many new employees over the last few months on the job due to the fact our starting salary is too low compared to other jobs they are able to find. The Nebraska Brand Committee needs the ability to raise its salaries to stay competitive in today's job market. Technology is another issue for the Nebraska Brand Committee that must be addressed. With the advances in technology which can make how you do business more efficient and cost effective, the Nebraska Brand Committee must find a way to increase in this area. The Nebraska Brand Committee is very antiquated when it comes to the technology used in its headquarters office and technology uses by our inspectors in the field is almost nonexistent. The...yes. [LB85]

SENATOR KOLTERMAN: Shawn. [LB85]

SHAWN HARVEY: Yes. [LB85]

SENATOR KOLTERMAN: I think I'm going to shut you off there. [LB85]

SHAWN HARVEY: That's fine, that's fine. [LB85]

SENATOR KOLTERMAN: I'm being generous with the time. [LB85]

SHAWN HARVEY: No problem. [LB85]

SENATOR KOLTERMAN: Any questions? Senator Larson. [LB85]

SENATOR LARSON: Thanks, Shawn. I'm at a little bit of advantage over everybody else in the room, having been able to serve on Appropriations, and have a pretty detailed knowledge of the Brand Committee's budget specifically. I can appreciate the cost of doing business rising. And two years ago we went through the appropriations process. And I know you weren't the executive director two years ago. And what the committee requested from the Appropriations Committee two years ago, are you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

familiar with what was requested? [LB85]

SHAWN HARVEY: I'm not for sure. [LB85]

SENATOR LARSON: Okay. And that's why I guess I'm a little...it's not that I'm opposed by any means to the increasing because I get the mileage authority. That was one thing that we did...the Appropriations Committee did give the Brand Committee. We upped the mileage authority. We did a number of things because business does go up, I get that, the salary costs, all of that. My concern is, is when your predecessor requested bulletproof vests for some investigators, redoing the bathroom within the Brand Committee's offices, and things of that nature, it was concerning in terms of how these cattlemen's money were being spent, if that was...you know, \$10,000 for bulletproof vest was a prudent investment. And these...this...and I'm not exaggerating. That was asked for two years ago. What is in this year's request I haven't been able...I know that you didn't request an increase in your budget, is my understanding, but what...did you have any specific requests in your budget, or do you have your budget request with you, by any chance? [LB85]

SHAWN HARVEY: I don't have it with me. And I've actually only been on the job about three weeks, so obviously, you know, we're getting to those points and stuff, but I don't have those figures for you today. [LB85]

SENATOR LARSON: Can you understand my concern when you're asking to raise the fee on producers and... [LB85]

SHAWN HARVEY: Absolutely, absolutely. [LB85]

SENATOR LARSON: ...and yet two years ago the committee's requests and...in your opinion, do your investigators need bulletproof vests? I'll ask you that right now. [LB85]

SHAWN HARVEY: Yeah, to clarify that, basically, our investigative unit, which has been and was established back in 1941 along with the inspection program to give those investigators the opportunity to investigate the livestock crimes, they are appointed as state deputy...a special state deputy sheriff, so they have the same arrest powers as technically the State Patrol or game wardens, State Fire Marshal. The need for them to have bulletproof vests is they do livestock checks, for one instance, where they are stopping livestock carriers. Who knows what that person in that truck could possibly have as far as a weapon? They are also required to do search warrants. If they have a suspect that they have suspected of a crime--cattle theft, that nature--they are one of the officers that is charged with doing that search warrant, which puts their life, as any other law enforcement officer, in danger. So those protective vests, just like any patrolman, city police officer, or deputy sheriff, their life is put in danger in that same instance as them. And in asking for those vests, just for some history, that...I began as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

an investigator in 2003. The vests that we were using were purchased in, like, 1990. The normal life of a protective vest is about seven years, so. [LB85]

SENATOR LARSON: Two follow-ups. [LB85]

SHAWN HARVEY: Sure. [LB85]

SENATOR LARSON: And I appreciate the explanation and I can appreciate some of that. How often are you put in situations in which you...I mean I get the arrest warrant, that...those powers and whatnot. I represent a lot of those guys that...well, you know, a lot of farmers and ranchers and what's happened. How often have...did...you were an investigator? [LB85]

SHAWN HARVEY: Yes. [LB85]

SENATOR LARSON: Did you ever feel in danger at any one point or another? [LB85]

SHAWN HARVEY: You know, I did a lot of livestock carrier checks where we would stop those livestock carriers. Unfortunately, you never know what those truckers...you know how long they've been driving. [LB85]

SENATOR LARSON: Oh, no,... [LB85]

SHAWN HARVEY: Obviously, there are some things they may take that can cause them to act in a little different way. You know, yeah, there were times when we had stopped livestock carriers that we put those vests on, that I did, just to make it feel safe. Two other times I did...we did serve a search warrant. One I did, we had a suspect that actually was in South Dakota and, along with South Dakota, we served a search warrant on that home and at that time we didn't know if that person was home. So, yes, I've been in positions where it's been required. [LB85]

SENATOR LARSON: How often when you're serving those search warrants do you bring in the local authorities, as well? [LB85]

SHAWN HARVEY: Depending on the county and for the most part we usually try to include that local authority if possible. [LB85]

SENATOR LARSON: What is...do...as an investigator, do you guys receive the, like, law enforcement training in terms of weapons and all of that,... [LB85]

SHAWN HARVEY: Yes. Yes, we are... [LB85]

SENATOR LARSON: ...the same type of law... [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SHAWN HARVEY: Yeah, we're required to attend the Nebraska law enforcement academy, the same as any Nebraska state deputy...Nebraska county sheriff, deputy, or city policeman. [LB85]

SENATOR LARSON: Well, I appreciate the questions. Like I said, those...I've just had...I'm very familiar with your budget. I've gone through the process and essentially line by line in your budget, actually, and, you know, I just want to make sure that these dollars are being spent as wisely as possible, especially when we're asking for an increase. And I appreciate the explanation. [LB85]

SHAWN HARVEY: Sure. [LB85]

SENATOR KOLTERMAN: Any additional questions? Yes, Senator Bloomfield. [LB85]

SENATOR BLOOMFIELD: It's just more curiosity than anything at this point. Are you allowed to...are you authorized to carry a weapon? [LB85]

SHAWN HARVEY: Yes. [LB85]

SENATOR BLOOMFIELD: Okay, thank you. [LB85]

SENATOR KOLTERMAN: Any additional questions? Seeing none, thank you. [LB85]

