

AMENDMENTS TO LB768

Introduced by Agriculture

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 54-170, Revised Statutes Supplement,  
4 2013, is amended to read:

5           54-170 Sections 54-170 to 54-1,128 and section 4 of this  
6 act shall be known and may be cited as the Livestock Brand Act.

7           Sec. 2. Section 54-171, Revised Statutes Supplement,  
8 2013, is amended to read:

9           54-171 For purposes of the Livestock Brand Act, the  
10 definitions found in sections 54-172 to 54-190 and section 4 of  
11 this act shall be used.

12           Sec. 3. Section 54-172, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           54-172 Bill of sale means a formal instrument for the  
15 conveyance or transfer of title to livestock or other goods and  
16 chattels. The bill of sale shall state the buyer's name and  
17 address, the date of transfer, the guarantee of title, the number  
18 of livestock transferred, the sex of such livestock, the brand or  
19 brands, the location of the brand or brands or a statement to the  
20 effect that the animal is unbranded, and the name and address of  
21 the seller. The signature of the seller shall be attested by at  
22 least one witness or acknowledged by a notary public or by some  
23 other officer authorized by state law to take acknowledgments. For

1 any conveyance or transfer of title to cattle subject to assessment  
2 imposed pursuant to the federal Beef Promotion and Research Order,  
3 7 C.F.R. part 1260, for which the purchaser is the collecting  
4 person pursuant to 7 C.F.R. 1260.311 for purposes of collecting  
5 and remitting such assessment, the bill of sale shall include a  
6 notation of the amount the purchaser collected from the seller  
7 or deducted from the sale proceeds for the assessment. A properly  
8 executed bill of sale means a bill of sale that is provided by the  
9 seller and received by the buyer.

10           Sec. 4. Brand inspection service area means all Nebraska  
11 counties and areas of Nebraska counties contiguous with the brand  
12 inspection area designated by section 54-1,109.

13           Sec. 5. Section 54-1,108, Revised Statutes Cumulative  
14 Supplement, 2012, is amended to read:

15           54-1,108 (1) All brand inspections provided for in the  
16 Livestock Brand Act or section 54-415 shall be from sunrise to  
17 sundown or during such other hours and under such conditions as the  
18 Nebraska Brand Committee determines.

19           (2)(a) An inspection fee, established by the Nebraska  
20 Brand Committee, of not more than seventy-five cents per head  
21 shall be charged for all cattle inspected in accordance with  
22 the Livestock Brand Act or section 54-415 or inspected within  
23 the brand inspection area or brand inspection service area by  
24 court order or at the request of any bank, credit agency, or  
25 lending institution with a legal or financial interest in such  
26 cattle. Such fee may vary to encourage inspection to be performed  
27 at times and locations that reduce the cost of performing the

1 inspection but shall otherwise be uniform. The inspection fee for  
2 court-ordered inspections shall be paid from the proceeds of the  
3 sale of such cattle if ordered by the court or by either party  
4 as the court directs. For other inspections, the person requesting  
5 the inspection of such cattle is responsible for the inspection  
6 fee. Brand inspections requested by either a purchaser or seller  
7 of cattle located within the brand inspection service area shall  
8 be provided upon the same terms and charges as brand inspections  
9 performed within the brand inspection area. If estray cattle are  
10 identified as a result of the inspection, such cattle shall be  
11 processed in the manner provided by section 54-415.

12 (b) A surcharge of not more than twenty dollars, as  
13 established by the brand committee, may be charged to cover travel  
14 expenses incurred by the brand inspector per inspection location  
15 when performing brand inspections. The surcharge shall be collected  
16 by the brand inspector and paid by the person requesting the  
17 inspection or the person required by law to have the inspection.

18 (c) Fees for inspections performed outside of the brand  
19 inspection area that are not provided for in subdivision (a) of  
20 this subsection shall be the inspection fee established in such  
21 subdivision plus a fee to cover the actual expense of performing  
22 the inspection, including mileage at the rate established by the  
23 Department of Administrative Services and an hourly rate, not to  
24 exceed thirty dollars per hour, for the travel and inspection time  
25 incurred by the brand committee to perform such inspection. The  
26 brand committee shall charge and collect the actual expense fee.  
27 Such fee shall apply to inspections performed outside the brand

1 inspection area as part of an investigation into known or alleged  
2 violations of the Livestock Brand Act and shall be charged against  
3 the person committing the violation.

