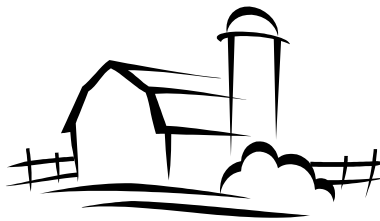

COMMITTEE ON AGRICULTURE

ONE HUNDRED EIGHTH LEGISLATURE
1st Session

2023



SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

Agriculture Committee Members

Senator Steve Halloran, Chair
Senator Teresa Ibach, Vice-Chair
Senator Tom Brewer
Senator Ben Hansen
Senator Rick Holdcroft
Senator Jana Hughes
Senator Jane Raybould
Senator Merv Riepe

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STATUS REPORT BY BILL NUMBER

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LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 116	Brandt	Change provisions of the Beginning Farmer Tax Credit Act	2/7/23	General File		AM718	Ag Committee 2023 Session priority bill. Provisions/purposes of LB 218 and LB 442 incorporated into LB 116 by pending AM718. LB 116 provisions of pending AM718 enacted by incorporation into LB 562 by AM 1554
LB 117	Brandt	Change provisions of the Independent Processor Assistance Program	1/24/23	Held			
LB 218	Ibach	State intent regarding appropriations for a riparian vegetation management grant program	2/7/23	General File			Incorporated into Ag Committee Priority bill LB 116 by pending AM718
LB 229	Erdman	Change registered feedlot inspection requirements under the Livestock Brand Law	2/7/23	Held			
LB 262	Ag Committee	Change provisions of the Nebraska Pure Food Act	1/31/23	General File		AM719	Ag Committee 2023 Session priority. Provisions of LBs 263, 264, 305 and 740 incorporated by pending AM719
LB 263	Ag Committee	Change provisions of the Nebraska Hemp Farming Act	2/21/23	General File			Incorporated into LB 262 by pending AM719
LB 264	Ag Committee	Change provisions of the Grain Dealer Act and the Grain Warehouse Act	1/31/23	General File			Incorporated into LB 262 by pending AM719

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 305	Halloran	Change provisions relating to grain warehouse storage rates and charges	1/31/23	General File		AM526	Incorporated into LB 262 by pending AM719
LB 321	Brandt	Change provisions regarding cottage food operations under the Nebraska Pure Food Act	1/31/23	General File		AM483	
LB 336	Halloran	Eliminate the Hemp Commission and create the Nebraska Hemp Advisory Board	2/21/23	Held			
LB 442	Albrecht	State intent to transfer funds to the Livestock Growth Act Cash Fund	2/7/23	General File		AM372	Incorporated into LB 116 by pending AM718
LB 562	Dorn	Adopt the E-15 Access Standard Act	2/7/23	Enacted	AM1248, AM1554, AM1563		Dorn personal priority bill. Portions/provisions of LB 116 incorporated by AM1554 and LB 740 by AM1563
LB 591	Hardin	Create statutory deadline for notice of termination of oral agland leases	1/31/23	Held			
LB 662	Ballard	Change provisions of the Nebraska Right to Farm Act	2/14/23	Held			
LB 735	Blood	Create a work group and establish the Nebraska Stewardship program under the Apiary Act	2/21/23	Held			
LB 740	Vargas	Change provisions of the Nebraska Pure Food Act pertaining to food trucks	2/14/23	General File		AM619	Incorporated into LB 262 by pending AM719. LB 740 provisions of pending AM719 incorporated into LB 562 by AM1563

BILLS ENACTED AND SIGNED BY THE GOVERNOR

LB 562 (Dorn) Adopt the E-15 Access Standard Act

Date of Public Hearing: 2/07/2023

Date Reported from Committee: 4/12/2023

Committee Amendment: AM1248

Other Adopted Amendments: AM1554, AM1563, FA108

Effective Date: September 2, 2023

LB 562 establishes standards regarding the availability of E-15 fuel blends at retail motor fuel locations and assigns related duties and authorities to the Department of Agriculture.

The final enacted version of LB 562 as amended by the Agriculture Committee amendment (AM1248) contains several material revisions. The table below compares key elements of the bill as introduced and as enacted with AM1248.

LB 562 as introduced	LB 562 as enacted (revised by AM1248)
<p>Beginning January 1, 2024, requires retail dealers to make E-15 fuel blends available from at least 50% of qualifying fuel dispensers at a retail location, unless:</p> <ul style="list-style-type: none"> • The retailer has not installed, replaced or converted a motor fuel storage tank at that location after January 1, 2024, and • The retailer makes E-15 blends available at least one qualifying dispenser at that location beginning January 1, 2027. <p>Provides that this section does not require or limit E-15 blends sold at nonqualifying fuel dispensers. This section further provides that a retailer is not in violation during periods when fuel storage and dispensing infrastructure is under construction and authorizes the Dept. of Agriculture to require retailers to give advance notice of such work.</p>	<ol style="list-style-type: none"> 1. Beginning January 1, 2024, a retail motor fuel site shall advertise for sale and offer E-15 from at least 50% of dispensers at: <ul style="list-style-type: none"> • any new retail motor fuel site built after that date, or • any existing retail motor fuel site if, after that date, the retailer replaces more than 80% of facilities and infrastructure at the retail site 2. Beginning January 1, 2028, shall offer E-15 on at least one dispenser if: <ul style="list-style-type: none"> • The site has had no new infrastructure replacements or installations bringing it within the requirement of subsection 1 to offer E-15 at 50% of dispensers, and • The statewide average ethanol blendrate for 2027 is less than 14% (Blendrate is determined according to new section 10) <p>This portion (at least one pump) does not apply to any retail site granted a waiver due to certified excessive cost to comply (Sec 6) or exempted due to all tanks are constructed of certain materials prior to certain date (Sec 7) or exempted due to small volume (Sec 8)</p> <p>Provides that this section does not require or limit non E-15 blends sold at nonqualifying fuel dispensers. This section further provides that a retailer is not in violation during periods when fuel storage and dispensing infrastructure is under construction and authorizes the Dept. of Agriculture to require retailers to give advance notice of such work.</p>