SHAWN HARVEY: Thank you. [LB85]

SENATOR KOLTERMAN: Additional proponents. Mr. Hansen, welcome back. [LB85]

JOHN HANSEN: Mr. Vice Chairman, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. And I'm the president of Nebraska Farmers Union and appear before you today as our state's president and also our lobbyist. We've known that this issue was coming for some time. We have talked about it for some time, and so we've discussed this. We've certainly...within our organization, our board of directors took this issue up last Saturday at our board meeting. They are in support of the simple, straightforward 50-cent increase. And, you know, part of our discussions, going to Senator Bloomfield's concern, some of my guys I would put in the fiscal conservative category and some might just be tight. But we have a situation with the Brand Committee. It is a service. It's a fee that you pay. And so you've got a kind of self-regulating system within their structure so that, if their reserves get down to below 20 percent, they increase the fees. And if the funds get above 45 percent of the reserve capacity, then they lower it. And so it's going to operate within that range, and it's going to take as much as it takes. And so if the total number of cattle are down and the price of mileage is up and the price of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

salary is up, then, you know, they've looked at the variables, they're going to need to increase it, they'll increase it. And if after this year, if the price of gas stays the same and it goes down and...I heard, numbers come back as we hope they will, that then they'll lower it again. And so...but I...this entity has been, in our view, responsible. We're not worried about them doing a whole bunch of extravagant things. They've run a very tight ship in our view. It's a necessary service and we ought to be willing to support their ability to be able to raise the fees from cattle producers for the services they get. And so for that we are in strong support of the bill as it is and would be more than glad to answer any questions if the committee has any. [LB85]

SENATOR KOLTERMAN: Thank you, Mr. Hansen. Senator Bloomfield. [LB85]

SENATOR BLOOMFIELD: Mr. Hansen, would you be in favor of just putting the cap at \$20? [LB85]

JOHN HANSEN: At \$20? [LB85]

SENATOR BLOOMFIELD: Why not, if they're already regulated? [LB85]

JOHN HANSEN: Well, I think that that, going from 75 cents to \$20, might be a little bit more than we had in mind, but \$1.25... [LB85]

SENATOR BLOOMFIELD: I have the same feeling about \$1.25. Thank you. [LB85]

JOHN HANSEN: All right. [LB85]

SENATOR KOLTERMAN: All right. Any other questions? Hearing none, thank you. [LB85]

JOHN HANSEN: Thank you very much. [LB85]

SENATOR KOLTERMAN: Any additional supporters? [LB85]

JIM PAPPAS: Mr. Chairman, committee members, my name is Jim Pappas, representing ICON, J-i-m P-a-p-p-a-s. I'll be very brief. I just want to emphasize that the bill will allow the Brand Committee to raise the fees from 75 cents to \$1.25. It does not say that the fee will be raised from 75 cents to \$1.25 as soon as the bill is passed. You look back, past histories from some of the previous testifiers, historically, the Brand Committee has raised the fees a nickel at a time. So if you did pass the bill, it gives them a 50 cent increase potentially. If they went a nickel a year, it would be ten years before they use up the 50 cent increase that you would allow. I just...there was a enough conversation, I think it was clarity needed to be made to saying it does not say the bill will increase it to \$1.25 automatically. [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR KOLTERMAN: Thank you, Mr. Pappas. Any questions? Okay, any additional...thank you. Any additional... [LB85]

JIM PAPPAS: Twenty dollars isn't a bad idea though. [LB85]

SENATOR BLOOMFIELD: Same rule would apply. [LB85]

SENATOR KOLTERMAN: Any additional testimony in support of? Seeing none, we'll now move into...wait a minute. Are you supportive or...? Are you in support of or...? [LB85]

MARK BLACKFORD: Support. [LB85]

SENATOR KOLTERMAN: Okay, come forward then. [LB85]

MARK BLACKFORD: Good afternoon, Chairman Kolterman, or Vice Chairman Kolterman,... [LB85]

SENATOR KOLTERMAN: Vice Chair, yeah, thank you. [LB85]

MARK BLACKFORD: ...and other committee members. [LB85]

SENATOR KOLTERMAN: I don't want that job yet. [LB85]

MARK BLACKFORD: What's that? [LB85]

SENATOR KOLTERMAN: I don't want to be Chairman yet. [LB85]

MARK BLACKFORD: Okay. My name is Mark Blackford, M-a-r-k B-l-a-c-k-f-o-r-d. I am here to testify as a beef producer and a cattle feeder from northeast Nebraska. I'd like to give you a little bit of my history. The uniqueness in me is I was born and raised in Cherry County, Nebraska. My family runs a ranch out there and runs cattle and we happen to have three registered brands. My youngest brother Matt (phonetic) is home on the ranch also, and so he's the third generation to have that brand registered in his name in our family. And so the brand law and the Brand Committee and the work that they do is very important to me and my family. One example of that is my eight-year-old boy, the door going into his room. There is a hand-drawn picture of my family's brand on the door to get into his room. And so there's a lot of history behind brands and the families that they represent. And there is no other...as Mr. Abbott suggested, today we don't have a permanent form. There's other good forms of identification, but whatever permanent form you want to use, brand seems to be the best for now to permanently identify cattle. That's not removable and you can always verify that those cattle are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

yours or at one point in time were yours. If cattle are sold, then that record stays with those cattle on past that. So today I run a 10,000-head feedyard in eastern Nebraska, and that is outside of the brand area. So at this point I'm not subject to the registration fees but I understand very well how they can impact my business if I was in the registered brand area. I recognize the value for that permanent identification, and I also want to recognize the job that the Brand Committee has done over the years. I know that their work would be aided by technology to streamline the process and bring our state's branding system into the twenty-first century. Things have not changed a lot since 1941 from the actual physical inspections that happen on the ranches, and they need the funding to be able to do that. And I believe that we need to support LB85. I also believe that we need to have the ability to take a look at all different aspects of funding besides just the fee. I think it's important that we adjust the fee up but we also take a really close look at all the different things that can be adjusted to increase revenue for that committee. [LB85]

SENATOR KOLTERMAN: Thank you, Mr. Blackford. Where, just out of curiosity, where is your feedyard at? [LB85]

MARK BLACKFORD: Craig, Nebraska. [LB85]

SENATOR KOLTERMAN: Okay. Thank you. Any questions? Welcome back, Senator Chambers. Seeing none, any more in favor or support of? [LB85]

