

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

NEBRASKA BEEF PRODUCERS  
COMMITTEE,

Plaintiff,

vs.

NEBRASKA BRAND COMMITTEE  
and WILLIAM BUNCE, in his official  
capacity as Executive Director of the  
Nebraska Brand Committee,

Defendants.

4:17-CV-3061

MEMORANDUM AND ORDER

At issue in this case is the constitutionality of the Nebraska Livestock Brand Act, Neb. Rev. Stat. §§ 54-170 to 54-1,127 (Reissue 2010, Cum. Supp. 2016, & Supp. 2017). The Nebraska Beef Producers Committee (Beef Producers) sued the Nebraska Brand Committee and its executive director, William Bunce (collectively, the Brand Committee), alleging that the Brand Act violates the dormant Commerce Clause and Equal Protection Clause of the Constitution. The Court finds no merit to those allegations, and will dismiss the Beef Producers' complaint.

The Court does not doubt that the Beef Producers sincerely believe the Brand Act has outlived its usefulness. But the people who can help them with that problem, if indeed it is a problem, can be found about 4 blocks south down Centennial Mall. Whatever flaws there might be with the Brand Act, it does not violate federal law.

### III. CONCLUSION

The Beef Producers have failed to state a claim upon which relief may be granted. Their questions about the efficacy and continued utility of the Brand Act might or might not be well-taken—but they are legislative questions, not constitutional ones. As the Supreme Court has explained, "when the burden of state regulation falls on interests outside the state, it is unlikely to be alleviated by the operation of those political restraints normally exerted when interests within the state are affected." *United Haulers*, 550 U.S. at 345 (quotation omitted). But here, the citizens and businesses of Nebraska bear the costs of the Brand Act, and it is up to them and their representatives to decide, through the political process, whether the benefits of the Brand Act outweigh those costs. *See id.* The Court will grant the Brand Committee's motion to dismiss.

#### IT IS ORDERED:

1. The Brand Committee's motion to dismiss (filing 16) is granted.
2. The Beef Producers' complaint is dismissed.
3. A separate judgment will be entered.
4. The Beef Producers' motion for preliminary injunction (filing 6) is denied as moot.