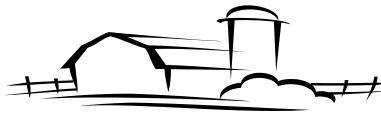

COMMITTEE ON AGRICULTURE

ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION - 2009



SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

Agriculture Committee Members

Senator Tom Carlson, Chair
Senator Annette Dubas, Vice-Chair
Senator Brenda Council
Senator "Cap" Dierks
Senator Russ Karpisek
Senator Scott Price
Senator Ken Schilz
Senator Norm Wallman

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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 71 | Cornett | Require animal health professionals to report suspected animal abuse and neglect | 1/27/09 | General File | | AM541 | Purposes/provisions of LB 71 incorporated into LB 494 by AM1203 |
| LB 98 | Carlson | Change noxious weed funding provisions relating to stream vegetation removal and extend the Riparian Management Task Force | 2/17/09 | Enacted | AM641 ER8057 | | Senator Carlson priority bill |
| LB 99 | Carlson | Adopt the Anthrax Control Act | 1/20/09 | Enacted | AM 116 ER8007 | | Reintroduction of LB 788 from 2008 session |
| LB 100 | Carlson | Change Pesticide Act provisions | 1/20/09 | Enacted | FA5 | | |
| LB 101 | Carlson | Eliminate the termination date of the Farm Mediation Act | 1/20/09 | Enacted | | | |
| LB 130 | Dubas | Create the Farm-to-School Task Force | 1/27/09 | Held | | | See interim study resolution LR 42 |
| LB 142 | Hansen | Change brand transfer provisions | 1/27/09 | Enacted | AM 56 AM 315 ER8018 | | |
| LB 224 | Carlson | Change State Fair provision | 3/03/09 | Enacted | AM949 AM1365 ER8107 | | Ag Committee 1 st priority bill |
| LB 231 | Avery | Change provisions for membership on the Rural Development Commission | 1/27/09 | Enacted | AM 75 | | |
| LB 241 | Pahls | Change Dog and Cat Operator Inspection Act provisions and Adopt the Pet Purchase Protection Act | 2/03/09 | Enacted | AM428 AM1028 AM1362 ER8111 | | Provisions/purposes of LB 588 incorporated into bill by AM1028. Ag Committee 2 nd priority bill |
| LB 254 | Dubas | Require an aerial applicator business license | 2/10/09 | General File | | AM420 | |

| LB # | Primary Introducer | One-Line Description | Hearing Date | Disposition | Amends Adopted | Amends Pending | Comment |
|--------|--------------------|--|--------------|-------------|---------------------------|----------------|--|
| LB 263 | Rogert | Declare state preemption of local regulation under the Nebraska Seed Law and the Nebraska Fertilizer and Soil Conditioners Act | 2/10/09 | Enacted | AM354 ER8123 ST9052 | | Speaker priority bill |
| LB 389 | Carlson | Change appointment provisions for the Climate Assessment Response Committee | 2/03/08 | Enacted | AM355 ER8077 | | |
| LB 516 | Hansen | Require compensation for certain structures located upon the Nebraska State Fairgrounds | 3/03/09 | Held | | | |
| LB 581 | Carlson | Change distribution of pesticide product registration fees and weed book sales | 2/10/09 | Held | | | LB 581 competing measure to LB 98 |
| LB 584 | Dierks | Adopt the Agricultural Commodities Protection Act | 3/10/09 | Held | | | |
| LB 585 | Dierks | Adopt the Bovine Trichomoniasis Act | 2/24/09 | Held | | | |
| LB 588 | Dierks | Adopt the Pet Purchase Protection Act | 2/03/09 | Gen File | | AM705 | Provisions/purposes of LB 588 incorporated into LB 241 by AM1028 |
| LB 593 | Dierks | Restrict entity ownership of agricultural land and farm and ranch operations | 3/03/09 | Held | | | |
| LB 602 | Dierks | Allow 1 st purchasers to retain a fee for commodity promotion collections | 2/24/09 | lpp'd | | | |
| LB 641 | Schilz | Provide a targeted renewable diesel production incentive | 2/10/09 | Held | | | |
| LB 646 | Christensen | Adopt the Livestock Growth Act | 2/24/09 | Held | | | |
| LB 667 | Sullivan | Change fence law provisions | 3/10/09 | Held | | | See interim study resolution LR 112 |
| LB 677 | Haar | Change Commercial Dog and Cat Operator Inspection Act provisions | 2/03/09 | lpp'd | | | |

BILLS ENACTED AND SIGNED BY THE GOVERNOR

LB 98 (Carlson) Extend authorizations for certain grant programs for stream vegetation removal and for the Riparian Vegetation Management Task Force

Date of Public Hearing: 2/17/09

Date Reported from Committee: 3/12/09

Committee Amendment: AM641

Other Adopted Amendments: ER8057

Effective Date: May 14, 2009

Carlson priority bill

As introduced, LB 98 extended for two additional years statutory authority contained within the Noxious Weed Control Act for the Riparian Management Task Force and reaffirms statutory intent for funding of an associated grant program. Specifically, LB 98 makes the following substantive revisions:

- Amends §2-958.02(4) to reaffirm legislative intent to appropriate \$2 million annually for the purposes authorized by this subsection available for projects addressing invasive riparian vegetation, and extends the termination date for the grant category authorized by this subsection from to June 30, 2009 to June 30, 2011. An obsolete directive that priority be given in the first year of grant awards to projects located in fully appropriated river basins of streams subject to interstate compact is stricken.
- Amends §2-967 which creates the Riparian Management Task Force and assigns its membership. Under current law, the underlying statutory authority for the Task Force expires on June 30, 2009. LB 98 extends the sunset date to June 30, 2011.
- Amends §2-968 which assigns duties to the Riparian Management Task Force, including that the Task Force submit a final report prior to June 30, 2009, and intermediate recommendations. LB 98 extends the deadline for a final report to June 30, 2011 and strikes obsolete text regarding an intermediate report of recommendations.

The committee amendment (AM 641) adopted on General File struck the original provisions to become the bill, although the amended version was substantively similar to the bill as introduced. As enacted, the authorizations for the existence and duties of the Riparian Management Task Force, and for the vegetation management grant program found in §2-958.02, §2-967 and §2-968, are extended four years from the current expiration date, rather than just two years, to sunset on June 30, 2013. Additionally, §2-958.02 is revised to rewrite for clarity an existing directive that the Director give priority to grants awarded under authority of this subsection to those consistent with policy established in §2-968. The amendment restates that the Director give priority to grants that are consistent with any plans and priorities for riparian vegetation management established by the Riparian Management Task Force pursuant to §2-968.

The amendment further inserts new text identifying non-general fund sources of funding for grant programs authorized pursuant to §2-958.02 as amended.

- A new subsection (7) is inserted into §2-958.02 by section 2 of the amendment directing the Director of Agriculture to apply for grants from the Environmental Trust Fund in the upcoming grant cycle beginning Sept. 2009, and the Natural Resources Conservation Service of the USDA prior to July 31, 2009.
- New section 5 amends §2-5106 to provide for a one-time transfer of \$500,000 from the Buffer Strip Incentive Cash Fund to the Noxious Weed and Invasive Species Assistance Fund. §2-958.01 is amended by section 1 of AM 641 to conform internal reference to this transfer authorization and strikes an obsolete reference to a previous transfer to this fund.

LB 98 was enacted with the emergency clause.

LB 99 (Carlson) Adopt the Anthrax Control Act

Date of Public Hearing: 1/20/09

Date Reported from Committee: 1/26/09

Committee Amendment: none

Other Adopted Amendments: AM116, ER8007

Effective Date: 2/27/09

LB 99 is brought at the request of the Department of Agriculture to update authorities of the Department relating to anthrax to be consistent with current veterinary and epidemiological practices applied in other eradication programs. The bill adopts wholly new provisions as the Anthrax Control Act and repeals existing anthrax control provisions in §54-754 through §54-763 first placed into statute in the 1930's and remaining largely unrevised since that time. A more complete description of the provisions of the bill as enacted is contained in the section-by-section summary below.

A select file amendment (AM116) modified an express exclusion of liability of the Department for costs incurred by producers to comply with the Act or orders of the Department issued pursuant to the act. AM116 narrows the exclusion to not apply to clearly excessive costs or costs that result from gross or willful negligence of the Department or its employees.

SECTION-BY-SECTION SUMMARY:

Section 1 Names the act the Anthrax Control Act.

Section 2 States the purpose of the act is to prevent, suppress, and control anthrax to protect the health of Nebraska's livestock.

Section 3 Establishes definitions for use in the act.

Section 4 Provides authority to the Department of Agriculture to: (1) cooperate and contract with any person, including local, state, or national entities for the performance of activities required pursuant to the act; (2) employ all general powers and duties to administer and enforce the act; (3) have access to any premises where livestock are suspected to be infected with anthrax for the purpose of making inspections, conducting tests, including the taking of samples; treatment of affected animals, and to declare, carry out, and enforce any and all quarantines.

Prohibits any person from interfering with the department's enforcement of the act.

Allows the department to delegate to appropriate personnel responsibilities for the proper administration of the act.

Grants authority to adopt regulations concerning the establishment of procedures for testing, vaccination, and quarantine, the cleaning and disinfection of premises, and any other regulations necessary to carry out the act. Also grants authority to designate approved laboratories for the diagnosis and confirmation of anthrax.

The department may provide state funds to or on behalf of herd owners for activities related to the implementation of the act if funds for such activities have been appropriated and are available.

Unless the Legislature appropriates funds to the department specifically for such purposes, the department shall not pay for (1) costs associated with gathering, confining, and restraining animals for vaccination or other anthrax control activities; (2) costs of providing necessary facilities and assistance; (3) indemnity for any animal destroyed as a result of being affected with anthrax; or (4) costs for carcass disposal and any disinfection or cleaning.

