

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 70**  
Final Reading

Introduced by Schilz, 47.

Read first time January 10, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 2-3951,  
2 2-3951.01, 2-3951.02, 2-3951.03, and 2-3951.04, Reissue  
3 Revised Statutes of Nebraska; to change provisions  
4 relating to membership of the Nebraska Dairy Industry  
5 Development Board; to repeal the original sections; and  
6 to declare an emergency.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 2-3951, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           2-3951 The Nebraska Dairy Industry Development Board is  
4 hereby created. Members of the board shall (1) be residents of  
5 Nebraska, (2) be at least twenty-one years of age, (3) have been  
6 actually engaged in the production of milk in this state for at least  
7 five years, and (4) derive a substantial portion of their income from  
8 the production of milk in Nebraska. Board members shall be nominated  
9 and appointed as provided in sections 2-3951.01 to 2-3951.04.

10           Sec. 2. Section 2-3951.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           2-3951.01 (1) Members of the board shall, as nearly as  
13 possible, be representative of ~~the nominees submitted by all first~~  
14 ~~purchasers of milk and combinations of first purchasers and~~  
15 ~~individual producer-processors in the state as provided in section~~  
16 ~~2-3951.02~~ and, to the extent practicable, result in equitable  
17 representation of the various interests of milk producers both in  
18 terms of the manner in which milk is marketed and geographic  
19 distribution of milk production units in the state. ~~By the~~  
20 ~~appointment of additional members or by reducing members by not~~  
21 ~~filling a vacancy caused by a member's term expiring, the Governor~~  
22 ~~shall maintain the membership of the board to approximate one member~~  
23 ~~for each forty milk production units or major portion thereof.~~

24           (2) The terms of the members of the board shall be three  
25 years, except that the ~~terms~~ first term of the initial and additional

1 members of the board shall be staggered so that one-third of the  
2 members are appointed ~~for terms of one year, one third for terms of~~  
3 ~~two years, and one third for terms of three years, as each year.~~ The  
4 number of years for the first term of new and additional members  
5 shall be determined by the Governor. Once duly appointed and  
6 qualified, no member's term shall be shortened or terminated by any  
7 subsequent certification by the Department of Agriculture of milk  
8 production units from which a first purchaser of milk purchases milk.

9 (3) The Director of Agriculture or his or her designee  
10 ~~and a designee of the Nebraska Dairy Industry Association or its~~  
11 ~~successor may participate in the activities of the board as ex~~  
12 ~~officio members.~~ shall be an ex officio member of the board but shall  
13 have no vote in board matters.

14 (4) Members of the board shall elect from among the  
15 members a chairperson, a vice-chairperson, and such other officers as  
16 they deem necessary and appropriate.

17 (5) Members of the board shall be reimbursed for their  
18 actual and necessary expenses as provided in sections 81-1174 to  
19 81-1177.

20 Sec. 3. Section 2-3951.02, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 2-3951.02 (1) Members ~~New members~~ of the board shall be  
23 nominated and appointed as follows:

24 ~~(1)~~ (a) Each first purchaser of milk which purchases milk  
25 from at least twenty-one milk producers may submit to the Governor

1 the names of up to two nominees for each forty milk production units,  
2 or major portion thereof, from which the first purchaser purchases  
3 milk. The Governor shall appoint one member for each forty production  
4 units, or major portion thereof, from nominees submitted pursuant to  
5 this subdivision, except that if milk production units certified by  
6 the Department of Agriculture have decreased so that each board  
7 member appointed pursuant to this subdivision represents less than a  
8 major portion of forty production units, the Governor shall maintain  
9 representation of one member for each forty production units, or  
10 major portion thereof, by not filling a vacancy caused by a member's  
11 term expiring; and

12 ~~(2)-(b)~~ All other first purchasers of milk and individual  
13 producer-processors who are not included among milk production units  
14 claimed by a first purchaser of milk entitled to submit nominees  
15 under subdivision ~~(1)-(1)(a)~~ of this section shall be combined as a  
16 group for the purpose of submitting nominees, and each first  
17 purchaser and individual producer-processor of the group may nominate  
18 up to two nominees. The Governor shall appoint two ~~nominees~~ members  
19 from nominees submitted pursuant to this subdivision.