<p>Waivers –</p> <ul style="list-style-type: none"> • Governor executive order waiving the E-15 standard during times of ethanol shortage or excessive costs creating hardship for consumers • Individual site waiver due to supply shortage. Waiver must be applied for. • Excessive cost (exceeding \$100,000) to install infrastructure to comply. Waiver must be applied for and excessive cost certified by professional retail fuel site installer • Small volume retail location waiver – Sites selling average of 300,000 gallons annually. Waiver must be applied for. 	<p>Waivers and exemptions --</p> <ul style="list-style-type: none"> • Governor executive order waiving the E-15 standard during times of ethanol shortage or excessive costs creating hardship for consumers • Excessive cost (exceeding \$15,000) to install infrastructure to comply. Waiver must be applied for and excessive cost certified by professional retail fuel site installer • Exemption – All fuel tanks at site are constructed of certain materials before specified dates. Retailer attests to exemption • Exemption – Small volume retail location. Retailer attests to exemption. May attest for multiple sites
<p>Incentives –</p> <p>Increases the annual authorized obligation of awards under the Renewable Fuel Infrastructure Program to from \$1 million to \$10 million and terminates approvals of new grant awards after calendar year 2026. The bill further eliminates the distinction between 3 and 5 year agreements and limits cost-share assistance to the lesser of 50% or \$150,000 per project.</p>	<p>Incentives --</p> <p>Omits changes to the Renewable Fuel Infrastructure program but increases tax credits offered to retailers selling E-15 and higher blends</p> <p>Currently, the credit is in an amount equal to 5 cents / gallon of E-15 and 8 cents / gallon of E-25 or higher blends sold. The cumulative amount of credits allowed is capped at \$2 million the initial year and the cap is adjusted annually according to the amount of credits claimed the previous year but may not exceed \$4 million. No new credit applications are accepted after Dec. 31, 2026.</p> <p>AM1248 changes the credit provisions to apply the same credit amount/gallon to all E-15 or higher blends. The credit amount by year is</p> <p>:</p> <p>: CY 2024 -- 8 cents, CY 2025 -- 9 cents, CY 2026 -- 8 cents,, CY 2027 -- 7 cents, CY 2028 -- 5 cents.</p> <p>The cumulative amount of credits allowed is capped at \$5 million / year for all years. Extends the period for acceptance of credit applications to Dec. 31, 2028.</p>
<p>Penalty</p> <p>Non-compliance with the E-15 standard is cause to suspend or revoke a fuel dealer's weighing and measuring establishment permit</p>	<p>Penalty</p> <p>The authority to suspend or revoke weighing and measuring establishment permits is effective:</p> <ul style="list-style-type: none"> • Beginning January 1, 2024, for retailers not in compliance with the 50% offering standard of subsection (1) of Section 4. • Beginning April 1, 2028 for retailers who are not in compliance with the offering of E-15 at at least 1 dispenser of subsection (2) of Section 4.

The substantive provisions of LB 562 as amended are found in sections 1 -- 11 and 20 -- 23 of the final reading version of the bill. LB 562 was further amended during select file debate to add the provisions of LB 116 (AM1554) and LB 740 (AM1563) as those bills were advanced separately to general file with pending committee amendments. For an explanation of the provisions of those bills and committee amendments, please refer to the summaries of LB 116 and LB 740 under the “Bills enacted by incorporation into other enacted bills” portion of this report. Information about the provisions of LB 116 contained in section 12 – 19 of the final reading version of LB 562 and the provisions of 740 contained in sections 24 – 29 are also found in the section-by-section description of the enacted version of LB 562 below.

Section-by-section description of enacted version:

Sec. 1: Designates section 1 – 11 as the E-15 Access Standard Act

Sec. 2: Declares legislative intent

Sec. 3: Defines terms used in the Act. The enacted version of the bill makes two revisions from the definitions section of LB 562 as introduced:

- Clarifies the defined term “qualified fuel dispenser” to be clear the term does not include non-qualified fuel dispensers.
- Clarifies the term “motor fuel storage and dispensing infrastructure” does not include signage apart from the signage on the dispenser.

Sec. 4: Declares standards for E-15 offerings at retail motor fuel establishments. This provision of the original bill is rewritten for clarity and to insert a conditional trigger for certain retailers. The enacted section 4 clarifies that the E-15 offering standard applies to retailers as follows:

- Beginning January 1, 2024, a retail motor fuel site shall advertise for sale and offer E-15 at least 50% of dispensers at:
 - any new retail motor fuel site built after that date, or
 - any existing retail motor fuel site if, after that date, the retailer replaces more than 80% of facilities and infrastructure at the retail site
- Beginning January 1, 2028, a retail motor fuel site shall offer E-15 from at least one dispenser if:
 - the site has had no new infrastructure replacements or installations bringing it within the requirement to offer E-15 at 50% of dispensers, and
 - the statewide average ethanol blendrate for 2027 is less than 14% (blendrate is determined according to new section 9).

The standard of E-15 to be offered from at least one dispenser does not apply to any retail location qualifying for a waiver due to excessive cost to bring a retail site into compliance pursuant to section 6, are exempted under section 7 (all tanks at site are one of exempt category) or exempted under section 8 (low volume retailer). The amendment retains portions of the original bill that provides that this section does not affect fuels sold at nonqualifying fuel dispensers, that a retailer is not in violation during periods when fuel storage and dispensing infrastructure is under construction, and the authorization for the Dept. of Agriculture to require retailers to give advance notice of such work.

Sec. 5: Identical to introduced section 5. Retains authorization for the Governor to temporarily suspend the E-15 standard during periods of E-15 fuel shortage or pricing conditions causing economic harm to consumers.

Sec. 6: AM1248 omits original section 6. The purpose of original section 7 are contained in section 6 of the enacted bill with the following revisions:

- The excessive cost threshold to qualify for the waiver is reduced to \$15,000
- The qualification that all tanks at the site are of construction materials manufactured prior to certain specified dates is removed from this section and set out as an exemption in section 7.

All remaining provisions pertaining to procedures for application for the waiver, the review and granting of the waiver, and the conditions for terminating the waiver are substantively identical to the introduced provisions.

Sec. 7: Inserts a new section setting out that a site having all tanks made of specified construction materials manufactured prior to specified dates, originally included as qualifying supporting evidence for the excessive cost waiver, as an exemption.

Sec. 8: Creates an exemption for small volume motor fuel retail sites. The enacted version of LB 562 eliminates the requirement to apply for a waiver contained in the original bill and provides that a retailer may simply attest to the Department that one or more sites fall within this exemption. Retains procedures and authorizations for the Department to verify qualification for the exemption.

Sec. 9: Inserts a new section assigning a duty beginning in 2025 to the Dept. of Revenue and the Dept. of Environment and Energy to publish a report of the annual statewide ethanol blend rate. This section simultaneously assigns a duty to fuel retailers to quarterly report motor fuel sales data, including the percentage of ethanol.

Sec. 10: The original section 9 is renumbered section 10. This section authorizes the Dept. of Agriculture to suspend or revoke a weighing and measuring device establishment permit under a cited provision of the Weights and Measures Act. In the enacted version of the bill, the authority to suspend or revoke a permit is effective:

- Beginning January 1, 2024, for retailers not in compliance with the 50% offering of subsection (1), of Section 4.
- Beginning April 1, 2028 for retailers who are not in compliance with the offering of E-15 from at least 1 dispenser of subsection (2) of Section 4.

Sec. 11: Contains the authorization for the Department of Agriculture to promulgate rules and regulation originally contained in section 10 of LB 562 as introduced. Original section 11 of LB 562 making revisions to the Renewable Fuel Infrastructure Program is omitted from AM1248.

Sec. 12: Amends §58-242 to increase the net worth threshold to qualify for NIFA beginning farmer loan programs from \$500,000 to \$1 million.

Sec. 13: Amends §77-5203 of the Beginning Farmer Tax Credit Act by revising the definition of "farm." LB 116 removes a minimum acreage threshold and specifies that the term includes any improved or unimproved land used for production of farm products.

Sec. 14: Amends §77-5205 to strike a requirement that the three farming representatives on the Beginning Farmer Board includes one from each congressional district.

Sec. 15: Amends §77-5208 to extend the termination date for acceptance of new applications from 2025 to 2027.

Sec. 16: Amends §77-5209 which lists criteria to qualify as a beginning farmer. Currently, this section disqualifies farmers having more than \$200,000 net worth as adjusted by the referenced producer price index (PPI) compared to the 2008 PPI. LB 116 would:

- increase the net worth limitation to \$750,000
- exclude retirement and other deferred benefit accounts of the beginning farmer household from inclusion in net worth determination
- reference adjustments to the net worth limitation to the 2022 PPI
- add a new qualification that the beginning farmer meets the age requirements under §43-2101 to be legally bound by contract.