4 (3) Any person who has reason to believe that cattle  
5 were shipped erroneously due to an inspection error during a  
6 brand inspection may request a reinspection. The person making  
7 such request shall be responsible for the expenses incurred as a  
8 result of the reinspection unless the results of the reinspection  
9 substantiate the claim of inspection error, in which case the brand  
10 committee shall be responsible for the reinspection expenses.

11 Sec. 6. Section 54-1,110, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 54-1,110 (1) Except as provided in subsections (2) and  
14 (3) of this section, no person shall move, in any manner, cattle  
15 from a point within the brand inspection area to a point outside  
16 the brand inspection area unless such cattle first have a brand  
17 inspection by the Nebraska Brand Committee and a certificate of  
18 inspection is issued. A copy of such certificate shall accompany  
19 the cattle and shall be retained by all persons moving such cattle  
20 as a permanent record.

21 (2) Cattle in a registered feedlot registered under  
22 sections 54-1,120 to 54-1,122 or a registered dairy registered  
23 under sections 54-1,122.01 and 54-1,122.02 are not subject to the  
24 brand inspection of subsection (1) of this section. Possession  
25 by the shipper or trucker of a shipping certificate from the  
26 registered feedlot or registered dairy constitutes compliance if  
27 the cattle being shipped are as represented on such shipping

1 certificate.

2 (3) If the line designating the brand inspection area  
3 divides a farm or ranch or lies between noncontiguous parcels of  
4 land which are owned or operated by the same cattle owner or  
5 owners, a permit may be issued, at the discretion of the Nebraska  
6 Brand Committee, to the owner or owners of cattle on such farm,  
7 ranch, or parcels of land to move the cattle in and out of the  
8 brand inspection area without inspection. If the line designating  
9 the brand inspection area lies between a farm or ranch and nearby  
10 veterinary medical facilities, a permit may be issued, at the  
11 discretion of the brand committee, to the owner or owners of  
12 cattle on such farm or ranch to move the cattle in and out of  
13 the brand inspection area without inspection to obtain care from  
14 the veterinary medical facilities. The brand committee shall issue  
15 initial permits only after receiving an application which includes  
16 an application fee established by the brand committee which shall  
17 not be more than fifteen dollars. The brand committee shall mail  
18 all current permitholders an annual renewal notice, for January  
19 1 renewal, which requires a renewal fee established by the brand  
20 committee which shall not be more than fifteen dollars. If the  
21 permit conditions still exist, the cattle owner or owners may renew  
22 the permit.

23 (4) No person shall sell any cattle knowing that the  
24 cattle are to be moved, in any manner, in violation of this  
25 section. Proof of shipment or removal of the cattle from the brand  
26 inspection area by the ~~buyer~~ purchaser or his or her agent is prima  
27 facie proof of knowledge that sale was had for removal from the

1 brand inspection area.

2 (5) In cases of prosecution for violation of this  
3 section, venue may be established in the county of origin or  
4 any other county through which the cattle may pass in leaving the  
5 brand inspection area.

6 Sec. 7. Section 54-1,111, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 54-1,111 (1) Except as provided in subsection (2) of  
9 this section, no person shall sell or trade any cattle located  
10 within the brand inspection area, nor shall any person buy or  
11 purchase any such cattle unless the cattle have been inspected  
12 for brands and ownership and a certificate of inspection or brand  
13 clearance has been issued by the Nebraska Brand Committee. Any  
14 person selling such cattle shall present to the brand inspector  
15 a properly executed bill of sale, brand clearance, or other  
16 satisfactory evidence of ownership which shall be filed with the  
17 original certificate of inspection in the records of the brand  
18 committee. Any time a brand inspection is required by law, a brand  
19 investigator or brand inspector may transfer evidence of ownership  
20 of such cattle from a seller to a ~~buyer~~ purchaser by issuing a  
21 certificate of inspection.

