

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee January 21, 2020

HALLORAN: Welcome to the Agriculture Committee, everyone. I am Senator Steve Halloran. I'm from Hastings, Nebraska, and represent the 33rd Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. Committee members might come and go during the hearing. This is just part of the process, as we may have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs when you are ready to testify. These are the first two chairs on either side of the front, front aisle. Introducers will make initial statements followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for their introducing Senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify and please print. And it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or to the committee clerk. This will help us make sure of a more accurate public record. If you do not wish to testify today but would like to record your name as being present at the hearing, there is a separate white sheet on the table that you can sign for that purpose. This will be a part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will distribute to the committee. If you do not have enough copies, the pages will, the page, excuse me, will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining, and the red light indicates your time has ended. Questions from the committee may follow. No display of support or opposition to a bill, vocal or otherwise, are allowed at public hearings. Committee members are with us today and I'll let them self-introduce themselves. To my far left, Senator Moser.

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MOSER: Hi, I'm Mike Moser. I represent the 22nd Legislative District and I live in Columbus.

SLAMA: Hi. Senator Julie Slama, representing District 1, which is Pawnee, Richardson, Johnson, Nemaha, and Otoe Counties in southeast Nebraska.

LATHROP: Steve Lathrop, representing District 12, which is Ralston and parts of southwest Omaha.

BLOOD: Senator Carol Blood, representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

HALLORAN: And to my far right--

B. HANSEN: Senator Ben Hansen, District 16: Washington, Burt, and Cuming Counties.

CHAMBERS: Senator Chambers represents the good, bad, the ugly, and whoever needs it. I represent the 11th District in Omaha.

BRANDT: How can I top that? Tom Brandt--

CHAMBERS: [INAUDIBLE]

BRANDT: Yeah. Tom Brandt, Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

HALLORAN: And I might mention Senator Brandt is the Vice Chair of the committee. To my right is committee research analyst Rick Leonard. And to my far left is committee clerk Rod Krogh. Our page for the committee is Veronica Miller. She is a junior at UNL with a major in political science and Spanish. Welcome, Veronica. OK, we shall start with Senator Slama and LB791. Good afternoon.

SLAMA: Good afternoon. Thank you, Senator Halloran and members of the Agriculture Committee. My name is Julie Slama, J-u-l-i-e S-l-a-m-a, and I represent District 1 in southeast Nebraska. Today I introduce to you LB791, a bill that would allow a judge who sentences an offender under Section 54-909 for abuse and neglect of livestock to also sentence that offender under Section 28-1019 to include a ban on owning other animals. The concept for this bill was brought to me by a concerned constituent regarding a case in my district where a person has twice been sentenced under Section 54-909, most recently in 2018.

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Section 54-909 sets out that a sentencing court shall order an offender who has been convicted of abuse or neglect of livestock animals, as that term is defined in Section 54-902, to not own or possess livestock animals for at least five years for each charge after the date of conviction, not to exceed 15 years. In my district, a person from Otoe County was first convicted for the charge under 54-909 in 2013, then again in 2018. Despite-- in both instances-- this gentleman being ordered, was ordered in both times not to own livestock. The most current case prevents him from owning livestock for 75 years. There is nothing preventing him from owning other vertebrate animals, as defined in Section 28-1008. Namely, we're talking about our common household pets like dogs and cats. This ban is reserved only for the most egregious cases of livestock abuse and neglect that warrant the charge of a Class IV felony and this is a ban that a judge may issue for a Class I misdemeanor. In short, this level of charge will not be filed for minor cases of neglect, falling upon hard times, or other challenges that ag producers may face. In the Otoe County case, and I can provide more details about this case if you'd like, but in short, hundreds of goats and hogs were found penned and literally starved to death. Hogs had taken to eating each other and sows, which had given birth, had remained penned, literally left to starve to death with their piglets. This was not a matter of the farmer becoming disabled or not having the money to pay for feed. Indeed, there was more than enough feed stored on-site to sustain the operation for a long time. But the farmer chose to let his livestock suffer and die. My concern stems from the fact that a person who is convicted of the Class IV felony of abuse or neglect of other livestock could just as easily be abusing other animals. A judge who sentences an offender for livestock abuse and orders them not own livestock should also be able to order that person not to own other animals like dogs or cats. LB791 would give a judge that ability. Similar limitations are in place for those who are convicted of egregious mistreatment of their pets. Doing so prevents an offender from further abuse of animals of any kind. There are other notable cases of livestock abuse in Nebraska. In Dawson County, two family members were charged with animal cruelty following the deaths of 65 cattle on the farm. In Fillmore County, a man was arrested after investigators found 200 deceased cattle and one deceased horse on the property; 200 additional cattle were removed from the property after being found in questionable living conditions. The ban on livestock and with this bill, all other animals, comes attached to only the most egregious cases of mistreatment to warrant a Class IV felony or the

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ban being an option for Class I misdemeanors. Abuse or neglect of livestock is not something we hear about every day. That's a good thing. But unfortunately, it does happen. In the case of our Otoe County resident, the first jail term and prevention from owning, owning livestock for five years didn't change his behaviors. And within eight years, he was convicted of the exact same crime. There should be no opportunity for someone convicted of this level of mistreatment to own any type of animal, especially when the charge rises to a Class IV felony. As a final note, you'll see that this bill does not have a fiscal note. And with that, I would be more than happy to answer any of your questions.

HALLORAN: OK. Thank you, Senator Slama. Any questions from the committee?

LATHROP: Can I just ask one--

HALLORAN: Senator Lathrop.

LATHROP: --if you don't mind, Mr. Chair?

SLAMA: Absolutely.

LATHROP: Um, Senator--

SLAMA: Yes.

LATHROP: In your intro, you said that this won't apply to somebody who's fallen on hard times or--

SLAMA: No.

