

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on March 16, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research
Lisa Montgomery, Office of the Revisor of Statutes
Robert Myers, Committee Secretary

Conferees appearing before the committee:

George Teagarden - Kansas Animal Health Department
Donn Teske - President, Kansas Farmers Union
Doran Junek - Executive Director, Kansas Cattleman's Association
Todd Johnson - Kansas Livestock Association
Brad Harrelson - Kansas Farm Bureau
Ken Winter - Independent Cattle Producer
David Pfrang - Independent Cattle Producer, Goff, Kansas
Allie Devine - Vice President and General Counsel, Kansas Livestock Association
Brad Harrelson - Kansas Farm Bureau

Others attending:

See Attached List.

HB 2593: Provides for premise registration and preparation for an animal identification program.

Chairman Schmidt opened the hearing on **HB 2593**.

George Teagarden appeared before the committee as a proponent of **HB 2593**. He started by pointing out that the topic of animal identification has been discussed for several years among health officials at United States Animal Health Association (USAHA) meetings. He stressed the importance of such identification by signaling the need to both identify and track the past history of individual animals, stating also that at the present time this is not effectively possible. More specifically, with regard to the discussion of animal identification in recent years, he pointed out that USAHA approved the formation of a national animal identification working group of approximately 70 producer representatives and 30 government officials. This working group has drafted a plan, described by Mr. Teagarden as starting off with a phase of premises identification to begin in July of the current year, 2004. He did however note that current United States Department of Agriculture statements indicate that this and other original time lines in the plan may be pushed back. Nevertheless, he stated to the committee that the implementation of an animal identification program is inevitable.

George stressed to the committee that maintaining the health and economic viability of animal agriculture in the United States, as he indicated to be the focus of the animal identification plan, is critical to our food supply as well as to the industry itself. He listed the following as being benefits of a national animal identification system:

- Enhanced disease control and eradication capabilities, and enhanced ability to respond
- Enablement to meet demands for source-verified products, both domestically and internationally
- Mitigation of threats to the biosecurity of the food supply

George then noted that, following the discovery in December 2003 of Bovine Spongiform Ecephalopathy, the United States lost 10% of its beef market. He gave the example of the \$900,000,000 market with Japan that still remains closed. He also pointed out that several other countries have implemented or are implementing animal identification programs, giving the example of Argentina, one of the largest beef markets in the world. With regard to the implementation of a program here in Kansas, he stated that it

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cannot occur without additional resources. However, he said also that he expected the federal government to provide funds to states for implementation (Attachment 1).

Donn Teske appeared before the committee as a proponent with reservations regarding **HB 2593**. He acknowledged the concerns that he had felt with regard to the original version of the bill, especially concerning the power given to the Kansas State Livestock Commissioner. He continued, however, by stating that the substitute version of the bill is much better in that it is more stringently tied to the implementation of a federal program. On behalf of the Kansas Farmers Union, he expressed that support would not be given for the bill as it is currently written, giving authority to the Kansas State Livestock Commissioner. He stated rather that a federal program should be administered through the county Farm Service Agency offices. Also, he noted the disappointment of the Kansas Farmers Union due to the failure to address the mandatory Country of Origin Labeling (COOL) in the bill (Attachment 2).

Doran Juneck appeared before the committee as a proponent with reservations regarding **HB 2593**. He pointed out that he had attended the United States Animal Identification Plan (USAIP) working group meeting held in Kansas City on March 10. He stated that his impression from the meeting was that more questions were raised than answers. He expressed support for the bill's allowance of the Livestock Commissioner to proceed with premise definition and number allocation, but noted that more direction must be received from the federal level beforehand. Included in the written testimony that he submitted to the committee is a list of some of the questions that were raised at the March 10 USAIP working meeting (Attachment 3). In closing, he expressed the support of the Kansas Cattlemen's Association for an animal identification program headed up by the Kansas State Livestock Commissioner. However, he also noted concern for the wording of the current bill and requested that the committee look at the proposed amendments that are attached to his written testimony (Attachment 4).

Todd Johnson appeared before the committee as a strong proponent of **HB 2593**. He focused on how the bill had changed since its original introduction in the House Agriculture Committee and also pointed out what the bill does and why it is valuable for the livestock industry. Speaking with regard to whether or not the bill would cause Kansas to jump ahead of the proposed federal program, he emphasized that the plan being discussed is one consisting of several phases. Furthermore, he pointed out that the bill directs the Kansas State Livestock Commissioner to work with the implementation of the United States Animal Identification Plan (USAIP). He stressed the importance of Kansas being involved in the implementation of this national plan. He then referred to the comments, attached to his written testimony, made by Scott Charbo of the United States Department of Agriculture. He highlighted Mr. Charbo's talk of state governments maintaining a state premises database system, an intrastate animal movement database, and reporting interstate movement to a national database. Furthermore, Mr. Johnson spoke of the education of livestock producers and processors as being essential in the implementation of a program of this magnitude. He specifically mentioned such means of education as public hearings, educational meetings, and forming study groups. Regarding the program being voluntary or mandatory, he acknowledged the United States Department of Agriculture's approach for not initially requiring participation as being valid in that it allows time for system development before enforcement. He also noted that the bill in question has no enforcement provisions, meaning that the animal identification program in Kansas would not be mandatory before the federal program is ready.

Todd continued his testimony by addressing the issue of accessing individual records, noting that the Kansas Livestock Association is striving to ensure that access not be possible without producer consent. He pointed out that the bill addresses the issue by amending the open records act. Turning next to the authority needed to implement an animal identification program, he spoke of the United States Secretary of Agriculture being granted such a power by the Animal Health Protection Act. Furthermore, he stated that the Kansas State Livestock Commissioner is directed to cooperate with the United States Secretary of Agriculture. Mr. Johnson also briefly touched upon the issue of federal funding, stating that the Kansas Livestock Association would work with any federal agencies and available funding in order to keep the pressure off of Kansas producers. In closing, he stated his firm belief that action does need to be taken in support of the bill (Attachment 5).

Brad Harrelson appeared before the committee as a proponent of **HB 2593**. He started by stating that the

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Kansas Farm Bureau does indeed concur with most of the points that had been raised by the other conferees testifying in support of the bill. He stressed the importance of Kansas playing a role in the implementation of the states' component of the national animal identification plan. Also, with regard to the costs of the program, he spoke of acceptance for reasonable producer costs, but stated that they should be evenly balanced. He pointed out that Kansas Farm Bureau has been actively engaged in the discussions about and the development of the substitute bill in its current form, having worked with the Kansas Animal Health Commissioner among others. He expressed the belief that it would be unfortunate to not allow the Kansas Animal Health Commissioner to play a role in the process prior to the implementation of a federal plan. He also stressed that the proposed animal identification program is concerned solely with disease control and is not to be confused with marking programs such as Country of Origin Labeling (COOL). He ended by stressing the support of Kansas Farm Bureau for the bill and urging the support of the committee as well (Attachment 6).

Ken Winter appeared before the committee as an opponent of **HB 2593**. He brought to the attention of the committee the numerous conversations that he had participated in with customers of the auction markets and feed yard in which he is involved. He stressed the fact that he had not heard of anyone in favor of the implementation of the animal identification program. He also noted the general misunderstanding that surrounds the concept of such a program. Furthermore, he spoke of visiting the legislative website and seeing the bill represented as a means of preventing disease. His claim was that an animal identification program would not prevent disease any more than the Social Security System prevents disease. In addition, he expressed concern for the bill putting undue expense and shrink on cattle, and thus driving business away from the markets. Before closing, he questioned giving unlimited authority to the Kansas State Livestock Commissioner, someone who is appointed by a political action group (Attachment 7).

David Pfrang appeared before the committee as an opponent of **HB 2593**. He stressed that an animal identification program would be effective only after the breakout of a disease, thus in no way serving as a preventative tool for the livestock industry. It was his stated belief that such a program would serve as a distraction from the primary challenge at hand: preventing the introduction of disease. He pointed out that every animal he sells is marked with a hot iron brand, and that this traditional means of animal identification is sufficient and is less expensive than that which is proposed by the bill. Mr. Pfrang then addressed the cost to be involved in the animal identification program, noting an estimated cost of 1.3 billion dollars for producers in the first year of its implementation due to an estimated cost of \$7 to \$20 per animal. In addition, he stressed the need to identify not domestic animals but rather those imported from other countries. With regard to the handling of animal records, he recommended to the committee that it be the responsibility of the United States Department of Agriculture's Farm Service Agency as opposed to other politically affiliated groups such as the Kansas Farm Bureau and the Kansas Farmers Union. In closing, he questioned the expenditure of money on a program plagued by many unknowns, and thus requested that the committee not pass the proposed bill (Attachment 8).

Chris Wilson, Executive Director of the Kansas Dairy Association, submitted written testimony to the committee containing both support and reservations for **HB 2593** (Attachment 9).

Larry Brack, President of the Kansas Cattlemen's Association, submitted written testimony to the committee in opposition to **HB 2593** as it is currently proposed and written (Attachment 10).

Jo Johnston, on behalf for Concerned Citizens for Ethical Kansas Government, submitted written testimony to the committee in opposition to **HB 2593** (Attachment 11).

HB 2594: Duty of care of livestock producers.

Chairman Schmidt opened the hearing on **HB 2594**.

Allie Devine appeared before the committee as a proponent of **HB 2594**. She explained that the bill is an effort to clarify for livestock producers the level of liability that is faced upon the implementation of an animal identification system. She further explained that liability attaches where one party owes a duty to another, and that duty is not met. Specifically, with regard to food, she stated that the selling party has

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standards to assure that the product is wholesome. In addition, she noted that most case law regarding food products deals with a product that contains a foreign material. She stated also that the producer's duty over an animal exists only until the point at which it is slaughtered and processed, pointing out that this is the point at which producers have no more input into the development of their products. She then advocated to the committee the Kansas Livestock Association's view that the producer's duty of care to the consumer through the preparation of livestock and resulting meat products be that of "ordinary care." Furthermore, she advocated that a passed inspection under state or federal laws provides a presumption that the producer has met that standard of "ordinary care." Along with her written testimony, she submitted a balloon amendment to be considered by the committee (Attachment 12).

Brad Harrelson appeared before the committee as a proponent of **HB 2594**. He offered his full support for the comments made by Allie Devine on behalf of the Kansas Livestock Association. He urged the committee to favorably pass the bill. He submitted more extensive testimony in written form (Attachment 13).

Chris Wilson, Executive Director of the Kansas Dairy Association, submitted written testimony to the committee in support of **HB 2594** (Attachment 14).

Terry Humphrey of the Kansas Trial Lawyers Association submitted written testimony to the committee in opposition to **HB 2594** (Attachment 15).

The Kansas Department of Agriculture submitted written testimony to the committee regarding **HB 2594** (Attachment 16).