22 (2) A brand inspection is not required:

23 (a) For cattle of a registered feedlot registered under  
24 sections 54-1,120 to 54-1,122 shipped for direct slaughter or sale  
25 on any terminal market;

26 (b) For cattle of a registered dairy registered under  
27 sections 54-1,122.01 and 54-1,122.02 shipped for direct slaughter

1 or sale on any terminal market;

2 (c) For cattle that are transferred to a family  
3 corporation when all the shares of capital stock of the corporation  
4 are owned by the husband, wife, children, or grandchildren of the  
5 transferor and there is no consideration for the transfer other  
6 than the issuance of stock of the corporation to such family  
7 members;

8 (d) When the change of ownership of cattle is a change in  
9 form only and the surviving interests are in the exact proportion  
10 as the original interests of ownership. When there is a change of  
11 ownership described in subdivision (2)(c) or (d) of this section,  
12 an affidavit, on a form prescribed by the Nebraska Brand Committee,  
13 signed by the transferor and stating the nature of the transfer  
14 and the number of cattle involved and the brands presently on the  
15 cattle, shall be filed with the brand committee;

16 (e) For cattle sold or purchased for educational or  
17 exhibition purposes or other recognized youth activities if a  
18 properly executed bill of sale is exchanged and presented upon  
19 demand. Educational or exhibition purpose means cattle sold or  
20 purchased for the purpose of being fed, bred, managed, or tended in  
21 a program designed to demonstrate or instruct in the use of various  
22 feed rations, the selection of individuals of certain physical  
23 conformation or breeds, the measurement and recording of rate of  
24 gain in weight or fat content of meat or milk produced, or the  
25 preparation of cattle for the purpose of exhibition or for judging  
26 as to quality and conformation;

27 (f) For calves under the age of thirty days sold or

1 purchased at private treaty if a bill of sale is exchanged and  
2 presented upon demand; and

3 (g) For purebred cattle raised by the seller and  
4 individually registered with an organized breed association if  
5 a properly executed bill of sale is exchanged and presented upon  
6 demand.

7 Sec. 8. Section 54-1,120, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 54-1,120 (1) Any person who operates a cattle feeding  
10 operation located within the brand inspection area may make  
11 application to the Nebraska Brand Committee for registration as  
12 a registered feedlot. The application form shall be prescribed by  
13 the brand committee and shall be made available by the director  
14 of the brand committee for this purpose upon written request.  
15 If the applicant is an individual, the application shall include  
16 the applicant's social security number. After the brand committee  
17 has received a properly completed application, an agent of the  
18 brand committee shall within thirty days make an investigation to  
19 determine if the following requirements are satisfied:

20 (a) The operator's feedlot must be permanently fenced;  
21 and

22 (b) The operator must commonly practice feeding cattle to  
23 finish for slaughter.

24 If the application is satisfactory, and upon payment of a  
25 an initial registration fee by the applicant, the brand committee  
26 shall issue a registration number and registration certificate  
27 valid for one year unless rescinded for cause. If the registration



1 is rescinded for cause, any registration fee shall be forfeited  
2 by the applicant. The ~~fees~~ initial fee for a registered feedlots  
3 feedlot shall be not less than one hundred dollars nor more than  
4 ~~six hundred fifty dollars~~ an amount for each such a registered  
5 feedlot having one thousand head or less capacity and an equal  
6 amount for each additional one thousand head capacity, or part  
7 thereof, of such registered feedlot. For each subsequent year,  
8 the renewal fee for a registered feedlot shall be an amount for  
9 the first one thousand head or portion thereof of average annual  
10 inventory of cattle on feed of the registered feedlot and an  
11 equal amount for each additional one thousand head or portion  
12 thereof of average annual inventory of cattle on feed of the  
13 registered feedlot. The brand committee shall set the fee per  
14 one thousand head capacity or average annual inventory so as to  
15 correspond with the inspection fee provided under section 54-1,108.  
16 The registration fee shall be paid on an annual basis.