JERRY KUENNING: (Exhibit 4) Thank you for allowing me to testify on behalf of LB85. My name is Jerry Kuenning, J-e-r-r-y K-u-e-n-n-i-n-g. I am a livestock producer from Imperial, Nebraska. Our family operates a cow/calf and a commercial registered feedyard under the Nebraska brand law. I'm also a member of the Nebraska Brand Committee. I fully support the brand increase fee for the Nebraska Brand Committee for these reasons which are threefold. One is the cost of business has simply gone up, as we've discussed earlier. Salaries of the inspectors in the field, vehicle expenses, office support staff, miscellaneous costs have all increased. In order for the Brand Committee to retain its present employees and hire new, talented people, we need to increase their salaries. The second reason and probably having the largest impact, which we've also discussed earlier, is the number of cattle being inspected has declined. This is an industrywide problem, nationwide to be more specific, going back to the drought of 2012. The numbers of cattle declined due to herd reduction, resulting in fewer cattle being inspected. The continuing impact now will be the expansion of the breeding herd. The retention of heifers to rebuild equates to fewer cattle being sold and a result in almost a double dip in the numbers of inspections. Senator Riepe (sic), I think that addresses some of your questions. Yes, 50 cents is a big jump. Our intention is not to go that full 50 cents. But because of that double dip, keeping heifers, not getting sold, and putting them in the cow herd and not collecting those fees could answer part of your 50 cents increase that we're...you're...or Senator Bloomfield, pardon me, that you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

expressed. [LB85]

SENATOR RIEPE: He's the tightwad. [LB85]

JERRY KUENNING: Well, pardon me (laughter). The final reason is a goal, and it's a personal goal of mine, being on the committee, is that we become more technologically literate. We need to reduce the paperwork in the field, update the Brand Book, and have the access that is on-line and speed up our process and make the transition into the electronic age between producers, field inspectors, and the Alliance office. All three of these reasons mean the Brand Committee simply needs additional money to operate. If I could, I'd like to address the registered feedlot program in the Nebraska law. First of all, it is very beneficial from the program that we used to operate under. It allows the efficient transaction of business in the feedlot sector. All cattle enter a registered feedyard, are inspected either through a brand inspection certificate or, if coming from a noninspected area, through bills of sale or health certificates. These records are kept on file by the feedlot by their lot number. Quarterly, an inspector inspects the paperwork on all...excuse me. Quarterly, an inspector inspects the paperwork on all newly arriving cattle, all cattle shipped to packing plants are in order, and that the yard numbers correspond accordingly. The largest benefit is when cattle are ready to be shipped. There is no need to be inspected at the time of loading to the packer. This is very beneficial to the feedlot operator as many times packers will call for deliveries in a very short notice. It becomes scheduling nightmare for inspectors, truck operators, and feedlot managers to accommodate all the schedules and all the feedlot deliveries to the packing houses. The cost of becoming a registered feedyard, as spoken earlier, is \$750 per 1,000 head of one-time capacity or, another way of saying it, 75 cents per head. A 10,000-head feedyard would pay one-time enrollment fee of the \$7,500. Keep in mind that charge is based on a one-time capacity and many feedyards turn their feedyards over two and a half times per year. The result to the Nebraska Brand Committee is the cost savings of inspecting the feedyard only four times a year instead of the every shipment of cattle which could be as many as three to four times per week and perhaps even more often. The Brand Committee is interested in input from all the producers, including the cow/calf operators, the stocker feeders, and commercial feedyards. Nebraska Brand Committee is willing to work with the Nebraska Cattlemen's office and others in the structure and implementation of this increase. One fact remains: The Nebraska brand inspection fee needs to raise to accommodate the ever-changing beef industry in Nebraska. Thank you for your cooperation and consideration. [LB85]

SENATOR KOLTERMAN: Okay. Thank you for your testimony. I'm going to turn it back over to our Chair. [LB85]

SENATOR JOHNSON: Senator Larson. [LB85]

SENATOR LARSON: Thank you, Senator Johnson. And this probably would have been

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

a better question for Shawn. I just started thinking about it as I was running the numbers and got questions answered on the budget request. The...obviously, it's...you have depressed numbers. About 3.4 million cattle were run through this past year with the beef prices...well, with the drought, the high sell-off, and those will continue to come back. As a member of the Brand Committee, have you guys had any conversations in terms of what the increase, because there will be an increase, obviously, off of 75, have you had any conversations whether it will be a nickel, a dime? What...and...or can you make any assumptions on what that increase would be based on the economics that you've seen as a committee member and getting your reserves back to where you'd like them to be? [LB85]

JERRY KUENNING: We want to get our reserves somewhere back...absolutely has to be below the 45, you know, reserve...percent reserve. [LB85]

SENATOR LARSON: Because you were right around \$800,000 or a million last time I saw. [LB85]

JERRY KUENNING: We are below the 18 percent right now. [LB85]

SENATOR LARSON: Where are you? What are the reserves right now, do you... [LB85]

JERRY KUENNING: Eighteen percent. [LB85]

SENATOR LARSON: Well, I mean total... [LB85]

JERRY KUENNING: Shawn, I'm going to... [LB85]

SENATOR LARSON: Oh, yeah, yeah. [LB85]

JERRY KUENNING: Shawn, can you help me on that one, for sure? [LB85]

SHAWN HARVEY: (Inaudible.) [LB85]

SENATOR LARSON: And like I said, I'm sorry to get you...I just started thinking... [LB85]

JERRY KUENNING: As a Brand Committee member, I should know that but I don't. [LB85]

SENATOR LARSON: And have you...back to the...have you had any conversations of what do you guys think that the increase would be? [LB85]

JERRY KUENNING: Right now, I think a dollar, personally, would get us right where we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

need to be. [LB85]

SENATOR LARSON: A quarter, so excuse my...this thing does everything for me. It's a calculator and...as I...about an extra \$850,000 a year. When did you guys decide to bring the bill or ask Senator Davis to bring the bill or did you... [LB85]

JERRY KUENNING: We've had discussions. We knew this was coming for over a year. [LB85]

SENATOR LARSON: Okay. [LB85]

JERRY KUENNING: We voted on it on the December 9 meeting to actually...that's when we finally made our final decision that, yes, we need to do something. [LB85]