The next meeting is scheduled for Wednesday, March 17, 2004.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-16-2004

NAME	REPRESENTING
Ladd Johnson	KLA
Allie Devine	KLA
BRAD HARRELSON	KFB
Mike Jensen	KPA
Linda Roesch	KCA
Richard Roesch	KCA
Keith Schutt	KCA
Carol Schultz	KCA
Larry Brack	KCA
Douglas Metzger	KCA
Terry Montgomery	KCA
Sara Ellicott	KCA
Larry Kendig	KCA
Cynthia Kendig	KCA
Donna Eschenberger	Franklin Co Farm Bureau
Matt Teagarden	KLA
Doug Wareham	KGFA/KARA/Seaboard Farms
Wanda Kinney	KCA
Michael B. Brink	KCA

STATE of KANSAS
KANSAS ANIMAL HEALTH DEPARTMENT

George Teagarden, Livestock Commissioner
708 S. Jackson, Topeka, Kansas 66603-3714
Phone 785/296/2326 Fax 785/296/1765
e-mail – gteagard@ink.org
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March 16, 2004

Mr. Chairman and Members of the Senate Agriculture Committee,

Thank you for allowing me to appear as a proponent for Substitute for House Bill 2593. I am George Teagarden, Livestock Commissioner, Kansas Animal Health Department.

Animal identification is a topic that has been talked about for several years among animal health officials in discussions at our United States Animal Health Association (USAHA) meetings. In order to trace animal disease, we need to be able to identify individual animals and have a system that enables us to track their past history. Today we cannot do that in an effective and timely manner.

About two years ago, a working group was formed with the blessing of the USAHA. That group, made up of approximately 70 producer representatives and 30 government officials, has worked in the interim on a National Animal Identification System. The latest draft of that plan was approved as a work-in-progress at last fall's annual meeting of the USAHA. The plan calls for a cooperative effort by state animal health departments, USDA Veterinary Services and producers. As the plan is currently drafted, the first phase, premises identification, is to start this year in July. According to recent USDA statements, the original timelines may be pushed back, but it remains inevitable that a national animal ID Program, and its regulatory adoption by the USDA, will be implemented.

The United State Animal Identification Program outlines the responsibilities of individual states as well as the federal government. State responsibilities will include premise identification, recording of intrastate movement and collecting and forwarding to the national database records of interstate movement. This bill will permit Kansas to meet these responsibilities when the national Program goes into effect.

Quoted from the National Animal Identification Plan, "the goal is to achieve a traceback system that can identify all animals and premises potentially exposed to an animal with a Foreign Animal Disease (FAD) within 48 hours after discovery". "Achieving this goal will enhance the efficiency and effectiveness of current animal health regulatory programs."

Senate Agriculture
March 16, 2004
Attachment 1

Maintaining the health and economic viability of US animal agriculture is critical to the industry and to the safety of the U.S. food supply, and therefore, is the focus of the National Identification Plan. Establishing the requirements for animal identification that provide the necessary infrastructure to monitor animal diseases, to support their control or eradication, and to establish an adequate emergency management response system provides the foundation of the "system" for the national program. Maintaining the health of the U.S. animal herd is the most urgent issue for the industry and is the focus of the Plan. The benefits of a national animal identification system include:

- Enhanced disease control and eradication capabilities for rapid containment of foreign animal disease outbreaks and enhanced ability to respond to biosecurity threats.
- Enables the industry to meet the demands of domestic and international consumers for source-verified products. This ability enables producers to maintain and build market access.
- Mitigation of threats to biosecurity of the food supply, either intentional or unintentional."

Immediately following December 23rd and the discovery of BSE in the United States, the U.S. lost 10% of its beef market. For the most part, these markets remain closed, including sales to Japan, which imported \$900,000,000 of U.S. beef in 2002. In response, on December 30, 2003, USDA Secretary Veneman announced that the United States Animal Identification Program would be put on fast track. With a mature animal identification system, the animals associated with that outbreak could have been traced within a matter of hours, not 6 weeks.

We ask for this legislation so that we can prepare to implement a national animal identification program. Several other countries around the world have implemented or are currently implementing animal ID programs, including Argentina, one of the largest beef exporters in the world. The United States, and by extension, Kansas, must keep up with this trend in technology to remain competitive in the world market.

I believe that the federal government will provide funds to states for implementation, although there has been no hard indication as to how much or for what. I do know that there is \$33 million in the President's FFY '05 budget request for animal ID. I am committed to utilizing federal funds to the fullest extent possible. However, this program cannot be implemented in Kansas without additional resources.

Kansas can prove our commitment to this much needed plan by approving this bill. This forum is a perfect opportunity to get discussions moving and to insure that all parties know what is happening in the arena of animal identification. It is also the only opportunity to insure that Kansas will be prepared to respond quickly to implementation of the national Plan. Keep in mind this issue has been discussed on a national scale for a good long time. BSE has highlighted the need for such a system.

I am strongly committed to working with all interested parties to make this system work for Kansas and the nation. This bill requires that we provide education and receive input

from representatives of all affected species and all segments of the animal industry. I intend to fully carry out this mandate. As a result, we will make the implementation of this program as smooth and easy for our livestock producers as possible.

This system is manageable and will provide the animal health community a valuable tool to use in disease control and eradication.

Thank you for your attention.

Mr. Chairman, I will respond to questions.



Senate Agriculture Committee hearing
HB 2593
3-16-04
Kansas Farmers Union
Donn Teske, President.

At the recent Kansas Farmers Union State convention the delegates passed a special order in regard to BSE. One of the items in the special order asks for a national animal identification program and as such I am here speaking today in support of creating such a program.

As I testified before the House Ag Committee I had concerns with the original HB 2593 pertaining to the power given to the Livestock Commissioner without parameters in both policy implementation and also fee charging to administer the program. Substitute HB 2593 is much better in that implementation of a mandatory animal identification program is more stringently tied to implementation of a federal program.

The problem that we have in Kansas is the structure of the Animal Health Department and thus the livestock commissioner. He is given great power under HB 2593. It is my understanding that our neighboring states animal health departments are under the authority of the states department of agriculture. Here in Kansas we have a separate agency whose board is selected by one single commodity organization without equal representation from either citizens or even producers from across the state. This is wrong. In the past this structure was merely an irritant. Now, with the massive power and funding that a mandatory federal animal identification program might delegate to the empowered state agency this unrepresentative structure is unacceptable. We feel that empowering the livestock commissioner with the animal ID program under the current board structure will tarnish the credibility of the ID program for a majority of the animal producers in the state.

Kansas Farmers Union will not support HB 2593 as it is currently written giving authority to the livestock commissioner. We feel that a federal program should be administered through the county FSA offices as the dairy support program is. This would eliminate one more administrative layer this bill is creating. If not administered federally than the program in Kansas should be administered through the state Department of Agriculture, which we feel has the proper administrative oversight. If the ID program stays with the animal health department it is vital that the board structure be fixed.

Senate Agriculture
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Attachment 2



Also, Kansas Farmers Union is disappointed that mandatory Country of Origin labeling is not being addressed in this bill. COOL is a law of the United States passed in the last farm bill. What better way to implement it than along with a national ID program?

There has been great emphasis put on implementing an animal ID program in Kansas this legislative session so that it is in place when the national program comes into being this summer. Our contacts in D.C. maintain that there is no way an ID system can be implemented this summer and they feel that it will be lucky to be ready by the summer of 2005. Rather than implement a hasty animal ID system without a good feel for the federal program that will come sometime in the future, Kansas Farmers Union maintains that we should get our own house in order first and not hurry HB 2593 through this year.

Whether there is a national animal identification program established or not, the structure of the animal health department board needs to be corrected. Senate bill 154 is a fair, equal representation, bill as written.

House Bill 2593
Testimony from Kansas Cattlemen's Association
Presented by
Doran Junek, Executive Director
February 4th, 2004

Members of the Senate Agriculture Committee,

I am Doran Junek, Executive Director for the Kansas Cattlemen's Association. Our organization is comprised of independent cattlemen and feedlot operators that individually elect to pay dues to support our cause. One of our primary focuses is to restore profitability to the cattle producers, cattle industry, and rural communities. Our concern is that there have been ongoing efforts at the national level to implement a mandatory identification program and to implement our state program before the framework of the national program is in place seems premature.

Let me remind you, the KCA does not stand opposed to a national I.D. program, just the fact that this bill seems to be putting the cart before the horse. I attended the USAIP cattle working group meeting in Kansas City on March 10th and during this day-long meeting more questions than answers were raised and at the end of the day, 2 sub-committees were established to seek answers for many of the unanswered questions and another existing committee was asked to look into other matters.

The Kansas Cattlemen's Assn. is supportive of a bill that would allow the Livestock Commissioner to proceed with premise definition and premise number allocation, but we feel until more direction is received from the federal level, the livestock commissioner should proceed no further. Just a short time ago, USDA Undersecretary Hawks told a House Agriculture Committee that the USAIP program would initially start as a voluntary program and may proceed to a mandatory program. After talking to several Senators, USDA staff and industry leaders, I have again found more questions than answers on this very topic. Here are some of the questions that were raised at the meeting;

1. How will the information be handled? Is it directly dumped to the National Data Base and then disseminated to the states or is the local information sent to the state and then on to the federal.
2. Pilot programs have already learned that certain technologies are not compatible with others? Further research is needed in this area in order to have an effective program.

Senate Agriculture
March 16, 2004
Attachment 3

3. How and when is a tag read necessary and how many times do you read the tag at the sale barn? Do you only read it when the animal enters or only when they exit? If several lots are bought by an order buyer and mixed lots are assembled, when do these cattle have to be read? Before they enter the truck or when they get to their destination point? And in this instance, how many times do you run these cattle through the reader.

4. What is the proper coding system of when you lose a tag? Do you put in a different colored tag if the original tag is lost or what if a third tag is needed, is it coded a different way? In Australia, cattle that lost their original premise tag receive a different colored tag. These cattle are already sorted and receive a severe discount at the sale. Why is a producer discounted just because of a lost tag? Is that in intent of our Kansas program? What is the cost benefit in this case?

As you can tell these are just a few questions of several pages of questions that I documented in Kansas City. In KCA's opinion, most of these questions and many more should be answered before you implement such a program.

The Kansas Cattlemen's Assn. is concerned about the added cost of a mandatory program. We are aware that the livestock commissioner is working to get the initial funding for the premise allocation from the State, but who will end up footing the bill in the end: The Producer. In our opinion, there is no cost benefits that can be associated directly back to the producer, yet the producer and the livestock markets will bear the majority of the cost in maintaining the I.D. program that mostly benefits packers and retailers.

The Kansas Cattlemen's Assn. feels the most sensible second step is to establish some practical pilot programs by utilizing some to the \$23.4 million that the USDA is proposing for pilot programs. By running pilot programs within the state of Kansas, we can minimize the learning curve costs that our producers can ill-afford to finance. At the USAIP meeting in Kansas City, members of the beef working group thought this was the most sensible step for a program with so many uncertainties.

Let me remind you that this program is designed to be a closed system with only one proposed use. This information will only be used in time of national crisis to minimize the damage by enabling officials to have complete trace back in 48 hours. Other organizations have suggested that this information could be used in many other areas, but KCA's membership feels this information should be protected to the highest degree. KCA members believe their personal privacy is a right. At this point in time, the intention is not to let just anyone access to this information, but who can say

what the next Livestock Commissioner will do. We need to narrow the degree of interpretation of this bill as best we can to protect the cattle producers from unintended consequences.

So in closing, we support a National I.D. program with the Kansas State Livestock Commission heading up the effort. But, we do have issues with how the bill is worded and feel this bill should be amended. The KCA would like to respectfully submit the following suggested amendments for the Senate Ag. Committee's consideration. To put such a grant of authority in place in its current form would be irresponsible and could raise issues with privacy acts.