LATHROP: --sort of didn't mean to. And of course, that's not in the bill, but there is a reference to a Section 54-903, which apparently is a Class IV felony. What's the, what are the elements of that, if you know? In other words, how do we know that somebody who's a livestock producer and is disabled or couldn't get out to feed his livestock?

SLAMA: 54? I've got 54-903 right here. The elements of that charge--

LATHROP: Does it require like deliberate indifference or--

SLAMA: Yeah, it requires intent.

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LATHROP: OK.

SLAMA: So a person who intentionally, knowingly, or recklessly abandons or cruelly neglects the-- well, that's the Class I misdemeanor, apologies. The charge of the felony--

LATHROP: But it requires-- in either case, it requires some intent.

SLAMA: Yes.

LATHROP: OK.

SLAMA: Intent or what the court defines as cruelly neglect. So that rises above just your standard, there was a snow storm and some livestock passed away.

LATHROP: OK, thank you.

SLAMA: Yeah.

HALLORAN: Thank you, Senator Lathrop. Any other questions? Senator Brandt.

BRANDT: Thank you, Chairman Halloran and Senator Slama. OK, so let's assume the bill is in effect and the individual cannot own a dog.

SLAMA: Um-hum.

BRANDT: OK. He's got a 10-year-old that owns the dog. Whose dog is it?

SLAMA: It would be the household, a ban on the household from owning these pets because you could just as easily say that an ag producer who is banned from owning livestock, you could see the same issue arise if their 10-year-old had a bucket calf that they were showing. So it's my understanding that that would fall as a ban on the entire household and property that the ag producer owned.

BRANDT: So if it was his wife, it would be the same scenario?

SLAMA: I believe so, yes.

BRANDT: And if it was his live-in girlfriend, it would be the same scenario?

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SLAMA: I believe so. It's just a matter of it being on the property. And I could follow up with you, get a more clear answer. But that's--

BRANDT: I, I guess--

SLAMA: --how I believe it at this point.

BRANDT: --my concern is that it could get pretty cloudy on, on some of that because people that are usually involved with this nefarious activity are pretty good at hiding stuff.

SLAMA: Oh. Absolutely. Yes.

BRANDT: Yeah, all right. Thank you.

SLAMA: Thank you.

HALLORAN: Thank you Senator Brandt. Any further questions? Senator Moser.

MOSER: So, Senator, what would happen-- let's say that the person lives in the country and they're prohibited from owning livestock. Be it there are cats running about on his property--

SLAMA: Um-hum.

MOSER: How does he deal with that if he is prohibited from owning cats or dogs and there are-- you know, cats pretty much run wild on a lot of farm places.

SLAMA: Um-hum.

MOSER: So are you required to go out and try and catch 'em and move 'em somewhere else or euthanize 'em or what, what would be the solution to that?

SLAMA: Well, I think that's a great question. I think there's some dispute in the state of Nebraska with barn cats as to who owns the cats or if they're just considered kind of like a squirrel wandering onto your property. If they're not treated like a pet, you don't care for them. But that is a good question. And I will follow up with you on that later.

MOSER: OK. Thank you.

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SLAMA: Yes.

HALLORAN: Any further questions? Yes, Senator Blood.

BLOOD: Thank you, Chairman Halloran. So Senator Slama, this a really quick question.

SLAMA: Yes.

BLOOD: So what Senator Moser brought up--

SLAMA: Um-hum.

BLOOD: Um, when we're talking-- I thought was really interesting in your bill that you're talking about including vertebrates--

SLAMA: Yes.

BLOOD: --as opposed to domestic, domestic animals or pets or-- but you specifically said vertebrates. When it comes to vertebrates, who's usually responsible, if you take the livestock out of it, for removing animals that have been neglected or abused or our animals that are outliers to the actual abuse when it's not livestock?

SLAMA: Are you talking about who would be in charge of enforcement? What department that would fall under--

BLOOD: Right because I think that that is part of what Senator Moser was getting at.

SLAMA: Sure. And that's up to law enforcement officials to conduct inspections. In the case of this farmer in Otoe County, there were a couple of inspections on the property, but then those had fallen off. And for several years, this farm went unchecked. And sure enough, conditions deteriorated quickly. And to clarify, I defined animals as being vertebrates because that's how we define them in our current statute. So we don't define animals, goldfish as animals, for example.

BLOOD: Would it not be true that the humane society would say get involved?

SLAMA: They could, absolutely, yes.

BLOOD: Thank you.

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SLAMA: Thank you.

HALLORAN: Thank you, Senator Blood. Any further questions? I guess not. I think that will do it. Thank you, Senator Slama.

SLAMA: Thank you, Senator Halloran.

HALLORAN: OK. Are there any proponents? I don't see any one lined up in the first aisle, but any proponents for LB791? Any opponents? Welcome. Good afternoon.

BRADLEY BEAM: Good afternoon, committee. My name is Bradley Beam, B-r-a-d-l-e-y B-e-a-m. I'm active in the companion animal rescue initiative community here in Nebraska and across the country. I have spoken in front of this committee on several occasions, the last being a very cold and snowy January day last year when we discussed the rabies compendium. Today, I'm here to oppose LB791 as it's currently written. I would be supportive of the bill with the change of one word. In the section that deals with the Class IV misdemeanor [SIC], it says, if convicted of a Class IV felony, excuse me, Class IV felony-- if convicted of a Class IV felony, the sentencing court shall order such person not to own or possess an animal. I would like to see that changed to "may" like we treat it with the misdemeanor situation. The reason for that is because I'd like to see flexibility in the removal of a companion animal from a home and that we have the decision to remove the animal based on the best interest of the animal. And if we have the word "shall" in there, we can't do that. The court's going to be imposing that restriction, no matter what. I look at this sort of similar to child welfare and how Nebraska treated that situation. You know, 15, 20 years ago, where we sort of had a knee-jerk reaction of always removing a child from the home. And over the past years, we sort of decided that in all-- that we maybe do more harm and damage by removing the child, instead of trying to treat the situation and improve the situation. And again, I recognize there are different degrees of abuse and neglect. And I wouldn't want to do anything to a child or to an animal that would put that that animal or person in risk. But I would like to see the flexibility to exist so that the court can make a decision, what's in the best interest of the animal. An example that I look at is in western Nebraska, we had a situation where an individual had 30 anim-- 30 dogs, that were free-roaming dogs on the property. We could have initially gone in there and removed every dog and had a legal right to do so. But we ultimately decided to remove about 15 to 20 of them that we felt were