SENATOR LARSON: Okay. And that...and I guess the question I...the reason that I ask is I know--and I guess I can't pin this on Shawn--the previous executive director didn't ask for added spending authority in the budget request to the Legislature, therefore, even if we request...even if we pass this, you still don't have the budgetary authority to spend the money. And we can fix that. It's just we have to be careful on a number of those things. And with \$850,000, I was just kind of wondering where your reserves were, because you want to bring those reserves back up. And then how much of that was going to go into hiring people? And like I said, I'm sorry. I got these numbers and then you were up here, and so you're the one that gets picked on, versus Shawn. [LB85]

JERRY KUENNING: Keep in mind one thing. Our agency or the Brand Committee operates...a very large proportion, the percentage of our budget, is salary... [LB85]

SENATOR LARSON: Oh, very much, and mileage. [LB85]

JERRY KUENNING: ...and mileage. We do not have, like a lot of other agencies, variable cost, as you may...like we do...and we...so to cut expenses, where we're going to cut is salaries. And you all know what the results of that would be: new hires. [LB85]

SENATOR LARSON: By no means was I advocating you cutting expense. I... [LB85]

JERRY KUENNING: So we try...you know, we keep that mean, lean machine attitude, which I think the board does have. We can't do that without cutting salaries, and that's not very favorable. [LB85]

SENATOR LARSON: And I wouldn't advocate that. I was just trying to kind of get where you guys were in terms of what...with the authority, how much you guys were actually going to increase it, therefore, you know, I had an idea of what you were going to bring

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

back in terms of it getting added in, how much of that needed to go back into your cash reserves, what you needed in terms of a spending authority, and the personal service limitations after (inaudible). [LB85]

JERRY KUENNING: When I spoke to the dollar, I was speaking...I'm not going to speak for the board. I am only one member of five, and that's my idea that we need to get to a dollar. Now, there's four other votes. Let's clarify that. [LB85]

SENATOR LARSON: Have you had any...and you...open meetings laws might not let you talk to them, whether or not...and Joe is looking at me. (Laugh) [LB85]

JERRY KUENNING: A number has not been voted on, no. [LB85]

SENATOR LARSON: All right, so... [LB85]

_____: We never really talked about it. [LB85]

SENATOR LARSON: All right. And that's fine. I'm just trying to...just...like I said, I'm just trying to get better understanding of what we're looking at in terms of what the board is thinking. [LB85]

SENATOR KOLTERMAN: Is this germane? Is this germane to the issue? [LB85]

SENATOR LARSON: And I appreciate your time. And I'm sorry. Shawn would have been a better one to answer those questions and I... [LB85]

JERRY KUENNING: That's fine. [LB85]

SENATOR LARSON: ...missed it and...and we'll work with the appropriations process if this should go to ensure that you have the authority to pay those people. [LB85]

SENATOR JOHNSON: Any other questions for Mr. Kuenning? [LB85]

JERRY KUENNING: Thank you very much. [LB85]

SENATOR JOHNSON: If not, thank you. [LB85]

JERRY KUENNING: Appreciate your time. [LB85]

SENATOR RIEPE: Thank you. [LB85]

SENATOR JOHNSON: Next testifier. [LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

LAURA FIELD: Good afternoon, Senator Johnson, members of the Ag Committee. My name is Laura Field, L-a-u-r-a F-i-e-l-d. I'm here today on behalf of the Nebraska Cattlemen to testify in support of LB85 if the bill can be amended to address concerns of our membership. Nebraska Cattlemen represents cattle producers from all sectors of the beef industry and from across the entire state of Nebraska, both in the brand area and outside. Nebraska Cattlemen has a longstanding policy that has been thoroughly vetted by our members supporting brand inspection and brand recording fees in the state and has worked closely over the years with the Brand Committee. And we've expressed our concerns and thoughts on this bill to them this year. With respect to LB85, it is the position of the Cattlemen that fees should be set that keep the inspection system viable for those segments utilizing it and lessen the burden on those segments that have little to gain from the system. Our policy supports the brand inspection fee increase up to \$1.25 if that increase is done in consideration of a complete review of the inspection fees and the recording fees collected by the Nebraska Brand Committee and adjustments are made to other fees, not just the per-head inspection fee. One such adjustment that should be considered is the registered feedlot fee. You've heard the 75 cents and the \$750 per 1,000 head. So if this bill were to pass as written and eventually the fee were to go up to \$1.25, a registered feedlot could pay \$1,250 per 1,000 head of cattle annually. The brand inspection services in a registered feedlot are very different from other cattle operations in that a brand inspector is not necessarily physically present inspecting cattle as they leave the feedlot. Rather, the records of that feedlot are audited quarterly. It is the position of the Nebraska Cattlemen that the fee charged per head for inspection should be lower based on the lesser services provided. And while the Brand Committee may have statutory authority to lower fees, it has not been done often; and that discussion is one that we have started with the Brand Committee. Since this bill only addresses the per-head inspection fee, we believe it is important that the Brand Committee analyzes and evaluates its entire fee structure and does not only consider raising the fees for inspection. Our members believe if fees are going to be raised those fees should be in line with the services being provided and lesser costs incurred by the Brand Committee for those services. In addition to the inspection fees, Nebraska's brand registration fees have not been considered or modified in many years. The Brand Committee should evaluate those fees to see if modest changes could be proposed to meet the increased revenue they need to do business. This modification would be a much more equitable revenue generator since brand registration fees are paid across the state of Nebraska and the services provided for them are the same for each user. Nebraska Cattlemen certainly acknowledges the cost of business today is higher than it was when the fees were last increased. As I stated in my opening comments, our policy supports the allowance of an increase to give to the per-head inspection fee, but not without changes to other fees for service charged. We are committed to discussions with the Brand Committee and other interested parties as well as with the members of this committee. Thank you. [LB85]

SENATOR JOHNSON: Thank you. Questions for Ms. Field? I guess not. Thank you.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

[LB85]

LAURA FIELD: Thank you. [LB85]

SENATOR JOHNSON: Other proponents. Seeing none, those testifying in opposition or opponents. [LB85]

