

LEGISLATIVE BILL 1016

Approved by the Governor April 17, 1986

Introduced by R. Johnson, 34; Sieck, 24; Eret, 32;
Barrett, 39; Vickers, 38; Remmers, 1;
Pirsch, 10; Conway, 17; Beutler, 28;
Nelson, 35; Hartnett, 45; Morehead, 30;
Rogers, 41; Hefner, 19; Smith, 33;
Scofield, 49; Higgins, 9; Chizek, 31;
Wesely, 26

AN ACT relating to agriculture; to amend sections 2-4011, 54-137.01, 54-2101 to 54-2103, 54-2111 to 54-2114, and 54-2116 to 54-2119, Reissue Revised Statutes of Nebraska, 1943; to define terms; to provide rules and regulations relating to organic food; to provide a reporting requirement relating to organic food; to change provisions relating to powers and duties of certain check-off boards as prescribed; to change provisions relating to the Nebraska Beef Industry Development Act; to authorize the collection of certain assessments and fees; to rename a fund; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 to 3 of this act, unless the context otherwise requires:

(1) Department shall mean the Department of Agriculture;

(2) Food product shall mean any grain, meat, dairy product, beverage, or similar product which is grown or raised and any product which is composed of ingredients which are grown or raised; and

(3) Organic food shall mean any food product which is grown or raised or the ingredients of which are grown or raised.

Sec. 2. (1) The department may compile a list of persons who grow or raise organic food and adopt and promulgate rules and regulations including a provision for standards for organic food and marketing practices.

(2) In adopting and promulgating rules and regulations which provide standards for organic food and marketing practices, the department may utilize, but shall not be limited to, the following criteria:

(a) No synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, or arsenicals may be used in the growing or raising of the food product or in the growing or raising of any ingredients of which the food product is composed. Natural substances such as diatomaceous earth, soaps, elemental sulfur, lime sulfur, and basic copper sulfate may be used;

(b) Treated seed may be used in growing a food product or ingredient only when untreated seed is not available;

(c) The food product or ingredient may be grown or raised only on soil which is free of synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, and arsenicals (i) through March 31, 1988, for one year, (ii) after March 31, 1988, and through March 31, 1989, for two years, and (iii) after March 31, 1989, for three years; and

(d) If fumigation is needed, only diatomaceous earth or inert gas may be used.

Such food products or ingredients may be stored in a regular, cold, or controlled atmosphere.

Sec. 3. Persons who grow or raise food products or the ingredients for food products shall provide the department, upon demand, with relevant information and records as the department deems necessary to carry out its duties under sections 1 to 3 of this act.

Sec. 4. That section 2-4011, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4011. The duties and responsibilities of the board shall be to implement and carry out the grain sorghum program and to the extent applicable shall include the following:

(1) To develop and direct any grain sorghum development, utilization, and marketing program. Such program may include a program to make grants and enter into contracts for research, accumulation of data, and prototype development for the production of alcohol;

(2) To prepare and approve a budget consistent with limited receipts and the scope of the grain sorghum commodity program;

(3) To adopt and promulgate reasonable rules and regulations;

(4) To procure and evaluate data and information necessary for the proper administration and operation of the grain sorghum commodity program;

(5) To employ personnel and contract for

services which are necessary for the proper operation of the program;

(6) To establish a means whereby any grower of grain sorghum has the opportunity at least annually to offer his or her ideas and suggestions relative to board policy for the coming year;

(7) To authorize the expenditure of funds and contracting for expenditures to conduct proper activities of the program;

(8) To bond the treasurer and such other persons necessary to insure adequate protection of funds;

(9) To keep minutes of its meetings, and other books and records which will clearly reflect all of the acts and transactions of the board, and to keep these records open to examination by any grower-participant during normal business hours;

(10) To prohibit any funds collected by the board from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state legislation. The board shall not expend more than twenty-five per cent of its annual budget to influence federal legislation; and

(11) To make refunds for overpayments of fees according to rules and regulations which may be adopted and promulgated by the Director of Agriculture pursuant to this section.

Sec. 5. That section 54-137.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-137.01. (1) The Nebraska Brand Committee, in its discretion, may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

(2) Employees of the committee shall collect fees as prescribed in section 54-2114. Such fees shall be paid separate from any brand inspection fees and shall be transferred to the Nebraska Beef Industry Development Cash Fund.

Sec. 6. The board may participate with the federal Cattlemen's Beef Promotion and Research Board in its program of beef promotion in collecting the assessments required by Title XVI, Subtitle A of the Food Security Act of 1985, Public Law 99-198, and any amendments thereto in existence on the effective date of this act, and in administering and enforcing such federal act in the State of Nebraska. The board may accept remittances or credits and apply for and accept advances, grants, contributions, and other forms of

assistance from the federal government, the state, or any public or private source for administering the Nebraska Beef Industry Development Act and to execute contracts or agreements in connection therewith. The board may include, in any contract for financial assistance with the federal government, such conditions imposed pursuant to federal law as it may deem reasonable and appropriate and which are not inconsistent with the purposes of the Nebraska Beef Industry Development Act.