Sec. 17: Amends §77-5209.01 which allows a beginning farmer to claim a credit against income tax liability for the costs of a financial management training required to qualify as a beginning farmer. LB 116 strikes a requirement that a beginning farmer currently be a tenant in a rental agreement in order to claim the credit.

Sec. 18: Amends §77-5211 to cap approvals of qualifying rental agreements to limit the annual amount of tax credits claimed by asset owners at \$2 million

Section 19: Amends §77-5213 to require the Beginning Farmer Board to annually, rather than semiannually, review rental agreements for continuing qualification for benefits under the Act.

Secs. 20 – 23: Inserts new sections amending §77-7002 through §77-7004 and §77-7007 which creates a refundable income tax credit offered to retailers selling E-15 and higher blends. Currently, the credit is in an amount equal to 5 cents / gallon of E-15 and 8 cents / gallon of E-25 or higher blends sold. The cumulative amount of credits allowed is capped at \$2 million the initial year and the cap is adjusted annually according to the amount of credits claimed the previous year but may not exceed \$4 million. No new credit applications are accepted after Dec. 31, 2026.

LB 562 as enacted changes the credit provisions to apply the same credit amount/gallon to all E-15 or higher blends, The credit amount by year is CY 2024 -- 8 cents, CY 2025 -- 9 cents, CY 2026 -- 8 cents, CY 2027 -- 7 cents, CY 2028 -- 5 cents. The cumulative amount of credits allowed is capped at \$5 million / year for all years. Extends the period for acceptance of credit applications to Dec. 31, 2028.

Sec. 24: Incorporates new sections 26 through 29 within the Nebraska Pure Food Act.

Secs. 25 & 26: Inserts a definition of “guidance document” and includes the defined term within the definitions utilized in the Nebraska Pure Food Act.

Sec. 27: Inserts a new section authorizing interlocal agreements between political subdivisions that carry out Pure Food Act permitting under contract with the Department under which those jurisdictions mutually recognize the validity of permits issued by the permitting jurisdiction. . Inserts a duty of local regulatory authority to report to the legislature any reciprocity agreement entered into or actions to explore reciprocity agreements and impediments to such agreements.

Sec. 28: Assigns a duty to the Department of Agriculture to maintain a mobile food establishment ordinance registry. The section would require cities of the first or second class to submit copies of municipal ordinances governing the operation of food trucks in their jurisdiction, any permit application forms, and contact information for purposes of mobile food establishment regulation. Cities that do not regulate mobile food establishments satisfy their obligation

under this section by submitting a statement that no such regulations exist in their jurisdiction. Cities are to notify the Department by Dec. 31 each year of any revisions to registry information.

Sec. 29: Assigns a duty to the Department of Agriculture to develop a guidance document for mobile food establishments. The guidance document is to describe food permitting requirements applicable to mobile food establishments and for purposes of qualifying for reciprocity in licensing regulations of participating local Pure Food Act regulatory authorities.

Sec. 30: Repealers

BILLS INCORPORATED INTO OTHER ENACTED BILLS

LB 116 (Brandt) Change provisions of the Beginning Farmer Tax Credit Act

Date of Public Hearing: 2/7/2023

Date Reported from Committee: 3/13/2023

Committee Amendment: AM718

** Agriculture Committee 2023 session priority.

** Provisions/purposes of LB 116 as revised by AM718 were amended into and enacted as sections 12 – 19 of LB 562

As introduced, LB 116 proposed a series of revisions to the Beginning Farmer Tax Credit Act as described below:

Sec. 1: Amends §77-5203 by revising the definition of “farm.” LB 116 removes a minimum acreage threshold and specifies that the term includes any improved or unimproved land used for production of farm products.

Sec. 2: Amends §77-5205 to strike a requirement that the three farming representatives on the Beginning Farmer Board includes one from each congressional district. .

Sec. 3: Amends §77-5209 which lists criteria to qualify as a beginning farmer. Currently, this section disqualifies farmers having more than \$200,000 net worth as adjusted by the referenced producer price index (PPI) compared to the 2008 PPI. LB 116 would:

- increase the net worth limitation to \$1 million
- exclude retirement and other deferred benefit accounts of the beginning farmer household from inclusion in net worth determination
- reference adjustments to the net worth limitation to the 2022 PPI
- add a new qualification that the beginning farmer meets the age requirements under §43-2101 to be legally bound by contract.

Sec. 4: Amends §77-5209 which allows a beginning farmer to claim a credit against income tax liability for the costs of a financial management training required to qualify as a beginning farmer. LB 116 strikes a requirement that a beginning farmer currently be a tenant in a rental agreement in order to claim the credit.

Sec. 5: Amends §77-5213 to require the Beginning Farmer Board to annually, rather than semiannually, review rental agreements for continuing qualification for benefits under the Act.

Sec. 6: Repealer

The pending committee amendment (AM718) is a white copy amendment which replaces the bill. The amendment retains the original purposes of the bill with modifications described below and also incorporates the provisions/purposes of LB 218 and LB 442.

Beginning Famer Tax Credit Act provisions:

Sections 3 to 10 of AM718 contain the provisions of LB 116 with the following revisions:

- Inserts a new section (Section 3) amending §58-242 to increase the net worth threshold to qualify for NIFA beginning farmer loan programs from \$500,000 to \$1 million.
- Inserts a new section (Section 6) amending §77-5211 to extend the termination date for acceptance of new applications from 2025 to 2027
- Reduces the net worth threshold to \$750,000 (Section 7)
- Inserts a new section (Section 9) amending §77-5208 to cap approvals of qualifying rental agreements to limit the annual amount of tax credits claimed by asset owners at \$5 million

LB 218 provisions:

Section 1 of pending AM718 inserts a new section amending §2-958.02 which creates the Noxious Weed and Invasive Plant Species Assistance program prescribing criteria applied to determine eligibility for, and to prioritize recipients of, grants to weed control authorities and weed management entities awarded under the program. Subsection (4) creates a subcategory of eligible grant awards for projects pertaining to riparian vegetation management problems.

Currently, subsection (4) states legislative intent to appropriate \$3 million annually for projects eligible under this subsection beginning FY2022-23. Section 1 increases the appropriation intent to \$6 million annually beginning FY2023-24.

LB 442 provisions:

Section 2 of pending AM718 inserts the provisions of LB 442 as advanced to general file. The new section amends §54-2804, which creates the Livestock Growth Act Cash Fund, to insert a transfer of \$2 million general funds to the fund in FY 2023-24.

LB 740 (Vargas) Change provisions of the Nebraska Pure Food Act pertaining to Food Trucks

Date of Public Hearing: 2/14/2023

Date Reported from Committee: 3/02/2023

Committee Amendment: AM619

** The provisions/purposes of LB 740 as amended by AM619 are included in the pending Committee amendments to LB 262 and were enacted as sections 24 – 29 of LB 562

LB 740 allows for food truck permitting reciprocity among certain local jurisdictions and provides for a registry of local regulations applicable to food trucks and production of guidance materials to advise food truck operators.

Section-by-Section Description:

Sec. 1: Amends §81-2,239 to incorporate new sections into the Pure Food Act

Sec. 2: Amends §81-2,240 to include section 3 in defined terms utilized in the Pure Food Act.

Sec. 3: Wholly new section inserting a new defined term “guidance document”

Sec. 4: Amends §81-2,251.04 by modifying the term “mobile food unit” so that the term does not include only those that are associated with a commissary.