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in a better position to be placed in a home. There were about nine that were left there because they were not good candidates for placement. And their removal from the property would have resulted in their death probably. I'm actively involved in what's called the no-kill initiative across the country, where we work with shelters and communities to try to increase life outcomes at, at community shelters. And I would just ask that they have flexibility in this law so that we could deal with each situation independently and try to determine what's in the best interests of that animal. Companion animals, by the nature of the term "companion," build a bond with the human and that may not exist within the livestock community. So I just would, again, ask for the flexibility so that we could create a plan on how to remove these animals and provide them an opportunity to either get some counseling, get them some assistance from a humane society, whatever it might be, that would allow them to stay there. If that is not feasible, then, of course, remove the animal from that environment. I know everyone on this committee, including our sponsoring senator, is very committed to protecting the interests of animals. And I appreciate the effort to consider this bill. I would just like that one word to be changed.

HALLORAN: Thank you, Mr. Beam. Senator Blood.

BLOOD: Thank you, Chairman Halloran. Thank you for your testimony, Bradley.

BRADLEY BEAM: Uh-huh.

BLOOD: Just real quickly, so do you understand that the word "shall" is an existing statute? That that wasn't something that Senator Slama brought forward?

BRADLEY BEAM: Well, I, I didn't know where it came from. All-- I just was expressing concern that that word in of itself-- because it, it doesn't give the court flexibility. But it requires that they issue that removal order, that maybe that's something we ought to consider while we have this in front of us.

BLOOD: So when you receive a bill, you'll notice that there's sentences there--

BRADLEY BEAM: I understand.

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BLOOD: --that are underlined.

BRADLEY BEAM: Yeah.

BLOOD: Yeah. And that's what's usually being brought forward?

BRADLEY BEAM: I understand.

BLOOD: So I hear what you're sayin, but that's, that's not her bill.

BRADLEY BEAM: I understand. There would have to be an amendment to this proceeding in order to handle that. And maybe that is something somebody would consider. I just would like to highlight the issue that I want to make decisions-- what is in the best interest of the animal. And what we do in situation A may be different than what you do in situation B or situation C. And again, the way that it's currently being proposed, I mean, the entire-- the bill with the change that's already there, I would just like to see that, that one word changed.

BLOOD: Fair enough. Thank you.

BRADLEY BEAM: Yep.

HALLORAN: OK. And thank you, Senator Blood. Senator Chambers.

CHAMBERS: What kind of action against an animal, right now, would result in a conviction for, of a Class IV felony because that's current law?

BRADLEY BEAM: Well, I, I don't know the specifics of that. I guess, is there a possibility of a situation that an individual treats the livestock differently than they do their companion animals? I don't-- you know, I guess in some, in some realm that that might be the case. I think an individual who abuses the livestock also is going to be, probably abusing the companion animal. Is a person who neglects the livestock also going to be neglecting a companion animal? I don't know if that follows as closely as abuse does. And again, the, the issue that I see sometimes, I guess, in this statute is, is what is defined as abuse versus what is defined as neglect. I, I, that's sometimes a little hard to cross or to look at. But I, and I don't want to get too much into the weeds with that, but I'm just more concerned of having the flexibility for court to decide what may be in the best interest of the, the companion animals. And I'm not speaking to livestock

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because I'm not from the farming and ranching community. I'm speaking to you as a companion animal advocate.

CHAMBERS: Well, if an, an animal, a pet animal is abused to such an extent that it would qualify as a Class IV felony, how would it be in the best interest of the animal to stay with that one who abused it?

BRADLEY BEAM: Well, I'm looking at it-- it definitely should be removed. I'm looking at this as though what we-- what's happening with this is they're trying to extend the abuse of the livestock to removal automatically for a companion animal, without having had an issue with the companion animal, meaning, meaning the person was convicted in Otoe County as it related to livestock. And I think the intent is to automatically move that removal to any companion animals that are on the premises also.

CHAMBERS: But I'm, I'm talking-- I should've made it clear about the pet animal.

BRADLEY BEAM: Um-hum.

CHAMBERS: Do you say that pet animals have less sense of pain and discomfort when abused than a live--

BRADLEY BEAM: No.

CHAMBERS: --stock animal?

BRADLEY BEAM: Not at all.

CHAMBERS: See, these things are a matter of definition.

BRADLEY BEAM: Um-hum.

CHAMBERS: Human beings decide that certain animals are going to fit into a certain category because of what they're used for. But to me, an animal is an animal is an animal, just like a child is a child is a child. Whether the child has parents who are rich, poor, in-between, or whatever, the child is the focal point. So somebody might want to turn a cow into a pet, maybe a goat, but the animal is still essentially the same. And it's the use that the human being is putting the animal to that causes it to have a different designation. But if we're talking about abuse or mistreatment, it doesn't matter in my opinion, whether it's a livestock animal or a pet animal. Are you

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saying that there should be a distinction where if it's a livestock animal, the taking of the animal should be automatic, but if it's a pet animal, it should not, is that what you're saying?