- Section 5 Imposes a duty on all persons to immediately report animals exhibiting signs consistent with anthrax.
- Section 6 Prohibits any person from knowingly harboring, selling, or disposing of any animal or part of any animal exposed to or infected with anthrax except as provided in the Act or regulations.
- Section 7 Grants authority to immediately quarantine animals and premises affected by anthrax, and prohibits any person to remove an animal from quarantine except as directed to do so by the State Veterinarian.
- Section 8 Requires the herd owner or custodian to develop a herd plan in cooperation with the department. Sets the parameters for development of a herd plan.
- Section 9 Prohibits any person from preventing the testing, vaccination, and treatment of any affected herd. Owners of an affected herds are required to assist in anthrax examination and testing.
- Section 10 Establishes the parameters for the sale and use of anthrax vaccine.
- (1) The Department may restrict the sale and use of anthrax vaccine.
 - (2) Only licensed and approved anthrax vaccines shall be used for the vaccination of livestock, and such vaccine shall be distributed by an accredited veterinarian licensed to practice in the state.
 - (3) Requires the prescribing or administering veterinarian to maintain records of all sales and purchases of anthrax vaccine for a period of five years, and shall make such records available for departmental review during normal business hours.
 - (4) An exposed herd may be vaccinated as deemed appropriate by the State Veterinarian.
 - (5) Requires infected herds to be vaccinated by accredited veterinarians licensed to practice in Nebraska or by a designee of the department.
 - (6) Allows a herd owner or custodian of a nonaffected herd to purchase anthrax vaccine from an accredited veterinarian.

- Section 11 Imposes a duty on the owner or custodians of affected herds which have experienced any death loss to have samples submitted to an approved laboratory for confirmation purposes.
- Section 12 Prohibits: 1) the transportation of any animal or animal carcass known or suspected to have died of anthrax except under department direction and approval; 2) the use of the flesh or organs of such animal or animal carcass for food for livestock or humans; and 3) the removal of the skin or hide of any animal or animal carcass known or suspected to have died of anthrax.
- Section 13 (1) Imposes a duty on the owner or custodian of an animal which has died of anthrax to bury or burn the carcass as directed by the Department. Buried carcasses shall be buried not less than six feet from the surface of the ground.
(2) Establishes responsibility for the herd owner or custodian to clean, disinfect the premises and treat an infected herd and premises if the Department so directs.
- Section 14 Confirmation of anthrax shall be made by approved laboratories.
- Section 15 (1) Imposes a duty on the owner or custodian of an affected herd or affected premises to be responsible to pay for costs related to anthrax control activities.
(2) Grants authority to the Department of Agriculture to assess and collect payment for services provided and expenses incurred in performing duties under the act.
(3) Violations of the act or regulations constitute a Class I misdemeanor.
(4) Grants authority to the Department of Agriculture to perform the owner or custodian functions under the act should the owner or custodian fail to carry out such functions.
(5) Imposes a duty on the owner or custodian of affected animals to reimburse the department its actual costs within fifteen days following notice, and the owner or custodian shall be assessed a late fee of up to twenty-five percent of the amount due for each thirty days of nonpayment.
(6) Creates the Anthrax Control Act Cash Fund and provides that the fund shall be used to carry out the provisions of the act.
- Section 16 Provides authority for the department to obtain a temporary restraining order, a temporary or permanent injunction, or mandatory injunction, for enforcement of the act. The Attorney General or a county attorney is to institute appropriate proceedings when notified of the violation or threatened violation.
- Section 17 The department is not liable for actual or incidental costs incurred due to departmental actions in enforcing the act, except if such costs are clearly excessive or result from gross or willful negligence of the Department or its employees.
- Section 18 Violations of the act or regulations constitute a Class I misdemeanor where no penalty is otherwise provided.
- Section 19 Amends section 54-744 to include section 13 of this act as an exception to the depth of burial for a dead animal. Prescribes that anthrax affected animals shall be buried at least six feet below the surface.
- Section 20 Original section of 54-744 is repealed.

Section 21 Outright repeals sections which are no longer necessary because of the Anthrax Control Act.

Section 22 An emergency exists, therefore the act takes effect when passed and approved according to law.

LB 100 (Carlson) Change pesticide act provisions

Date of Public Hearing: 1/20/09

Date Reported from Committee: 1/26/09

Committee Amendment: none

Other Adopted Amendments: FA5

Effective Date: August 30, 2009

LB 100 inserts the following series of clarifications of authorities available to the Department of Agriculture to implement and enforce the Nebraska Pesticide Act:

- Inserts new text into §2-2629. This section prescribes information to be provided to the Department of Agriculture as a precondition to register a pesticide product for sale and use within the state. Current law authorizes the Department to request from the registrant a full description of tests and test results evaluating product efficacy, environmental and human health implications, and supporting the labeling for products that are not federally registered or those products for which federal or state restrictions are being considered. LB 100 would:
 - Add authorization for the Department to request such information at any time, not necessarily limited to requesting as part of preregistration information;
 - Allow the Department to request this information of any product, not limited to products that are not federally registered;
 - Authorize the Department to request additional testing or monitoring of the product's use in Nebraska to verify that assumptions used in federal registration and labeling instructions are applicable to Nebraska conditions.
- Amends §2-2636 which currently authorizes the Department to issue reciprocal Nebraska applicator licenses to non-residents licensed by another state. LB 100 clarifies this section to expressly provide that Nebraska residents are not eligible for reciprocal licensure.
- Sections 3 through 5 amend sections of the Pesticide Act to require applicants for licensure as commercial, non-commercial or private applicators to provide their date of birth with other information provided for licensure application.
- Amends §2-2645 governing the Department's response to claims of damage by third parties from pesticide applications. Current law allows the Department discretion in investigation effort where the complaint is not timely or clearly frivolous and also allows the Department discretion whether to pursue disciplinary action if a complainant fails to file a report. LB 100 makes two revisions:
 - Adds that a complainant's refusal to cooperate with the Department's investigation of a complaint is a factor the Department may consider in exercising discretion whether to pursue disciplinary action;

- Removes a duty of a complainant to allow a licensee to observe property alleged to have been damaged. Text stricken by the bill as introduced was reinstated by adoption of a floor amendment (FA5) during general file debate to make no clarification in this duty.
- Amends §2-2646 which enumerates prohibited acts pertaining to the use of pesticides. Such prohibitions are not necessarily limited to apply only to licensed entities. Current subsection (9) states that it is unlawful to commit an act that would subject a licensee to licensure discipline. (Such acts are enumerated and defined in §§2-2643.01 and 2-2643.02). LB 100 adds clarifying text to remove any ambiguity that the subsection (9) prohibition applies regardless of whether the person committing the violation is licensed.

LB 101 (Carlson) Eliminate a sunset date for the Farm Mediation Act

Date of Public Hearing: 1/20/09
Date Reported from Committee: 1/26/09
Committee Amendment:
Other Adopted Amendments:
Effective Date: February 27, 2009

LB 101 repeals the sunset date of the Farm Mediation Act (§§2-4801 to 2-4816). Section 2 of the bill outright repeals §2-4816 which currently sunsets the Act on June 30, 2009. Section 1 conforms an internal reference in the Act's citation section. The bill was enacted with the emergency clause.

LB 142 (Hansen) Change brand transfer provisions

Date of Public Hearing: 1/27/09
Date Reported from Committee: 2/03/09
Committee Amendment: AM56
Other Adopted Amendments: AM315, ER8018
Effective Date: August 30, 2009

LB 142 amends §54-1,100 of the Nebraska Brand Law pertaining to the recording of the sale, transfer or assignment of a recorded brand. Current law directs that the Brand Committee shall record instruments of writing that evidence such transfer or assignment. As introduced, LB 142 added new requirement and procedure for recording assignment of brand ownership as follows:

- Provides that transfer of ownership or lease assignment of a brand is not effective until it is recorded.
- Requires application for recording of transfer to include either a) a written consent to the transfer by holders of lien or security interests in livestock owned by the transfer applicant, or b) a written statement of oath by the requester that livestock of the holder of the brand are free of lien or security encumbrance.

The bill as introduced also increased the statutory maximum transfer recording fee that may be charged by the Brand Committee from \$35 to \$50.

The committee amendment to bill (AM56) adopted on general file substitutes text to place responsibility for notifying the Brand Committee of a lien or security interest with lenders of brand owners, rather than requiring brand owners to disclose such security interests or provide affidavit that no security interests exist. As amended, the bill would direct that, if the Brand Committee has been notified of a lien or security interest against livestock owned by the brand owner, the Brand Committee shall not accept for recording instruments evidencing the sale, assignment or transfer unless the lien or security holder gives notification that the lien or security interest is satisfied or otherwise consents to the transfer.

The bill was further amended on select file by adoption of AM315 to lower the statutory maximum transfer fee to \$40.

LB 224 (Carlson) Change Nebraska State Fair provisions

Date of Public Hearing: 3/03/09

Date Reported from Committee: 4/23/09

Committee Amendment: AM949

Other Adopted Amendments: AM1365, ER8017

Effective Date: January 1, 2010 (Sections 6 & 9), May 23, 2009 (All other sections)

Ag Committee 1st priority bill

LB 224 was introduced to serve as a vehicle for statutory revisions to conform statutory provisions to the implementation of LB 1116 enacted in the 2008 session and to facilitate resolution of other issues associated with the anticipated relocation of the State Fair to Grand Island. The primary substantive purpose of LB 224 is to provide statutory clarification regarding the notice to the most populous city of the county in which the State Fair is located (i.e. host community) of the 10% of quarterly state lottery collections available to the State Fair as directed under Article III, Sec. 24 of the state constitution. The bill in effect provides direction to the Department of Revenue and the State Treasurer as to when the recipient of the notice of quarterly lottery collections and expectation of local match responsibility transfers to a new host community. LB 224 essentially directs that the transfer occurs on a calendar year basis through the following specific changes:

- Amends §2-109 which currently directs the Department of Revenue to provide quarterly notices of state lottery collections to the most populous city of the county in which the State Fair is located. LB 224 revises that the notification is to the most populous city in the county in which the State Fair is held and further directs that, in the event the State Fair is scheduled to be held during a calendar year in a county other than county in which the most recent state fair was held, the Department of Revenue shall provide written notification of quarterly lottery collections to new host community beginning with the notification of lottery collections for the first calendar quarter of that year. The bill as introduced makes two other conforming clarifications in other statutes:
 - Inserts revisions within §2-110 which currently provides for the transfer of quarterly lottery collections to the State Fair Support and Improvement Cash Fund upon payment of the local match by the state fair host community. LB 224 inserts a harmonizing revision to this section that the quarterly transfer of lottery funds occurs upon payment

of the local match by the community that is the host community during the calendar year the fair is held or scheduled to be held there.;

- Amends §2-103 to provide that the appointment of representation of the business community of a new host community to replace the representative of the previous host corresponds to the transfer of host city responsibilities for purposes of the lottery match.