Sec. 5: Inserts a new section authorizing interlocal agreements between political subdivisions that carry out Pure Food Act permitting under contract with the Department and other political subdivisions under which those jurisdictions mutually recognize the validity of permits issued by the permitting jurisdiction. Participating jurisdictions that do not recognize a mobile food unit permit are required to provide a written explanation. This section provides participating jurisdictions are not precluded from carrying out inspections of mobile food units that operate in multiple jurisdictions but requires that participating jurisdictions avoid unnecessary duplication. Any inspection fees are limited to the amount to recover costs of the inspection.

Sec. 6: Assigns a duty to the Department to publish a registry of cities that do not regulate mobile food unit utilizing information submitted to the Department by first and second class cities, and delegates rule & reg authority to the Department for this purpose.

Sec. 7: Assigns a duty to the Department to develop guidance documents for mobile food unit operators advising of applicable health and safety permitting regulations to operate in local jurisdictions.

Sec. 8: Repealers

The pending Committee amendment (AM619) is a white copy amendment that strikes the original provisions and becomes the bill. The differences between AM619 and LB 740 as introduced are described below.

- The Committee amendment omits section 4 retaining the current definition of a mobile food unit. Remaining sections are renumbered accordingly. The terminology “mobile food establishment” is substituted throughout to refer to food trucks.
- Replaces original section 5 (becomes section 4 of the bill as revised by AM619). The revision makes it clear that the reciprocity is between the three local regulatory authorities exercising food safety and handling licensing and inspection authority delegated pursuant to the Pure Food Act. Inserts a duty of local regulatory authority to report to the legislature any reciprocity agreement entered into or actions to explore reciprocity agreements and impediments to such agreements.
- Rewrites section 6 of the bill as introduced (becomes section 5 of the bill as revised by AM619). The section as rewritten assigns a duty to the Department of Agriculture to maintain a mobile food establishment ordinance registry. The section would require cities of the first or second class to submit a copies of municipal ordinances governing the operation of food trucks in their jurisdiction, any permit application forms, and contact information for purposes of mobile food establishment regulation. Cities that do not regulate mobile food establishments satisfy their obligation under this section by submitting a statement that no such regulations exist in their jurisdiction. Cities are to notify the Department on or before Dec. 31 each year of any revisions to registry information.
- Rewrites section 7 of the bill as introduced (becomes section 6 of the bill as revised by AM619). The section is rewritten for clarity that the guidance document describe food permitting requirements applicable to mobile food establishments and for purposes of qualifying for reciprocity in licensing regulations of participating local Pure Food Act regulatory authorities.

BILLS ADVANCED BUT NOT ENACTED

LB 218 (Ibach) State intent regarding appropriations for a riparian vegetation management program

Date of Public Hearing: 2/07/2023

Date Reported from Committee: 3/02/2023

Committee Amendment: None

** Provisions/purposes of LB 218 included as section 1 of the pending committee amendment (AM718) to LB 116

LB 218 modifies intent language to appropriate funds to a program to manage riparian vegetation by increasing the intent from \$3 million annually to \$6 million beginning FY2023-24.

Sec. 1: Amends §2-958.02 which creates the Noxious Weed and Invasive Plant Species Assistance program prescribing criteria applied to determine eligibility for, and to prioritize recipients of, grants awarded under the program. Subsection (4) creates a subcategory of eligible grant awards for projects advancing objectives and priorities of the Riparian Vegetation Management Task Force.

Currently, subsection (4) states legislative intent to appropriate \$3 million annually for projects eligible under this subsection beginning FY2022-23. LB 218 increases the intended appropriation to \$6 million annually beginning FY2023-24.

Sec. 2: Repealer

LB 262 (Ag Committee) Change and eliminate provisions of the Nebraska Pure Food Act

Date of Public Hearing: 1/31/2023

Date Reported from Committee: 3/13/2023

Committee Amendment: AM719

** Agriculture Committee 2023 session priority bill

LB 262 as introduced amended the Nebraska Pure Food Act (Act), Neb. Rev. Stat. §§81-2,239 to 81-2,292, as described below:

Secs. 1 & 2: Amends §81-2,239 and §81-2,240 to incorporate sections 5, 8 and 9 of the bill into the Nebraska Pure Food Act.

Sec. 3: Amends §81-2,244.01 which defines the term "Food Code" to incorporate the 2017 Food Code recommendations of the FDA except for specific sections cited. LB 262 strikes the exclusion of Food Code section 5-104.11 and thereby adopts the Food Code standard for safe water sourcing. This section of the Food Code is currently replaced by §81-2,272.31 which requires food establishments to have a permanent water source. Utilization of the

food code standard would allow water from non-permanent sources such as bottled water which is helpful for food trucks.

Sec. 4. Amends §81-2,245.01 to add an additional option for food safety training to register as a cottage food operation.

Secs. 5 & 9: Inserts new sections defining “food handling activity” and “secondary food handling activity” to clarify how these terms are used in §81-2,270 which sets out primary and secondary inspection fees.

Sec. 6: Amends §81-2,248 to revise the term “itinerate food vendor” so that the term includes a temporary food establishment. Consolidating the terms reduces the number of distinct permit categories and simplifies the permitting process.

Sec. 7: Amends §81-2,251.03 to consolidate licensed beverage establishments, currently defined in §81-2,251.02, within the term “limited food service establishment”. Consolidating the terms reduces the number of distinct permit categories and simplifies the permitting process.

Sec. 8: Inserts a new defined term for “limited food retail establishment” which replaces the definition of convenience store in §81-2,242.03.

Sec 10: Amends §81-2,263 to incorporate sections 5, 8 and 9 into the Nebraska Pure Food Act for purpose of resolving conflicts between the Act and referenced codes.

Sec. 11: Amends §81-2,270 to clarify permitting fees and processes as follows:

- clarifies penalties and procedure for resolving establishments operating without a valid permit, either failing to obtain a license prior to initial operation or continuing operations without completing annual license renewal and annual fee payment;
- revises permit categories to remove obsolete categories due to consolidation of terms sections 6 through 8;
- removes unnecessary permit category for “food delivery service” due to lack of facilities to inspect with such services;
- clarifies how secondary inspection fees are implemented;
- clarifies the permit category for mobile food establishments that do not meet the definition of mobile food unit.
- Provides that a licensed food establishment that sells food within another licensed food establishment is not required to obtain an additional permit.

Sec. 12: Amends §81-2,271 to clarify where a permit shall be posted by various types of food establishments and the requirements of permit holders to notify the department regarding the location of food handling activities.

Sec. 13: Amends §81-2,281 to clarify qualifications for food inspectors. Currently, this section limits inspectors to persons credentialed as registered environmental health specialists (REHS). LB 262 would also allow persons meeting Food Code §8-402.10 qualifications to serve as food inspectors.

Sec. 14: Repealers

Sec. 15: Outright repealed sections

The committee amendment (AM719) is a white copy amendment which replaces the bill. The amendment retains the original purposes of LB 262 bill with a modification described below and also incorporates the provisions of LB 263, LB 264, LB 305 and LB 740 as those bills were advanced to general file.

LB 262 revision:

Sections 17 through 29, and Section 33 of the pending Committee amendment (AM719) incorporate the original substantive provisions of LB 262. The only revision to LB 262 as introduced is found in section 33 which replaces original section 13 of LB 262 as introduced. The amendment retains the option that food inspectors meet the minimal credentialing of Food Code §8-402.10 provided the individual completes a cited food safety credentialing standard within 3 years of hire. The amendment would not preclude local regulatory authorities from utilizing only persons credentialed as Registered Environmental Health Specialists.