BRADLEY BEAM: Well, I'm not-- I'm trying-- I want to be careful here. I, I don't want any animal to be abused, whether it's companion animal or livestock. I, what I guess I'm saying is that in the realm of finding live outcomes for animals, it is very difficult sometimes. And I'm talking companion animals. I'm also stating that it-- could there be, conceivably, a situation where there hasn't been the neglect or abuse-- there has been neglect or abuse for the livestock, but not for the companion animals? Because had there been, they would have already removed them, maybe through another action, through, through the, you know, a county attorney or somebody else, like, coming in and looking at that situation or a complaint. I know when I'm saying it, or proposing is a little far-fetched here. I'm just asking that maybe there is a situation that occurs from time to time where the court would want to have some flexibility in imposing this automatic removal of a companion animal if the situation were investigated and deemed not to be, or warrant the removal of that animal.

CHAMBERS: Who would do the investigating?

BRADLEY BEAM: Well, right now we have, you know, in, in the cities, we have animal control people that do it. We have, out the counties, we have sheriffs and, and-- county attorneys that deal with--

CHAMBERS: Not to cut you off, but not to require you to answer beyond what I need for my next question--

BRADLEY BEAM: Um-hum.

CHAMBERS: Would the judge rely on what these people tell him or her in making a determination as to whether to take or leave the animal?

BRADLEY BEAM: Well, I think that that would be one source of information. You know, could there be somebody from a humane society that's come out to evaluate the situation? They might have some expertise to--

CHAMBERS: But a judge could say, in disregard of your recommendation, that this companion animal be taken. I'm not going to allow it to be taken. I want to leave it there.

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BRADLEY BEAM: Well, I'm confused. You're, you're saying that the judge is, is saying that he's going to leave the companion animal there?

CHAMBERS: Yep. If you have the word "may,"--

BRADLEY BEAM: Right.

CHAMBERS: Again, it's, it's strictly up to the judge. The judge has the final word.

BRADLEY BEAM: Um-hum.

CHAMBERS: If you had the hallelujah choir led by Jesus singing, let this animal go.

BLOOD: [LAUGHTER]

CHAMBERS: The judge could say no.

BRADLEY BEAM: Yeah.

CHAMBERS: The animal's going to stay there.

BRADLEY BEAM: Well, I'm trusting, I guess, in, in the people that we've put in, into responsible positions. I'm talking about judges and others, that they're going to hopefully make correct decisions. And they're going to rely on people that we employ, whether it's at a sheriff's department or at some other type of a governmental agency, whether it's the Department of Agriculture who investigates commercial breeders. And I know that at least doesn't happen, Senator. And you and I, we've talked many times or communicated many times on animal-related issues. And, and I'm always appreciative of all your efforts. I don't, I don't think I'm standing as opposed to you. I want every animal to be taken care of. I'm just questioning whether or not we need the flexibility that I would, would hope exists; that a, a judge could make the right decision for the best interest of that particular companion animal.

CHAMBERS: Well, I'll, I'll tell you a kind of what I'm getting at, but I wanted to give you a chance to elaborate on what your position is. I'm not as trustful of the judges as you are. They are not special people. They are appointed politically. They don't even have to be learned in the law. For example, I am against the death penalty in all cases. The Governor is for the death penalty. The Chief Justice is for

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the death penalty. And based on my view, it would be hard for somebody to think I'm looking at it objectively. But if a person has been convicted of a crime that carries the death penalty and a determination is to be made as to whether the death penalty will be imposed, the Chief Justice, supposedly at random, selects three judges, two judges. The trial judge is going to be on this three-judge panel and will be the presiding judge. Two judges, supposedly, are chosen at random. If a person has a background which inclines him or her to favor death, that person, even if that name comes up, ought not be put on that panel because there is not objectivity. Well, there is a case right now where the Chief Justice appointed a judge to be on the three-judge panel who worked for the Department of Corrections. This judge, without advice from anybody, without expertise, wrote the execution protocol. When an attempt was made to find out any notes, any research, whatever, that request was denied. That lady is going to be one of the three judges to determine whether a man is put to death. Now if you're for the death penalty, you like that idea. You want people killed. If you care more about the law than just the outcome, as I do, then you want there to not even be the appearance of impropriety. You do not want it to appear that a judge who has an obvious bias or prejudice is going to make a life and death decision. I don't think there are many people in this state who know that one of those three judges is the one who wrote the execution protocol for the Department of Correctional Services. You can't find out where the drugs come from. You can't find out the potency of the drugs, none of that. Such a person ought not to be there. Well, the Chief Justice placed her there. I don't trust judges as much as you do. You might have that notion that there are people who believe in all of those fine sounding words that we attach and they're aspirational. We hope judges will reach that level, but they don't. When it comes to animals, you could have a person like that lady judge who doesn't like animals and will say, well, all, all that the guy did was held the cat under the hot water for a few minutes to punish it because it messed up a Persian rug. So up to that time, he had fed the cat. He had done everything for it. He had taken it to the vet. So I think that that cat should stay there because when I weigh the equities, I see more that the guy did to help the cat than what damage was done when he held the cat under the hot water faucet. If you say "shall," the judge cannot do that. If certain conduct is engaged in, certain harm inflicted on the animal, the animal shall not stay there. And I'm just letting you know how strongly I feel about it because it wouldn't be fair to you if I just sat here and didn't make a comment, then would

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up being strongly against making it optional. You would wonder, justifiably, why, at a hearing, I didn't make my position clear.

BRADLEY BEAM: The distinction I might point out would be the action to the companion animal in statute exists for that neglect or abuse, meaning we can come after them for that particular situation. Here, we're trying to impose the removal based upon the action that's happened to livestock. And I guess what I would do is, is point out-- you brought up the question about the feral cats or the, the barn cats. And the example that I would hate to see happen is that those barn cats are all picked up as a result of an order. And they're-- in some counties, they don't have barn cat replacement programs, which means they aren't going to be able to go out any place and they're probably going to be unnecessarily killed because there isn't a placement outcome that's readily available for them. So I would just like to make sure that that doesn't happen. That's why I would like to have that flexibility. I would, I would hope that we could create a process by which we can do what I would call is in the best interest of that animal. And I'm talking about the companion animals. I, I'm not speaking to the livestock because I don't know that situation well enough. But I, I do know from companion animals that oftentimes in shelters that kill 50, 60, 70 percent, us bringing in another 30 or 40 dogs is, or cats is just going to end up in resulting in more animals, companion animals being killed unnecessarily. That's what I'm concerned about.

