

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 2, 2003

LB 210

exemption in 1913. The ranching exemption was added in 1945. And then, in 1969, the court, in a case called Hawthorne, stated that farming and ranching had changed by mechanization, specialization and technology, so much that these developments have begun to create a separate type of commercial business within farming and ranching. And the court cited a workers' compensation law treatise, Arthur Larson, in reporting that sometimes intensive specialization, if carried too far, is enough to transform agriculture to commerce. The court went on in the Larson case to say, the Nebraska Supreme Court, that under the agricultural exemption in the Workers' Compensation Act, an employer may be engaged in several businesses and the court cited an '83 case, Brown v. Leavitt Lane Farm, which held that an employer may engage in two separate businesses, one being subject to workers' compensation law and one exempt from the law. By focusing on the activities of the employer, whereas our statute seems to, in my opinion, talk about an exemption for farm work, but we begin to focus on the activities of the employer, the court determined that the specialized service of feeding cattle was commercial in nature because more than half the cattle were owned by entities other than D B Feedyards. Now this is our own Supreme Court that just made this decision. So, trying to take a lesson from that and not disrupt 80 years of precedent entirely, what we're trying to do is establish a line. Whether that's where the line should be or not I think will be determined by experience and by a lesson that we learn in the next few years. But I think that it is a certain enough line that it gives the court direction, if you go over this line we think that's commercial in character; that's specialized enough; that is activity that you're performing for a fee; it's not your own land, it's not your own livestock, therefore, we think you need to carry workers' compensation insurance. I think that's instructive. Madam President, I would offer whatever time I have left to Senator Beutler, if he would like it.

SENATOR SCHIMEK: Thank you, Senator Bromm. Senator Beutler, there is about a minute left, I believe, and you have...you are also next to speak.

SENATOR BEUTLER: Okay. Senator Bromm, thank you. I understand that there is a relationship, in part, to what the court said