Thank you for your time and I now stand for questions.

Doran Junek
Executive Director, Kansas Cattlemen's Association
P.O. Box 251
Brewster, KS 67732
785-694-3468

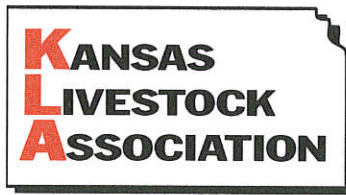
PROPOSED AMENDMENTS
For Substitute for HOUSE BILL No. 2593

On page 1, in line 15, by striking all after "(a)"; in line 16, by striking all before the comma and inserting "In cooperation with the United States Department of Agriculture"; in line 18, by striking all before "premise"; in line 21, by striking all after "(b)"; in line 22, by striking "gram" and inserting "In cooperation with the United States Department of Agriculture"; also in line 22, by striking all after "require"; in line 23, by striking all before "registration"; in line 24, by striking all after "located"; in line 25, by striking all before "as"; in line 30, by striking "implementing the" and inserting "the possible implementation of the federal"; in line 34, after "regulations" by inserting "for premise registration"; in line 36, by striking all after "(c)"; in line 37, by striking "gram" and inserting "In cooperation with the United States Department of Agriculture"; in line 38, by striking "as necessary" and inserting "for premise registration".

DORAN JANEK

Senate Agriculture
March 16, 2004
Attachment 4





Since 1894

TESTIMONY

To: Senate Agriculture Committee
Senator Derek Schmidt, Chairman

From: Todd Johnson, Governmental Affairs Staff

Subject: **Support for Substitute for HB 2593**

Date: March 16, 2004

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seedstock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming.

The Kansas Livestock Association is a strong proponent of Substitute for HB 2593 because it equips the livestock commissioner to engage in a national animal identification system designed to protect the nation's livestock from foreign or domestic animal diseases. The following information from Kansas Agricultural Statistics highlights the size and scope of the Kansas beef industry, and frames the need for such an identification system.

- **1.55 million** – beef cows in Kansas on January 1, 2004
- **6.65 million** – cattle on Kansas ranches and in feedyards on January 1, 2004
- **7.40 million** – cattle processed in Kansas in 2002
- **34,000** – farms with cattle and calves on January 1, 2003
- **\$4.81 billion** – cash receipts from cattle in 2002 (61% of agriculture receipts)

The need for a plan

For the past several years United States animal health officials have discussed the need for a nationwide system to allow rapid tracking of individual animals for disease control purposes. This concept became more formalized upon the organization of a national work group representing some 100 industry, state and federal government professionals representing more than 70 associations. Commissioner Teagarden serves on the Governance Subcommittee.

Neil Hammerschmidt, Animal Identification Coordinator for USDA, reviewed this plan before your committee last week. Today I will reinforce the need for Kansas to engage in this process and address questions raised about HB 2593. I will reference comments made by Scott Charbo, Chief Information Officer, USDA, to the US House of Representatives Agriculture Committee on March 5, 2004 and also the oral statement of Mr. William Hawks, Under Secretary for Marketing and Regulatory Programs before the Senate Committee on Agriculture on March 4, 2004. Mr. Charbo's comments further clarify the state role in a national plan and are more specific than those of Mr. Hawks. Where appropriate, I have referenced both. I have copies of their testimonies if you would like to review them.

Senate Agriculture
March 16, 2004
Attachment 5

Does HB 2593 put Kansas in front of the national plan?

The USAIP is a phased in plan. A target date of July 2004 has been established for states to identify locations that manage or hold cattle. The identification of premises is the foundation of the system and must be established before animals can be tracked. The target date for tracking individual animals in *interstate* commerce is July 2005 and *intrastate* commerce is July 2006. HB 2593 directs the commissioner to work **with** the implementation of a national plan.

Comments from Mr. Charbo *"Our first priority is to get the national premises allocator and repository in place in fiscal year 2004 and begin allocating premise identification numbers to cooperating states, tribes and certain other entities that are ready to register premises."* (See also Hawks page 4, paragraph 8)

It is imperative Kansas be a cooperating state. Kansas competes with other states to attract cattle to our grazing lands and feeding facilities. If we are not engaged in the system, we risk losing business to states that are engaged in the system.

How is the state involved?

HB 2593 directs the commissioner to be consistent with federal provisions in developing and implementing an animal identification program of data collection, animal identification and premise registration. Specifically, the commissioner may require identification of individual animals, herds and lots; registration of premises; and tracking of animal movement within Kansas and animals entering or leaving Kansas.

From Mr. Charbo *"Governance of USAIP is planned as a joint Federal/state responsibility with oversight and input from industry. For example, State governments would maintain a state premises database system, submit premises data to a national premises repository, maintain an intrastate animal movement database, and report interstate movement to a national identification database. In addition, APHIS and individual state animal health entities would ensure uniformity of operation across the United States."*(See also Hawks, page 1, paragraph 6)

Education is Essential

Mr. Hammerschmidt talked about the education process that will be needed to make this program work. Additionally, Mr. Charbo states, *"A major component of implementing a national system will be educating livestock producers and processors as to how the system would operate and their responsibilities. To meet these educational needs... USDA will need to work in concert with States, organizations and other stakeholders."*

HB 2593 authorizes the livestock commissioner to perform any functions necessary in preparation for implementing the animal identification program including public hearings and educational meetings. In addition, the bill directs the commissioner to form study groups representing the various animal species to be affected. These groups will recommend premise definitions, appropriations, and enforcement provisions necessary to administer the program.

Will the program be voluntary or mandatory?

From Mr. Charbo *"USDA plans to move forward with implementation of a national animal identification system in 2004, first on a voluntary basis, and eventually with a requirement for premises and individual identification for all animals."*(See also Hawks, page 3)

Registering premises will take time. Premises registration is the foundation of any animal identification system. Without this component, the program will not work. Kansas has 34,000 farms with cattle and calves alone. When other species are included this number grows substantially. USDA's approach for allowing voluntary participation in the beginning is valid, as it allows buy-in to the program and lets the system develop before becoming mandatory. However, to think the program will not require full compliance in the future is unrealistic. Please note **HB 2593 has no enforcement provisions, so does not make the program mandatory in Kansas before the federal program is ready.**

Are imported animals identified?

Form Mr. Charbo *"Imported animals would also require identification. Our national animal identification system should be compatible with foreign systems to allow for tracking to the export country, so that their identification system could be utilized as well in an animal health emergency."*

Will access to records be restricted?

A priority for KLA members is to ensure individual records not be accessible, without producer consent, to anyone except animal health officials for the purposes of disease control. This has been addressed in HB 2593 by amending the open records act. USDA has also noted this concern and anticipates Federal legislation may be necessary to amend the Freedom of Information Act.

Does authority already exist to implement a program?

The Animal Health Protection Act (AHPA) enables the U.S. Secretary of Agriculture to protect animal health and the economic interests of livestock and related industries. USDA believes these provisions provide the Secretary ample authority to establish and implement either a mandatory or voluntary system of animal identification. Also, the AHPA enables the Secretary to enter into agreements with States or other stakeholder organizations to implement a program. (See Hawks, page 2, paragraph 7)

KSA 47-608 authorizes and directs the livestock commissioner to cooperate with the U.S. Secretary of Agriculture to control and eradicate infectious or contagious diseases among domestic animals. Therefore, the commissioner could implement a plan as needed.

The question can be asked, if both state and federal agencies have authority to implement an identification system, why is legislation needed? In our opinion, a program developed with ample stakeholder input is preferable to a program given to us by a governmental agency. The USAIP has been developed by stakeholder groups over a two-year period, and continues to be fine-tuned. The debate alone on HB 2593 has provided valuable education and awareness of this important program. Having deliberative and open debate is key to success.

What federal funding will be available?

Undersecretary Hawks stated, " We would envision providing some funding through cooperative agreements to states, tribes and the other entities so that they could develop the capacity to interface with the national number allocators and repositories. At this point, we do not envision Federal funding being used for individual animal tags or other such devices, however funding of select electronic readers could be accommodated under the agreements with some cooperators. We envision third party premises allocation would be coordinated with the

state animal health official for the state in which the premises is being allocated. (See Hawks, page 3, paragraph 9 and page 4, paragraph 1-2.)

Action is needed.

There are many questions to be answered about a national animal identification program. However, to think such a program is not on its way, and that Kansas will not need to be part of it is short sighted. Our state must be at the table and provide needed leadership to the process. We owe it to our industry to be responsive. Being absent is unacceptable.

We strongly encourage your committee to take the right step by engaging Kansas today in this process. We ask your committee to act favorably on HB 2593 and ensure its legislative passage.

Thank you for considering this important legislation. I will be glad to stand for questions at the appropriate time.

**STATEMENT OF SCOTT CHARBO
CHIEF INFORMATION OFFICER, U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE COMMITTEE ON AGRICULTURE
U.S. HOUSE OF REPRESENTATIVES
March 5, 2004**

Mr. Chairman and Members of the Committee, thank you for the opportunity to participate in this hearing on a national animal identification system. I am accompanied by Dr. Jim Butler, USDA Deputy Under Secretary for Farm and Foreign Agricultural Services; Nancy Bryson, USDA General Counsel; and Dr. Keith Collins, USDA Chief Economist. Our group was asked by Secretary Veneman to provide recommendations on how to proceed with implementing a national animal identification program. Today, I would like to discuss the purpose and benefits of a national animal identification system, provide an overview of the current status of animal identification systems and present USDA's plan for implementation of a national identification system.

Background on animal identification systems

The advent of increased animal disease outbreaks around the globe over the past decade, especially the recent BSE-positive cow found in Washington State, have intensified the public interest in developing a national animal identification program for the purpose of protecting animal health.

Livestock identification was first used to indicate ownership and deter theft. Then, in the early 1960s, USDA's Animal and Plant Health Inspection Services (APHIS) began using tags, tattoos, and brands to meet statutory regulations to trace the movements of animals during disease outbreaks and for eradication programs. Today, the purpose of animal identification systems remains primarily to address veterinary and animal health issues. Most individuals associated with livestock recognize that early identification of animal disease can contain and

reduce the costs associated with a disease outbreak. Other benefits of a national animal identification system in addition to animal health include facilitating value-added production and marketing programs. However, it is important to point out that no animal identification program by itself will prevent an introduction of animal disease, ensure safe food or prevent a recall.

U.S. programs. While there is currently no nationwide animal identification system in the United States for all animals of a given species, some segments of certain species are required to be identified as part of current program disease eradication activities. In addition, some significant regional voluntary identification programs are in place, and others are currently being developed and tested. Over the past several years, USDA has supported several state or state sponsored animal identification programs. For example, either through cooperative agreements or research grants, APHIS and the Cooperative State Research, Education, and Extension Service (CSREES) have funded projects in Alabama, Iowa, Kansas, Michigan, Montana, New Mexico, Texas, Utah, and Wisconsin. In addition, a number of states have contacted USDA and expressed interest in developing and testing animal identification systems.