LB 224 also revises provisions of the pari-mutuel tax imposed pursuant to §2-1208.01. Original section 6 of the bill strikes an exemption granted to the State Fair Board provided an amount substantially equivalent to the tax otherwise imposed is utilized for maintenance of the State Fairgrounds. This exemption becomes obsolete upon the anticipated transfer of the fairgrounds to the University pursuant to LB 1116. In effect, all racetracks would be subject to the same pari-mutuel tax, including racing that will continue through the 2012 live racing season at the racing facilities located at State Fair Park.

The purposes of the current exemption from the pari-mutuel tax provided retained funds are utilized for upkeep of a state fair facility were replicated by Section 5 of the bill as introduced which would have created a State Fair Host Facility Maintenance Assistance Fund. New subsection (4) of §2-1208.01 inserted by section 6 of the bill provided for \$30,000 of annual pari-mutuel tax collections to be remitted to this cash fund. The proceeds of the fund were to have been expended by the Department of Economic Development as grants in aid to the host facility of the state fair and utilized for maintenance costs. Original section 5 further provided that recipients of such grants shall provide an annual accounting of the expenditure of the funds.

Section 7 provides that the operative date of the revisions to §2-1208.01 made by section 6 of the bill is January 1, 2010. Finally, LB 224 includes a revisor's office amendment to strike an obsolete provision of §2-111. The deletion is unrelated to the purposes of the bill.

The committee amendment (AM949) adopted on general file made a number of revisions to the original bill as follows:

- Strikes original section 5 of the bill creating the State Fair Host Facility Maintenance Assistance Fund. A technical revisions contained in AM1365 adopted on select file debate deleted companion text providing for an annual \$30,000 transfer to this fund inserted as new subsection (4) of §2-1208.01 by the bill as introduced. The purposes of these provisions of the bill as introduced are accomplished by insertion of new subsection 2(b) of §2-1208.01 which allows a credit in an amount equal to the pari-mutuel tax imposed upon the first \$70 million of pari-mutuel wagers for race meets conducted upon premises where the State Fair is located provided retained funds are invested in maintenance and upkeep of improvements at such location.
- The amendment further inserts express clarification that the pari-mutuel tax applies to any race meets conducted upon racetrack facilities located at what will be the former state fairgrounds after January 1, 2010.

The Committee amendment also inserted new sections that become sections 1 and 5 of the bill as enacted:

- New section 1 would insert revisions to §2-101 which currently states legislative intent that the State Fair be relocated to Grand Island upon the property known as Fonner Park, and authorizing the Fair Board to cooperate with appropriate entities to devise and execute a site plan of improvements to the facility necessary to accommodate a State Fair. AM949 makes

two clarifications to this section. These include that state fair facilities need not be confined entirely to Fonner Park property but may be located in part on adjacent properties if available and necessary. Also, the amendment clarifies that improvements to Fonner Park for which the University of Nebraska and the City of Grand Island are to provide financial contribution include relocation of existing improvements upon the site. Select file amendment AM1365 inserted companion text into §2-113 to expressly state that binding financial commitments by the community of Grand Island of up to \$1.5 million to implement the removal and relocation of recreational fields may be credited toward the community's \$8.5 million financial commitment contingency for the fair to relocate to Grand Island.

- New Section 5 amends §2-113 which currently provides for the transfer of the State Fairgrounds to the University upon the completion, and, pursuant to subdivision 4(a), directs that the State Fair relocate to Grand Island upon completion of certain contingencies, including that the University of Nebraska submit a master plan and business plan for Innovation Campus no later than December 1, 2009. AM 949 revisions clarified that while the transfer of the property to the University remains contingent upon the University satisfying this requirement, the directive that the fair relocate is not dependent upon this contingency.

Finally, the bill as revised by the committee amendment omits original section 1 which would have provided more specific direction regarding the timing of the appointment of a new host city business community representative on the State Fair Board. Current provisions provide for the replacement of the existing representative of the community where the fair is currently located by a representative of the business community of the anticipated new host city. As enacted, LB 224 did not provide additional interpretation for when this replacement is to occur.

LB 231 (Avery) Change provisions for membership on the Rural Development Commission

Date of Public Hearing: 1/27/09
Date Reported from Committee: 2/03/09
Committee Amendment: AM75
Other Adopted Amendments: ER8020
Effective Date: August 30, 2009

LB 231 inserts the following clarifications regarding membership on the Rural Development Commission:

- The bill clarifies that state agency representatives appointed by the Governor to the Commission is the director or chief executive officer of the agency or their designated representatives;
- The member of the Legislature appointed by the Speaker is a non-voting, ex-officio member of the Commission.

As revised by adoption of the committee amendment (AM75) LB 231 adds the Director of the Nebraska State Historical Society or his or her designee as a member of the Commission. The term "ex-officio" is stricken from the designation of the member of the Legislature appointed by the

Speaker in the enacted version of the bill but retains that such member is a non-voting member of the Commission.

LB 241 (Pahls) Change provisions of the Commercial Dog and Cat Operator Inspection Act

Date of Public Hearing: 2/03/09

Date Reported from Committee: 3/03/09

Committee Amendment: AM428

Other Adopted Amendments: AM1028, AM1362, ER8111

Effective Date: January 1, 2010 (Sections 11-17), Aug 30, 2009 (All other sections)

Ag Committee 2nd priority bill

Provisions/purposes of LB 588 incorporated as sections 11-17 of LB 241 as enacted

LB 241 inserts a series of updates and clarifications into the Commercial Dog and Cat Operator Inspection Act. The primary substantive elements of the bill include the following:

- Defined terms “boarding kennel” and “ commercial breeder” contained in §54-626 are revised as follows:
 - A boarding kennel is currently defined to mean a facility, other than a veterinary, animal control facility and non profit shelter, temporarily housing dogs or cats owned by persons other than the operator of such facility, including housing animals temporarily for grooming, training, and other non-veterinary service. Facilities which house thirty or fewer animals in a twelve-month period are excluded from the definition. LB 241 removes the exclusion of facilities housing fewer than thirty animals a year but adds exclusion of facilities housing animals as an incident to providing grooming, training etc. services from the definition of a boarding kennel unless the facilities houses animals overnight.;
 - A commercial breeder is currently defined to mean persons engaged in the business of breeding dogs or cats with the exclusion of persons harboring three or fewer unaltered animals or who sell thirty or fewer dogs or cats in a year provided all such sales are not to ultimate consumers. LB 241 rewrites the definition to be consistent with current interpretation and application that persons meeting any one of the criteria of a) selling more than 30 animals, b) having four or more animals intended for breeding, and c) knowingly selling any number of animals to brokers or retailers are commercial breeders. The twelve month period is defined to correspond with a license year which begins on April 1 of each year. The bill would further define as breeders persons whose animals produce 4 or more litters per year.
- Revises authority of the Department relating to entry and inspection. Existing provisions authorizing a right of entry found in §54-628 are replaced by new subsections (2) and (3) added to this section by section 5 of the bill and conforming provisions inserted elsewhere in the act. Current law grants authority to enter premises where dogs and cats are known or suspected to be present, or where violations of housing, sanitation and other standards are suspected to occur. LB 241 clarifies this authority as follows:
 - Defines premises to expressly include all buildings, vehicles, equipment, pens and housing and records;
 - Relocates an affirmative duty of licensees to make premises available for inspection currently found in §54-628 to new subsection (5) of §54-627 as amended by section 3

of the bill. The duty of a licensee to be open to inspection is clarified to apply during normal business hours.;

- Authorize the access of any premise for purposes of inspection, gathering of evidence pertaining to compliance with the Act, and to issue and enforce stop-movement orders. The Department is expressly authorized to seek an inspection warrant if impeded by the refusal of access. Section 9 of the bill inserts a new section declaring a specific violation for any person to deny access or otherwise impede the Department in carrying out the act by obstruction or by misrepresentation or concealment.;
 - Clarifies that the private residence of an applicant or licensees shall be open to inspection only if a primary enclosure housing dogs or cats is located within the residence and that such access is limited to those portions of a residence utilized as a primary enclosure.
- Authority to issue and enforce stop-movement orders is inserted by section 6. This section would insert a new section allowing the Department to impose stop-movement if the Department has reasonable cause to believe a non-compliance with the act or the unreasonable sanitation or housing conditions exist. Section 6 grants authority to inspect premises concurrent with the imposition of a stop-movement order. Elements of the order are prescribed to include a description of the violation and the actions necessary to bring the facility into compliance and to release the stop movement. Duties of a licensee during the period of stop movement are enumerated to include:
 - Providing an inventory of all dogs and cats upon the premise subject to the order and identifying information;
 - Timely notification to the Department of deaths, euthanasia or births occurring;
 - Maintain animals on the premises until release is granted with the exception that animals may be delivered pursuant to contract entered prior to the issuance of the order;
 - Failure to comply with a stop movement order is made a specific violation of the Act under Section 9 of the bill.

The Department is obligated to reinspect the premise within ten business days and to perform further reinspections at the Department's discretion if violations persist. The Department is expressly made not liable to costs incurred by a violator resulting from departmental actions in enforcing a stop-movement order and the violator shall reimburse the Department for costs incurred in enforcing a stop-movement order. A person subject to a stop-movement order may request an immediate hearing before the Director.

- Section 8 of the bill inserts a new section prohibiting a breeder from owning more than two-hundred and fifty unaltered dogs or cats over one-year of age. Breeders having more than this limit upon enactment are grandfathered to the extent that such operations are not expanded beyond the number of animals owned by the breeder upon the effective date of the bill. The grandfathering exemption is declared non-transferable and extinguished when the breeder ceases business.
- Specific violations of the Commercial Dog and Cat Operator Inspection Act are inserted as a new section of the Act by Section 9 of the bill.
- The maintenance of a written veterinary care plan in consultation with an attending veterinarian is added to statutory standards of licensure for commercial breeders under Section 10 which amends §54-640.