Sec. 7. That section 54-2101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2101. Sections 54-2101 to 54-2119 and section 6 of this act shall be known and may be cited as the Nebraska Beef Industry Development Act.

Sec. 8. That section 54-2102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2102. As used in sections 54-2101 to 54-2119 the Nebraska Beef Industry Development Act, unless the context otherwise requires:

(1) Board shall mean the Nebraska Beef Industry Development Board;

(2) Cattle shall mean domesticated bovine animals;

(3) Seller shall mean a person owning cattle who sells or contracts to sell such cattle;

(4) Buyer shall mean a person who buys or contracts to buy cattle;

(5) Sale shall mean a transaction resulting in the passing of title to cattle from the seller to the buyer for a price;

(6) Commercial sale shall mean a sale of cattle where either the buyer or the seller, or an agent of either the buyer or the seller, is a livestock market, livestock auction market, livestock dealer, packer, commission company, or order buyer;

(7) Noncommercial sale shall mean any sale of cattle that is not a commercial sale, including sales between private parties, sales to or from commercial feeders or commercial breeders, sales conducted by breed registry associations, and sales of cattle for research, experimentation, exhibition, or entertainment purposes, and shall also include the slaughter of cattle which have never been the subject of a sale;

(8) Qualified voter shall mean any producer who is a registered voter;

(9) Producer shall mean any person who owns

cattle, receives a portion of the gross receipts as payment for the sale of cattle, shares in the profit or risk of loss from such sale, and has sold cattle during the current or preceding year; and

(10) Election shall mean the general election.

Sec. 9. That section 54-2103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2103. The Legislature declares it to be in the public interest that individuals involved in beef production and marketing be permitted and encouraged to develop, carry out, and participate in programs of research, education, market development, and promotion. It is the purpose of ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act to provide the authorization and to prescribe the necessary procedures whereby the beef industry in Nebraska may finance programs to achieve the purpose expressed in this section. The Nebraska Beef Industry Development Board shall be the agency of the State of Nebraska for such purpose.

Sec. 10. That section 54-2111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2111. (1) The board may appoint and fix the salary of an executive director who shall serve at the pleasure of the board. His or her appointment shall be made on the basis of recognized and demonstrated interest in and knowledge of the development, utilization, marketing, and promotion of the beef industry in Nebraska. The salary, if any, of the executive director shall be fixed by the board and shall be competitive with salaries of positions which require similar experience. The executive director shall not hold any other public office and shall devote his or her entire time to the discharge of his or her duties pursuant to ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act. The executive director shall have general supervision and responsibility of all activities and functions of the board and shall enforce all rules and regulations of the board.

(2) The executive director shall serve as the executive officer of the board and under its supervision shall administer ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act and the rules, regulations, and orders established pursuant to ~~sections 54-2101 to 54-2119~~ such act. He or she shall be in charge of the office of the board; and responsible to

the board for the preparation of reports and the collection and dissemination of data and other public information relating to the beef industry development program provided for in section 54-2112. At the direction of the board, he or she shall execute all contracts entered into by the board.

(3) The executive director may, with the approval of the board, employ such assistants and other employees as may be required for the proper discharge of the functions of the board.

(4) The board may, by written order filed in its office, delegate to the executive director any of the powers and duties vested in or imposed upon it by ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act. Any such delegated powers and duties may be exercised by the executive director in the name of the board.

(5) The board may incur any expense necessary for office space, furniture, stationery, printing, incidental expenses, and other expenses necessary for the administration of ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act.

Sec. 11. That section 54-2112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2112. The duties of the board shall be:

(1) To develop, implement, and direct any beef industry development program consistent with the general purpose of section 54-2103;

(2) To diligently pursue overseas markets for Nebraska-produced beef through foreign market development programs actually conducted in any country;

(3) To expand domestic markets for Nebraska-produced beef through market development and domestic promotion projects;

(4) To correct or alleviate transportation problems and other trade impediments which serve to limit markets for Nebraska-produced beef;

(5) To procure and evaluate data and information necessary for the proper administration and operation of the beef industry development program;

(6) To prepare and approve a budget consistent with limited receipts and the scope of the beef industry development program;

(7) To adopt and promulgate rules and regulations;

(8) To employ personnel and contract for services which are necessary for the proper operation of the program;

(9) To establish a means whereby a producer of beef has the opportunity at least annually to offer his or her ideas and suggestions relative to board policy for the coming year;

(10) To authorize the expenditure of funds and contracting of expenditures to conduct proper activities of the program;

(11) To authorize the expenditure of funds not to exceed twenty-five per cent of its annual budget to influence federal legislation;

~~(11)~~ (12) To bond the executive director and such other persons necessary to insure adequate protection of funds;

~~(12)~~ (13) To prohibit any funds collected by the board from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state legislation;

~~(13)~~ (14) To make refunds for overpayments of fees according to rules and regulations which may be adopted by the board pursuant to this section; and

~~(14)~~ (15) To exercise all incidental powers necessary to carry out the provisions of sections 54-2101 to 54-2119 Nebraska Beef Industry Development Act.