HALLORAN: Any further questions for Mr. Beam? Seeing none, thank you, sir.

BRADLEY BEAM: Thank you very much for your time.

HALLORAN: Are there any other opponents to LB791? Welcome, Mr. Hansen. Good afternoon.

JOHN HANSEN: Good afternoon. Chairman Halloran, members of the Ag Committee, for the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n, and I'm the president of the Nebraska Farmers Union. And-- I thought about this. I called Senator Slama's office this morning. I've been struggling with this bill. And so I, I thought about testifying neutral, opposed. And so I-- the more I thought about it, the more I thought that the more honest position, because I do have some concerns with this bill, was to reluctantly oppose it, not enthusiastically oppose it, but reluctantly and reluctant because I

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know that the intentions are good. But my concern is that-- good intentions lead to less than good policy, in my opinion, when you link pet animal standards and expectations and treatment to commercial livestock. And so the two should, in my opinion, not be linked. And my hesitation with this bill is that you are applying commercial livestock standards, violations automatically to what amounts to pets in, in most cases. And that, that if you open up that door and that door swings that way, I'm less than sure that the door doesn't swing back in the other direction. And if in fact it does, then I think that that is not good policy and good process. And so I think that pet animal standards and treatment ought to be high. And I think that if someone is in violation of those standards, then all of the treatment under the law should apply to that person. And conversely, I think that if there is a commercial livestock treatment issue, that those standards ought to apply to that person for that and that we have historically supported high standards and ethical standards in animal husbandry. But we have also, in our view over the long term, not been so happy with some of the things that we have put into law that had a lot of good intentions behind them, but certainly began going down that path of linking pet and commercial livestock treatment. And so for that reason, primarily, we're in opposition. The, the issue of, of cats: as a, as a farmer, dairy farmer, we were very popular with the cats. We were more popular than the neighbor who didn't have milk. And so cats come, cats go. So, so I think Senator Moser's example is, is a, is a problematic one. I look at this law and I have no good idea how in the world that from, from an effective enforcement standpoint, that, that good enforcement would come. I would say one other thing and that is that one of the things I thought about is that in my experience in the livestock business and the, in the artificial insemination in the dairy business, I traveled. I saw a lot of herds. I saw a lot of things happen. And in the vast majority of the cases where neglect and abuse happened with commercial livestock, it was the direct result of someone who had some very substantial mental and emotional issues. And they, they, they shut it down. They weren't taking good care of their livestock. They weren't taking good care of the people in their family. They weren't taking good care of themselves. And so they were, they, they had been responsible livestock owners. And they, they just went through an extremely bad patch in their life and they just emotionally shut down. So whether or not, you know, this would be an, an appropriate penalty for someone in that situation who had clearly caused damage to commercial livestock,

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I'm less than sure. And with that, I would end my comments and be glad to answer any questions, if I might do so.

HALLORAN: Thank you, Mr. Hansen. Any questions? Senator Chambers.

CHAMBERS: You're opposed to the existing law then, is that correct?

JOHN HANSEN: Um--

CHAMBERS: Because the change relates to these other animals.

JOHN HANSEN: I am, I'm opposed to linking the treatment and the, and the punishment of commercial livestock violations and linking it to then pets and, and extending it automatically to pets. I think each ought to stand on its own legs.

CHAMBERS: OK. I will read over and think about what they tell me you've said. I don't have any more questions.

JOHN HANSEN: [LAUGHTER]

HALLORAN: Thank you, Senator Chambers. Any further questions? Senator Moser.

MOSER: Uh, just one question for Mr. Hansen. In other words, you don't like the association of the pet animals with the commercial livestock? Not so much because the pet might be treated better under this new law, but you're afraid about the reciprocation of maybe extending pet protections to commercial livestock?

JOHN HANSEN: Yes. I, I, yeah. And I took-- to me, my concern was that if the door swings this direction, the door--

MOSER: --one way, swing back--

JOHN HANSEN: --sways back the other way. And then all of a sudden, we're back into the reign of applying pet standards to commercial livestock production. And that, that has been a challenge and that has been a problem in our view.

HALLORAN: OK. Thank you, Senator Moser. Any further questions? Senator Chambers.

CHAMBERS: To try to get an understanding, the current law, without reference to the new language, where an animal is defined in Section

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28-1008, you have no problem with. The current law that deals with when livestock animals would not be owned by a person who's done certain things-- in other words, if this bill did not contain this language, you would not be coming here saying repeal the existing statute that relates to abuse of livestock animals, is that correct?

JOHN HANSEN: I don't think so.

CHAMBERS: Let me put it a different way.

JOHN HANSEN: I don't think that is correct, though. But I--

CHAMBERS: Suppose--

JOHN HANSEN: We have brought bills. We have had folks in support of bills, that brought bills in the past that modify the, the, the treatment to which you refer.

CHAMBERS: Suppose this attempt that's being made to protect these companion animals were not to be amended toward, to the existing law that relates to livestock and it would just be a freestanding bill on its own. Would you oppose that kind of bill that provides that protection to pet or companion animals? If no reference was made to livestock, even if the language would be identical, but the two ideas are not put in the same section of statute, one amending what's already there?

JOHN HANSEN: I think we'd be more open to that.

CHAMBERS: You what?

JOHN HANSEN: We would be more open to separate treatment--

CHAMBERS: OK.

JOHN HANSEN: --of separate classes.

CHAMBERS: I'm just trying to understand if those who are opposed to the bill and talk about the livestock portion of it don't like the existing law that relates to livestock abuse. And if that would be the case, it seems to me they would offer legislation to repeal that.