KORBY GILBERTSON: Good afternoon, Chairman Johnson, members of the committee. For the record, my name is Korby Gilbertson. It's K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of Tyson Foods in opposition to LB85. This should be considered as soft opposition, I guess you would say. Some of the questions or some of the discussion that's gone on before with the proponents and people who have been involved in this issue, the overall issue of whether or not we need to have a Brand Committee, all kinds of issues of what goes on across the state on who thinks it's a good idea, who doesn't think it's a good idea, I think we've gotten into the weeds a little bit here, and I'm going to...I'm not going to go there myself today, but I'll look forward to talking to all of you individually about those issues. The concern that Tyson had was just overall looking at the amount of the increase. When I looked back at the legislative history in the statute, it appeared as though the last increase was in 2005, and that was from 65 to 75 cents. It is the purview of the Brand Committee to increase or decrease that brand as that...that amount as they see fit. But it's also set in statute for a reason. That's because the Legislature is supposed to keep an eye on it and not just give an overall, open authority to the Brand Committee to set that fee. With that said, if the producers want to be able to...want to pay that, that's fine. Obviously, they're the ones that end up paying it in the end. I also wanted to just touch on one thing, and it was when we were talking about the reduction in the number of inspections in the state over last year. I believe that he said that the number was 9,000 head. That is just a little bit over two days' production at one facility in Nebraska. So that...when you hear 9,000, it sounds like a lot but that's not a lot. With that, I'd be happy to answer any questions. [LB85]

SENATOR JOHNSON: Any committee questions? Seeing none, thank you. [LB85]

KORBY GILBERTSON: Thank you. [LB85]

SENATOR JOHNSON: Other testimony in opposition. Seeing none, Senator Davis, you're up to close. [LB85]

SENATOR DAVIS: Thank you, Chairman Johnson. I want to just kind of go back and just review a few things and go back to item number two in my handout which discussed the fee...which was a record of the fees over the past several years. So if you go back to 1991, you can see that the brand inspection fees were up...went up to 60 cents. And they were held there for six years. The following year, 1998, Brand Committee was

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

doing well. They lowered the fees to 55 cents and they held them there for five years. If you go back through this, you'll see that these little incremental ups and downs took place in large response to what was happening in the industry and a few other things. They've demonstrated a good job in what they're doing. And some of the fee raises that are many years in the past were a nickel or a dime. And when you compare those in terms of the percentage, it's a really a whole lot...not a whole lot different than what we're doing here. So this 50 cents may look like a big deal. It's not and they will do a good job. But I do want to address a little bit some of the discussion that you heard from...about registered feedlots and the conditions that are being imposed or the requests that are being imposed...requested by the Nebraska Cattlemen and as a contingency for their support. I just think it's completely unfair for an organization that makes decisions at its annual convention, which is not representative of everyone who attends that convention, only representative of the people that are participating and not representative of the people who live actually in the district, so they come to the committee and they say, we will only support this on condition that you do what we want. So you know, if we're going to try to do this in a democratic manner, then maybe we ought to solicit a survey of all the residents within the brand area to see how they really feel. And I think the Brand Committee did a pretty good job of that when they put their survey out three years ago. We never got the answer to the number, but we'll see if we can find that for you. And if you look at that, you will find that the overwhelming support is there for an increase and the overwhelming support is there to leave the structure as it is or, in fact, to make it...take it back to the per-head basis. So you know, I could say, let's amend the bill and we'll do away with the registered feedlots, if that's the solution. Then everybody will be on the same page. You heard I think Mr. Kuenning, I think that was who it was, referred to the testimony about turning those animals two and a half times. So what does that mean? That means, okay, if the fee is 75 cents and they're turning it two and a half times, the actual per-head cost is much lower. It's down around 30-some cents. Just think about that as you go forward. So I think the role of this committee is to make a decision about where that cap should be. I think it ought to be at \$1.25. I know they'll do a good job. And I want to make a reference to something that Senator Larson a little earlier, because I have been the victim of cattle theft in my ranch, cattle theft that I observed. During our calving season one year, I saw a vehicle in...driving through our cattle. And I grabbed my hired men and we jumped in the pickup. We drove down there about as fast as we could and in the meantime the people had gotten away. So when I called Larry Barth, who was the criminal investigator at the time, and told him what had happened, he said, well, you're just darn...he said, did you have a gun with you? And I said, no. He said, you're just darn lucky you didn't have a gun because I'm sure they did. So it's a dangerous job. We need to protect them. They do a good job. It's a great committee, highly, highly respected in the district. And I really urge you to move the bill forward without preconditions. Thank you. [LB85]

SENATOR JOHNSON: Any follow-up questions on Senator Davis? Senator Bloomfield.
[LB85]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Senator Davis, you and I will talk about this more, but you will understand my reluctance at a 60-percent increase in any fee. And we can discuss that a little more as we go on. [LB85]

SENATOR DAVIS: That would be great. [LB85]

SENATOR BLOOMFIELD: Okay, thank you. [LB85]

SENATOR JOHNSON: Senator Chambers. [LB85]

SENATOR CHAMBERS: I know how these gentlemen discuss. I'm going to be your second. Have you got a second? Okay, then carry on (laughter.) [LB85]

SENATOR BLOOMFIELD: Who is he? Is he bigger than you or...? (Laughter) We'll let them take care of it. [LB85]

SENATOR JOHNSON: Okay. Any other questions of Senator Davis? If not, thank you for the bill and we will close the hearing on LB85. (See also Exhibit 5.) [LB85]

SENATOR DAVIS: Thank you, Senator Johnson. [LB85]

SENATOR JOHNSON: Thank you. Sorry I missed part of it, but I'll catch up. We will move to LB183, which is my bill, so I'll turn it back to Senator Kolterman, the Chair. [LB183]

SENATOR KOLTERMAN: Senator Johnson, you have the floor. [LB183]

SENATOR JOHNSON: Thank you, Senator Kolterman, Vice Chair. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. We're dealing with the Public Service Commission and the Grain Warehouse Division regulations. Just a little bit of a background on this, why this comes here. In the last 18 months, we've had another elevator failure, a private elevator. And I went to the Public Service office earlier this year...last year and visited with them. I was in the grain business 40 years. And I visited with them about this situation and is there some things we need to look at, and there's definitely some things that occurred here that I think are probably somewhat unusual and we need to address them. First of all, under the Nebraska Grain Dealer Act, the Public Service Commission Grain Division regulates grain dealers through the licensing, monitoring financial soundness of persons and entities operating as a grain dealer, and exercising authority to intervene upon evidence that the grain dealer's ability to meet payment and delivery obligations is compromised. It primarily deals with bonding. And I've always thought that the bonding should be higher. But that is not an available option. Statutory formula is 7 percent of the grain value transacted in the previous year designates the amount of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

bond. It could be anywhere as low \$35,000, but no more than \$300,000. Three hundred thousand dollars is not a lot of dollars when you talk about the size of any elevator plus what the value of the grain is. What this will do, it will change the time that a producer, the grower of the grain, when he sells that grain, how soon he should...to protect his rights, how soon he should cash that check. It goes out now as far as 90 days for that person still to be in line as far as a creditor, an approved creditor. And that's also the time that it triggers something with the Public Service--is there a problem? So we have to...I feel we have to shorten that up. And by doing that it brings more of the producers in line as being a certified creditor and able to receive a larger portion of that bond. That's kind of my summation of what this bill does. I will defer the comments to the Public Service Commission who's going to be testifying to give you more of the details on that. But I will close, if there's any questions. [LB183]

