

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

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; and to repeal the original sections.  
6 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.

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

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

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

21 2-3951.02 (1) Members ~~New members~~ of the board shall be  
22 nominated and appointed as follows:

23 ~~(1)~~ (a) Each first purchaser of milk which purchases milk  
24 from at least twenty-one milk producers may submit to the Governor  
25 the names of up to two nominees for each forty milk production units,

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

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

19 (2) Whenever the number of members of the board as  
20 determined by subsection (1) of this section results in less than  
21 seven members, additional nominees shall be called for and selected  
22 at large by the board. The board shall submit one or more nominees  
23 for each additional member needed to the Governor, and the Governor  
24 shall appoint a member or members from the nominees submitted to  
25 maintain membership of the board at seven members.

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

3           2-3951.03 (1) A vacancy on the board exists in the event  
4 of the death, incapacity, removal, or resignation of any member; when  
5 a member ceases to be a resident of Nebraska; when a member ceases to  
6 be a producer in Nebraska; or when the member's term expires. Members  
7 whose terms have expired shall continue to serve until their  
8 successors are appointed and qualified, except that if such a vacancy  
9 will not be filled, as determined by the Governor under section  
10 ~~2-3951.01, 2-3951.02,~~ the member shall not serve after the expiration  
11 of his or her term.

12           (2) For purposes of filling vacancies on the board, the  
13 Governor shall appoint one member from up to two nominees submitted  
14 by the ~~first purchasers of milk or group represented by the vacating~~  
15 ~~member.~~ vacating member's nominator under section 2-3951.02. In the  
16 event of a vacancy, the board shall certify to the ~~first purchasers~~  
17 ~~of milk or group represented by the vacating member~~ vacating member's  
18 nominator that such a vacancy exists and shall request nominations to  
19 fill the vacancy for the remainder of the unexpired term or for a new  
20 term, as the case may be.

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

23           2-3951.04 (1) When nominations for board members are  
24 required, written notification shall be given to each producer  
25 represented or to be represented by such member, including an at-

1 large member. The first purchaser or purchasers of milk shall notify  
2 each producer from whom the first purchaser buys milk that each  
3 producer may submit written nominations. If the group represented is  
4 a combination of first purchasers of milk and individual producer-  
5 processors or if the member is an at-large member, the individual  
6 producer-processors shall receive notification from the Department of  
7 Agriculture.

8 (2) Nominations shall be in writing and shall contain an  
9 acknowledgment and consent by the producer being nominated. The  
10 nomination shall be returned by the producer to the first purchaser  
11 of milk or to the department from whom the producer received  
12 notification within fifteen days after the receipt of the  
13 notification. For nominations to replace a member whose term is to  
14 expire or for a new member, the producers shall receive notification  
15 between August 1 and August 15 preceding the expiration of the term  
16 of the member or the beginning of the term of a new member. For all  
17 other vacancies, the producers shall receive notification within  
18 thirty days after the member vacates his or her position on the board  
19 or within thirty days after the board calls for an at-large member or  
20 members as provided in section 2-3951.02.

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

1 days after receipt of the nominations.

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

4 (5) The Governor may choose the members of the board from  
5 the nominees submitted or may reject all nominees. If the Governor  
6 rejects all nominees, names of nominees shall again be provided to  
7 the Governor as provided in this section until the vacancies are  
8 filled.

9 Sec. 6. Original sections 2-3951, 2-3951.01, 2-3951.02,  
10 2-3951.03, and 2-3951.04, Reissue Revised Statutes of Nebraska, are  
11 repealed.