JOHN HANSEN: Our, our primary concern with this bill is that it, it opens up a door automatically and says that if A, then B. And if A is

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the case, then you automatically link the prohibition of owning livestock to also the prohibition to owning pets.

CHAMBERS: Then to use the way--

JOHN HANSEN: So--

CHAMBERS: --you express it, it probably is clear. Let's say that the existing law is B. The change that's looked for would be A, dealing with a different category of animal. If B were left alone as it is now and not mentioned, and any definition, any words whatsoever that would apply to A would be over here in this box dealing only with A and there'd be no reference back to B at all. And B would just be freestanding as it is now because you're not apparently upset with the way the law is now, with reference to livestock.

JOHN HANSEN: First, I would say that I tend to agree with your conclusion, the asking of the question, I would say yes. But then I, I, to be honest, we do have, we have done service work and we are not entirely pleased with the current status of the law. And we think that it, it has not been as appropriate as it could be. So we think there could be room there for improvement. That is a separate issue in our mind. The question that this bill raises is the linkage. And the linkage is where we come in.

CHAMBERS: I think I understand where you're coming from now.

HALLORAN: Thank you, Senator Chambers. Any further questions for Mr. Hansen? Seeing none, thank you, sir.

JOHN HANSEN: Thank you. Stay warm.

HALLORAN: Any other opponents to LB791? Anyone in that awkward, I shouldn't say that, neutral position? Oh, neutral positions.

[LAUGHTER]

HALLORAN: Welcome.

ANSLEY MICK: I'm bringing up my phone so--

HALLORAN: Good afternoon.

ANSLEY MICK: Good afternoon. Thank you, Senators. Thank you, Chairman Halloran, members of the Agriculture Committee. I will read my

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testimony and then perhaps, if it makes sense, I might try to clarify a little bit of the exchange that happened previously, if it's helpful. My name is Ansley Mick, A-n-s-l-e-y M-i-c-k, and I'm here on behalf of the Nebraska Farm Bureau testifying in a neutral capacity on LB791. While we don't have specific policy related to the changes proposed in this bill, we do understand Senator Slama's interest in attempting to address what was a very serious and unfortunate case of animal abuse in southeast Nebraska. Nebraska Farm Bureau and its members believe in providing the highest levels of care for animals. And we've had members and staff who have actively aided local authorities in finding food and shelter for animals removed in these types of unfortunate situations, including in the case referenced. My main points in testifying today are to make it clear we generally support continued distinction between pets or companion animals and livestock in statute and that the case Senator Slama is trying to address with this bill is very much the exception, not the rule. Farmers and ranchers work with veterinarians and other animal welfare experts to ensure the health, safety, and comfort of their livestock. Food safety, biosecurity, productivity, and business viability all depend on it. Thanks for your time. And really quickly, I just wanted to mention because it was discussed just the moment before, our preference to keep the statutes separate; while we're not opposed to this bill, Senator Chambers, if you looked maybe you're familiar with most of Chapter 28, if you look down in Chapter 28 in Nebraska statutes, you'll see a lot of the companion animal, the animals referenced in this bill. So if you are accused or convicted of a felony animal abuse case of a domesticated animal or a pet, you are precluded from owning those types of animals. And that's in Chapter 28. In Chapter 54, it's the livestock. So if you are convicted of felony livestock abuse, you are precluded from owning livestock. And what Senator Slama is trying to do here is to clarify that you would be precluded from owning those animals if you abused livestock. I think that, and that is not something we're necessarily opposed to. Although we did want to flag for the committee that historically, we've preferred to keep the livestock section and the pet and domestic animals action separate. Thank you for your time. I'd be happy to answer your questions.

HALLORAN: Thank you very much. Any questions? Seeing none, you get off easy. Thank you.

ANSLEY MICK: I know, thanks.

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HALLORAN: Any further in neutral? Any further neutral? Ok. Seeing none, Senator Slama, you can close.

SLAMA: Thank you, Chairman Halloran and members of the committee. Wow, this was a lively first hearing. I just wanted to close and clarify some of the questions that were brought up during this hearing. First off, Senator Brandt, as to your question as to where the ban would extend to; in 54-902(10), we see that "owner or custodian means any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such persons." So it would extend to the entire property, including anybody who lived there. Senator Lathrop, as to your concerns about what constituted what, so 54-903 is the relevant statute. For the Class I misdemeanor, a person who is-- that's a person who is "intentionally, knowingly, or recklessly abandoning or cruelly neglecting a livestock animal" unless that treatment results in the serious injury, illness, or death of the livestock animal, in which case it's upgraded to a Class IV felony. 54-903(2), the Class I misdemeanor is cruelly mistreating a livestock animal for the first offense and a Class IV felony for any subsequent offense. So there is a little bit of nuance there. But again, that's a pretty high standard and a pretty serious charge, regardless of whether it's the Class I misdemeanor or Class IV felony. As to Senator Moser's point about the difference between, well, is a barn cat a pet? I look at 28-1008, which defines an animal, in subsection (2), as "any vertebrate member of the animal kingdom" and "animal does not include an uncaptured wild creature or a livestock animal as defined in 54-902." I'd define a barn cat as an uncaptured wild creature. It's not anything that you've captured and are keeping as a pet. Just to clarify some of the main points in opposition, we had one opposition testimony that was opposed to the statute that was already in place and then another opposition testimony who was opposed to the concept of this bill opening the door for different bills, not necessarily the bill itself. So I look forward to working with the committee and testifiers in addressing any concerns with this very simple bill that just says if you are convicted of cruel mistreatment of livestock and are banned from owning livestock, that you cannot also own and potentially abuse and mistreat other animals as well. So with that, thank you, Agriculture Committee.

HALLORAN: OK. Thank you, Senator Slama. That concludes LB791, for the hearing. And we will break until 2:25 and pick up on LB835.

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[BREAK]

HALLORAN: We're back and Senator Brandt will chair the committee because I'm doing this at the request of the Department of Agriculture, LB835. So I will be presenting the bill.