The investments made by USDA in identification projects as well as private sector investments in these and other projects have generated data and experience that provide a platform on which to build a national system. As an example, the National Farm Animal Identification and Records (FAIR) Program is an animal identification program supported by the USDA's APHIS and the Holstein Association USA, Incorporated, a non-profit breed registry organization led by dairy producers. Administered by the Holstein Association, FAIR provides the infrastructure and information system that allows for both premises of origin determination and animal tracking through two unique numbers. The first number is a premises number with a unique number assigned to each production unit for participating premises. The second number

is an animal number, which uses the American Identification Numbering (AIN) System to assign an official number for each animal. FAIR uses either a visible or an electronic identification tag to track animals from farm to market, and market to slaughter. As of February 25, 2004, almost 8,200 farms were participating in FAIR. Of this total, 1,500 farms had animals with electronic identification tags. While FAIR is a national program, over 80 percent of the farms with enrolled animals and over 90 percent farms with animals using electronic identification tags are in Michigan.

Another example is the State of Michigan, which launched an Electronic Identification (EID) Program as a pilot project in November 2001 as part of the State's bovine tuberculosis (TB) eradication plan. The program was developed and implemented through a cooperative agreement from APHIS. EID uses a tag imbedded with a radio frequency identification device (RFID) and marked with a unique, individual number that will not be duplicated. The project made tags available to producers at no charge in the Northeast Lower Peninsula or those with accredited herds. As of 2002, 432 herds, representing 17,000 individual animals, had been TB tested and tagged with RFID tags. Each RFID tag is linked to a database that includes information specific to that animal, including date of birth, sex, and type/species. EID is also tied to the FAIR Program to ensure accurate individual animal identification, tracking and coordination of TB test results and herd status.

APHIS also provided funding for the Wisconsin Livestock Identification Consortium initiative, an industry managed and controlled information system. The Consortium's program, the Animal Identification and Information System, commonly referred to as A-II, was designed in collaboration with the Wisconsin Department of Agriculture, Trade and Consumer Protection and USDA. The goals of the Wisconsin livestock identification project are to: produce a fully

operational, scalable livestock identification and information system; provide the basis for an system to cover all major livestock species; support a national system through compatible regionalized data systems in partnership with added-value service providers; demonstrate the feasibility of providing a new service integral to obtaining value from identity-preserved livestock products; provide information on how to enhance the marketing of livestock products; and serve as a model for public/private partnerships that serve both the producer's added-value programs and that of the regulatory agencies.

In addition to programs directly funded by USDA, a more comprehensive U.S. animal identification plan has been developed by an industry-state-Federal partnership including more than 100 animal industry and state and Federal government professionals representing more than 70 associations. This plan is the United States Animal Identification Plan (USAIP). While implementation details of the plan are still being worked on, the USAIP describes an information system and infrastructure to enable the identification of all animals and premises potentially exposed to an animal with a disease of concern within 48 hours. .

The USAIP identifies four key data elements that require standards: (1) a uniform premise identification system; (2) a uniform and nationally recognized individual animal identification numbering system; (3) a uniform and nationally recognized numbering system for groups or lots of animals; and (4) a uniform numbering system for non-producer participants (such as tag distributors, animal health officials, laboratories, processing plants).

Under USAIP, the information system uses identification of each premise and the recording of U.S. Animal Identification Numbers and U.S. Group/Lot Identification Numbers. USAIP then associates the animal ID data to each premises where the animals or group are located and the specific dates an animal was at a location. Species specific working groups are

currently working within the framework of the USAIP to develop animal identification implementation details for: bison, beef cattle, dairy cattle, swine, sheep, goats, camelids (alpacas and llamas), horses, cervids (deer and elk), poultry, and aquaculture. While USAIP suggests the potential use of alternative technologies to identify animals if appropriate standards are established, the focus is to foster the adoption of national standards for the use of RFID devices in animals.

Governance of USAIP is planned as a joint Federal/state responsibility with oversight and input from industry. For example, State governments would maintain a state premises database system, submit premises data to a national premises repository, maintain intrastate animal movement database, and report interstate movement to an national identification database. The USDA would allocate U.S. Animal Identification Numbers, administer the national premises repository, including the allocation of premises numbers, and administer the national animal identification database. In addition, APHIS and individual state animal health entities would ensure uniformity of operation across the United States. The USAIP notes that costs would be substantial and recommends both public/private funding to cover the cost of the program.

The United States is not alone in developing animal identification systems. Most developed countries have either already adopted or are planning to adopt some system to identify and trace the movement of livestock within their borders.

EU experience. The European Union (EU) has adopted the most comprehensive program of animal identification and tracking. Under EU rules, the basic objective of animal identification and tracking is to control infectious diseases. However, different identification and registration systems apply to different types of livestock. Depending on the individual needs of

the different species, those systems include several elements like identifiers, registers, or passports.

Illustrative of the EU system is the current system operating in the United Kingdom (UK) for cattle. The British Cattle Movement Service (BCMS) is the agency that is responsible for cattle tracing for Great Britain. The four elements of the cattle identification and registration system are: tagging (cattle must have a unique number); farm records (records of cattle births, imports, movements and deaths); passports (recording where cattle have been throughout their lives); and inclusion in the cattle trace scheme (CTS).

CTS records the identification and death of cattle, the movements from birth to death of cattle issued with passports (since 1998), and the movements of older cattle (since 2001). However, electronic tagging of cattle is not compulsory within the EU or UK. The Government plans to recover the costs of running the CTS from industry beginning April 2004 at the earliest.

Other animals in the UK are not part of the CTS but must be identified. For example, pigs under 1 year of age moving direct to slaughter and pigs over 1 year of age moving to any destination must be identified with a slap mark on each shoulder area of the pig. Sheep are also required to be identified and the UK's Department of Environment, Food and Rural Affairs intends to run a pilot to test the effectiveness of electronic tracing in a real time environment within the sheep industry. The pilot was set to begin in December 2003 and run through December 2004 with a report due February 2005.

Canadian experience. The Canadian Cattle Identification Program is an industry-led initiative to promote beef consumption through assurance of efficient traceback and containment of serious animal health and food safety problems. The program is administered by the non-governmental Canadian Cattle Identification Agency (CCIA), which is led by a Board of

Directors made up of representatives from all sectors of the cattle industry and the government. The program is regulated and enforced by the Canadian Food Inspection Agency (CFIA). In the event of a health or safety issue, the CFIA is given access by the CCIA to the record of the herd of origin.

Unlike the UK program, there is no requirement that cattle movements be identified from birth to death. Rather, under the Canadian program, a unique national identification ear tag is applied by the time an animal leaves the herd of origin. Currently there are 29 approved tag options for use in the Canadian Cattle Identification Program (including 27 bar-coded plastic dangle tags and 2 electronic button tags). However, on January 1, 2005, the CCIA is moving to electronic tags (radio frequency). The program applies to all bovine and bison animals.

Canada also implemented a Canadian Sheep Identification Program on January 1, 2004. This program is also an industry-led initiative (Canadian Sheep Federation). Under this program, producers must apply an approved national ID ear tag (bar-coded tags are not required) to all lambs born on their premises before they leave the farm, and to ensure that all ovine animals bear an approved tag before they leave the premises. Unlike the cattle program, the sheep program requires sheep producers to keep records of the movement of animals. This decision was made mainly to keep costs low for producers by not requiring bar-coded tags.

Australian experience. Australia has also developed a National Livestock Identification Scheme (NLIS) for identifying and tracing livestock. The NLIS uses machine-readable RFIDs. NLIS approved devices come in the form of an ear tag or rumen bolus/ear tag combination. Cattle identified with NLIS devices can be electronically read as they move through the livestock chain. At time of reading, each owner's property identification code, similar to the premises ID proposed in the US system, can be recorded and linked to the NLIS device. This transaction

information is then stored in the secure central NLIS database. While the program is voluntary, all state and territory governments, together with industry, have agreed to aim for the introduction of the NLIS by July 1, 2004. State governments underpin NLIS with legislation governing the use of NLIS devices and some states specify penalties for misuse. Australia also has developed a voluntary National Flock Identification Scheme (NFIS) for the permanent identification of sheep and lambs. NFIS relies on visually readable ear tags printed with property identification codes and do not contain a RFID. It is the aim of all state and territory governments to introduce the NFIS by July 1, 2005.

In addition to animal health, another reason Australia opted for NLIS is to facilitate access to European market. To supply to the EU, a producer must be accredited under the government's European Union Cattle Accreditation Scheme (EUCAS). Accreditation requires a series of conditions to be met relating to the eligibility of cattle, the introduction of cattle, and the use of Hormonal Growth Promotants. In addition, producers must use NLIS tags or rumen boluses and interact with the NLIS database to provide full and accurate records of the status and location of their EU accredited cattle.

Lessons learned. There are a number of important lessons that have been learned from the work that has been ongoing both within the United States and the rest of the world.

First, it is critically important to get support from industry as we shape an animal identification system for the United States. It is clear from experiences from across the United States and in other countries that producers recognize the need for and are willing to help in designing an appropriate animal identification system.

Second, there is no "one size fits all" technology. It is likely that some technologies will work better for some species than for others. Rather than focus on a specific technology, we

should focus on the design of the identification system. What information should be collected and when should it be collected? Once the identification system is designed, the market will determine which technologies will be the most appropriate to meet the needs of the system.

Third, both public and private funding will be required for any system to become fully operational. Databases must be maintained, programs must be monitored, and equipment must be purchased. Most countries receive support from their governments in developing and maintaining their identification systems.

Issues to consider in scaling to a national system

We believe that in designing a U.S. system important factors to consider are the diversity and complexity of our animal industries and the lack of experience with animal identification for a large number of U.S. producers. This extreme diversity and complexity makes immediate scaling up of current projects that have been funded by USDA difficult if not impossible until a thorough evaluation of those projects for potential use on a national scale and for a significantly broader scope than initially tested can be conducted. While many dairy producers use individual animal identification for production management purposes, there were 95 million cattle and calves in the United State on January 1, 2004, and only 9.0 million were dairy cows. The number of cattle and calves far exceeds those in the U.S. pilot programs and identified in the foreign country ID systems that were described earlier. Although cattle production varies regionally, cattle and calves are produced in every State. Texas ranks as the nation's leading producer of cattle and calves with 14 million head on January 1, 2004. Other States ranking among the top 5 cattle and calf producing States include: Kansas (6.65 million head), Nebraska (6.25 million head), California (5.2 million head), and Oklahoma (5.1 million head). One-third of all cattle and calves on January 1, 2004, were located in the top 5 producing States.

Of the 95 million head of cattle and calves in the United States on January 1, 2004, a total of nearly 14 million head of cattle and calves were on feed in feeding operations on January 1, 2004. In 2003, nearly 38 million head of calves were born, which would determine the number of new individual cattle identification numbers, along with cattle imports, that would have to be issued each year when the program is fully implemented. Some of these animals die on farms. About 4 million head of cattle and calves were estimated to die due to disease, predators, and other causes in 2003.

Imported animals would also require identification. In 2002, 2.5 million head of cattle and calves were imported into the United States. Imports from Canada accounted for two-thirds of total imports in 2002 and the remaining one-third were imported from Mexico. The finding of BSE in a cow in Canada on May 20, 2003 resulted in a ban on imports of cattle, calves, and beef from Canada. On August 8, 2003, USDA announced conditions for resuming imports of certain beef products from Canada. Imports of cattle and calves from Canada continue to be restricted. Reflecting this restriction, U.S. imports of cattle and calves dropped to 1.5 million head during the first 11 months of 2003, with Mexico comprising about two-thirds of all imports. Our national animal identification system should be compatible with foreign systems to allow for tracking to the export country, so that their identification system could be utilized as well in an animal health emergency.