The committee amendment (AM 428) adopted on general file made the following substantive changes:

- Modifies the definition of commercial breeder by inserting an additional test to the criteria of having 4 or more dogs or cats intended for breeding to qualify as a commercial breeder so that the definition applies only to person “engaged in the business of breeding dogs or cats.”
- Strikes original section 8 and thereby removes the cap on the size of breeding operations.
- Inserts what becomes section 8 of the bill as revised by the amendment. The new section 8 would amend §54-632 to incorporate procedure for accommodating a request for immediate hearing to contest a stop-movement order. The new procedure is modeled after existing procedure relating to request for expedited hearings for review of an immediate license suspension set forth in existing law. The revisions to §54-632 provide that the director shall set a date for hearing within 3 business days of receipt of the request and that waiver of the right of hearing occurs by failure to appear or to timely request rescheduling as provided for other hearings afforded by the Act. The Department is instructed to inform those served with stop-movement orders of the possibility of such waiver.

The amendment makes complimentary revisions to section 6 of the bill to require that a request for hearing be in writing and submitted within two business days of being served with a stop movement order. Revisions to section 6 also clarify that a stop movement order is final upon its issuance unless modified or rescinded.

The provisions of LB 588 as advanced separately by the Agriculture Committee were attached to LB 241 by the adoption of AM1028 on general file. AM1028 inserted new sections 11 – 17 of the bill as enacted cited as the Pet Purchase Protection Act. AM1362 adopted on select file made a technical correction to a defined term contained in section 12 of the bill as enacted. A more complete description of the provisions of LB 588 as incorporated into LB 241 is contained elsewhere in this document.

LB 263 (Rogert) Declare and define state preemption of local regulation of seeds, fertilizers and soil conditioners

Date of Public Hearing: 2/10/09

Date Reported from Committee: 3/17/09

Committee Amendment: AM354

Other Adopted Amendments: ER8123, ST9052

Effective Date: August 30, 2009

Speaker Priority Bill

LB 263 declares and defines the extent of state preemption of local regulation of commercial seeds, fertilizers and soil conditioners as follows:

- Section 1 declares that state law and any regulations promulgated under the Nebraska Seed Law preempt any ordinance, rule, regulation or resolution regarding regulation of seeds by local subdivisions of the state and expressly prohibits local subdivisions from enacting local regulations pertaining to the registration, labeling or sale of seeds based upon the type,

nature or genetic makeup of seeds. The section further prohibits local governments from regulating other aspects of commerce in seeds that conflict with or are in addition to regulatory requirements of state law.

- Section 3 inserts a similar preemption within the Nebraska Fertilizer and Soil Conditioners Act. The bill adds a new section to the Act containing express declaration that state law and regulations preempt and supersede local regulation of fertilizers and soil conditioners and that any regulation by political subdivisions may not conflict with or be in addition to state law and regulation promulgated there under.

In both cases, LB 263 clarifies that the preemption does not preempt or limit city or county zoning regulations.

The committee amendment (AM 354) adopted on general file restores local regulation of the registration, labeling and sale of seeds to the list of aspects of regulation in commerce in seeds that may not conflict with or be in addition to the Nebraska Seed Law or its regulations to correct an unintended omission in the bill as drafted. The amendment also adds that natural resource district enforcement of the Nebraska Groundwater Management and Protection Act is expressly excluded from the preemption of the Nebraska Fertilizer & Soil Conditioners Act and its regulations.

LB 389 (Carlson) Change appointment provisions for members of the Climate Assessment Response Committee

Date of Public Hearing: 2/03/09

Date Reported from Committee: 3/03/09

Committee Amendment: AM355

Other Adopted Amendments: ER8077

Effective Date: May 27, 2009

LB 389 as introduced removed a requirement of legislative confirmation as a qualification of appointment to the Climate Assessment Response Committee and clarifies that members of the Legislature designated by statute are ex-officio, non voting members of the Committee rather than appointed by the Governor. The bill was introduced with an emergency clause.

The enacted version of the bill as revised by the adopted committee amendment (AM355) retains legislative confirmation as a qualification of appointment except for the Directors, or their designees, of the Departments of Agriculture, Health and Human Services and Natural Resources. These are made ex-officio memberships and thus directors of these agencies assume duties related to the Climate Assessment Response Committee as a function of their office. Additionally, the bill as enacted would no longer require legislative confirmation of appointment of a representative of the Governor's Policy Research Office. Appointment of a Policy Research Office staff is relocated to a portion of the statute that allows additional appointments at the Governor's prerogative of representatives of administrative agencies. The amendment retains the emergency clause and clarification of the ex-officio but non voting membership of the chairs of the Agriculture and Natural Resources Committees of the Legislature

BILLS WITH PROVISIONS/PURPOSES INCORPORATED INTO OTHER ENACTED BILLS

LB 71 (Cornett) Require animal health professionals to report suspected animal abuse

Date of Public Hearing: 1/27/09

Date Reported from Committee: 4/23/09

Committee Amendment: AM541

Other Pending Amendments:

Provisions/purposes of LB 71 incorporated as sections 1 – 7 of LB 494 as enacted

LB 71 amends §28-1017 to expand to animal care professionals an affirmative duty to report suspected cases of animal abuse, neglect or mistreatment to appropriate investigative entities. §28-1017 currently confines this duty to employees of agencies that deal with child and adult protective services and animal control and animal abuse. Specifically, the following changes would be made:

- Inserts a new defined term “animal care professional” to mean a veterinarian or veterinary technician;
- Adds animal care professionals to persons required to report incidences observed while acting in the course of professional capacity or employment causing the person to reasonably suspect abuse of an animal is occurring;
- An animal care professional’s duty to report would also come within the liability immunity provided to reporters under subsection (4) of §28-1017 but the bill makes revisions are made elsewhere in this section to confine provisions pertaining to the timeliness and manner in which reporting is performed only to employees of child & adult, and animal control and abuse agencies;
- A clarification is made to the existing definition of “employees” that are currently subject to the duty to report and those provisions pertaining to timeliness of reporting, the information to be included, and the manner of accomplishing reporting to agency employees. The clarification makes more certain persons subject to the duty to report are government employees.;
- Section 2 of the introduced bill conforms an internal reference within §28-1013 to changes elsewhere in the bill.

The pending committee amendment (AM541) struck the original provisions to become the bill. The primary purpose of the bill to expand to veterinary professionals a duty to report incidences relating to animal abuse, neglect or mistreatment is replaced by what becomes new section 7 of the bill. As provided in the pending committee amendment, this section would not have imposed a duty of animal health care professionals to report but provides an immunity for liability similar to the immunity that would be extended to reporting veterinarians under subsection (4) of §28-1017 of the bill as introduced.

Sections 1 and 3 – 5 of the amendment, that would have become sections 1 and 3-5 of the bill as revised, conform internal references in various sections of the animal cruelty statutes to incorporate new section 7. The amendment carries over other revisions to the definition of “employee” in §28-1017 contained in Section 1 of LB 71 as introduced. These revisions to §28-1017 are found in section 6 of the amendment which also becomes section 6 of the bill as amended.

Section 2 of AM541 also amends §28-1013 to expand an existing express exclusion of treatment provided by a veterinarian from acts defined as crimes against animals under referenced sections. The revision would extend the exclusion to treatment or conduct by both veterinarians and veterinary technicians that occurs while acting within the scope of their professional practice or that conforms to accepted veterinary practice. The amendment omits the internal reference change to §28-1013 contained in the original bill which becomes obsolete with changes elsewhere in the bill.

LB 71 as amended by the pending Agriculture Committee amendment was incorporated into LB 494 by adoption of select file amendment AM1203 to that bill. The version of LB 71 amended into LB 494 contained the technical revisions and clarifications of the pending Agriculture Committee Amendment. However, LB 494 as enacted differed substantively from the pending Agriculture Committee revisions to LB 71 by reinstated a duty of health care professionals to report suspected animal abuse.

LB 588 (Dierks) Adopt the Pet Purchase Protection Act

Date of Public Hearing: 2/03/09
Date Reported from Committee: 3/17/09
Committee Amendment: AM705
Other Pending Amendments:

Provisions/ purposes of LB 588 incorporated as sections 11 – 17 of LB 241 as enacted

LB 588 inserts wholly new statutory provisions cited as the Dog and Cat Purchase Protection Act. The bill contains familiar elements of similar consumer protection statutes that have been enacted in other states. Duties of both buyers and sellers of pets are assigned by the bill, and specific remedies available to purchasers of pets having health defects existing at the time of the sale are prescribed, as well as the means by which purchasers may avail themselves of such remedies.

The primary substantive elements of the bill include the following:

Definitions:

Section 2 of the bill sets forth defined terms used throughout the Act. Definitions of commercial breeders, pet shops and various other terms contained in §54-626 of the Commercial Dog and Cat Operator Inspection Act are incorporated by reference. Section 2 also includes “casual breeder”, “retail purchaser” and “serious health problems” as defined terms.

Disclosure by seller:

Certain duties of disclosure by sellers are assigned by Section 4 of the bill. Specifically, sellers are required under the bill to deliver to a retail purchaser the following:

- Written disclosure of information identifying the breeder, information about the animal including individual identifying markings or assigned ID device, its parentage, and records of any inoculations, worming treatments and medications given by the seller or parties possessing the animal prior to the seller;

- A health certificate signed by a licensed veterinarian if the animal is sold outside of the state. Sellers are prohibited under section 4 of the bill from selling dogs or cats unless examined by a veterinarian prior to sale;
- A statement of the rights and responsibilities of the seller and the purchaser as set forth in sections 5 & 6 of the bill.

A copy of the disclosure for each sale is to be maintained by the seller for a period of one year from the date of the sale.

Purchaser remedies

Section 5 of the bill provides a choice of remedies if, subsequent to delivery of the animal, the purchaser discovers a serious health defect which existed in the animal at the time of delivery, or the animal dies as a result of serious health problems existing at the time of the sale. In such case, a purchaser may demand one of the following:

- Refund of the purchase price;
- Exchange for an animal of equal value;
- Reimbursement for reasonable veterinary fees incurred by the purchaser, not exceeding the purchase price. Reasonable veterinary fees are defined to mean comparable costs of service for appropriate diagnosis and treatment.

A purchaser may perfect right to demand such remedies if meeting the following conditions:

- The purchaser causes a veterinary examination of the animal within 7 days of taking delivery of the purchase;
- A serious health problem existing at the time of delivery of the animal by the seller is diagnosed by the examining veterinarian;
- The animal dies within 1 year from the date of delivery as a result of a serious health problem existing at the time of delivery diagnosed by an examining veterinarian;
- The purchaser notifies the seller of the diagnosis within two business days and provides the seller with the veterinarian's contact information or a copy of the veterinary report.