BRANDT: OK, Senator Halloran.

HALLORAN: I kind of feel like I just introduced myself.

[LAUGHTER]

HALLORAN: Thank you, Mr. Vice Chair. Thank you, Agriculture Committee. LB835 is brought at the request of the Department of Agriculture to update provisions of the Nebraska Pure Food Act to incorporate provisions and concepts as contained in the 2017 Food Code. The Nebraska Pure Food Act was last updated in 2016 after publication of the 2013 Food Code. The Nebraska Pure Food Act is the primary body of state law regulating food establishments. The Pure Food Act establishes standards for sanitation, preparation, storage, and accurate presentation of food items. Nebraska, like most other states, closely follows the model provisions of the food code, a publication of the U.S. Public Health Service, Food & Drug Administration, as regulatory standards. The food code is not federal law for federal regulation. However, it provides a uniform and scientifically-supported system of standards to ensure that food is safe and properly handled and presented. Its adoption by states and localities also helps assure [SIC] consistency across state lines. The food code is updated every four years to incorporate regulatory experience and advancements in understanding risk factors for foodborne illness. While most provisions of the food code are incorporated, some excluded provisions are adopted in modified form as set forth in sections of the Nebraska Pure Food Act. These exclusions are listed in 81-2,244.04 [SIC], modified by Section 1 of the bill. A table explaining changes in the incorporated or excluded sections is included under, under the tab for the bill in your books. LB835 will continue a trend of having fewer Nebraska Pure Food Act variances from the food code. There are two significant changes in the food code recommendations that had previously been excluded, but will be incorporated by LB835. First, the bill incorporates 501.11, which requires food establishments to have a written plan to quickly respond to vomit or diarrhea contamination of surfaces. This was a new provision added to the 2013 Food Code, but not adopted previously.

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Secondly, LB835 incorporates food code Section 6-301.14, which requires posting of signage at handwashing stations notifying employees of the need to wash hands. It is my understanding this requirement is already required by Lincoln/Lancaster County and is widely observed by the food industry already. The remainder of LB835 makes some additional statutory maintenance changes to the Pure Food Act. Section 2 of the bill would expand food safety standards to designated priority items, include the provisions of 81-2,272.01, which pertains to hot and cold holding temperatures from potentially hazardous foods. A priority item is defined as a food safety practice or standard that is directly critical for avoiding food safety risk and are required to be promptly corrected when observed by an inspector. Section 5 of the bill amends the information to be included in an inspection report, including designation of priority items. Priority items at one point were designated critical items and LB835 adopts the current terminology. Finally, LB835 81-2,243.6 [SIC], which defines the term egg handler; the bill also deletes an expired exemption to food establishment fees under the egg handlers who had been previously licensed under the Graded Egg Act. I anticipate that the Department of Agriculture will follow me to expand the explanation of the revisions being sought in LB835. We'd like to make note that we'd like to enter into the record two letters in support of LB835, one from the Lincoln-Lancaster County Health Department and one from the Douglas County Board of Health. Copies of these letters are included in your books. I appreciate your attention and I will attempt to respond to any questions you may have.

BRANDT: OK. Questions for Senator Halloran?

HALLORAN: You don't want to talk about foodborne pathogens or anything like that?

BRANDT: Seeing none, thank you. We'll now ask for proponents?

STEVE WELLMAN: Good afternoon.

BRANDT: Good afternoon.

STEVE WELLMAN: I'm Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n. I am the director of the Nebraska Department of Agriculture and I'm here to testify in favor of LB835. And Senator Halloran, thank you for introducing this bill and thank you for the very clear description of what the bill actually does. So I thought it was very thorough and

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explained it very well. LB835 amends the Pure Food Act by adopting provisions of the 2017 version of the Food and Drug Administration food code. The purpose of the Nebraska Pure Food Act and the food code is to safeguard public health and to provide customers food that is safe, unadulterated, and honestly prepared. Nebraska is currently operating under the 2013 Food Code. Updates to the recommendations are made every three to five years to incorporate the most current scientific information regarding food safety. The updates incorporated in LB835 will keep Nebraska current and aligned with retail food programs in other states. It's important to adopt these changes now, as the currently-adopted 2013 Food Code will be nearly 10-years-old by the next, the next time a revision is published. The modifications recommended to be adopted this year are outlined in the handout that I provided. In preparation of this proposal, the Nebraska Department of Agriculture held meetings to review the changes with representatives of the food industry and other public health agencies. The members of that advisory group are listed on the handout that we provided and a few of them will be following my testimony. I ask for your support in enacting LB835 this year. If there are any questions, I'd be happy to try and answer those.

BRANDT: OK. Thank you, Director Wellman. Any questions? Senator Hansen.

B. HANSEN: Thank you. Thanks for coming and testifying.

STEVE WELLMAN: Sure.

B. HANSEN: So has-- just for a little history, maybe, has the instance of foodborne illness in Nebraska gone up or down since 2013, since the last time we adopted these changes? Do you know?

STEVE WELLMAN: That's a question I'd have to go back and, and ask.

B. HANSEN: OK.

STEVE WELLMAN: I'm not sure of that. I don't have that information.

B. HANSEN: OK. The reason I ask is just like with any law, no matter what it is, I always like to know, is there a reason why we need it in the first place?

STEVE WELLMAN: Right.

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B. HANSEN: I know it sounds good to tell businesses that they need to put a sign up when they do something else. And eventually it turns into something else. We see incrementalism where all of the sudden we, you know, there's rules and regulations for businesses. And so and this is just again, one of those instances. I want to make sure that if we are going to be passing a law, that there is a reason for it, I guess. And we're just not following what the federal government expects us to do. And so with a little context and a little history about whether this is appropriate or not, that's one of the questions-- that's why I kind of asked that. And so that will- then a backdrop, I'll just leave at that for now. Thanks.