LB 740 provisions:

Sections 30 through 32 of AM719 insert the substantive provisions of LB 740 as advanced to general file with committee amendment AM619. These sections amend the Pure Food Act to allow for food truck permitting reciprocity among certain local jurisdictions and provides for a registry of local regulations applicable to food trucks and production of guidance materials to advise food truck operators.

Sec. 30: Inserts a new section authorizing local Pure Food Act regulatory authorities to enter into agreements to grant reciprocity for local food safety licensing of mobile food establishments. Inserts a duty of local regulatory authority to report to the Legislature any reciprocity agreement entered into or actions to explore reciprocity agreements and impediments to such agreements.

Section 31: Inserts a new section assigning a duty to the Department of Agriculture to maintain a mobile food establishment ordinance registry. The section would require cities of the first or second class to submit a copies of municipal ordinances governing the operation of food trucks in their jurisdiction, any permit application forms, and contact information for purposes of mobile food establishment regulation. Cities that do not regulate mobile food establishments satisfy their obligation under this section by submitting a statement that no such regulations exist in their jurisdiction. Cities are to notify the Department by Dec. 31 of any revisions to registry information.

Sec. 32: Inserts a new section assigning a duty to the Dept. of Agriculture to develop guidance documents for mobile food unit operators advising of applicable health and safety permitting regulations to operate in local jurisdictions. Section 32 includes revisions rewriting the section for clarity that the guidance document describe food permitting requirements applicable to mobile food establishments and for purposes of qualifying for reciprocity in licensing regulations of participating local Pure Food Act regulatory authorities.

As with the committee amendment to LB 740 as advanced separately, AM719 omits original section 4 of LB 740 as introduced which would have redefined the term mobile food unit.

LB 263 provisions:

Sections 1 through 12 of AM719 incorporate the provisions of LB 263 which makes revisions to the Nebraska Hemp Farming Act. These sections revise the Hemp Farming Act to be consistent with the USDA Final Rule

implementing the 2018 Farm Bill hemp provisions and to make other adjustments to aid with administration of the Act. The relevant sections of AM648 are explained below:

Sec. 1: Amends §2-503 to update the definition of “acceptable THC level” and “measurement of uncertainty” to incorporate these terms as defined by 7 CFR 990 as existing on January 1, 2022. LB 263 also inserts a new defined term for “remediation” incorporating that term as defined in 7 CFR 990.

Sec. 2: Amends §2-504 which assigns rulemaking and implementing authority for various purposes to the Department. The revisions authorize the Department to also accomplish necessary changes in requirements governing hemp production through amendment to the state hemp plan and specify purposes for recordkeeping requirements

Sec. 3: Amends §2-505 to remove an obsolete external reference and to adopt the most recent reference to a cited federal CFR definition of “key participants.”

Secs. 4, 6, & 12: Amends §§2-506, 2-509 & 28-401 to strike an external reference to §2-5701, an expired hemp growers license provision made obsolete by the Hemp Farming Act. §2-5701 is outright repealed in Section 43.

Sec. 5: Amends §2-508 to remove a date specific requirement for initial license application or annual license renewal and removes what becomes obsolete late fee provisions.

Sec. 7: Amends §2-510 to specify that destruction of non-compliant hemp be performed within 30 days of notification by the Department.

Sec. 8: Amends §2-511 to increase the threshold at which hemp exceeding the acceptable THC level is deemed a negligent violation from 0.5% to 1.0%. Note, this does not increase the THC concentration of hemp that may be harvested. Any hemp above 0.3% THC is still subject to destruction.

Sec. 9: Amends §2-514 to:

- remove statutory prescription that sampling occur at each lot to defer to sampling as specified in the Hemp plan. The hemp plan will continue to require sampling and testing of each lot unless the Department amends the plan to allow alternative sampling where appropriate for certain categories of hemp as authorized under the final rule.
- increase the harvest deadline after sample collection from 15 to 30 days.
- require 7-days notice of a request for official sample collection and provides that the licensee assumes risk of any damage resulting from failure to timely request sampling.
- add remediation, if allowed by the Department, as an option in the event of an adverse test result.

Sec. 10: Amends §2-515 which prescribes documentation to be carried by persons transporting hemp. LB 263 clarifies that this duty applies when transporting hemp cultivated under the Hemp Farming Act. Expands an exclusion for growers when transporting untested hemp for purpose of private testing to include testing for any private purpose.

Sec. 11: Amends §2-517 to require the Nebraska Hemp Commission to meet at least annually instead of quarterly.

LB 264 provisions:

Sections 13 through 16 and 34 through 37 of AM719 insert the provisions of LB 264 which makes a series of revisions to the Grain Warehouse Act and the Grain Dealers Act.

Secs. 13 & 35: Amends §75-156 and §88-527 to conform these sections with the replacement of the term “warehouseman” with the term “warehouse operator” in section 34.

Secs. 14 & 34: Amends §75-902 of the Grain Dealer Act and §88-526 of the Grain Warehouse Act by revising the definition of “grain” to remove an ambiguity whether grain excludes segregated commodities such as certified organic.

Sec. 15: Amends §75-903, which sets forth requirements for licensure as a grain dealer, as follows:

- Increase the statutory maximum dealer security from \$300,000 to \$1 million.
- Removes a statutory formula for calculating the security amount to defer to the Public Service Commission (PSC) to set the amount by regulation to be consistent with a similar provision of the Grain Warehouse Act.

Secs. 16 & 36: Amends §75-903.02 of the Grain Dealer Act and §88-528.01 of the Grain Warehouse Act to clarify an exemption for criminal background checks of persons submitting a new license application who have previously submitted a background check for a previous but separate license.

Sec. 37: Increases the statutory maximum warehouse bond from \$500,000 to \$1 million.

LB 305 provisions:

Sections 38 & 39 of AM719 insert the provisions of LB 305 as advanced to general file.

Section 38: Amends §88-541 which currently directs the PSC to at least annually fix storage rates and provides that warehouse licensees may not deviate from such rate, either higher or lower, except by application to and hearing before the PSC.

This section removes the duty and authority of the Commission to establish storage rates, but specifies that warehouse licensees must prominently post storage rates and related charges on signage issued by the PSC and that the schedule of rates and charges posted shall be full compensation for receiving, handling, storing, delivering and insuring grain. The revisions to this section of the Grain Warehouse Act provide that existing warehouse licensees file with the Public Service Commission its current schedule storage rates and charges on the date of the filing. New license applicants would file a schedule of storage rates and charges with the license application. Warehouse licensees would be free to adjust such rates and charges by filing notice with the PSC and all grain owners of record at least 30 days prior to any adjustment of such rates or charges taking effect.

Sec. 39: Amends §88-549 which requires licensees to annually notify grain storers of current storage costs and declares failure to do so is a Class IV misdemeanor. This section of AM719 would add charging storage rates and charges other than, or in addition to, those filed and posted as a misdemeanor violation under this section.