The buyer's recourse to remedies under section 5 of the bill for discovery of health defect subsequent to acceptance of delivery, or the death of an animal attributable to health defect, existing at the time of delivery are denied under section 6 of the bill under the following circumstances:

- Health problems or death are attributable to mistreatment, neglect or injury occurring subsequent to delivery;
- The health certificate provided by the seller disclosed the serious health problems;
- The purchaser fails to provide recommended veterinary care

Enforcement:

A purchaser is authorized under section 7 to initiate court proceedings to enforce compliance with claims for remedy initiated under the Act. A seller contesting a claim by a purchaser under the act may demand that the purchaser produce the animal for examination or autopsy by the seller's veterinarian. A purchaser is liable for seller's cost of such examination if a seller is determined not obligated to remedy the purchaser under the Act. A prevailing party in an action under the act is limited to recovery of actual costs and no more than \$500 legal fees.

Section 9 declares that a purchaser's remedies under the act are not exclusive and do not bar other remedies otherwise available under law. Animal control facilities and animal shelters are excluded from the duties and obligations of sellers under the Act. The bill contains an operative date of January 1, 2010.

The pending committee amendment (AM705) struck the original provisions to become the bill. However, the amendment retains most of the substantive elements of the bill as introduced but with numerous revisions for clarification, simplification and technical correction. The substantive differences between the committee amendment and the bill as introduced include the following:

- Section 2 of the bill as introduced is replaced with a new definitional section with the following revisions:
 - The amendment omits defined terms for “pet shop”, “commercial breeder”, and “dealer”. These are instead incorporated within the new defined term for “seller” which is defined to mean any of these entities that sell animals to a final consumer. The term seller is then substituted throughout the bill in replacement of a listing of types of entities that are subject to the act when selling at retail.;
 - The term “purchaser” replaces the defined term “retail purchaser” and its definition is revised to conform to the use of the term “seller” to replace the listing of retail seller categories. The revised term retains the clarification that the term excludes persons purchasing pet animals for later resale.;
 - Original defined terms for “dog” and “cat” are consolidated into a new defined term “pet animal” which is confined to mean dogs and cats. This term is further confined from the original bill so that the bill would apply to pet animals under the age of fifteen months old when sold. The term pet animal is substituted for the phrase “dog and cat” where appropriate throughout the bill;
 - Inserts a new term, “clinical symptom” defined to mean an illness or dysfunction apparent to a veterinarian by observation or examination;
 - The term “health certificate” is redefined as a certificate of veterinary inspection, which is more recent terminology utilized in the Animal Import Act and in other usages to designate the document intended;
 - The term “serious health problem” is defined to limit adverse health conditions that manifest within 15 months of age of the animal and Parvovirus if contracted within 7 days of sale of the animal.

- Sections 3 & 4 of the bill as introduced are replaced and consolidated into section 3 of the amendment. The substantive purposes of original sections 3 and 4 are retained, but in revised form as follows:
 - Seller disclosure requirements of the original bill are retained but clarified as follows:
 - The requirement of disclosure of breed is revised to include the option of the seller indicating the breed is unknown or the animal is of mixed breed;
 - The disclosure of license number of the seller and the breeder or others in the intermediate chain of ownership is clarified to include the state or federal license number;
 - Other disclosures such as date of birth and worming, and other veterinary treatments are revised to require such information only if known. The term vaccination is substituted for the term inoculation.;
 - Adds requirement to disclose dates of veterinary examination while in the possession of a seller.

- Further optional disclosures are added as a separate subsection (2) of section 4 including the following:
 - That the animal was examined by a veterinarian who found no clinical symptoms of disease or congenital defect that would indicate the likelihood of health problems;
 - A statement disclosing known health problems.
 - Continues the requirement of a seller to disclose rights and responsibilities of a purchaser but clarifies delivery of a legible copy of the Dog and Cat Purchaser Protection Act is an acceptable means of satisfying this responsibility. The duty of maintaining records associated with the disclosure are retained but in a clarified form.
 - Original section 3 of the bill is omitted but its purposes are reassigned to subsection (4) of section 3 of the amendment. The amendment clarifies the meaning of animals going out of state as pet animals that will be relocated or permanently domiciled outside of the state and conforms the requirement for providing a health certificate to the provisions for issuing a small animal certificate of veterinary inspection.
- Sections 5 & 6 of the bill as introduced are renumbered under the amendment as sections 4 & 5 due to the omission of original section 3. Substantive revisions to these sections as amended include:
 - A duty to have an animal examined within seven days of purchase is clarified to mean that the examination is necessary in order for the purchaser to have recourse to the remedies provided elsewhere in this section;
 - The liability of the seller for reimbursement for veterinary fees in the event of death of a pet animal is limited to an amount equal to one-half the purchase price of the animal;
 - The period of warranty for health defects discovered after the delivery of the pet animal to the purchaser is revised from being 1 year from the date of delivery to the point the animal reaches 15 months of age;
 - The buyer's recourse is denied if the disclosure of health defects is made pursuant to the optional disclosures added as subsection (2) of revised section 3 or if the purchaser fails to provide preventative vaccination, deworming or medication as recommended by a veterinarian;
 - Terms as defined under the amendment are substituted for phraseology and defined terms utilized in the introduced bill.
- Original sections 7-10 are renumbered as sections 6-8 of the amendment. A series of revisions to original sections 7 – 10 are made by the amendment as follows:
 - Clarifies that an action to assert remedy may be filed in a court of competent jurisdiction;
 - Adds that the act does not limit a seller from providing warranties beyond those contemplated by the act;
 - Omits original section 9 -- the exclusion of animal control facilities and animal shelters is accomplished through the amendment by exclusion in the definition of seller.

LB 588 as substantively revised by the pending committee amendment was incorporated as sections 11 – 17 of LB 241 by adoption of AM1028 during general file debate of that bill. The provisions of LB 588 incorporated into LB 241 differed moderately from the pending committee amendment as follows:

- The committee amendment to LB 588 defines a seller as a casual breeder or any commercial establishment that engages in the business of selling pet animals at retail for profit. The provisions of LB 588 amended into LB 241 omit the qualifying phrase “for profit.”

- The definition of “serious health problem” in the committee amendment to LB 588 excluded:
 - 1) health problems that manifest after the date the animal reaches 15 months of age;
 - 2) any diagnosis of parvovirus within 7 days after delivery to purchaser (i.e. date of sale); or
 - 3) any contagious disease causing illness or death within 10 days.

As incorporated into LB 241, AM1028 rewrote the exclusions for clarity and to be consistent with substantive intent. The amendment defines serious health problem in general terms and then sets out exclusions in a separate subdivision (b) of the definition. The revisions are clear that the warranties of the act exclude:

- 1) parvovirus diagnosed after 7 business days after delivery (corresponds to 7 business days for buyer to have animal examined by vet under new section 14 inserted by AM 1028);
 - 2) any other contagious disease if the diagnosis is made after 10 calendar days after delivery.
- In the requirement of sellers to provide information regarding the purchaser’s rights & responsibilities under the Act, the committee amendment would have deemed delivery of a legible copy of the Act sufficient to satisfy this requirement. AM1028 substituted similar language that the seller shall provide a written statement of the buyer’s rights or a legible copy of the act.

BILLS ADVANCED BUT NOT ENACTED

LB 254 (Dubas) Require an aerial applicator business license

Date of Public Hearing: 2/10/09

Date Reported from Committee: 2/20/09

Committee Amendment:

Other Pending Amendments: AM420

LB 254 inserts a new aerial pesticide business license within the Nebraska Pesticide Act and requires licensure to apply pesticides by use of an aircraft or to arrange aerial spraying operations. Sections 2 – 6 of the bill insert wholly new sections into the Nebraska Pesticide Act to create a new aerial pesticide applicator business license category and to require licensure to perform or cause aerial spraying operations to occur. The elements of the licensure program include the following:

- Section 2 of the bill prohibits application of pesticides by use of an aircraft, or the act of causing or arranging aerial pesticide applications to occur on the property of another, unless the person performing these acts and the principal departure location of aircraft used for such purpose are licensed as an aerial pesticide business. Clarifications of this requirement of licensure contained in this section include:
 - Aerial applicators whose principal departure location is located outside of the state may obtain a Nebraska aerial applicator business license for the out-of-state departure location;
 - Individual commercial applicators must perform actual aerial applications under direct supervision of a licensed entity or obtain an aerial pesticide business license;
 - Persons causing or arranging aerial pesticide applications is defined to include persons billing and collecting payment for aerial spraying services, employing or contracting pilots, assigning spraying assignments to pilots or compensating pilots;
 - The requirements of licensure do not apply to governmental entities performing aerial spraying operations utilizing public aircraft.
- Section 3 requires an aerial pesticide business license to be obtained prior to commencement of aerial spraying operations and applications for renewal of licensure to be submitted by January 1 of each year. The bulk of section 3 sets forth the requirements for obtaining licensure as follows:
 - Imposes a license fee of a) \$50 for applicants whose principle aircraft departure location is located within Nebraska and \$250 for applicants whose principle departure location is located outside of Nebraska plus \$50 for each additional departure location utilized for spraying operations in the state. The fee may be adjusted by the director within a statutory cap of \$100 for in-state principle departure location and \$500 for an out-of-state principle departure location, and \$100 for additional departure locations.;
 - An application for licensure shall include the following information: a) the applicant's name and mailing address, social security number if the applicant is an individual, and the names of partners, members or principle officers if the applicant is a business entity.;

- The location of the principle departure location identified by airport identifier, global positioning system coordinates, or local address;
 - A copy of the applicant's agricultural aircraft operations certification, and the aircraft registration number of aircraft utilized by the licensee issued under applicable regulations of the Federal Aviation Administration;
 - The Nebraska commercial applicator certificate number and FAA commercial pilot certification number of persons operating aircraft on behalf of the licensee;
 - Other information as deemed necessary by the Director;
 - If the applicant is not located within Nebraska, the designation of a resident agent or designation of the Secretary of State to receive service of process upon the applicant in this state.
- Section 4 requires licensees to immediately report utilization of pilots, aircraft and departure locations that differs from or is in addition to information provided in the initial or annual licensure renewal application, including approximate dates of hire of additional pilots utilized only for temporary or seasonal work.
 - Section 5 expressly provides that aerial pesticide business licensees are responsible for action of persons applying pesticides under license holder's direction and supervision.
 - Section 6 imposes a duty of licensees to maintain records of pesticide applications and expressly grants authority to the Department to promulgate regulations regarding information to be maintained in licensee records.
 - Conforming or complimentary revisions to aid enforcement of the aerial applicator licensure requirements in section 2-6 of the bill are made to the duties and authorities of the Department of Agriculture enumerated in §2-2626 and in the enumeration of unlawful acts under §2-2646.