An identification system would also account for exports and the United States exported nearly 450,000 head of cattle and calves in 2001, with about two-thirds of all exports going to Canada and about one-third going to Mexico. Over the past two years, the U.S. supply of feeder cattle has tightened and exports of cattle and calves have fallen off sharply. In 2002, U.S. exports of cattle and calves dropped to 244,000 head and declined to 94,000 head through the

first 11 months of 2003. The confirmation of a BSE in Washington State on December 23, 2003 has caused importing countries to restrict the importation of cattle and calves and beef products from the United States.

The complexity of implementing an identification system is also evidenced by the existence of 1.03 million cattle and calf producers located in all 50 States in 2003, with about 0.9 million cow-calf producers. Three-fifths of U.S. cattle producers had fewer than 50 head and 99 percent had fewer than 1,000 head. Fifteen percent of all cattle and calf producers are located in Texas. Only two other States had more than 50,000 cattle and calf producers in 2003—Oklahoma and Missouri. Thirty-four States have more than 10,000 producers.

The national identification system must also accommodate the nation's 95,189 cattle feeding operations that operated in 2002. Ninety-eight percent of these feedlots have less than 1,000 head capacity and are primarily located in the Corn Belt. On average, feedlots with less than 1,000 head capacity marketed about 40 head per year. The 2,189 feedlots with capacity of 1,000 head or more accounted for over 86 percent of all cattle marketed from feedlots in the United States in 2002.

The U.S. hog industry is also interested in participating in a national system at the outset. This industry, too, presents a challenge due to its size and complexity. The U.S. had 60.0 million hogs on December 1, 2003. In 2003, 100.4 million head were born, about 7 million head were estimated to die due to disease, predators, and other causes and 100 million head of hogs were slaughtered. Hogs are produced in every State. Iowa ranks as the nation's leading producer of hogs with 15.8 million head on December 1, 2003. Other States ranking among the top 5 hog producing States include: North Carolina (9.9 million head), Minnesota (6.4 million head),

Illinois (4.0 million head), and Indiana (3.1 million head). Nearly two-thirds of all hogs on December 1, 2003 were located in the top 5 producing States.

In 2003, 7.1 million head of hogs were imported into the United States essentially all of which were imported from Canada. The United States is not a major hog exporter.

In 2002, there were 75,350 hog producers located in all 50 States. Two-fifths of these producers had fewer than 99 head and 57 percent had fewer than 500 head. In contrast, 0.1 percent (110 operations) of hog producers had 50,000 or more head. These large producers accounted for nearly 50 percent of all hogs marketed in 2002. Thirteen percent of all hog producers are located in Iowa followed by Minnesota with 8 percent and Illinois with 6 percent.

The U.S. sheep industry is another priority species for participation in a national identification system. On January 1, 2004, there were 6.1 million head of sheep and lambs on farms. The 2003 lamb crop was 4.1 million head in 2003, which was a new record low. In 2002, 3.4 million head of sheep and lambs were slaughtered in the United States. The number of sheep and lambs has trended downward since peaking at 56.2 million head in 1942. Sheep and lambs are produced in nearly every State. Texas ranks as the nation's leading sheep and lamb producer with inventory of 1.1 million head on January 1, 2004. The other top 5 States include California (0.7 million head), Wyoming (0.4 million head), South Dakota (0.4 million head), and Colorado (0.4 million head).

In 2002, there were 64,170 sheep and lamb producers. About 10 percent or 6,800 sheep and lamb producers were located in Texas in 2002 and another 4,600 producers were located in Iowa. Other States with over 3,000 sheep and lamb producers in 2002 included Ohio and Oregon.

In addition to the diversity and complexity of the U.S. livestock industries, there are many nonproducers that must participate in a national identification system. For example, there were 3,233 U.S. livestock slaughter plants in 2003, of which 879 were under Federal inspection. Most of these plants slaughter fewer than 1,000 head annually. Three-fourths of the cattle slaughter plants, nearly two thirds of the hog slaughter plants, and 85 percent of the sheep and lamb slaughter plants slaughtered fewer than 1,000 head of each species and these plants accounted for less than 1 percent of total slaughter. In contrast, the Federally inspected plants that slaughtered over 1 million head of each species accounted for over 50 percent of total cattle slaughter and 88 percent of hog slaughter in 2002.

USDA also estimates there are 7,775 posted stockyards, bonded dealers and market agencies involved in the buying, selling, and marketing of livestock in the United States, and many of these would have to report in a national identification system that kept track of animal movement. Some of these stockyards, dealers, and market agencies may deal exclusively with species other than cattle and calves.

In addition to the large numbers of animals, producers and nonproducers that must be accounted for in a national system, there is also a decided lack of experience with individual animal identification in the United States, and where it exists, the systems used are quite diverse. A large number of producers, especially cow-calf operators, do not currently individually identify their animals. Thus, a major component of implementing a national system will be educating livestock producers and processors as to how the system would operate and their responsibilities.

Under a national animal identification system, producers and processors would be responsible for registering animals and recording their movement over an animal's lifespan. It is

envisioned that each animal would be identified, and its movements would be catalogued through time. Producers, marketers and livestock processors would have to be educated on the premise and livestock numbering systems, the technologies for recording an animal's movements, and other aspects of the program. To meet the educational needs of livestock producers and processors, USDA will need to work in concert with States, organizations, and other stakeholders.

Another issue is the authority of USDA to implement a national identification system. The Animal Health Protection Act (AHPA) was enacted to enable the Secretary of Agriculture to prevent, detect, control, and eradicate diseases and pests of animals in order to protect animal health, the health and welfare of people, economic interests of livestock and related industries, the environment, and interstate and foreign commerce in animals and other articles. The AHPA gives the Secretary a broad range of authorities. The Secretary is specifically authorized to carry out operations and measures to detect, control, or eradicate any livestock pest or disease. The Secretary may also prohibit or restrict the importation, entry, or interstate movement of any animal, article, or means of conveyance to prevent the introduction into or dissemination within the United States of any livestock pest or disease. The Secretary also has authority to cooperate with other Federal agencies, States, or political subdivisions of States, national or local governments of foreign countries, domestic or international organizations or associations, Indian tribes and other persons for the purpose of detecting, controlling, preventing, or eradicating any livestock pest or disease.

A system of animal identification could facilitate the detection, prevention, control, and eradication of pests and diseases of livestock. We believe the provisions of the AHPA authorizing the Secretary to carry out operations and measures to detect, control, or eradicate

livestock pests or disease provide the Secretary with ample authority to establish and implement either a mandatory or voluntary system of animal identification. Also, the AHPA enables the Secretary to enter into agreements with States or other stakeholder organizations to implement either a mandatory or voluntary animal identification program.

A national animal identification system would provide information on animal numbers by location and the movement of those animals over their lifespan. The potential disclosure of individual producer and processing plant information gives rise to concerns about the accessibility and the confidentiality of the individual records contained in a national animal identification database. Under the Freedom of Information Act, agency records are accessible to the public. However, agency information contained in a database that would reveal confidential business information is not accessible to the public under the Freedom of Information Act. Another concern is whether Federal agencies could access information in the national animal identification database for their program purposes.

Uncertainty over the confidentiality and accessibility of information in a national animal identification database may cause some livestock producers and processors to delay participation in a national animal identification system until these issues have been resolved. Federal legislation addressing the confidentiality and accessibility of information in a national animal identification database may be needed to address the concerns of livestock producers and processors and expedite the implementation of a national animal identification system.

USDA's goal for a national animal identification system

Our goal is to create an effective, uniform, consistent, and efficient national system. We believe this goal can be achieved by adhering to several key objectives.

First, the system should allow producers, to the extent possible, the flexibility to use current systems or adopt new ones. Producers should not be burdened with multiple identification numbers, systems, or requirements.

Second, this flexibility can best be achieved by having a system that is technology neutral, so that all existing forms of effective technologies and new forms of technologies that may be developed in the future may be utilized. In this regard, we also expect successful pilot programs, particularly those USDA has funded to date, will play an important role in scaling up during the transition period to a full national program.

Third, the national identification system should use and build upon the excellent data standards developed by the USAIP. Provisions to ensure data confidentiality are an essential part of this objective.

Fourth, the system must not preclude producers from being able to use it with production management systems that respond to market incentives. We want a system that will be compatible with the alternative management programs now being used to improve animal health and quality.

Fifth, the architecture for the national identification system must be designed so that the system does not unduly increase the role and size of the government. The President's budget proposal for fiscal year 2005 requests \$33 million to fund that year's activities for system implementation. No funds have been appropriated for fiscal year 2004. Since we plan to initiate implementation during fiscal year 2004, we are considering alternative methods of funding.

Phased implementation plan for a U.S. system

USDA plans to move forward with implementation of a national animal identification system in 2004, first on a voluntary basis, and eventually with a requirement for premises and

individual identification for all animals. Although we are still developing our specific timeline for implementation and deciding on a funding mechanism, we can provide some preliminary and general indications of activities for 2004. Our implementation would begin with an assessment this winter and spring of the existing premises and animal number allocation systems now in use. This review would identify, validate and verify the capabilities of current systems in operation and determine the capacity of any of these systems to serve as a national premises and animal number allocator and repository. Based on that review, we would select the most promising infrastructure to fund to develop the national premises allocation number and repository system and an animal identification allocation number and repository system.

Our first priority is to get the national premises allocator and repository in place in fiscal year 2004 and begin allocating premise identification numbers to cooperating states, tribes and certain other entities that are ready to register premises. We would envision providing some funding through cooperative agreements to states, tribes and the other entities so that they could develop the capacity to interface with the national number allocators and repositories. Once cooperators have integrated with the national systems and premises are being registered, we would be in position to issue animal identification numbers to producers through these early cooperators.

The technologies used by producers and nonproducers to identify and track movements of animals would be worked out through the cooperative agreements with the input of states, animal health officials, producers, and industry; USDA plans to be technology neutral. Our interests are in setting information standards, developing a database system to which states and other entities can readily connect, and receiving data from these entities. At this point, we do not envision any significant Federal funding being used for individual animal tags or other such

devices, however, funding of select electronic readers could be accommodated under the agreements with some cooperators. We envision third party premises allocation would be coordinated with the state animal health official for the state in which the premises is being allocated.

Starting in fiscal year 2004, we would also focus on identifying and qualifying third parties, such as private industry and trade associations, that have identification products or programs, so they could be integrated into the national system. In early fiscal year 2005, we would then be in a position to issue premise and animal identification numbers to third parties and to begin receiving information from third parties into the system.

Many issues must be resolved before we can accomplish the tasks just identified for 2004 and beyond. We look forward to working with the nation's producers, industry, animal health officials, state governments, the USAIP Steering Committee and the Congress to successfully achieve a national animal identification system.

Thank you and we would be pleased to respond to any questions you may have.

**ORAL STATEMENT OF WILLIAM HAWKS
UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS
BEFORE THE COMMITTEE ON AGRICULTURE,
NUTRITION AND FORESTRY
SUBCOMMITTEE ON MARKETING,
INSPECTION AND PRODUCT PROMOTION
U.S. SENATE**

March 4, 2004

Mr. Chairman and Members of the Committee, thank you for the opportunity to participate in this hearing on a national animal identification system.