LB 263 (Agriculture Committee) Change provisions Nebraska Hemp Farming Act

Date of Public Hearing: 2/21/2023

Date Reported from Committee: 3/02/2023

Committee Amendment: none

** Provisions/purposes of LB 263 as advanced to general file are included as sections 1 – 12 & 41 of the

pending committee amendments (AM719) to LB 262

LB 263 is brought on behalf of the Dept. of Agriculture to remove conflicts between state law and the USDA Final Rule implementing the 2018 Farm Bill hemp provisions and to make other minor adjustments.

Sec. 1: Amends §2-503 to update the definition of “acceptable THC level” and “measurement of uncertainty” to incorporate these terms as defined by 7 CFR 990 as existing on January 1, 2022. The revisions to these definitions in the final rule removes an ambiguity that the 0.3% threshold refers to total THC. LB 263 also inserts a new defined term for “remediation” incorporating that term as defined in 7 CFR 990.

Sec. 2: Amends §2-504 which assigns rulemaking and implementing authority for various purposes to the Department. The revisions authorize the Department to also accomplish necessary changes in requirements governing hemp production through amendment to the state hemp plan and specify purposes for recordkeeping requirements

Sec. 3: Amends §2-505 to remove an obsolete external reference and to adopt the most recent reference to a federal CFR definition of “key participants.”

Secs. 4, 6 & 12: Amends §§2-506, 2-509 & 28-401 to strike an obsolete external reference

Sec. 5: Amends §2-508 to remove a date specific requirement for initial license application or annual license renewal and removes what becomes obsolete late fee provisions.

Sec. 7: Amends §2-510 to specify that destruction of non-compliant hemp be performed within 30 days of notification by the Department.

Sec. 8: Amends §2-511 to increase the threshold at which hemp exceeding the acceptable THC level is deemed a negligent violation from 0.5% to 1.0%. Note, this does not increase the THC concentration of hemp that may be harvested. Any hemp above 0.3% THC is still subject to destruction.

Sec. 9: Amends §2-514 to:

- remove statutory prescription that sampling occur at each lot to defer to sampling as specified in the hemp plan. The hemp plan will continue to require sampling and testing of each lot unless the Department amends the plan to allow alternative sampling where appropriate for certain categories of hemp as authorized under the final rule.
- increase the harvest deadline after sample collection from 15 to 30 days.
- require 7-days notice of a request for official sample collection and provides that the licensee assumes risk of any damage resulting from failure to timely request sampling.
- add remediation, if allowed by the Department, as an option in the event of an adverse test result.

Sec. 10: Amends §2-515 which prescribes documentation to be carried by persons transporting hemp. LB 263 clarifies that this duty applies when transporting hemp cultivated under the Hemp Farming Act. Expands an exclusion for growers when transporting untested hemp for purpose of private testing to include testing for any private purpose.

Sec. 11: Amends §2-517 to require the Nebraska Hemp Commission to meet at least annually instead of quarterly.

Sec. 13. Repealer

Sec. 14: Outright repeals obsolete §2-5701.

LB 264 (Agriculture Committee) Change provisions of the Grain Warehouse and Grain Dealers Acts

Date of Public Hearing: 1/31/2023

Date Reported from Committee: 3/02/2023

Committee Amendment: None

** Provisions/purposes of LB 264 included as sections 13 – 16 & 34 – 37 of of the pending committee amendment (AM718) to LB 262

LB 264 is brought in conjunction with the Public Service Commission to make a series of updates to the Nebraska Grain Dealer Act (§§75-901 to 75-910) and the Grain Warehouse Act (§§88-525 to 88-552)

Secs. 1 & 6: Amends §75-156 and §88-527 to conform these sections with the replacement of the term “warehouseman” with the term “warehouse operator” in section 5. (no substantive change)

Secs. 2 & 5: Amends §75-902 of the Grain Dealer Act and §88-526 of the Grain Warehouse Act by revising the definition of “grain” to remove an ambiguity whether grain excludes segregated commodities such as certified organic.

Sec. 3: Amends §75-903, which sets forth requirements for licensure as a grain dealer:

- Increase the statutory maximum dealer security from \$300,000 to \$1 million.
- Removes a statutory formula for calculating the security amount to defer to the Commission to set the amount by regulation (similar to the Grain Warehouse Act)

Secs. 4 & 7: Amends §75-903.02 of the Grain Dealer Act and §88-528.01 of the Grain Warehouse Act to clarify an exemption for criminal background checks of persons submitting a new license application who have previously submitted a background check for a previous but separate license.

Sec. 8: Increases the statutory maximum warehouse bond from \$500,000 to \$1 million.

Sec 9: Repealers.

LB 305 (Halloran) Change provisions of the Grain Warehouse Act regarding storage rates and charges

Date of Public Hearing: 1/31/2023

Date Reported from Committee: 3/02/2023

Committee Amendment: AM526

** Provisions/purposes of LB 305 as advanced to General File with AM526 included as sections 38 & 39 of the pending committee amendment (AM719) to LB 262

LB 305 deregulates storage rates charged by state licensed grain warehouses. As introduced, LB 305 amends §88-541 of the Grain Warehouse Act. This section currently directs the Public Service Commission (PSC) to at least annually fix storage rates and provides that warehouse licensees may not deviate from such rate, either higher or lower, except by application to and hearing before the Commission.

LB 305 would remove the duty and authority of the PSC to establish storage rates, but specifies that warehouse licensees must prominently post storage rates and related charges and the schedule of rates and charges posted shall be full compensation for receiving, handling, storing, delivering and insuring grain. Grain warehouse licensees may adjust such rates and charges by notice to the PSC and all grain owners of record at least 30 days prior to any adjustment of such rates or charges taking effect.

The pending committee amendment (AM 526) would make the following changes:

- Inserts an initial filing requirement for existing warehouse licensees of storage rates and charges on the date of the filing. New license applicants would file a schedule of storage rates and charges with the license application. Adopts the terminology of “filing” for notice given to the Commission of any future changes of storage rates.
- Provides that the posting of a schedule of storage rates and charges is on signage issued by the Public Service Commission.
- Inserts a new section amending §88-549 which requires licensees to annually notify grain storers of current storage costs and declares failure to do so is a Class IV misdemeanor. AM526 would add charging storage rates and charges other than, or in addition to, those filed and posted as a misdemeanor violation under this section.

LB 321 (Brandt) Change provisions of the Nebraska Pure Food Act pertaining to cottage foods

Date of Public Hearing: 1/31/2023

Date Reported from Committee: 2/22/2023

Committee Amendment: AM483

LB 321 conditionally expands the types of foods that may be prepared and sold by cottage food operations to include certain time/temperature control for safety (TTCS, formerly known as potentially hazardous) foods.

Sec. 1: Amends §81-2,245.01 of the Pure Food Act which defines the term “food establishment” for purposes of the Pure Food Act. Food establishments are defined broadly to include any facility where food is prepared, stored, served or sold beyond household consumption except for an enumerated list of food operations expressly excluded.

LB 321 would expand the existing cottage food exclusion for food prepared in private homes and other areas under subsection (7). The bill identifies existing cottage food limitations for non -TTCS foods as subdivision (7)(a) and inserts a new subdivision (7)(b) to further exclude as cottage food operations those preparing certain time/temperature control for safety (TTCS) foods. The new subdivision (b) would insert the following requirements to operate within the cottage food exemptions when serving TTCS foods:

- the foods offered are not alcohol, low acid canned foods, unpasteurized milk or a number of meat products
- the foods are labeled for ingredients in descending order
- the food is delivered directly to the consumer (cannot be sent by mail or carrier), not be in transport more than 2 hours, and held at safe temperatures during transport

New subdivision 7(b) further provides that the expanded cottage food exemption for TTCS foods is not construed to:

- restrict investigations of foodborne illness
- prohibit production or sale of any foods otherwise allowed
- apply to the sale of live animals or animal shares,
- affect the regulation of other goods and services that may be produced at a cottage food location, or -- exempt sellers of TTCS foods from hunting or fishing regulations

New subdivision 7(b) also:

- prohibits a regulatory authority from requiring food training requirements beyond those currently required under the existing cottage food exemption, and
- Expressly states that violations of the expanded cottage food exemption are subject to cited disciplinary provisions but limits any fine to \$75.