The bill contains the emergency clause and an operative date of May 1, 2009.

Pending amendment AM 420 would revise fees imposed by the bill to provide a uniform fee schedule for both in-state and out-of-state based aerial applicator businesses. The pending amendment would also direct that all fees collected are remitted to the Pesticide Administrative Cash Fund.

BILLS HELD BY THE COMMITTEE

LB 130 (Dubas) Create the Farm-to-School Task Force

Date of Public Hearing: 1/27/09

LB 130 provides for the creation of a Farm-to-School Task Force and appointment of its members. The primary elements of the bill include:

Section 1: States legislative findings describing farm-to-school programs as direct marketing relationships between school meal programs and local growers that may include an array of hands on learning experiences for students.

Section 2: Creates the Farm-to-School Task Force consisting of 19 members. 12 members are to be appointed by the Chairperson of the Agriculture Committee of the Legislature as follows:

- Three producers of agricultural products marketed in Nebraska food markets
- Two suppliers of agricultural products
- Two meat processors
- One food distributor
- One representative of the Action for Health Kids organization
- One representative of Resource Conservation & Development
- One person representative of rural public school food services
- A representative of the Rural Development Commission

In addition to the appointed members, the bill designates the following, or their designees, as ex-officio members:

- The Director of Lincoln Public Schools food service
- Director of Agriculture
- Commissioner of Education
- Director of Economic Development
- The Chairperson of the Agriculture Committee
- Representative of the Cooperative Extension Service
- Director of the University of Nebraska-Lincoln food service

Subsection (2) provides for the organization of the task force, directing that appointments be completed within 30 days of the effective date of the bill and that the first meeting of the task force take place within 30 days from completion of appointments. The Chair of the Agriculture Committee or a designee is designated chair of the task force and administrative support and staff support is to be provided by the Agriculture Committee. Members of the Task Force are to be provided a per diem.

Section 2 further directs that the Task Force shall develop and present a farm-to-school strategic plan by December 15, 2009. Section 3 of the bill terminates the act on December 31, 2009. The bill contains the emergency clause.

LB 516 (Hansen) Require compensation for certain structures located upon the State Fairgrounds

Date of Public Hearing: 3/03/09

LB 516 amends §2-112 to direct the State Fair Board to expend interest accrued in the Nebraska State Fair Relocation Cash Fund to compensate non-public entities that claim ownership interests in structures on the State Fairgrounds. The bill directs that the amount of compensation is the appraised market value less any value the entity may receive from the sale of the building.

LB 581 (Carlson) Change distribution of pesticide product registration fee revenues and revenues derived from sales of the weed book publication

Date of Public Hearing: 2/10/09

LB 581 provides for a redirection of certain fees and revenues collected under the Nebraska Pesticide Act, and from the sale of a weed book publication, to support the Department of Agriculture’s duties under the Noxious Weed Control act. The bill further specifies a disposition of surplus cash balance in the Buffer Strip Cash Fund.

- §2-2634 is amended by section 4 of the bill to change the distribution of annual pesticide product registration fees, as indicated in the table below. The effect of the bill would be to increase the amount of each registration fee directed to the Noxious Weed Cash Fund from \$30 to \$40 and correspondingly decrease the amount of each registration fee deposited into the Buffer Strip Program Cash Fund from \$60 to \$50. The amount of the fee currently charged and the statutory maximum of the total registration fee is unaffected.

For clarity, the bill statutorily creates a separate fee schedule for specialty and non-specialty products. Current law allocation of residual fee amounts after the earmarked amounts for noxious weed and buffer strip programs to the Natural Resources Water Quality Fund for non specialty products and the residual amount after earmarks to the Pesticide Administrative Cash Fund for specialty products are retained.

| | Specialty (5700 Products) | | | Non-Specialty (5,490 Products) | | |
|------------------------------|-------------------------------------|-------------------|---------------|--|-------------------|---------------|
| | Current Fee | Statutory Maximum | LB 581 | Current Fee | Statutory Maximum | LB 581 |
| Pesticide Act Administration | \$70 | \$120 | \$70 | \$0 | \$0 | \$0 |
| Noxious Weed Regulatory | \$30 | \$30 | \$40 | \$30 | \$30 | \$40 |
| Buffer Strip Program | \$60 | \$60 | \$50 | \$60 | \$60 | \$50 |
| Water Resources Fund | \$0 | \$0 | 0 | \$110 | \$120 | \$110 |
| Total | \$160 | \$210 | \$160 | \$200 | \$210 | \$200 |

- §81-201.05 is amended by section 6 to redirect disposition of a portion of the sales price of the weed book, currently deposited into the Noxious Weed Cash Fund, to the Noxious Weed & Invasive Species Assistance Fund. Authority to transfer \$25,000 annually from Weed Book

Cash Fund (if sufficient surplus funds are available for transfer) that expires in the next fiscal year is extended indefinitely.

- §2-5106 is amended by Section 5 to direct a one time transfer and an additional one-time expenditure of surplus balance in the Buffer Strip Cash Fund as follows:
 - On or before Oct. 1, 2009, \$100,000 transferred to the Noxious Weed Cash Fund;
 - The Department of Ag is directed to contract with University of Nebraska for a crop water use efficiency research project. The Department is authorized to expend up to \$100,000 from the Buffer Strip Cash Fund.

The remainder of the bill (Sections 1-3) contains conforming and harmonization changes in various statutes to coordinate with these revenue redistributions.

LB 584 (Dierks) Adopt the Agricultural Commodities Protection Act

Date of Public Hearing: 3/10/09

LB 584 creates a private cause of action for damages and equitable relief, including injunction, for certain persons injured by a refusal of ethanol plants to sell product. Specifically, LB 584 prohibits the following specific acts:

- Refusing to sell ethanol to any manufacturer, distributor, marketer or retailer of motor fuels;
- Imposing charges or price differential based on purchase quantity or utilization not applicable to all purchasers;
- Requiring purchase of unreasonable quantities as a term of sale

The bill allows an affirmative defense if the refusal to sell is due to certain listed events that disrupt production or shipment that are beyond the producer's control and to avoid impairment of performance of contracts entered into prior to the effective date of the bill. LB 584 further declares total production contracts whereby total production is committed to one market to be contrary to public policy. The bill further declares that remedies available under the bill are not exclusive and supplemental to remedies that may be available in other areas of law.

LB 585 (Dierks) Adopt the Bovine Trichomoniasis Act

Date of Public Hearing: 2/24/09

LB 585 inserts wholly new sections cited as the Bovine Trichomoniasis Control Act. The primary function of the bill is to install statutory standards applicable to herd certification programs for the control of trichomoniasis in cattle as described in the following section-by-section summary:

Sec. 1: Names sections 1 – 5 as the Bovine Trichomoniasis Control Act

Sec. 2: Defines terms utilized throughout the Act. Much of the substantive purposes of the bill throughout the remainder of the Act are accomplished through utilization of defined terms that

incorporate general epidemiological response concepts as well as those procedures and standards that are necessarily tailored by terminology to the characteristics of trichomoniasis.

Sec. 3: Sets forth management standards and criteria for eligibility of a herd to be enrolled into a herd testing and trichomoniasis herd classification program, and for continuing enrollment subsequent to initial enrollment and classification. Section 3 requires that a herd risk assessment and management plan be completed and that the herd meet enumerated specification that include:

- The herd has been in existence for at least a year and additions to the herd have been assembled from test negative herds or the herd is recently assembled with animals entirely from test-negative herds;
- Tested bulls are officially identified;
- The owner has maintained certain biosecurity protocols as listed in subsection (4);
- Annually complete and submit a risk assessment and updated herd management plan;
- Herds having previous infection experience may be allowed to enroll by completing herd status entry requirements and culling test-positive bulls;
- Previously tested herds where infection is not found may be enrolled upon after review to determine that qualifying testing regimens were utilized, that a risk assessment of additions to the herd since the testing is performed, and official identification of previously tested livestock is provided;
- All bulls over 24 months of age and non-virgin bulls less than 24 months test negative under either of two identified testing methods provided test sample collected occurred under supervision of a trichomoniasis certified veterinarian and were analyzed at an approved lab.

Sec. 4: Sets forth standards governing elements of herd management activities identified in section 3 as required activities for initial and continuing enrollment in the certification program. Specific standards for testing, identification, biosecurity and herd additions are enumerated in this section. The bill provides for a differentiation of required components of a herd to include protocols and requirements in the event of a test-positive result. Section 4 imposes a fee of one dollar / cow slaughtered to pay for enrollment costs.

Sec. 5: Declares violations of the Bovine Trichomoniasis Act to be a Class I misdemeanor.

LB 593 (Dierks) Restrict entity ownership of agricultural land and farming and ranching operations

Date of Public Hearing: 3/03/09

LB 593 would install as statutory law many of the familiar qualifications on the use of limited liability business entities to own agricultural land or to engage in farming and ranching found at Article XII, Section 8 of the constitution (I-300) [currently enjoined by federal court order] in combination with other provisions of statute. The restrictions contained in LB 593 incorporate certain modifications to respond to dormant commerce clause defect and violation of the Americans with Disabilities Act found by federal courts.

Specifically, LB 593 contains the following substantive elements:

Statement of intent and findings

Section 1 of the bill contains an extensive statement of Legislative findings and intent, including the following:

- Declares a public interest in encouraging ownership and control of agricultural production and assets by owner-operators and finds social and economic benefits accruing from such pattern of ownership of agricultural enterprise. Declares a public interest and duty in ensuring that the benefits of limited liability business entities are utilized in the public interest
- Declares a public interest in safeguarding natural resources and finds a reference for owner-operator stewardship of productive natural resources in safeguarding this interest, further finding contradiction to that end in stewardship by entities that shield passive investors from environmental liability
- Declares a public interest in allowing limited use of limited liability business entities formed by owner-operated farming and ranching operations to pool resources and achieve economies of scale.
- Finds that an array of federal farm policies encourage and preserve benefits to individuals and entities who are owner-operators of family farms.