The advent of increased animal disease outbreaks around the globe over the past decade, especially the recent BSE-positive cow found in Washington State, have intensified the public interest in developing a national animal identification program for the purpose of protecting animal health.

While there is currently no nationwide animal identification system in the United States for all animals of a given species, some segments of certain species are required to be identified as part of current program disease eradication activities. In addition, some significant regional voluntary identification programs are in place, and others are currently being developed and tested.

The investments made by USDA in identification projects as well as private sector investments in these and other projects have generated data and experience that provide a platform on which to build a national system. As an example, the National Farm Animal Identification and Records (FAIR) Program is an animal identification program supported by the USDA's APHIS and the Holstein Association USA, Incorporated, a non-profit breed registry organization led by dairy producers. APHIS also provided funding for the Wisconsin Livestock Identification Consortium initiative, an industry managed and controlled information system.

In addition to programs directly funded by USDA, a more comprehensive U.S. animal identification plan has been developed by an industry-state-Federal partnership including more than 100 animal industry and state and Federal government professionals representing more than 70 associations. This plan is the United States Animal Identification Plan (USAIP). While implementation details of the plan are still being worked on, the USAIP describes an information system and infrastructure to enable the identification of all animals and premises potentially exposed to an animal with a disease of concern within 48 hours. .

Species specific working groups are currently working within the framework of the USAIP to develop animal identification implementation details for: bison, beef cattle, dairy cattle, swine, sheep, goats, camelids (alpacas and llamas), horses, cervids (deer and elk), poultry, and aquaculture. Governance of USAIP is planned as a joint Federal/state responsibility with oversight and input from industry. The USAIP notes that costs would be substantial and recommends both public/private funding to cover the cost of the program.

The United States is not alone in developing animal identification systems. Most developed countries have either already adopted or are planning to adopt some system to identify and trace the movement of livestock within their borders. The European Union (EU) has adopted the most comprehensive program of animal identification and tracking. The Canadian Cattle Identification Program is an industry-led initiative to promote beef consumption through assurance of efficient traceback and containment of serious animal health and food safety problems. Australia has also developed a National Livestock Identification Scheme (NLIS) for identifying and tracing livestock.

There are a number of important lessons that have been learned from the work that has been ongoing both within the United States and the rest of the world.

First, it is critically important to get support from industry as we shape an animal identification system for the United States. Second, there is no “one size fits all” technology. Third, both public and private funding will be required for any system to become fully operational.

Issues to consider in scaling to a national system

We believe that in designing a U.S. system important factors to consider are the diversity and complexity of our animal industries and the lack of experience with animal identification for a large number of U.S. producers. This extreme diversity and complexity makes immediate scaling up of current projects that have been funded by USDA difficult if not impossible until a thorough evaluation of those projects for potential use on a national scale and for a significantly broader scope than initially tested can be conducted.

In addition to the large numbers of animals, producers and nonproducers that must be accounted for in a national system, there is also a decided lack of experience with individual animal identification in the United States, and where it exists, the systems used are quite diverse. A large number of producers, especially cow-calf operators, do not currently individually identify their animals. Thus, a major component of implementing a national system will be educating livestock producers and processors as to how the system would operate and their responsibilities. To meet the educational needs of livestock producers and processors, USDA will need to work in concert with States, organizations, and other stakeholders.

Another issue is the authority of USDA to implement a national identification system. The Animal Health Protection Act (AHPA) was enacted to enable the Secretary of Agriculture to prevent, detect, control, and eradicate diseases and pests of animals in order to protect animal health, the health and welfare of people, economic interests of livestock and related industries, the environment, and interstate and foreign commerce in animals and other articles. The AHPA gives the Secretary a broad range of authorities. We believe the provisions of the AHPA provide the Secretary with ample authority to establish and implement either a mandatory or voluntary system of animal identification.

A national animal identification system would provide information on animal numbers by location and the movement of those animals over their lifespan. The potential disclosure of

individual producer and processing plant information gives rise to concerns about the accessibility and the confidentiality of the individual records contained in a national animal identification database. Federal legislation addressing the confidentiality and accessibility of information in a national animal identification database may be needed to address the concerns of livestock producers and processors and expedite the implementation of a national animal identification system.

USDA's goal for a national animal identification system

Our goal is to create an effective, uniform, consistent, and efficient national system. We believe this goal can be achieved by adhering to several key objectives.

First, the system should allow producers, to the extent possible, the flexibility to use current systems or adopt new ones. Second, this flexibility can best be achieved by having a system that is technology neutral, so that all existing forms of effective technologies and new forms of technologies that may be developed in the future may be utilized. Third, the national identification system should use and build upon the excellent data standards developed by the USAIP. Fourth, the system must not preclude producers from being able to use it with production management systems that respond to market incentives.

Fifth, the architecture for the national identification system must be designed so that the system does not unduly increase the role and size of the government. The President's budget proposal for fiscal year 2005 requests \$33 million to fund that year's activities for system implementation. No funds have been appropriated for fiscal year 2004. Since we plan to initiate implementation during fiscal year 2004, we are considering alternative methods of funding, including emergency funding from the Commodity Credit Corporation.

Phased implementation plan for a U.S. system

USDA plans to move forward with implementation of a national animal identification system in 2004, first on a voluntary basis, and eventually with a requirement for premises and individual animal identification for all animals. Although we are still developing our specific timeline for implementation and deciding on a funding mechanism, we can provide some preliminary and general indications of activities for 2004.

Our implementation would begin with an assessment this winter and spring of the existing premises and animal number allocation systems now in use. Based on that review, we would select the most promising infrastructure to fund to develop the national premises allocation number and repository system and an animal identification allocation number and repository system.

We believe these national systems could be in place by late summer to begin allocating premise identification numbers to cooperating states, tribes and certain other entities that are ready to register premises. We would envision providing some funding through cooperative agreements to states, tribes and the other entities so that they could develop the capacity to interface with the national number allocators and repositories. At this point, we do not envision Federal funding

being used for individual animal tags or other such devices, however, funding of select electronic readers could be accommodated under the agreements with some cooperators. We envision third party premises allocation would be coordinated with the state animal health official for the state in which the premises is being allocated.

During the summer and into the fall, we would also focus on identifying and qualifying third parties, such as private industry and trade associations, that have identification products or programs, so they could be integrated into the national system by late fall. By late fall, we would then be in a position to issue premise and animal identification numbers to third parties and to begin receiving information from third parties into the system.

Many issues must be resolved before we can accomplish the tasks just identified for 2004 and beyond. We look forward to working with the nation's producers, industry, and the Congress to successfully achieve a national animal identification system.

Thank you and we would be pleased to respond to any questions you may have.



Kansas Farm Bureau

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PUBLIC POLICY STATEMENT

Senate Committee on Agriculture

RE: Sub. for HB 2593 – an act concerning agriculture; relating to animal identification program

**March 16, 2004
Topeka, Kansas**

**Presented by:
Brad Harrelson, Associate State Director
KFB Governmental Relations**

Chairman Schmidt and members of the committee, thank you for the opportunity to provide comments on Substitute for House Bill 2593. I am Brad Harrelson, Associate State Director of Governmental Relations for the Kansas Farm Bureau (KFB). KFB is the state's largest general farm organization and represents more than forty thousand agricultural producer families through the 105 county Farm Bureau Associations across Kansas.

As producers of livestock, our members acknowledge and appreciate the vital importance of animal disease control. In light of the events of December 23, 2003 where a single case of BSE was confirmed in Washington State, an elevated awareness for the need of an effective tracking system for livestock was recognized. Subsequently, increased support and urgency for a reliable program was understood by the industry.

For the most part, our members view this as an issue of national importance and relevance. As such, Kansas Farm Bureau supports policy on livestock identification as adopted by the American Farm Bureau Federation. That policy statement is as follows:

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We support the establishment and implementation of a national animal identification system capable of providing support for animal disease control and eradication, as well as enhancing food safety. A cost effective national system of livestock identification, with adequate cost share among government, industry and producers, should be established and regulated by an advisory board of producers, processors and USDA. Any such program must protect producers from liability for acts of others after livestock leaves the producers' hands, including nuisance suits naming everyone who handled particular livestock. The program should ensure the security of producer information and respect the privacy of producers by only collecting data necessary to establish a traceback system.
AFBF Policy # 105

As emphasized by Secretary Veneman, USDA, we accept that a national program is forthcoming. It is our understanding that a national animal ID plan is under development and that it is a cooperative effort between the U.S. government, national and state animal health officials, the livestock industry and many other stakeholders. We believe this is the best approach. It is also our understanding that ultimately, individual states will be asked to provide an integral role in implementation of that plan. If that is the case, we feel it is important on behalf of Kansas livestock producers that the state have a role in development, coordination and implementation of the program.

As previously stated, our members are concerned about the associated cost to producers and their ability to comply with the program. Not only are there proposed costs for program implementation through registration fees, there will be per head costs for individual animal identification such as ear tags and tag reading equipment. While we can accept reasonable producer costs to support an effective program, contribute to overall food safety efforts, and maintain consumer confidence, we believe costs should be balanced and shared among all others who ultimately benefit. The public good, which will certainly be enhanced by this program should be considered when determining who pays the bill. We would suggest that it is appropriate for State General Funds be made available to apply to any state costs associated with running the program.

Also of deep concern to our members is the confidentiality of the information provided. Any data collected to comply with an animal ID program must be maintained and used solely for the purpose of animal disease prevention and control.

We have been actively engaged in discussion with other producer groups and the Animal Health Commissioner as this bill has evolved. It is our belief that the current language best serves the industry and addresses most all concerns of

those involved. Some opponents will attempt to suggest that this legislation is premature and is unnecessary prior to a national plan being adopted. We however, believe this bill is necessary and provides the essential framework for the Animal Health Department to prepare for ultimate premise and animal identification.

Others, will also suggest that implementation of country of origin labeling should take priority to animal identification. It should be clear that animal identification is strictly a disease control program and is not to be confused with a marketing program. The ability for animal trace back in the control and eradication of animal disease is of the utmost importance and urgency.

In conclusion, Kansas Farm Bureau supports the development and implementation of a national livestock ID program. To the extent that state involvement is beneficial to that effort, we urge your favorable passage of Sub. for HB 2593. Thank you for the opportunity to speak to you today.

SENATE AG COMMITTEE
HEARING ON HB 2593
MARCH 16, 2004
Testimony by Ken Winter

Thank you for the opportunity to speak before the Senate Ag Committee. My name is Ken Winter. I am involved, with family, in livestock auction markets in Kansas, Colorado, and Oklahoma. We have a 30,000 head commercial feed yard in Dodge City, Ks and a dry-land farm and ranch in Finney County, Ks. My family has been involved in the cattle business in the state of Kansas for over 115 years. The sixth generation of cattlemen from our family is currently learning the ropes. I am here to voice concerns that our customers and I have concerning this bill relating to animal identification in the State of Kansas.

I have had numerous conversations with customers of our auction markets, feed yard, and several unsolicited phone conversations concerning Animal I.D. I have yet to hear from **anyone** in favor of it. What I have noticed is that there is a lot of misunderstanding of just what an I.D. program will accomplish, who will pay for it, what information the producer will receive from it, and of top concern...who has control over the information.