Sec. 2: Amends §81-2,280 which creates a requirement for persons selling food under the cottage food exemption to register with the department and specifies conditions of registration. This section currently exempts persons selling under the existing cottage food provision when selling exclusively at a farmers market. LB 321 would clarify that registration is required when selling potentially hazardous foods at a farmers market.

The committee amendment (AM483) is a white copy that strikes the original provisions and becomes the bill. AM483 relocates the regulatory provisions currently describing the cottage food exclusion in §81-2,245.01(7) to §81-2,280 which currently only prescribes requirements for cottage food registration. The exclusion of cottage food operations from the definition of “food establishments” in §81-2,245.01 would simply refer to those meeting the requirements set out in §81-2,280. The purposes of LB 321 to expand the cottage food exemption to include certain potentially hazardous foods is also included in the revisions to §81-2,280. However, the provisions are rewritten for clarity as described below:

- contains the same prohibitions on certain types of potentially hazardous foods as the introduced bill, but substitutes preferred terminology and external references as appropriate;
- continues requirements for completion of food safety training and water well testing under current law but as rewritten to be clear these requirements also apply to cottage food operations offering TTCS foods allowed by the bill. AM483 also adds an additional option for a program offered through UNL to meet the food safety training requirement. AM483 continues the existing exemption from these requirements for those whose sales are confined to direct sales at a farmers market or similar event;
- continues the existing product labeling disclosures but as rewritten to be clear they apply to cottage food operations offering non TTCS foods and TTCS foods allowed by the bill and to add the additional ingredient labeling requirement for TTCS foods proposed in the original bill, AM483 continues the existing exemption from these requirements for those whose sales are confined to direct sales at a farmers market or similar event;
- Includes the provision of LB 321 as introduced that limits delivery of TTCS foods to person-to-person (may not be sent through mail or carrier) and that such foods cannot be taken to a delivery point greater than 2 hours away and to comply with food temperature holding requirements of the Pure Food Act while in transport; and
- Eliminates unnecessary provisions declaring violations of the cottage food limitations subject to cited enforcement provisions from the original bill except to reinforce that cottage foods may not be adulterated.

Finally, AM483 inserts an express preemption of local subdivision rules and regulations not in conformance with the bill.

LB 442 (Albrecht) State intent regarding a general fund transfer to the Livestock Growth Act Cash Fund

Date of Public Hearing: 2/07/2023

Date Reported from Committee: 2/22/2023

Committee Amendment: AM372

** Provisions/purposes of LB 442 as advanced to General File included as section 2 of the pending committee amendment (AM718) to LB 116

LB 442 Amends §54-2804 which creates the Livestock Growth Act Cash Fund. LB 442 inserts legislative intent to transfer \$2 million general funds to the fund in FY 2023-24. As introduced, the bill contains the emergency clause.

The pending committee amendment (AM372) replaces the transfer intent text with a direct transfer of \$2 million from the general fund to the Livestock Growth Cash Fund on July 31, 2023 or as soon thereafter as administratively feasible.

BILLS HELD BY THE COMMITTEE

LB 117 (Brandt) Change provisions of the Independent Processor Assistance Act

Date of Public Hearing: 1/24/2023

LB 117 modifies the Independent Processor Assistance Program contained in §54-1915.02 of the Meat and Poultry Inspection Law. The bill proposes amending §54-1915.02 by changing the threshold for meat processors to be eligible for grants awarded under the program. Currently, eligibility is limited to processors with existing sales revenue less than \$2.5 million, and who employ fewer than 25 people. LB 117 would eliminate the revenue limitation and increase the employee threshold to 50 people.

LB 229 (Erdman) Change provisions relating to registered feedlots under the Livestock Brand Act

Date of Public Hearing: 2/07/2023

LB 229 clarifies statutory provisions regarding when brand inspection is required for cattle entering a registered feedlot. The bill amends §54-1,112 to explicitly provide that cattle entering a registered feedlot are subject to brand inspection unless moved in accordance with subsections (1) & (2).

Subsection (1) retains existing language that describes cattle originating in a brand inspection area and moved directly to a registered feedlot accompanied by brand inspection documentation issued at the point of origin.

Subsection (2) pertains to cattle not accompanied by brand inspection documentation, either because the point of origin is not within a brand inspection area or the point of origin is within a brand area but the cattle were not inspected prior to movement. LB 229 would also require such cattle to be moved directly to a registered feedlot and be accompanied by satisfactory evidence of ownership to be exempt from inspection upon entry to the feedlot.

LB 336 (Halloran) Terminate the Nebraska Hemp Commission and create the Hemp Advisory Board

Date of Public Hearing: 2/21/2023

LB 336 replaces the Nebraska Hemp Commission with a Hemp Advisory Board within the Department of Agriculture, and transfers administration of a hemp promotional cash fund to the Department. The bill would also repeal a provision imposing a hemp checkoff assessment and strike expired authorizations for transfers between the Hemp Program Cash Fund and other cash funds. These changes are described in section-by-section detail below.

Sec. 1: Amends §2-501 to incorporate new sections into the Nebraska Hemp Farming Act.

Sec. 2: Amends §2-509 which creates the Hemp Program Cash Fund. LB 336 eliminates an obsolete authorization for transfers to other cash funds.

Sec. 3: Amends §2-517 which creates the Nebraska Hemp Commission as a state agency and prescribes its membership, duties and authorities. LB 336 terminates the Commission on the effective date of the bill (bill contains emergency clause).

Sec. 4: Inserts a new section creating the Nebraska Hemp Advisory Board. Prescribes an 8-member board appointed by the Governor, with the qualifications of membership identical to that of the Nebraska Hemp Commission. Provides for the initial membership on the Advisory Board to consist of membership of the Hemp Commission serving on the date of termination of the Hemp Commission with any current or future vacancies filled by Governor appointment. Requires the Board to meet only as necessary and that members are reimbursed for expenses as provided in §81-1174.

Sec. 5: Assigns a duty to the Hemp Advisory Board to advise the Director regarding implementation of the Hemp Farming Act and use of the Hemp Promotional Fund

Sec. 6: Amends §2-518 which creates the Hemp Promotion Fund. LB 336 transfers administration of the fund to the Department of Agriculture. Strikes obsolete reference to hemp checkoff assessments collected under §2-519 due to outright repeal of that section by Section 10 of the bill.

Secs. 7 & 8: Amend §2-958 and §81-12,162.27 to strike expired authorizations of uses of the Noxious Weed Cash Fund and the Fertilizer and Soil Conditioners Cash Fund and related transfers from the Hemp Program Cash Fund to these funds.