BRANDT: Any other questions? Senator Lathrop.

LATHROP: If I, if I understand right, the Pure Food Act basically says these are the things-- we're going to enforce them. We're going to use the standards set out by the feds, primarily.

STEVE WELLMAN: Yes. The, we will be-- these are the, the rules we will be enforcing for the food safety aspects of it. And the recommendations of, from the food code themselves, those are recommendations from the U.S. Department of Health and Human Services.

LATHROP: OK. Thank you.

STEVE WELLMAN: And that's the source of this document.

BRANDT: OK. Other questions? Seeing none, thank you, Director Wellman.

STEVE WELLMAN: Thank you.

BRANDT: Good afternoon.

KATHY SIEFKEN: Good afternoon. Senators, members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, and I am the executive director and the lobbyist for the Nebraska Grocery Industry Association here today in support of LB835. I have served on the Nebraska Department of Ag's Food Advisory Board for probably 20-plus years. And we review-- the people that are on that board include members of the industry that are being regulated. So it-- there are representatives up on the board of grocery stores, of convenience stores, of restaurants, delis, bakeries. And if an issue comes up where there is not a representative on that board, we actually stop discussion and go out and find someone from that aspect of the

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industry and allow them or, or encourage them to provide input so that the things that come out in this bill really have been vetted by the industry and by regulators before it gets to the Legislature. And I really need to thank the Department of Ag for establishing that board because it really allows industry and regulators to come together and talk about the impact of different laws and, and what we need to do to make sure that food safety is a priority in this state. Just to give you a little bit of history, the first food code that FDA came out with was back in 2005. And this board that has been around since forever reviewed the 2005 FDA Food Code. It took probably two years and it was a very heavy lift. And we adopted sections that we thought would be appropriate in the state of Nebraska. One size doesn't fit all, so we didn't adopt certain sections of the food code. This particular bill really doesn't change much. What generally happens within the industry is industry is usually there before FDA comes out with their suggested changes and we wait for FDA so that we can all sort of marry up. And, and there are a couple of changes in this particular bill, one is the cleanup kit. That, that ordinance was passed in Lincoln and Lancaster County. And when I called around to every grocery store in Lincoln, everyone already had the kits on hand. Those kits are very reasonably priced. I think maybe \$10, \$15, \$20. They protected the consumers and our employees. And whenever there is an episode or, and something happens in a grocery store or, or a restaurant or any place else, these are kits that are self-contained and the mess gets cleaned up. It gets sealed in a bag and it gets handled appropriately so that, like, a norovirus doesn't continue to spread throughout the community. So it's important that we use those and most grocery stores do. And if they are not, they should be. Another change that is, is in this actual bill is the hand washing, the signage in the bathrooms. Again, it's a very economical way to reinforce a message and it also stops those, those illnesses from spreading. The only other items that are in this bill are corrections to terminology to mirror the federal language. It includes corrections that should have been corrected before and it removes obsolete language. So with that, we fully support this bill and we hope that you pass it out of committee, hopefully unanimously, and that it gets to the floor because we believe that this is a bill that should be passed and it, everyone benefits. So if you have any questions, I would be happy to answer them.

BRANDT: OK. Questions for Ms. Siefken? You did a good job.

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KATHY SIEFKEN: Thank you.

BRANDT: Thank you. Next proponent? Good afternoon.

ZOE OLSON: Good afternoon. Senator Brandt, member of the committee, my name is Zoe Olson, Z-o-e O-l-s-o-n, and I am the executive director of the Nebraska Restaurant Association. I want to thank you for the opportunity to testify today in support of LB835. I won't go into detail over what Kathy just spoke about today in great detail. I do want to assure you that the review process involved representatives from all across the industry, under the leadership of the Agricultural Department, is very important. And all involved had a chance to weigh in with concerns or suggestions and appropriate adjustments were made. Restaurants and grocers are the last link in the food chain before food gets to the consumer. And food safety is the number one priority in our industry and this bill is an essential element in accomplishing that end. And therefore, the Nebraska Restaurant Association wholeheartedly supports LB835. I'd be happy to answer any questions.

BRANDT: Any questions for Ms. Olson? Seeing none, thank you.

ZOE OLSON: Thank you.

BRANDT: Good afternoon.

JIM OTTO: Good afternoon, Senator. Members of the committee, my name is Jim Otto. That's J-i-m O-t-t-o. I am president of the Nebraska Retail Federation, also a registered lobbyist for the Nebraska Retail Federation. And I'm just here to say that we don't have as many grocers, but we have a lot of stores that do sell groceries. Maybe they aren't their number one item, but we totally agree with what's been said and support to-- what the grocers said, what the restaurants said. And we're in total agreement. And so I just want you to know that, too. So I hope you can pass the bill.

BRANDT: OK. Any questions for Mr. Otto? Any more proponents? Any opponents? Anyone to testify in the neutral capacity? Senator Halloran, the floor is yours.

HALLORAN: Thank you, Mr. Vice Chair. Thank you, committee. I see some smiles on faces because they know this is going to wrap up pretty quickly. To answer your question a little bit, Senator Hansen, it, if we didn't have these uniform scientifically-based standards within the food industry, I don't care if it's at the grocery store level or at

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the restaurant level, we wouldn't-- we, it would be just kind of willy-nilly. Right. I mean, these are all standards that are scientifically based on time and temperature and so forth. And-- I don't have an answer to your question about, about whether we've had an increase or decrease or whether it's level. Foodborne pathogens come and go and it's always a challenge for restaurants to deal with pure food. The code helps us manage that with having a uniform, uniform code to deal with. So with that, I would ask you to consider adopting this. And if you want to stick around, maybe we can have an Exec Session and go fast and get these cleaned up. Anyway, we'll deal with that when--

BRANDT: Any questions for Senator Halloran? Seeing none, we are adjourned. Thank you, everybody, for coming today. Are we doing Exec? I don't care.