Definitions:

Section 2 of the bill defines key terms utilized throughout the bill. The following terms are defined:

- Entity – Defined to mean corporations and other limited liability business entities or any partnership of which an entity is a partner
- Farming and ranching – defined to mean the cultivation of crops and the ownership, keeping or feeding of animals for the production of livestock or livestock products (Identical to I-300)
- Farming or ranching operation – defined to mean farming and ranching utilizing agricultural resources regardless of the location of agricultural real estate without geographical restriction to activities occurring upon land within Nebraska
- Family farming or ranching entity – defined to mean an entity meeting requirements of majority ownership or membership in related individuals, or a trust created for the benefit of a related family member, and provision of labor and management thresholds provided on the farming or ranching operations by at least one representative of the ownership majority.
- Qualified owner-operator controlled farm or ranch entity” -- defined as an entity in which ownership is exclusively held by farmers or ranchers meeting thresholds of personal engagement in farming or ranching operations and where a member of the ownership group provides day-to-day management and labor to the entity’s farming or ranching operation.

Americans with Disabilities Act: Section 3 of the bill directs that interpretation and application of the bill’s restrictions on use of a business entity to conduct farming and ranching shall include reasonable accommodation for qualified individuals with a liability to comply with the Americans with Disabilities Act (ADA).

Agricultural ownership and operation restrictions

- Section 4(1) states a general prohibition against entities from acquiring or obtaining interest in title to real estate utilized for farming or ranching or engaging in farming or ranching.

- Subsection (2) of Section 3 enumerates exceptions for certain entities, ownership interests, circumstances of ownership, activity or manner of utilization as follows:
 - Family farm or ranch entities
 - Entities that are non-profit corporations
 - Qualified owner-operator controlled farming entity
 - A farming or ranching operation owned by an entity that is a tribal corporation located within reservation boundaries
 - Lands and interests in lands held by a farming entity on the effective date of the bill (grandfathering provision), while the grandfathered interest is continuous. Expansion of ownership in lands is limited to reasonably necessary acquisitions to comply with pollution control regulations. Grandfathered interests are clarified to include land being purchased on contract upon the effective date of the bill.
 - Research or experimental farming operations where commercial sales of agricultural commodities are merely incidental
 - Farm or ranch operations raising poultry for the purpose of producing poultry or poultry products, eggs or as a poultry hatchery.
 - Land leased by alfalfa processors for producing alfalfa
 - Farm and ranch operations for seed, nursery stock or sod
 - Mineral rights
 - Agricultural land acquired for non-farming purpose provided ownership does not exceed five years and provided farming operations pending development are leased to a farming operations not prohibited from engaging in farming and ranching
 - Land and livestock acquired in the collection of debts, provided acquiring entity divests of property within five years and pending disposition, the land is leased to a farming operations not prohibited from engaging in farming and ranching
 - Encumbrances taken for security
 - Custom spraying, fertilizing or harvesting activities
 - Livestock futures contracts, ownership of livestock incidental to acquisition for slaughter, and temporary ownership of livestock incidental to intent to resale
 - Trustee interests in agricultural land held for benefit of a natural person or entity not disqualified from owning land under this section.

Ownership succession

Section 3, subsection (3) provides for a period of transition of ownership of a family farm entity to minority shareholders where the majority shareholders no longer provide threshold measures of personal engagement in the operation of the farm or ranch. Provided that majority ownership remains vested in qualifying family majority ownership, and the entity's landholdings are not increased, this section provides that an entity shall have fifty years to requalify as a family farm entity (i.e. unrelated minority shareholder providing day-to-day labor and management given 50 years to acquire majority ownership). Continuation of leasing or purchase of leased agricultural land is excluded as a disqualifying increase in land holdings.

Enforcement: Enforcement provisions are set forth in Section 5 of the bill as follows:

- Assigns a duty to the Secretary of State to monitor entity agricultural land acquisitions and farming activities and to notify the Attorney General of potential violations

- Authorizes the Attorney General to commence actions to enjoin noncompliant land acquisitions or production activity. Authorizes divestiture as a remedy and declares land not divested in compliance with court order escheats to the state.
- Grants standing to Nebraska citizens and entities to seek enforcement in the absence of enforcement by state officials

Harmonizing provisions:

A series of harmonizing revisions to related sections of statute are made in section 6 - 12 of the bill, primarily to remove internal reference and coordination of such provisions to Article XII, Section 8 of the constitution. Specifically, the following revisions are made:

- Section §21-2602 and §67-409 are amended by Sections 6 & 7 of the bill respectively to strike existing provisions declaring LLCs and limited liability partnerships to be syndicates for purposes of Article XII, Section 8 unless meeting certain ownership and threshold requirements for day-to-day labor and management. The stricken provisions are redundant and unnecessary since LLC's and limited are included in the definition of entity restricted by Section 3 of the bill and provisions for qualifying an LLC or a limited partnership as a family farm entity are contained in section 2.
- Sections 8 – 11 of the bill amend provisions of reporting requirements of certain entities relating to compliance with Article XII, Section 8 found at §§76-1520 et seq. LB 1174 corrects internal references in these sections to apply reporting requirements as relating to Section 3 of the bill and utilizes terminology for identifying entities subject to reporting provisions to be consistent with those utilized by the bill A new reporting element to §76-1520 that the reporting entity report names and addresses of shareholders and members. The bill also incorporates revisor's office revisions to this section.
- §77-5203 of the Beginning Farmer Tax Credit Act is amended by section 12 of the bill to conform internal references within the definition of qualified owners of agricultural assets to the bill.

Miscellaneous:

- A revisor's office amendment is made to §76-1523(3) to clarify disposition of fines received under this section to conform to constitutional Article VII, Section 5. Current law directs a specific disposition of deposit in the temporary school fund.
- Legislative intent of severability is declared by section 12.

LB 641 (Schilz) Provide a targeted renewable diesel fuel production incentive

Date of Public Hearing: 2/10/09

LB 641 creates a targeted production incentive for qualifying renewable diesel production resulting from early commercialization of innovative advancements in renewable diesel production. The bill assigns authority to the Director of Agriculture to provide a direct production incentive that may be claimed by producers of renewable diesel utilizing advances in conversion technologies and systems

that meet criteria as defined and within limitations as prescribed in section 3 of the bill. LB 641 includes the following substantive provisions:

- States a legislative finding of public interest in encouraging research and demonstration, technology transfer and commercialization of innovative means of renewable diesel production and states legislative intent to provide incentives to the renewable diesel industry that advance this public interest.
- Section 3 of the bill provides for a “renewable diesel technology transfer and commercialization” production incentive of 30 cents / gallon within the limitations set forth in this section and elsewhere in the bill. Eligible production is specifically limited as follows:
 - The incentive is made available by Subsection (1) of section 3 for renewable diesel produced utilizing innovative technologies and systems “not commonly utilized commercially” which satisfy one or more performance or feedstock criteria enumerated. These criteria essentially describe eligibility criteria as renewable diesel production resulting from technologies and systems that achieves greater efficiency and net energy balance in conversion of conventional feedstocks or that enables conversion of feedstocks whose use avoids or mitigates biofuel competition for utilization of agricultural land
 - The amount of incentives that may be claimed by individual claimants is limited by subsection 2 as follows:
 - Caps annual (calendar year) eligible production occurring at a single plant at 1 million gallons and limits eligibility to production occurring during a 24 consecutive month period commencing with the month an initial claim is submitted. In effect, eligible production of a single plant is limited to a cumulative cap of 2 million gallons.;
 - Caps annual cumulative production for which the incentive may be claimed by all plants claiming the credit at 2 million gallons and prorates payments in the event that annual claims exceed the 2 million gallon cumulative cap;
 - Payment of claims is limited under subsection 1 to availability of funds;
 - Eligibility to claim the production incentive is subject to prequalification;
 - Eligible renewable diesel production is further limited by definitions in Section 2 of the bill to production occurring in Nebraska and which meets standards for biodiesel or other recognized industry standard for renewable diesel;
 - Subsection 3 sets forth a prequalification procedure for claiming the incentive and assigns a duty to the Director to determine eligibility in conformity for which the incentive is provided. Specifically, subsection 3 provides that:
 - Producer submits application to the Director of Agriculture with materials sufficient to enable evaluation of production method with purposes of production incentive and an evaluation fee not to exceed \$1000. Information submitted by an application for purpose of evaluation that are trade secrets and proprietary information are expressly protected from Public Records Act disclosure;
 - The Directors assessment is assisted by evaluation performed by the Industrial Ag Products Center at UNL;
 - Upon completion of evaluation, the Director makes determination of eligibility. If determined eligible, the producer may submit claims quarterly on forms provided by the Director. The producer shall submit an initial claim within 1 year of the determination;.
 - Provides for appeal according to the Administrative Procedures Act.

The Advanced Renewable diesel Technology Transfer and Commercialization Cash Fund is created by Section 4 of the bill to receive and expend appropriations, fees and other revenues

LB 646 (Christensen) Adopt the Livestock Growth Act

Date of Public Hearing: 2/24/08

LB 646 would assign duties and authorities to state agencies to assist designated livestock friendly counties with planning and evaluation activities to accommodate growth in livestock investment. Sections 1 – 6 of LB 646 inserts wholly new sections designated as the Livestock Growth Act. Legislative findings contained in section 2 declare the importance of growth in the livestock sector to economic prosperity of the state and a public welfare link to providing assistance to rural communities seeking opportunities for growth of livestock production. The primary substantive provisions of the bill are contained in sections 3 & 4 which direct the collaboration of the Departments of Agriculture, Economic Development and Environmental Quality in the establishment and delivery of programs to provide planning assistance to counties that have acquired livestock friendly designation pursuant to §54-2802. The specific elements of such program include:

- Assisting counties and communities in evaluating interest, opportunities and readiness for growth of livestock production.
- Identifying locations suitable for livestock development, including potential acquisition of sites. The Department of Environmental Quality is directed to provide an evaluative process, including criteria and on-site appraisals, for locations identified by counties as potential livestock production locations. Section 7 of the bill amends §54-2426 directs that applicable NPDES and construction and operating permits for livestock waste management facilities by applicants relating to evaluated sites are to be given priority evaluation by the Department.
- Assisting in marketing counties completing the evaluation process.
- Establishment of a revolving loan program administered by the Department of Economic Development for eligible infrastructure development. The specifications of eligibility and utilization of loan funds are prescribed in Section 4 as follows:
 - Infrastructure development is defined as construction, modification and maintenance of roads, bridges and other installations, to facilitate growth of livestock production;
 - Application for loan funds shall include designation the purpose for which the funds will be applied, identification of a livestock production project relating to the infrastructure investment, and notification that a conditional use permit, if required, has been issued;
 - Recipients shall not be charged interest, but loans shall not exceed \$250,000 and a 5-year repayment period.