Sec. 9: Repealer

Sec 10: Outright repeals §2-519

Sec. 11: Emergency Clause

LR 591 (Hardin) Insert a statutory rule for notice of termination of oral agricultural land leases

Date of Public Hearing: 1/31/2023

LB 591 inserts a statutory rule for giving notice of intent to quit an oral lease of agricultural land in order to be effective for the next crop year. The bill would insert a wholly new section of law specifying that notice of termination of an oral agland lease must be given by January 1 to be effective for the upcoming lease year beginning March 1. Notice given after January 1 would not be effective until the beginning of following lease year. Current rules for timeliness of notice of intent to quit an oral lease of cropland or grazing land are established in common law.

LB 662 (Ballard) Change provisions of the Nebraska Right-to-Farm Act

Date of Public Hearing: 2/14/2023

LB 662 amends the Nebraska Right-to-Farm Act (§§2-4401 to 2-4404) by expanding conditions under which a farm or public grain warehouse is shielded from liability as a public or private nuisance.

Sec. 1: Amends §2-4402 which defines terms used throughout the Right-to-Farm Act. LB 662 inserts a new defined term, "agricultural operation," as a generic term meaning a farm or farming operation, or a public grain warehouse or grain warehouse operation. The new term is substituted for repeated listing of protected agricultural facilities elsewhere in the Act.

Sec. 2: Amends §2-4403 to limit standing to bring a nuisance action against an agricultural operation to a) persons having a majority ownership of property within one-half mile of the operation and b) such operation has materially violated applicable state, local or federal law.

Additionally, the bill provides that an agricultural operation may not be found to be a public or private nuisance if:

- a) The operation existed prior to land use change in the locality of the operation and was not a nuisance prior to such land use change
- b) The operation is conducted consistent with commonly accepted agricultural practices. This provision creates a presumption that operations in material compliance with applicable laws and permitting requirements are conducted consistent with commonly accepted agricultural practices
- c) If the nuisance arises from a change in ownership, temporary interruption of agricultural operations, participation in government programs, use of new technology or change in type of farm products produced.

Finally, the bill reduces the statute of limitations from two years to one year from when nuisance conditions occur.

Sec 3: Repealer

LB 735 (Blood) Create a work group and stewardship program under the Nebraska Apiary Act

Date of Public Hearing: 2/21/2023

LB 735 assigns duties to the Department of Agriculture to form a group of experts to study chemical impacts to bees and mitigation options, to establish a mandatory apiary registry, and to file a report on related topics to the Legislature.

Sec. 1: Amends §81-2,165.01 to incorporated section 2 of the bill into the Nebraska Apiary Act

Sec. 2: Inserts a new section which assigns two interrelated duties to the Department of Agriculture.

Subsection (1) directs the Department of Agriculture to convene an expert working group of UNL experts to analyze issues associated with bee exposures to chemicals and to recommend mitigation options. The Director is further directed to cooperate with the State Historical Society to digitize its library collections including products of the work group convened under this subsection. The work group is to submit a report to the Director by February 1, 2024.

Subsection (2) creates a Nebraska Stewardship Program administered by the Department. The stewardship program shall include a mandatory sensitive site registry available to specialty crop growers and beekeepers that makes registered site maps available to the public. Requires the Director to submit a report to the Legislature by February 1, 2024 containing findings and recommendations of the work group convened under subsection (1), Department activities to implement the stewardship program, and resources available in the Apiary Cash Fund.

Sec 3: Repealer

REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: April 20, 2023

The following resolutions were referred to the Committee on Agriculture. The committee has prioritized the resolutions in the following manner:

<u>Resolution No.</u>	<u>Priority Category</u>	<u>Subject</u>
LR 106	1	Interim study to examine foreign held interests in agricultural land in Nebraska
LR 176	3	Interim study to compare Nebraska right-to-farm protections with those of other states.
LR 212	2	Interim study to examine issues within the jurisdiction of the Agriculture Committee that may arise during the interim
LR 219	2	Interim study to examine occupational regulations under the Nebraska Pesticide Act for purposes of the Occupational Board Reform Act

- 1 – Committee Priority – Staff prepare research report, interim hearings, task force or combination of committee activities
2. – Chairman Priority – Staff to compile information and prepare memoranda
3. – Senator Priority – Staff to assist individual senator’s research of issue

Senator Steve Halloran, Chair
Agriculture Committee

2023 Interim Study Resolutions Referred to the Agriculture Committee

LR106 (Halloran) **PURPOSE:** The purpose of this resolution is to propose an interim study to examine interests in agricultural lands in Nebraska held by foreign individuals, business entities, and governments and factors underlying the dramatic increase in foreign-held interests in agricultural lands.

Foreign investment in agricultural production or other activities occurring on agricultural lands in the state has increased substantially over the past decade. The Agricultural Foreign Investment Disclosure Act of 1978 requires foreign persons and foreign-held entities who acquire or transfer an interest in agricultural land to report such transactions to the United States Secretary of Agriculture. The United States Department of Agriculture publishes information compiled from such reporting annually. According to the 2020 Foreign Holdings of U.S. Agricultural Lands publication, foreign landholdings in Nebraska as of December 31, 2020, included over six hundred ninety thousand acres, which was one and one-half percent of privately held agricultural land in the state, compared to over thirty-four thousand acres in 2010 which was one-tenth of one percent of privately held agricultural land in the state in 2010.

The interim study shall include a review of the need for and utility of legislation to improve the ability of the State of Nebraska to monitor foreign investments in agricultural lands and agricultural production in order to better understand:

- (1) The types of interests held by foreign investors;
- (2) The purposes for which such investment has occurred and is likely to occur in the future;
- (3) The benefits of foreign investment for agricultural production, rural landowners, and rural economies; and
- (4) Any actual or potential adverse impacts of foreign investment for food security and agricultural and rural economies.

LR176: (Ballard) **PURPOSE:** The purpose of this resolution is to propose an interim study to examine the provisions of the Nebraska Right to Farm Act in comparison to similar laws in other states who rely on agriculture and recruitment of agriculture-related businesses as a significant portion of their economy.

According to the United States Department of Agriculture, agriculture, food, and related industries contributed over \$1.2 trillion to the United States gross domestic product in 2021 and \$164.7 billion of that amount is a direct output from farms. In addition, the agricultural and food sectors provide over 21 million full-time and part-time jobs, with direct on-farm employment accounting for about 2.6 million jobs. In Nebraska, agriculture accounts for approximately one-third of business sales, over twenty percent of the gross state product, and nearly twenty-five percent of jobs. Ninety-two percent of Nebraska's total land area is utilized by farms and ranches and almost half of Nebraska's farms have some type of livestock or poultry operation.

The interim study shall include, but need not be limited to, a review of the need for and utility of legislation to strengthen the Nebraska Right to Farm Act in order to:

- (1) Protect businesses and families who rely on Nebraska's vital agricultural industry and associated activities;
- (2) Consider what effect advancements in technology, best practices for agricultural operations, and regulatory oversight, have had on reducing nuisances and other impacts for those living near an agricultural operation;
- (3) Reduce the risk of frivolous or anti-agriculture lawsuits while preserving the ability to obtain relief for actual harm to residents; and
- (4) Ensure Nebraska's laws allow the state to compete with other states for agriculture-related businesses and economic development opportunities.

LR 212 (Halloran) **PURPOSE:** The purpose of this resolution is to propose an interim study to examine any issues within the jurisdiction of the Agriculture Committee of the Legislature that may arise during the interim.

LR 219 (Halloran) PURPOSE: The purpose of this resolution is to propose an interim study to review the credentialing requirements under the Pesticide Act in furtherance of the purposes of the Occupational Board Reform Act.