Sec. 12. That section 54-2113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2113. (1) There shall be paid to the board a fee of twenty-five cents per head upon all cattle sold in the State of Nebraska during the first year of operation of the program. After the first year of operation, the fee may be raised or lowered by the board after a public hearing in each of the six districts. The raise shall not exceed fifteen cents per head during any twelve-month period, and the total fee shall not exceed fifty cents per head. The board may raise or lower the fee as it deems necessary to generate sufficient revenue to finance the programs created and administered to carry out the intent and general purpose of sections 54-2101 to 54-2119 the Nebraska Beef Industry Development Act. Whenever a new fee is prescribed by the board, it shall remain in effect at least twelve calendar months. In addition to the fee authorized in this section, the board may collect the assessments required by Title XVI, Subtitle A of the Food Security Act of 1985, Public Law 99-198, and any amendments thereto in existence on the effective date of this act. The fee may be included as a part of any assessment that may be collected pursuant to section 6

of this act.

(2) Cattle shall be subject to the fee each time they are sold.

(3) The fee shall be paid by the seller at the time of sale or delivery.

(4) For purposes of ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act, when cattle are sold to an out-of-state buyer who transacts business in Nebraska, the sale shall be deemed to have occurred in Nebraska if the cattle sold were being raised, fed, or otherwise maintained within Nebraska immediately prior to sale.

Sec. 13. That section 54-2114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2114. The fee prescribed in section 54-2113 shall be collected in the following manner:

(1) When cattle are sold at a livestock market or livestock auction market, the fee shall be collected by the market;

(2) When cattle are sold to a packer, the fee shall be collected by the packer;

(3) In all other commercial sales not provided for in subdivisions (1) and (2) of this section, the fee shall be collected by the livestock dealer, commission company, or order buyer involved in the sale;

(4) In noncommercial sales when a brand inspection is performed, the fee shall be collected by the Nebraska Brand Committee pursuant to section 54-137.01, except as provided in subdivision (6) of this section; and

(5) In noncommercial sales when no brand inspection is performed, the fee shall be retained and remitted by the seller, except as provided in subdivision (6) of this section; and

(6) The board may require the buyer to remit the fee in order to comply with Title XVI, Subtitle A of the Food Security Act of 1985, Public Law 99-198, and any amendments thereto in existence on the effective date of this act.

Sec. 14. That section 54-2116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2116. The board shall prepare an annual report on or before January 1 of each year, which ~~report~~ shall set forth the income received from the beef assessment for the previous ~~year ending October 31~~ fiscal year, beginning July 1 and ending June 30, and shall include:

(1) The expenditure of funds by the board during the previous year for the administration of sections 54-2101 to 54-2119 the Nebraska Beef Industry Development Act;

(2) A brief description of all contracts requiring the expenditure of funds by the board;

(3) The action taken by the board on all such contracts;

(4) An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of beef and the direct expense associated with each program;

(5) The name and address of each member of the board; and

(6) A brief description of the rules and regulations adopted and promulgated by the board.

Such report shall be available to the public upon request.

Sec. 15. That section 54-2117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2117. The State Treasurer shall establish in the state treasury a cash fund to be known as the Nebraska Beef Industry Development Cash Fund, to which fund shall be credited all fees, remittances, credits, grants, contributions, or any other money paid to and collected by the board pursuant to sections 54-2113 to 54-2115 and section 6 of this act. Such funds shall be expended solely for the administration of sections 54-2101 to 54-2119 the Nebraska Beef Industry Development Act, except that the Secretary of State and each county shall be reimbursed from the fund for the actual expense incurred in conducting an election required by section 54-2106 or 54-2107, in the manner provided in section 32-226 for political subdivisions. On the effective date of this act any money in the Nebraska Beef Industry Development Cash Fund shall be transferred to the Nebraska Beef Industry Development Fund.

Any money in the Nebraska Beef Industry Development Cash Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1269.

Sec. 16. That section 54-2118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2118. The board shall not set up research units or agencies of its own, but shall limit its activity to cooperation and contracts with the Institute of Agriculture and Natural Resources of the University

of Nebraska and other proper local, state, or national organizations, public or private, in carrying out the purposes of ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act.

Sec. 17. That section 54-2119, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2119. Any person violating any of the provisions of ~~sections 54-2101 to 54-2119~~ the Nebraska Beef Industry Development Act shall be guilty of a Class IV misdemeanor and shall be subject to the applicable late payment charges provided in Title XVI, Subtitle A of the Food Security Act of 1985, Public Law 99-198, and any amendments thereto in existence on the effective date of this act.

Sec. 18. That original sections 2-4011, 54-137.01, 54-2101 to 54-2103, 54-2111 to 54-2114, and 54-2116 to 54-2119, Reissue Revised Statutes of Nebraska, 1943, are repealed.