17 (2) The brand committee may adopt and promulgate rules  
18 and regulations for the operation of registered feedlots to assure  
19 that brand laws are complied with, that registered feedlot shipping  
20 certificates are available, and that proper records are maintained.  
21 Violation of sections 54-1,120 to 54-1,122 subjects the operator  
22 to revocation or suspension of the feedlot registration issued.  
23 Sections 54-1,120 to 54-1,122 shall not be construed as prohibiting  
24 the operation of nonregistered feedlots.

25 (3) Registered feedlots are subject to inspection at any  
26 reasonable time at the discretion of the brand committee and its  
27 authorized agents, and the operator shall show cattle purchase

1 records or certificates of inspection to cover all cattle in his or  
2 her feedlot. Cattle having originated from such registered feedlots  
3 may from time to time, at the discretion of the committee, be  
4 subject to a spot-check inspection and audit at destination to  
5 enable the brand committee to assure satisfactory compliance with  
6 the brand laws by the registered feedlot operator.

7 (4) The operator of a registered feedlot shall keep  
8 cattle inventory records. A form for such purpose shall be  
9 prescribed by the brand committee. The brand committee and its  
10 employees may from time to time make spot checks and audits of  
11 the registered feedlots and the records of cattle on feed in such  
12 feedlots.

13 (5) The brand committee may rescind the registration of  
14 any registered feedlot operator who fails to cooperate or violates  
15 the laws or rules and regulations of the brand committee covering  
16 registered feedlots.

17 Sec. 9. Section 54-1,122.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 54-1,122.01 (1) Any person who operates a dairy operation  
20 located within the brand inspection area may make application  
21 to the Nebraska Brand Committee for registration as a registered  
22 dairy. The application form shall be prescribed by the brand  
23 committee and shall be made available by the director of the brand  
24 committee for this purpose upon written request. If the applicant  
25 is an individual, the application shall include the applicant's  
26 social security number. After the brand committee has received a  
27 properly completed application, an agent of the brand committee

1 shall within thirty days make an investigation to determine if the  
2 following requirements are satisfied:

- 3 (a) The operator's dairy must be permanently fenced; and  
4 (b) The operator must identify each animal individually  
5 as directed by the Nebraska Brand Committee.

6 If the application is satisfactory, and upon payment of  
7 a registration fee by the applicant, the brand committee shall  
8 issue a registration number and registration certificate valid  
9 for one year unless rescinded for cause. If the registration is  
10 rescinded for cause, any registration fee shall be forfeited by the  
11 applicant. The initial fee for a registered dairy shall be ~~not less~~  
12 ~~than one hundred dollars nor more than six hundred fifty dollars an~~  
13 ~~amount~~ for each such a registered dairy having one thousand head or  
14 less capacity and an equal amount for each additional one thousand  
15 head capacity, or part thereof, of such registered dairy. For each  
16 subsequent year, the renewal fee for a registered dairy shall be  
17 an amount for the first one thousand head or portion thereof of  
18 average annual inventory of dairy cattle of the registered dairy  
19 and an equal amount for each additional one thousand head or  
20 portion thereof of average annual inventory of dairy cattle of  
21 the registered dairy. The brand committee shall set the fee per  
22 one thousand head capacity or average annual inventory so as to  
23 correspond with the inspection fee provided under section 54-1,108.  
24 The registration fee shall be paid on an annual basis.

25 (2) The brand committee may adopt and promulgate rules  
26 and regulations for the operation of registered dairies to assure  
27 that brand laws are complied with, that registered dairy shipping

1 certificates are available, and that proper records are maintained.  
2 This section shall not be construed as prohibiting the operation of  
3 nonregistered dairies.

4 (3) A registered dairy is subject to inspection at any  
5 reasonable time at the discretion of the brand committee and its  
6 authorized agents, and the operator shall show cattle purchase  
7 records or certificates of inspection to cover all cattle in his  
8 or her dairy. Cattle having originated from any such registered  
9 dairy may from time to time, at the discretion of the committee, be  
10 subject to a spot-check inspection and audit at the destination to  
11 enable the brand committee to assure satisfactory compliance with  
12 the brand laws by the registered dairy operator.