I went to the legislative web site to get a copy of the bill and right away noticed that it was being represented as a "food safety" act and as a means of "preventing disease". As I understand the comments of the U. S. Secretary of Agriculture, she is asking for a 48-hour **trace-back** system. I also know that there is a group of people, from various industries, that have been working on a trace-back system for over two years and have yet to come up with an acceptable system. Animal I.D. will not prevent disease any more than the Social Security System prevents disease.

Animal I.D. will undoubtedly cost the producers not only for implementation fees, and purchases of tags and equipment but also unmanageable expenses involved with handling of their livestock such as; mishandling of the animals, weight loss, bruises, and crippling. Every time you handle livestock, you do your best to reduce these expenses and therefore handle them as infrequently as possible. As auction market operators, we also see this bill as putting undue expense and shrink on our customer's cattle and in effect driving business away from the markets to avoid these expenses and shrink. Also, if this program is not consistent with the surrounding states it could cause cattle moving to market or feed yards to chose an adjoining state with less restrictive requirements and expenses in which to do business.

A final concern that I will leave with you is this program is being put into the hands of an individual, who for all practical purposes, is appointed by a political organization. This individual is to "**develop** and **implement** an animal identification program...is authorized to perform **any** functions necessary...**prior to** implementation of a federal animal identification program". My question is, do we have the cart before the horse? I want to note that I have a high regard for the current Livestock Commissioner based on personal contact and fellow cattlemen who have worked with him over the years. But he is just

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that, the current commissioner, as an appointee the next commissioner may not be as credible.

Put yourself in my boots. Would you give unlimited authority to someone who is appointed by a political action group, that may or may not espouse your views, to hire someone who may or may not understand your business, to come on your business site, identify where you do business, prescribe how you will do business, charge fees accordingly, and leave with that information in hand, under the pretext that they are doing what they think the federal guidelines will require?

I believe that this bill needs much more thought and coordinated effort between various livestock entities before it is passed and would encourage you to seriously consider how you would respond to similar action being brought upon an industry that you are personally associated with.

Thank you for the opportunity to speak before this committee.

Respectfully,

Ken Winter
P.O. Box 115
Dodge City, Ks 67801
620-225-4128 Office
kww@winterfeedyard.com

SENATE AGRICULTURE COMMITTEE

Testimony by David Pfrang

House Bill 2593

March 16, 2004

Mr. Chairman and Members of the Committee,

My name is David Pfrang. I'm an independent cattle producer from Goff, KS up in Nemaha County. I'm one of the very few remaining producers left who raises cattle from start to finish at home. I've got a few things that I'd like to say and ask about individual animal identification.

An animal ID system was designed to be effective **after** the fact, after a disease has broken out. Therefore an ID system will do **nothing** to prevent a disease from breaking out. Instead it distracts us from focusing on the **number 1 challenge**: preventing the introduction of the disease in the first place. This can be done by identifying all imports and requiring USDA to maintain records of these imports. According to USDA's Foreign Agricultural Service data, Canada ^{OK} imported 8.1 million head of cattle to the U.S. since 1997. Here's a good one -- The Animal, Plant, Health Inspection System (or APHIS) considers all imports as domestic after 60 days of being imported. The United States has been and continues to be clean from many cattle diseases. It is not a domestic problem. If we get the problem, it will be due to imports.

When I sell a load of cattle, I **know** that everyone of those animals has an animal ID. It's called a hot iron **brand**. This brand is registered, and it's mine. Each one of these cattle can be traced back to me. Plus you can see this brand 50 yards away! The branding of cattle (otherwise known as **animal ID!**) has been going on for generations. There's no need to start up another system. Why go to all the expense?! Let's just enforce what's already in place.

How much will this new form of animal ID cost? The USDA-Agricultural Marketing Service (AMS) reviewed a number of studies which estimated the costs to producers for identifying live animals nation wide. The AMS used the study conducted by E.E. Davis of Texas A&M which included permanent animal identification in its cost estimate for producers. This Davis study projected a first-

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year cost estimate of \$1.3 billion for producers. In visiting with various representatives here at the Capitol, I've heard the cost will be anywhere from \$7 to \$20 per head. It seems odd to me that the ones who were against COOL used cost as their reason to vote against it, but these same groups have said **nothing** about the cost to implement this ID system.

As an independent producer, I don't see this new ID system adding any value to my product. My common sense recommendation is to control our national borders. (*** at one time it took a ton of paperwork to simply move livestock across state lines! Now the borders are wide open!!*) If you feel that we need to ID something, identify the imports because the ID plan doesn't address the imported animals already in the system. There is no mention of tagging or tracing animals that **will be** imported into this country. Will the importing countries also be required to provide a premise ID and an electronic tag containing an individual animal ID for livestock animals coming into the U.S.?? So are we to do all this extensive and expensive tracking only to have imported animals corrupting our animal health program?? Once again the U.S. producers have to ride in the back of the bus while the other countries get a free ride.

As for the agency to handle the informational/records I highly recommend USDA's Farm Service Agency (FSA). They have most, if not all, cattle producers registered in the states hit by drought the last few years, and there's an FSA agency office in about every county. There should not be even the slightest thread attached to a political agenda. The best example of a good program that was ruined because of political strings is.... The Beef Checkoff. Therefore it's my opinion that this responsibility should **NOT** belong to KCA, KLA, Kansas Farm Bureau, Kansas Farmers Union, NCBA, or R-CALF.

This Animal ID bill states that "The livestock commissioner is authorized to perform **any** functions necessary in preparation for implementing the animal identification program **prior** to implementation of the federal animal identification program." I feel that it's important for someone to be very clear about the meaning of the words, 'any' and 'prior to' in this bill. Basically this bill says the same thing as the first bill-- they just changed the wording. That's like changing

the wording "The fox will guard the chicken house" to "Now a 4 legged animal with a bushy red tail will guard the chicken house." It's the same thing.

If you as legislators feel that by passing this bill you will be building consumer confidence in food safety, you will be giving consumers false security because the bill will only trace animals to the packing plant. *** (by the way, wasn't volunteer labeling supposed to take care of consumer confidence??)*

I find it amazing that many of the groups who opposed COOL due to government involvement, increased burdens due to regulations and costs are now supporting a program that will be many times higher in costs and regulations and **much** more burdensome. We can't even afford to keep our schools open. How can you justify spending money on a situation that has so many unknowns??

I request that you vote No on this bill.

Thank you.

A handwritten signature in cursive script that reads "David E O'Leary". The signature is written in black ink and is positioned to the right of the text "Thank you."

**STATEMENT OF THE KANSAS DAIRY ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE
SENATOR DEREK SCHMIDT, CHAIR
REGARDING SUBSTITUTE FOR H.B. 2593**

MARCH 16, 2004

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Dairy Association. Our membership includes 99% of the 503 dairies in Kansas.

KDA supports having a national animal identification system. We support authorizing the Kansas Animal Health Department in order to participate in such a system. Most of our producers are already using either the Holstein USA or Dairy Herd Improvement Association systems, which will be compatible with the federal system. However, this process should not move too quickly, but consistently with the federal program. We are uncertain how a voluntary program may be implemented. And we are concerned about the impact on producers. So, we support moving forward, with caution and waiting to see how the federal program develops.

Thank you for your consideration of Sub. H.B. 2593.

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Senate Ag Committee
Proposed Hearing on HB 2593
State Animal Identification Program
March 16, 2004
Testimony by Larry Brack
President
Kansas Cattlemen's Association

Thank you members of the committee and Chairman Schmidt for allowing hearings on such a controversial bill. We, the members of the Kansas Cattlemen's Association have been deeply committed in protecting our United States cattle industry. This organization represents nearly 2,000 individually paid members. Our goals are to restore and keep profitability to the producers in rural communities by focusing on marketing and trade. We are opposed to HB 2593 as proposed and written. Our main concerns are the facts that Kansas has not had a single case of BSE (bovine spongiform encephalopathy) and yet we continue to import from foreign countries that have the disease. Our program to eradicate bangs as a transmittable disease has been successful to date. When vaccinating heifers for breeding Kansas received a state clip no. 48 for identification. How will the tag be handled for identification (visible and recognizable as a Kansas product)?

The Canadian cow in Moses Lake, Washington was misreported as a "downer" cow by USDA and much like the Holton, Ks. Case, the USDA failed to reveal all the information even after the cow was tested positive. Now USDA is under fire again for misrepresenting the facts.

If this bill is passed, along with a Federal plan, they will both be ineffective at our borders. This bill does nothing but open the doors to resume trade at all cost with other countries who want to export to us.

If we have 50 other states with the same plans, who decides which one tag would be best for all 50 states? We need to identify who the interested parties are in this plan and how much profit potential there is for them.

I have visited with 3 different sale barns and over 100 producers who are very mad and indifferent to this program. They say that if this program passes they will have no choice but to vote against anyone running for office.

In the Country of Origin Labeling law that has been passed, it states that USDA shall not have the power to implement an animal I.D. program in the United States. Are we higher than our Federal government?

The passage of this takes all the private rights of the cattle producer away. It gives the packer even more leverage in the market place because right now they only have a close knowledge of the feedlots head count across the state and nation. By identification, this gives them exact cow/calf and feeder cattle head counts along with the location and names of the owners. Once again the producer pays for corporate business benefits.

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This program rests all authority on the state Livestock Commissioner, whose duty is to promulgate and implement all rules and regulations under the Kansas Animal I.D. program.

The Kansas Animal Health Board serves in advisory capacity to the Livestock Commissioner and can be expected to play a principal role in shaping the I.D. program. The Animal Health Board is controlled entirely by Kansas Livestock Association. The Kansas Livestock Association does not represent all producers of livestock nor producers of all other species, such as cattle, horses, bison, sheep, goats, elk, deer, llamas, all poultry, ostriches and emus.

We continue to have open door policies that make it a real possibility for U. S. A. herds to become infected with a disease. This bill will not prevent disease outbreaks, but only limiting access and vaccination programs will reduce the risk of outbreak or exposure to disease.

This program puts undo high risk on producers by exposing them to a means of passing responsibility of others down and endangering their livelihood. We can avoid all of this by simply making animal identification mandatory on all imported cattle into this country. The majority of the producers in this state and myself do not like this bill or the requirements to have premise ID. This is in conflict of our rights as United States citizens.

We need you to fully understand what you are being asked to pass and seek your cooperation in studying this bill thoroughly and considering all the repercussions that will come with it. We feel that we in the Kansas Cattlemen's Association should have been allowed to participate if this truly was the Livestock Commissioners bill. Today lets work on effective and intelligent legislation that will make the people of Kansas proud of you and your work.

Thank you for your time and I hope that you can now represent you constituents and change the way legislative business has been done in the past.

Respectfully submitted,

Larry Brack, President
Kansas Cattlemen's Association
Rt. 2 Box 135
Leoti, Kansas 67861
620-375-4783
beefr4us@earthlink.net E-mail address

March 15, 2004

Dear Senator,

We are very concerned about a matter that has come to our attention.

Bill 2593

This bill would give the Kansas Animal Health Department control over the livestock industry in Kansas.

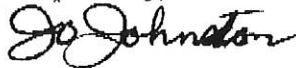
The Kansas Animal Health Department has employees with ties with animal rights organizations and they have admitted such under oath. (We will be happy to provide you with copies of the testimony, please write and request it.) This animal rights organization proudly touts that it is against all rodeos, all dog racing, along with many other things including pushing farm animal legislation. (We will be happy to provide you with copies of this).