SENATOR KOLTERMAN: Are there any questions for Senator Johnson? Hearing none. [LB183]

SENATOR JOHNSON: Can I come over and sit over here? [LB183]

SENATOR KOLTERMAN: Sure. I'd entertain proponents of the bill. [LB183]

JERRY VAP: (Exhibit 1) Good afternoon. Senator Kolterman, members of the committee, I'm Commissioner Jerry Vap, and I'm the chairman of the Nebraska Public Service Commission and I represent the 5th district, which is 47 counties from Hall County, Grand Island on west. We are in support of LB183. LB183 makes changes to the Grain Dealer Act. The Grain Dealer Act regulates individuals and companies that buy and sell grain. Grain dealers can also be licensed warehousemen. If an individual elevator or a co-op buys and sells grain, not just storing grain for others, they must also be a licensed grain dealer under the Dealer Act. To become a licensed dealer, the act requires the applicant to obtain a security, usually in the form of a bond, to provide some protection for a dealer's customers in the event the dealer becomes insolvent. Currently, the maximum security that can be required is \$300,000. After events like the Pierce Elevator failure, \$300,000 is not sufficient to cover the business activity of a typical dealer. The dealer security is the only source of recovery for those that sold their grain via a dealer. They are basically a general creditor of that dealer. It is practically impossible to cover all dealer activity with a security. Therefore, what types of dealer activity will be covered must be carefully considered. LB183 will create what is called a first purchaser law meaning that the security protection will be reserved for those producers that have raised a crop, sold it to the dealer, and had not yet been paid. Currently, the language in the Dealer Act provides security protection to nonproducers buying and selling grain with a dealer and those that have arranged for a sale at a future date for grain yet to be produced. The original intent of the Dealer Act was to protect producers that raised and sold their grain and asked for but received no payment. I do not believe the dealer security was ever meant to protect those with futures contracts

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

where grain had yet to be produced and money had yet to change hands. Those with futures contracts are in a position to mitigate their losses by entering into new contracts. It is essential that the limited dealer security be reserved for those producers that suffer the brunt of the loss, namely producers that have grown, sold their grain with a dealer, and not been paid. The grain is gone. There's nothing left to market. LB183 further tightens those eligible for a security protection by decreasing the amount of time producers have to demand payment from a dealer, cash a check, and report a loss of the commission from 30 days to 15 days. It was done at the request...this was done at the request of the industry groups consulted about this bill and will incentivize prudent industry practices and reserve security protection for those producers that reduce their own risk by demanding payment for grain sold in a timely manner. With today's large farming operations, the prudent merchant of grain is demanding and negotiating payment of grain sold well before 30 or even 15 days have passed. Also, earlier notification to the commission would alert us of a grain dealer who may be in trouble allowing the commission to investigate and potentially take action earlier, hopefully limiting losses. LB183 also updates certain other provisions of the Dealer Act. These updates reflect changes in the standard practices and procedures of the agriculture industry as it has evolved and progressed. One change, it eliminates PSC dealer plates for grain trucks owned by a dealer, removing a \$40 plate fee while increasing the annual licensing fee for dealer licenses from \$60 to \$100. The industry has changed and the majority of grain dealers utilize lease trucks and contract drivers that are not required to be plated by the commission. The plating provisions are outdated, have little purpose and little applicability. One cleanup regarding financial statements submitted by dealer license applications caught the attention of the Nebraska Public Accountancy Board. The board's executive director Dan Sweetwood contacted the commission concerning that...he was concerned that the new language went beyond what was intended. I have an amendment to offer this afternoon containing suggestions by Mr. Sweetwood. These changes ensure that the commission for purposes of determining financial fitness of grain dealer applicants can accept financial statements prepared by independent licensed accounting firms and not consider the individual licenses of CPAs within the firm. The remaining changes contained in LB183 are merely cleanup. Thank you for your attention this afternoon. I urge your support of LB183, and I would be happy to answer any questions. [LB183]

SENATOR KOLTERMAN: Thank you, Mr. Vap. Any questions? [LB183]

SENATOR JOHNSON: I'll ask one. [LB183]

SENATOR KOLTERMAN: Okay. [LB183]

SENATOR JOHNSON: How will a producer know about this new change as far as 15 days because I think some of them, communication isn't always the...get there. [LB183]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

JERRY VAP: It's not always the best, but the grain dealers are required on their sales contracts to have in bold, in some cases red, ink stating that they must ask for their money within, in this case, if it's passed, it would be 15 days of the date of the last bushel being delivered on that contract. An example would be a producer sells 10,000 bushels of corn and they begin hauling that and delivering it. And when they drop the last bushel off, they've completed their part of the contract. They would have 15 days from that date to ask for their money. If they wait beyond that, they become an unsecured creditor of that dealer and they are not covered under the bond. Currently, it's 30 days. People that...and if a dealer goes broke in that 30-day period, which some has happened from time to time, everybody in that 30 days that had done their business properly, either received a check and it wasn't cashed or had asked to be paid, would be covered under the bond. But anybody that asked for payment later would not be covered under that bond after the 30 days. [LB183]

SENATOR JOHNSON: So this does not force a person to sell in 15 days and take their check. But in order to be covered, that would be the regulation. If they store, they go outside of that, correct? [LB183]

JERRY VAP: Right. If they wish to enter into a sales contract with that dealer for delivery of their grain, then they certainly can do that. And they have 15...would have 15 days to ask for their payment. Many producers, for whatever reason, will sell grain and put it on a price-later contract. They'll deliver it. It's gone. And they may price it 90 days later. Or some will say, I don't want my money until after the first of the year, I don't want to pay income tax on this. And those people are assuming a risk that others aren't willing to do. And many times they've been caught when a failure occurs. We've had losses of as much as \$400,000 by people that have done just that, had not asked for their money and they waited too long. [LB183]

SENATOR KOLTERMAN: Senator Bloomfield. [LB183]

SENATOR BLOOMFIELD: Thank you, Senator Kolterman. On page 3 here where we're dealing with the fees, we're doing away with the \$40 fee for each... [LB183]