20 (2) Whenever the number of members of the board as  
21 determined by subsection (1) of this section results in less than  
22 seven members, the Governor shall appoint a member or members from  
23 the state at large to maintain membership of the board at seven  
24 members. Whenever such appointment is required, the board shall call  
25 for and submit a list of two or more nominees for each additional

1 member needed to the Governor, and the Governor shall appoint a  
2 member or members from the nominees submitted pursuant to this  
3 subsection.

4 (3) Nominations in the case of term expiration or new or  
5 at-large membership and for all other vacancies shall be provided  
6 according to the process prescribed in section 2-3951.04. The  
7 Governor may choose the members of the board from the nominees  
8 submitted or may reject all nominees. If the Governor rejects all  
9 nominees, names of nominees shall again be provided to the Governor  
10 until the appointment is filled.

11 Sec. 4. Section 2-3951.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 2-3951.03 (1) A vacancy on the board exists in the event  
14 of the death, incapacity, removal, or resignation of any member; when  
15 a member ceases to be a resident of Nebraska; when a member ceases to  
16 be a producer in Nebraska; or when the member's term expires. Members  
17 whose terms have expired shall continue to serve until their  
18 successors are appointed and qualified, except that if such a vacancy  
19 will not be filled, as determined by the Governor under section  
20 ~~2-3951.01, 2-3951.02,~~ the member shall not serve after the expiration  
21 of his or her term.

22 (2) For purposes of filling vacancies on the board, the  
23 Governor shall appoint one member from up to two nominees submitted  
24 by the ~~first purchasers of milk or group represented by the vacating~~  
25 ~~member.~~ vacating member's nominator under section 2-3951.02. In the

1 event of a vacancy, the board shall certify to the ~~first purchasers~~  
2 ~~of milk or group represented by the vacating member~~ vacating member's  
3 nominator that such a vacancy exists and shall request nominations to  
4 fill the vacancy for the remainder of the unexpired term or for a new  
5 term, as the case may be.

6 Sec. 5. Section 2-3951.04, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 2-3951.04 (1) When nominations for board members are  
9 required, written notification shall be given to each producer  
10 represented or to be represented by such member, including an at-  
11 large member. The first purchaser or purchasers of milk shall notify  
12 each producer from whom the first purchaser buys milk that each  
13 producer may submit written nominations. If the group represented is  
14 a combination of first purchasers of milk and individual producer-  
15 processors or if the member is an at-large member, the individual  
16 producer-processors shall receive notification from the Department of  
17 Agriculture.

18 (2) Nominations shall be in writing and shall contain an  
19 acknowledgment and consent by the producer being nominated. The  
20 nomination shall be returned by the producer to the first purchaser  
21 of milk or to the department from whom the producer received  
22 notification within fifteen days after the receipt of the  
23 notification. For nominations to replace a member whose term is to  
24 expire or for a new member, the producers shall receive notification  
25 between August 1 and August 15 preceding the expiration of the term

1 of the member or the beginning of the term of a new member. For all  
2 other vacancies, the producers shall receive notification within  
3 thirty days after the member vacates his or her position on the board  
4 or within thirty days after the board calls for an at-large member or  
5 members as provided in section 2-3951.02.

6 (3) The first purchasers of milk, ~~and the department, or~~  
7 the board shall submit nominations to the Governor by September 30,  
8 in the case of term expiration or new or at-large member, or forty-  
9 five days after the member vacates his or her position for all other  
10 vacancies. The Governor shall make the appointments within thirty  
11 days after receipt of the nominations.

12 (4) All nominees shall meet the qualifications provided  
13 in section 2-3951.

14 ~~(5) The Governor may choose the members of the board from~~  
15 ~~the nominees submitted or may reject all nominees. If the Governor~~  
16 ~~rejects all nominees, names of nominees shall again be provided to~~  
17 ~~the Governor as provided in this section until the vacancies are~~  
18 ~~filled.~~

19 Sec. 6. Original sections 2-3951, 2-3951.01, 2-3951.02,  
20 2-3951.03, and 2-3951.04, Reissue Revised Statutes of Nebraska, are  
21 repealed.

22 Sec. 7. Since an emergency exists, this act takes effect  
23 when passed and approved according to law.