The Livestock Growth Act Revolving Loan Fund is established by section 5 of the bill consisting of any appropriations, gifts, grants or other funds received for purposes of the revolving loan program and related activities. The fund may not accept funds designated for the benefit of a single business, enterprise or individual. Three sources of funds are identified elsewhere in the bill including:

- Amendment to §81-12,128 directing a one-time transfer on July 1, 2009 of \$50,000 from the Building Entrepreneurial Communities Cash Fund
- Legislative intent of \$100,000 grant to the fund by the Nebraska Corn Board
- Legislative intent of \$100,000 general fund allocation offset by a like reduction in appropriation to the Agricultural Opportunities and Value-Added Partnerships Act

Rule and regulation authority to implement the Livestock Growth Act is granted to the Departments of Agriculture and Economic Development by section 6 which further directs formations of a committee of staff of the two agencies to draft regulations. LB 646 as introduced carries the emergency clause.

LB 667 (Sullivan) Change fence law provisions

Date of Public Hearing: 3/10/09

LB 667 would insert the following clarifications into §34-102 of the Law of Division fences which currently assigns a just proportion allocation of responsibility of adjacent landowners for the construction and maintenance of division fences:

- Declares a rebuttable presumption that the just proportion allocation is one of equal shares
- Inserts legislative findings of historical and contemporary societal benefits accruing from the compelled duty for construction and maintenance of division fences.

BILLS INDEFINITELY POSTPONED BY THE COMMITTEE

LB 602 (Dierks) Allow first purchasers to retain a collection fee from proceeds of commodity promotion collections

Date of Public Hearing: 2/24/07

LB 602 would have authorized 1st purchasers to retain a portion of revenues collected relating to commodity checkoff programs as reimbursement for administrative expense as a collecting agent. §2-1315 of the Nebraska Wheat Resources Act, §2-3631 of the Nebraska Corn Resources Act, and §2-4016 of the Grain Sorghum Resources Act were amended by Sections 1-3 of LB 602. These sections currently similarly instruct 1st purchasers in the manner of collecting and remitting promotional assessments for the respective commodities. LB 602 inserts identical language in each instance that permit 1st purchasers to retain 5% of the promotional assessment collected against the respective commodities. Each insertion authorizes the respective governing board to adopt rules governing the procedure by which the retention of such funds may occur.

LB 677 (Haar) Change provisions of the Commercial Dog and Cat Operator Inspection Act

Date of Public Hearing: 2/03/09

LB 677 would have amended the Commercial Dog and Cat Operator Inspection Act to disallow licensure to operate as a commercial breeder after April 1, 2010 if the breeder owns or has custody of more than 75 unaltered dogs over the age of 4 months. The bill would have also inserted additional statutory specification into §54-640 for facility standards and the standards of care maintained by commercial breeders and proposed additional statutory specification regarding standards for primary enclosures utilized by all licensees. The proposed statutory standards would have been in addition to or in replacement of existing standards for humane handling, care, treatment and transportation of animals promulgated by the Animal and Plant Health Inspection Service pursuant to the Animal Welfare Act (9 CFR 3.1 to 3.19). These are currently incorporated as standards governing operations of Nebraska licensees by Department of Agriculture regulations at Chapter 23, article 18, section 007 of the Nebraska Administrative Code.

REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: May 29, 2009

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

| <u>Study Category</u> | <u>Resolution No.</u> | <u>Subject</u> |
|-----------------------|-----------------------|--|
| 1 | LR 104 | Examine existing grain laws and policy considerations in development of grain indemnity funds |
| 1 | LR 112 | Examine Nebraska law of division fences |
| 1 | LR 229 | Study impact of federal and state actions eliminating slaughter as a disposal option for equines |
| 1 | LR 240 | Examine means to encourage responsible livestock development through community partnerships |
| 2 | LR 103 | Examine duties of riparian landowners for invasive vegetation removal |
| 2 | LR 218 | Examine means of promoting export of Nebraska agricultural products |
| 3 | LR 42 | Study to identify means to stimulate and support farm-to-school programs |
| 3 | LR 130 | Review Nebraska Pure Food Act in relation to home based food businesses |
| 3 | LR 228 | Examine means to support and stimulate organic agricultural production |

- 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

2009 Session Interim Study Resolutions Referenced to the Agriculture Committee

LR 42 (Dubas) **PURPOSE:** The purpose of this interim study is to identify methods and systems necessary to assist Nebraska farms in providing local schools with fresh and minimally processed Nebraska-grown farm commodities for school meals and snacks. This interim study is intended to facilitate coordination and planning between multiple stakeholders so that a strategic plan may be developed. The study should include an examination of which Nebraska-grown farm commodities could feasibly be used for school meals and snacks. The study should also include an examination of regulations of the Department of Agriculture, State Department of Education, Department of Health and Human Services, and any other authorities which might impact the supplying of Nebraska-grown farm commodities to local schools.

The study will seek to involve various interested parties and organizations, including, but not limited to: (1) Producers of agricultural products marketed at Nebraska food markets, including producers of fruits and vegetables, protein agricultural products, and grain; (2) suppliers of agricultural products, including grocers and school suppliers; (3) meat processors; (4) food distributors; (5) the Action for Healthy Kids organization; (6) Resource Conservation and Development organizations in Nebraska; (7) a representative of food services from a rural and an urban Nebraska public school system; (8) the Rural Development Commission; (9) a dietitian; (10) the Cooperative Extension Service of the University of Nebraska; (11) the GFL (Good, Fresh, Local) University of Nebraska-Lincoln Sustainable Food Project; and (12) any other interested parties or organizations.

LR 103 (Carlson) **PURPOSE:** The purpose of this resolution is to examine the statutory duties and responsibilities of riparian landowners adjacent to natural streams and other watercourses for the control and removal of noxious and invasive vegetation within and adjacent to the streambed. The study shall particularly examine those duties imposed upon adjacent landowners under the Noxious Weed Control Act and the drainage statutes in Chapter 31, article 2, of the Nebraska Revised Statutes. It is a goal of the study to arrive at conclusions regarding the applicability and equity of such duties in relation to societal factors that have altered natural stream flows over time and the efficacy of enforcement of such duties as a means to achieve the objectives and societal benefits of vegetation management projects.

LR 104 (Carlson) **PURPOSE:** The purpose of this resolution is to examine mechanisms to mitigate marketing risks to producers and other grain market participants beyond those currently available under the Grain Dealer Act and the Grain Warehouse Act. In particular, the study shall examine the concept of producer-funded indemnity programs as a means to insure marketing transactions entered into by producers and other market participants. The study shall compile information regarding indemnity funds existing in other states and identify policy considerations in the establishment and design of such indemnity programs. The study shall seek to involve the participation of the grain warehouse department of the Public Service Commission, commodity producers, and grain market participants.

LR 112 (Sullivan) **PURPOSE:** The purpose of this interim study is to examine Nebraska's fence laws and develop a proposal to refine and simplify those laws as applied in rural and urban areas. The study shall seek to involve livestock producers, landowners, legal experts, and other interested parties to examine fence issues and to recommend actions to clarify and improve Nebraska's fence laws.

LR 130 (Louden) **PURPOSE:** The purpose of this interim study is to examine whether Nebraska should update provisions of the Nebraska Pure Food Act in relation to the growing trend of home baking, canning, and small food businesses in Nebraska. This growing trend could produce a positive effect on economic development in Nebraska. The study should include an examination of section 81-2,245.01 and whether or not a home baking, canning, or small food operation would be exempted from the definition of a food establishment if the operation met certain requirements.

LR 218 (Pirsch) **PURPOSE:** The purpose of this resolution is to determine ways the State of Nebraska can promote and increase the export of Nebraska's agricultural products.

LR 228 (Dierks) **PURPOSE:** The purpose of this interim study is to examine organic foods. Consumer demand for organic foods is rapidly increasing. Nebraska farmers have an opportunity to become leaders in the growth and marketing of organic foods as farmers markets, grocery stores, restaurants, and other businesses continue to add more organic products in response to the demand. Organic foods can provide economic development opportunities for Nebraska farmers, ranchers, and businesses. Organic products must maintain certain standards in order to be granted organic certification. This study shall include, but not be limited to, examination of the following:

- (1) Methods of increasing organic food production;
- (2) Whether incentives are necessary or effective in supporting organic food production;
- (3) Whether there are barriers to developing organic food production;
- (4) Whether policies are needed to protect organic agriculture from contamination by other agriculture which is not organic;
- (5) Methods of developing and expanding markets for organic foods; and
- (6) Policies of other states and the federal government related to support for organic agriculture.

LR 229 (Dierks) **PURPOSE:** The purpose of this resolution is to examine the impact of federal and state bans on the slaughter of horses and the transport of horses for slaughter and the options available for the disposal of horses. The study shall also consider the impact of legislation and resolutions passed by other states regarding the issue of the slaughter of horses.

LR 240 (Christensen) **Purpose:** Rural economic development is an important tool to encourage economic growth in rural Nebraska. Livestock production is vital to the economic prosperity and overall growth of Nebraska and the well-being of its citizens. This study seeks to examine ideas for encouraging responsible livestock development through voluntary participation and partnerships between communities, counties, organizations, and state agencies. This study shall include, but not be limited to, identifying obstacles to successful economic development through enhanced livestock development, examining appropriate voluntary participation and partnerships between communities, counties, organizations, and state agencies in achieving the desired livestock development, and examining the funding for potential assistance or incentives for counties to help with infrastructure needs due to livestock development in their counties.