JERRY VAP: For the trucks. [LB183]

SENATOR BLOOMFIELD: ...truck. [LB183]

JERRY VAP: Yeah. [LB183]

SENATOR BLOOMFIELD: Which I understand we're not going to put the plate on there because we're using somebody else's truck most of the time. Why are we increasing the \$60 fee to \$100? [LB183]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

JERRY VAP: That is just...those fees have not been increased for a number of years. And it costs the commission quite a bit of money to go out and inspect the books of that person if we have to. [LB183]

SENATOR BLOOMFIELD: It looks a little gratuitous that we're taking a \$40 fee off the truck but,... [LB183]

JERRY VAP: Right. [LB183]

SENATOR BLOOMFIELD: ...oh, here, we'll put it over here. Still, it's going to get the same amount of money. [LB183]

JERRY VAP: And you should know that every penny that the commission takes in, in the form of fees or licenses, goes directly to the General Fund. [LB183]

SENATOR BLOOMFIELD: I'm aware of that. [LB183]

JERRY VAP: We don't keep any of that. [LB183]

SENATOR BLOOMFIELD: I'm generally not in favor of increasing fees. [LB183]

JERRY VAP: Right. [LB183]

SENATOR BLOOMFIELD: And this is just another way to look at that. [LB183]

JERRY VAP: Well, we aren't either, but it does cost us quite a bit to inspect any of those books. The \$40 fee is actually going to probably end up being a reduction of about \$8,000 in fees taken in. [LB183]

SENATOR BLOOMFIELD: Because the number of trucks, it won't be (inaudible), understood. [LB183]

JERRY VAP: Right. We have a lot of farmers that want to cross the borders right now to sell grain from whatever state it is. And currently, according to the grain dealer law, they would have to have the dealer license to do that. They're doing it without, but this would eliminate that particular reason to do that. [LB183]

SENATOR BLOOMFIELD: Okay. [LB183]

JERRY VAP: And it would increase the business by the people on our side of the border I think. [LB183]

SENATOR BLOOMFIELD: I understand that. My only issue is with a 40 percent fee

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

increase...80 percent. [LB183]

JERRY VAP: Yeah. I've been here the afternoon, and I understand your concerns. [LB183]

SENATOR BLOOMFIELD: Thank you. [LB183]

SENATOR KOLTERMAN: Thank you. [LB183]

JERRY VAP: If you're at the process, you need any other questions answered from the commission, we're free to answer those any time. And appreciate the opportunity to present the bill. [LB183]

SENATOR KOLTERMAN: Thank you, Jerry. Anybody else in support of the bill? [LB183]

ED WOEPPEL: Senator Kolterman, my name is Ed Woeppel. I'm here today representing the Nebraska Cooperative Council. [LB183]

SENATOR JOHNSON: Can you spell that? [LB183]

ED WOEPPEL: (Exhibit 2) Yes. It's Ed, E-d, W-o-e-p-p-e-l. I'm here today instead of Bob Andersen who is not able to attend, the president of the council. So I do have a statement for him just to reflect for the committee. Our organization represents about 96 percent of the cooperatives in the state of Nebraska. I think with the testimony that you've heard from Senator Johnson as well as from Mr. Vap, they've pretty well discussed the issues. I know it's been a long afternoon, so I won't be repetitive other than to say that we do support this legislation. And if there's any questions that anybody has, I would certainly try to respond to those. [LB183]

SENATOR KOLTERMAN: Thank you. Any questions? Thank you very much. [LB183]

ED WOEPPEL: (Exhibit 3) In addition, I do have a letter from the Nebraska Farm Bureau in support as well that they would like to see entered into the record. [LB183]

SENATOR KOLTERMAN: Okay. We'll read that into the record. Thank you. Anybody else in support? Welcome back, Mr. Hansen. [LB183]

JOHN HANSEN: Good afternoon again, members of the committee, Mr. Vice Chairman, Mr. Chairman. For the record, my name is John, J-o-h-n, Hansen, H-a-n-s-e-n, and I am here today as the president of Nebraska Farmers Union. We are in general support of LB183. Jerry Vap answered a question that I had, which was a point of concern. It has to do with landlords. And now that I am one, I always want to make sure that landlords

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

that entertain the option for their renters to produce on share are also covered. And he indicated to me, and I think that that's good to note, that landlords who are producing on share with their renters are also covered. But landlords who are doing cash rent are not. So if you have a part of your production is at risk, why, then you should also be covered by LB183. I think there's a lot of things that this does that goes the right direction and we're generally in support of it. But we're also...I think if we had our druthers, we'd rather see 30 days than 15, instead of narrowing the window, keeping it 30 days. And anytime you've got control of grain and you've got physical ownership of it and then you're marketing it on down the road, there's risk. And so it always gets confusing over just who has how much of what control and how much of what risk as you go on down the road after the point of delivery. And with that, I wish the committee well and would end my testimony and answer any questions if I could answer any. [LB183]

SENATOR KOLTERMAN: Thank you very much. Any questions for John? Appreciate your testimony. [LB183]

JOHN HANSEN: Thank you and good luck. [LB183]

SENATOR KOLTERMAN: Any additional proponents? How about opponents? [LB183]

JOHN MEURET: (Exhibit 4) My name is John Meuret, J-o-h-n M-e-u-r-e-t. First of all, thank you. You folks earn your money. It's been a long afternoon of talking about dogs. So thank you. I'm a fourth generation in a grain elevator business in Brunswick, Nebraska. Today, however, I represent the Nebraska Grain and Feed Association. We are an association that represents grain warehouses, feed manufacturers, ethanol producers, and others in Nebraska's grain trade. The association is a statewide organization with members located throughout Nebraska. We like a lot of things in LB183--four, to be specific--one we're not so fond of, and one suggestion that we may make to the committee. The first one we like is the concept of increasing financial protection for those who conduct business with grain dealers in Nebraska. Number two, we support the change provided in Section 2 that would no longer require the grain dealers to license each individual truck that they do business, very common sense. Number three, we support the changes in Section 2 of the bill that address the grain dealer financial review portion of the law. As spoken previously, these are commonsense items. Number four, we support the changes proposed in Section 3 that shorten the time permitted to demand payment, negotiate payment, and notify the Public Service Commission. The point of shortening the time period is to bring to light more quickly an apparent problem developing with a grain dealer in order to lessen the financial loss in any given circumstance. The provision of LB183 that we do not support is the removal of all parties from protection under the grain dealer security who are not the original purchaser of the grain. We believe all parties, ethanol plants, elevators, and feedlots doing business with a licensed grain dealer should have equal protection under the grain dealer security. The one recommendation we would make to the committee is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

to remove the provision in the current law for custom feeders to be excluded from the definition of a grain dealer. A noteworthy portion of the grain sold in Nebraska by producers is sold directly to feeders. We believe protection will be better afforded to producers by extending grain dealer license requirement to all grain purchasers. We thank you for the opportunity extended to our industry to share our thoughts on LB183. Any questions? [LB183]