13 (4) The operator of a registered dairy shall keep cattle  
14 inventory records. A form for such purpose shall be prescribed by  
15 the brand committee. The brand committee and its employees may from  
16 time to time make spot checks and audits of registered dairies and  
17 the records of cattle in such registered dairies.

18 (5) The brand committee may rescind or suspend the  
19 registration of any registered dairy operator who fails to  
20 cooperate or violates the laws or rules and regulations of the  
21 brand committee covering registered dairies.

22 Sec. 10. Section 54-415, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 54-415 Any person taking up an estray within the brand  
25 inspection area or brand inspection service area shall report the  
26 same within seven days thereafter to the Nebraska Brand Committee.  
27 Any person taking up an estray in any other area of the state shall

1 ~~report the same~~ if within the brand inspection area or to the  
2 county sheriff of the county where the estray was taken ~~up~~ if not  
3 ~~within the brand inspection area~~. If the animal is determined to  
4 be an estray by a representative of the Nebraska Brand Committee  
5 or the county sheriff, as the case may be, such animal shall,  
6 as promptly as may be practicable, be sold through the most  
7 convenient livestock auction market. The proceeds of such sale,  
8 after deducting the selling expenses, shall be paid over to the  
9 Nebraska Brand Committee to be placed in the estray fund identified  
10 in section 54-1,118, if such estray was taken up within the brand  
11 inspection area or brand inspection service area, and otherwise to  
12 the treasurer of the county in which such estray was taken up.  
13 During the time such proceeds are impounded, any person taking up  
14 such estray may file claim with the Nebraska Brand Committee or the  
15 county treasurer, as the case may be, for the expense of feeding  
16 and keeping such estray while in his or her possession. When such  
17 claim is filed it shall be the duty of the Nebraska Brand Committee  
18 or the county board, as the case may be, to decide on the validity  
19 of the claim so filed and allow the claim for such amount as  
20 may be deemed equitable. When the estray ~~originates~~ is taken up  
21 within the brand inspection area or brand inspection service area,  
22 such proceeds shall be impounded for one year, unless ownership is  
23 determined sooner by the Nebraska Brand Committee, and if ownership  
24 is not determined within such one-year period, the proceeds shall  
25 be paid into the permanent school fund, less the actual expenses  
26 incurred in the investigation and processing of the estray fund.  
27 Any amount deducted as actual expenses incurred shall be deposited

1 in the Nebraska Brand Inspection and Theft Prevention Fund. When  
2 the estray is ~~located~~ taken up outside the brand inspection area  
3 or brand inspection service area and ownership cannot be determined  
4 by the county board, the county board shall then order payment of  
5 the balance of the sale proceeds less expenses, to the permanent  
6 school fund. If the brand committee or the county board determines  
7 ownership of an estray sold in accordance with this section by  
8 means of evidence of ownership other than the owner's recorded  
9 Nebraska brand, an amount not to exceed the actual investigative  
10 costs or expenses may be deducted from the proceeds of the sale.  
11 Any person who violates this section is guilty of a Class II  
12 misdemeanor. The definitions found in sections 54-172 to 54-190  
13 apply to this section.

14           Sec. 11. Sections 5, 8, 9, 11, 12, and 14 become  
15 operative on their effective date. The other sections of this act  
16 become operative three calendar months after adjournment of this  
17 legislative session.

18           Sec. 12. Original sections 54-1,120 and 54-1,122.01,  
19 Reissue Revised Statutes of Nebraska, and section 54-1,108, Revised  
20 Statutes Cumulative Supplement, 2012, are repealed.

21           Sec. 13. Original sections 54-172, 54-1,110, 54-1,111,  
22 and 54-415, Reissue Revised Statutes of Nebraska, and sections  
23 54-170 and 54-171, Revised Statutes Supplement, 2013, are repealed.

24           Sec. 14. Since an emergency exists, this act takes effect  
25 when passed and approved according to law.