Why is such an agency being given control over Kansas' vast agricultural economy? We believe it would be very prudent to wait and see how the federal government handles this issue.

We are opposed to Bill 2593. We ask that you let us know how you vote on this bill. The voters of Kansas deserve to know the truth.

Thank you very much.

Respectfully,



Concerned Citizens for Ethical Kansas Government
P.O. Box 244
Belleville, Kansas 66935

Senate Agriculture
March 16, 2004
Attachment 11



Since 1894

TESTIMONY

To: The Senate Agricultural Committee
Senator Derek Schmidt, Chairperson

From: Allie Devine, Vice President and General Counsel

Date: March , 2004

Subject: **Support for Substitute for HB 2594**

Good afternoon, Mr. Chairman and Members of the Committee.

My name is Allie Devine. I am here today representing the Kansas Livestock Association. As you know KLA is a not for profit trade association representing over 6,000 members who are livestock producers.

During our 2003 Convention, our members expressed concern about the legal implications of a mandatory animal identification system. Livestock producers want to fully understand what level of liability exposure they face. HB 2594 is an effort to clarify what duty of care a producer must follow.

In simplest legal terms, liability attaches where one party owes a duty to another party, and that duty is not met. In other words, if a product is placed into the market place, the party selling the product has standards to assure that the product is fit for the purpose it was intended. In the area of food, that means the product is wholesome.

Most case law involving food products revolves around a product that contains some foreign material. These cases are illustrative of what the parties must prove. For example, an injured consumer of a product containing a foreign object must show: the food consumed contained the foreign object; the food contained the foreign object at the time it left the defendant's control, the foreign object caused the injury; and, there was a clear connection between the defendant and the food.

There are also various theories of what liability and what level of proof must be presented. Suits may be brought under a variety of theories of negligence such as *negligence per se* for violations of state statutes prohibiting the selling of adulterated food, breach of warranty, or the doctrine of strict liability.

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It is unclear to us from our legal research exactly what duty of care a producer of livestock owes to consumers of meat products. Livestock producers are producing a live animal. Case law from other jurisdictions indicates that because a live animal is not a "fixed product" in that it may still change, it is not a product. However, that animal, when processed, becomes a product. In livestock transactions, the producers "control" over the animal and subsequent products ends at delivery of the product to the meat processing facility. A livestock producer has no further input into the development of products.

Since the producer's role is limited to supplying the animal, we are advocating that the producer's duty of care to the consumer through the preparation of livestock and subsequent meat products be that of "ordinary care" or that of customary and ordinary due diligence in the production of that animal. We are further advocating that if the livestock and subsequent meat products have been inspected and passed under state or federal laws, that such approval provides a presumption that the producer has met the standard of ordinary care.

The language adopted by the House of Representatives was a compromise between the KLA, Kansas Farm Bureau, and the Kansas Trial Lawyers Association. During the redrafting of the substitute language we deleted the definition of "person". Attached is a balloon that we ask the Committee to consider that adds the "person" definition.

We ask for your support of Substitute for HB 2594. Thank you.

Substitute for HOUSE BILL No. 2594

By Committee on Judiciary

2-25

Proposed amendment
Kansas Livestock Association
March 5, 2004

12-3

9 AN ACT concerning agriculture; relating to duty of care of livestock
10 producers.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) As used in this section, for livestock prepared in Kansas
14 in accordance with K.S.A. 65-6a18 *et seq.*, and amendments thereto: (1)
15 "Producer" means any person engaged in the business of breeding, graz-
16 ing, maintenance or feeding of livestock.

17 (2) "Livestock", "meat food product" and "prepared" shall have the
18 meanings ascribed thereto by K.S.A. 65-6a18 ~~[et seq.]~~, and amendments
19 thereto. , "person"

20 (b) In an action arising as a result of consumption of a meat food
21 product against a producer of livestock, there shall be a rebuttable pre-
22 sumption that the producer of livestock met the standard of ordinary care
23 in the production of the livestock in question, if the livestock in question
24 was inspected and passed in accordance with the provisions of K.S.A. 65-
25 6a18 *et seq.*, and amendments thereto.

26 (c) In no event shall a producer of livestock in an action arising as a
27 result of consumption of a meat food product be held to a standard higher
28 than that of ordinary care if the livestock in question had been inspected
29 and passed in accordance with the provisions of K.S.A. 65-6a18 *et seq.*,
30 and amendments thereto.

31 Sec. 2. (a) As used in this section, for livestock prepared in Kansas
32 in accordance with the federal meat inspection act, 21 U.S.C.A. 601 *et*
33 *seq.*: (1) "Producer" means any person engaged in the business of breed-
34 ing, grazing, maintenance or feeding of livestock.

35 (2) "Livestock" means cattle, sheep, swine, goats, horses, mules or
36 other equines.

37 (3) "Meat food product" and "prepared" shall have the meanings
38 ascribed thereto by 21 U.S.C.A. 601(i) *et seq.*

39 (b) In an action arising as a result of consumption of a meat food
40 product against a producer of livestock there shall be a rebuttable pre-
41 sumption that the producer of livestock met the standard of ordinary care
42 in the production of the livestock in question, if the livestock in question
43 was inspected and passed in accordance with the provisions of 21 U.S.C.A.

(4) "Person" shall have the meaning ascribed thereto by K.S.A. 65-6a18,
and amendments thereto.

12-3



Kansas Farm Bureau

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800 SW Jackson St., Ste. #1008, Topeka, Kansas 66612 • 785.234.4535 • 785.234.0278

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

Re: Sub HB 2594—Establishing the duty of care of a producer of livestock.

**March 16, 2004
Topeka, Kansas**

**Presented by:
Brad Harrelson
Associate State Director—KFB Governmental Relations**

Chairman Schmidt and members of the Senate Agriculture Committee, thank you for the opportunity to appear today. I am Brad Harrelson and I serve as Associate State Director – Governmental Relations for Kansas Farm Bureau (KFB). As you know KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

KFB appears before you today seeking your support and favorable action on Sub HB 2594. This bill is an important component of Kansas' effort to ensure that beef produced in our state is and will remain the safest in the world. To guarantee that safety, Kansas officials and the USDA have, for several years, been inspecting beef at the time it is processed and designating acceptable product as wholesome, sound, unadulterated, or fit for human consumption.

As you are aware, the recent identification of a single dairy cow suffering from BSE in the state of Washington has caused concern among producers and consumers in Kansas and around the world. Leaders in the state are in the process of discussing and

*Senate Agriculture
March 16, 2004
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developing a system of identification that will allow Kansas beef to be traced and identified to make certain the soundness and wholesome of our food supply.

As a result, discussions on both the state and national level regarding the development of a system of animal identification have increased. Our members are supportive of the development of that system through policy developed and adopted by the American Farm Bureau Federation. That policy states:

We support the establishment and implementation of a national animal identification system capable of providing support for animal disease control and eradication, as well as enhancing food safety. A cost effective national system of livestock identification, with adequate cost share among government, industry and producers, should be established and regulated by an advisory board of producers, processors and USDA. **Any such program must protect producers from liability for act of others after livestock leaves the producer's hands, including nuisance suits naming everyone who handled particular livestock.** The program should ensure the security of producer information and respect the privacy of producers by only collecting data necessary to establish a traceback system.

This legislation will define the duty of care required of a producer of livestock as ordinary care. Specifically, the bill would provide a rebuttable presumption in litigation involving products—once they have left the hands of the livestock producer—that have been inspected by state and federal inspectors and deemed wholesome, sound, unadulterated and fit for human consumption. The intent behind this bill is to provide livestock producers with a rebuttable presumption—not immunity—that the product is good and wholesome if it passed the inspection. More importantly, the presumption will serve as evidence that the producer, whose animal has passed inspection, has met the duty of care owed to the public—ordinary care.

Ladies and gentlemen, we are grateful for the opportunity to appear before you today in support of this legislation and of the livestock industry in Kansas. We would be happy to answer any questions you may have, and would request your favorable response to this proposal.

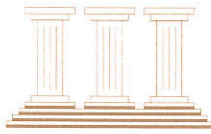
**STATEMENT OF THE KANSAS DAIRY ASSOCIATION
TO THE SENATE AGRICULTURE COMMITTEE
SENATOR DEREK SCHMIDT, CHAIR
REGARDING SUBSTITUTE FOR H.B. 2594
MARCH 16, 2004**

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Dairy Association. Our membership includes 99% of the 503 dairies in Kansas.

KDA supports Sub. H.B. 2594, which defines the duty of care for meat producers. As we move forward into identifying meat products from birth to slaughter and to the table, we believe it is important for Kansas producers that a standard of care be defined in the law. This bill also creates a rebuttable presumption that the producer has met the standard of care if the livestock passed inspection pursuant to federal law.

This bill had no opposition in House Judiciary Committee and passed the House 124-1. We urge you to recommend it favorably for passage.

*Senate Agriculture
March 16, 2004
Attachment 14*



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Agricultural Committee

FROM: Terry Humphrey
Kansas Trial Lawyers Association

RE: 2004 Sub. HB 2594

DATE: March 16, 2004

Chairman Schmidt and members of the committee; thank you for the opportunity to offer written comments in regard to HB 2593.

The Kansas Trial Lawyers Association opposed HB 2593 in its original form. However, we withdrew our opposition with the adoption of the substitute language passed by the House. We appreciated the willingness of the Kansas Livestock Association to consider our concerns and to work with us in crafting new language. The language included in Sub. HB 2593 reflects our discussions with the KLA.

*Senate Agriculture
March 16, 2004
Attachment 15*

Terry Humphrey, Executive Director

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KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Written Testimony on House Bill 2594

to

The Senate Committee on Agriculture

By the Kansas Department of Agriculture

March 16, 2004

The Kansas Department of Agriculture recognizes the need to protect producers of wholesome livestock products from unwarranted litigation related to liability, or damages related to their products. We also recognize that wholesome, quality meat products are this department's regulatory responsibility, and they are an essential component for public health and consumer demand for Kansas meat products.

We take pride in the integrity of the inspection process and the quality of products produced in state-inspected meat and poultry facilities. However, we do believe it is important to note that the inspection process cannot be used to predict or detect all potential consequences that may result from consuming a product.

Before any product bears the "Kansas Inspected and Passed" mark, an ante-mortem and postmortem examination by an inspector must take place. The ante-mortem inspection of the live animal focuses on detecting disorders that would be expected to be visible in a live animal.

The postmortem examination focuses on detecting visible lesions or other conditions that would render the meat or any part of the carcass unfit or adulterated. Conditions detected during postmortem inspection include abscesses, arthritis, tuberculosis lesions, systematic disease involving internal organs and lymph nodes, cancer, jaundice and anemia.

Neither ante-mortem nor postmortem inspection can detect adulterants such as biological residues, bacterial pathogens, or prions, that may be present in an animal as a result of injection, ingestion or other exposure. The potential for any such contaminant to be present depends on many factors outside of the scope of the inspection process. Strict adherence to controls and restrictions on pharmaceuticals, feed ingredients and additives, and any other exposure that may impact the wholesomeness of a product, are essential to ensure that the product is wholesome and unadulterated.

In summary, the inspection process alone cannot ensure all aspects of a presumption of wholesomeness because not all elements involved are visible at the time of inspection.

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Senate Agriculture
March 16, 2004
Attachment 16