SENATOR KOLTERMAN: Senator Bloomfield. [LB183]

SENATOR BLOOMFIELD: Thank you. You said to all grain purchases. Do you have a number in mind there of number of bushels? If my wife goes in, buys 10 bushels of grain to feed her chickens, does she have to have a grain dealer's permit? [LB183]

JOHN MEURET: What I'm referring to is grain elevators, feedlots specifically. [LB183]

SENATOR BLOOMFIELD: Okay. The change that you would like then, should we put a number on the number of bushels before we...? [LB183]

JOHN MEURET: I maybe didn't explain, but we're not looking for number of bushels as types of operators in Nebraska. [LB183]

SENATOR BLOOMFIELD: Okay. [LB183]

JOHN MEURET: Feedlots are currently excluded from the grain dealers. [LB183]

SENATOR BLOOMFIELD: Okay. Thank you. [LB183]

SENATOR KOLTERMAN: Senator Johnson. [LB183]

SENATOR JOHNSON: I would just make I guess a comment. The entity that's been excluded now is the entity that's purchasing grain from the elevator. The risk that they have is the difference in the contract they had that they can't pull from and what they have to spend in order to get a new contract, which could be a risk. They could lose money. Grain values could have gone down. So their risk is somewhat limited. The producer, his risk is from zero pennies all the way up to \$3.50 or whatever the value of that bushel, over \$9, whatever. There was a consideration. Is there a way to put a percentage somehow in there because the risk to that person is so...is maybe 10 percent of what the risk to the producer is. [LB183]

JOHN MEURET: I don't know that you can put a percentage on it. I certainly appreciate your thought because you're right. You can lose all of it if you're a producer. And potentially if you're a grain elevator, you could lose up to \$1, I suppose, in a basis move. And so to put a percentage, I would purely just be guessing. [LB183]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR JOHNSON: Yeah. I just wondered how that could be accomplished if that was the feeling. [LB183]

JOHN MEURET: Yes, it is. [LB183]

SENATOR JOHNSON: Thank you. [LB183]

JOHN MEURET: You bet. [LB183]

SENATOR KOLTERMAN: Any other questions? Thank you for testifying. [LB183]

JOHN MEURET: Thank you. [LB183]

SENATOR KOLTERMAN: Any others in opposition? Anybody in neutral? [LB183]

PAT PTACEK: Senator Kolterman, members of the Ag Committee, my name is Pat Ptacek; that's P-a-t P-t-a-c-e-k. I'm an associate lobbyist with the Association of Nebraska Ethanol Producers. And I appear before this committee. I didn't originally appear to testify one way or the other. And so I'm taking the neutral position. But I'd like to certainly commend Mr. Meuret's suggestion that all parties be subject to compensation out of the bond. And how we get there, I'm not sure. I don't mind certainly the licensing of trucks, elimination of that. The 15-day rule, I don't have a problem with that. But we have probably a half a dozen ethanol facilities right now voluntarily that have gained their dealer's license. So they're out there buying grain from producers, paying that for that grain. But there are also many number of ethanol producers that are buying not only from elevators, direct from the farmers, but also grain dealers to make sure that they have adequate supplies. In the case where you have a dealer that might be suspect in the sense that he's purchased corn from a farmer on one end and already sold the corn to an ethanol facility or another end user, and both of the parties get stiffed in the process when you don't have the bond adequate enough to cover at all. So I would just say give consideration. We'd like to sit down and work with the affected associations, maybe kick around some ideas on how we might be able to expand coverage. I know in my old days with grain and feed when we talked about increasing the bond, the bond companies simply said we're not going to write them any more bigger than what they are. And so we've got this conundrum that we need to get our arms around. And with the Pierce Elevator situation: a good person, unfortunate situation. I'm not sure all of the circumstances that went wrong there. But we again would like to hold our hand out and see what we might be able to come up with. Thank you for your time. [LB183]

SENATOR KOLTERMAN: Thank you. Senator Bloomfield, you have a question. [LB183]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

SENATOR BLOOMFIELD: Thank you, Mr. Kolterman. Mr. Ptacek, as an ethanol producer, do you pay a grain dealer for the grain before you receive it ever? [LB183]

PAT PTACEK: You know, that's a company-by-company...we're the association that represents the producers. How they form those transactions would be between them and... [LB183]

SENATOR BLOOMFIELD: Because if they in fact paid before they took delivery, they could lose every penny. [LB183]

PAT PTACEK: Sure, sure. Absolutely. Or if he's counting on that, those bushels coming his way, and they get diverted because of, you know, the disposition... [LB183]

SENATOR BLOOMFIELD: But he can buy bushels back at a smaller loss then, but... [LB183]

PAT PTACEK: Exactly. So, yeah. [LB183]

SENATOR BLOOMFIELD: ...if you've already paid for it and don't get it, then you have an issue. Thank you. [LB183]

SENATOR KOLTERMAN: Just a point of clarification, Mr. Ptacek, is that correct, did you fill out that form? [LB183]

PAT PTACEK: I did not. And thank you for telling me. I will. [LB183]

SENATOR KOLTERMAN: Thank you. [LB183]

PAT PTACEK: You bet. [LB183]

SENATOR KOLTERMAN: Anybody else in the neutral position? [LB183]

PAT PTACEK: Thank you. [LB183]

SENATOR KOLTERMAN: Senator Johnson, we'd like to hear you close. [LB183]

SENATOR JOHNSON: Thank you. As you can see, we've tightened up some of the regulations and cleaned up some things. And I think it's a great bill. It's not going to help a lot. I think right now just to give you some numbers, the last I heard, people are going to give out 9 cents on the dollars on the Pierce failure. So it's not going to heal everything, but at least we're attempting to get it maybe in the right hands, any of those funds. So I do hope the committee moves the bill forward. And I'll close with that.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Agriculture Committee
January 27, 2015

[LB183]

SENATOR KOLTERMAN: Thank you. Any final questions? Thank you. This hearing is complete. (See also Exhibit 5) [LB183]