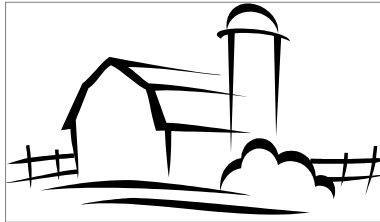

COMMITTEE ON AGRICULTURE

ONE HUNDRED SIXTH LEGISLATURE

2019 - 2020



SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

Agriculture Committee Members

Senator Steve Halloran, Chair
Senator Tom Brandt, Vice-Chair
Senator Julie Slama
Senator Carol Blood
Senator Ernie Chambers
Senator Steve Lathrop
Senator Ben Hansen
Senator Mike Moser

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STATUS REPORT BY BILL NUMBER

(Bills introduced in 2019 session)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LR 13	Murman	Urge federal agencies of the U.S. Government responsible for food labeling to establish and enforce standards for nomenclature of plant-based imitation milk and dairy food products	2/19/19	Adopted		AM435	
LB 14	Blood	Provide for truth in advertising and labeling in the sale of meat and provide a penalty		Withdrawn			Bill withdrawn before hearing date was set
LB 45	Chambers	Repeal the Black-Tailed Prairie Dog Management Act	3/5/19	Held			
LB 61	Halloran	Change and eliminate provisions relating to rabies	1/22/19	Enacted	AM41 ER8		
LB 157	Brewer	Provide for voluntary registration, duties for the Department of Agriculture, and a cause of action under the Nebraska Apiary Act	2/26/19	General File		AM1484	
LB 201	McCollister	Prohibit certain unlawful acts as prescribed relating to the Weights and Measures Act	2/26/19	Held			
LB 227	Hughes	Change provisions governing determination of a public or private nuisance under the Nebraska Right to Farm Act	2/12/19	Enacted	AM746 AM1287 AM1485 ER80		Agriculture Committee 2019 session priority
LB 229	Groene	Prohibit certain unlawful acts as prescribed relating to the Weights and Measures Act	2/26/19	Held			
LB 243	Gragert	Create the Healthy Soils Task Force and add a use for a fund	1/29/19	Enacted	AM640 AM789 AM937 ER57		Gragert 2019 session personal priority
LB 304	Crawford	Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act	3/5/19	Enacted	AM990 ER73		B. Hansen 2019 session personal priority
LB 320	Albrecht	Change various provisions of the Pesticide Act and update federal references	2/5/19	Enacted	ER61		Agriculture Committee 2019 session priority

(Bills introduced in 2019 session, continued)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 321	B. Hansen	Update certain standards and regulations and change Director of Agriculture duties and Department of Agriculture fee and permit provisions under the Weights and Measures Act	1/29/19	Held (see comment)			Provisions/portions of LB 321 incorporated into LB 835 by AM2185
LB 333	Slama	Update federal references and redefine a term under the Nebraska Milk Act	1/29/19	Enacted			
LB 344	Ag Committee	Adopt the Animal Health and Disease Control Act	2/05/19	Enacted	AM2486 AM2705 ER181		Halloran 2020 session personal priority bill
LB 382	Geist	Change the Dog and Cat Purchase Protection Act	2/26/19	Held			
LB 594	Blood	Provide for a deceptive trade practice relating to meat under the Uniform Deceptive Trade Practices Act	2/19/19	General File		AM313	
LB 655	Wayne	Change division fence provisions	3/12/19	Held			
LB 657	Wayne	Adopt the Nebraska Hemp Farming Act and change provisions relating to the industrial hemp agricultural pilot program	2/12/19	Enacted	AM988 AM1541 AM1941 ER87		Brandt 2019 session personal priority
LB 660	Brewer	Change provisions relating to the executive director and chief investigator of the Nebraska Brand Committee	2/5/19	Enacted	ER38		
LB 729	Walz	Adopt the Soil Health and Productivity Incentive Act	2/19/19	Held			
LB 732	Vargas	Adopt the Mobile Food Unit Act and change fees for a mobile food unit	3/5/19	Held			

(Bills introduced in 2020 session)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 791	Slama	Change provisions of the Livestock Animal Welfare Act relating to ownership, possession or seizure of animals	1/21/20	Held			Agriculture Committee 2020 session priority bill
LB 803	Hughes	Adopt the Dry Pea & Lentil Resources Act	1/28/20	Enacted	AM2999 ER186		2020 session speaker priority bill
LB 835	Halloran	Change provisions of the Nebraska Pure Food Act and the Weights & Measures Act	1/21/20	Enacted	AM2185 ER216		2020 session speaker priority bill. Enacted bill contains portions of LB 321
LB 919	Wayne	Change provisions for approval or denial of licenses under the Hemp Farming Act	2/04/20	Held			
LB 953	Wishart	Prohibit certain public entities from charging a fee for adoption or purchase of a dog or cat by a veteran		Withdrawn			
LB 972	Brandt	Change germination seed testing provisions under the Nebraska Seed Law	1/28/20	General File			
LB 1040	Vargas	Provide for a state food insecurity nutrition incentive grant program	2/11/20	Held			
LB 1152	Halloran	Change provisions relating to hemp	2/04/20	Enacted	AM2581 ER192		Agriculture Committee 2020 session priority bill
LB 1159	Stinner	Change certain use restrictions and provided for unlimited license examination attempts under the Pesticide Act	2/04/20	Held			
LB 1165	Stinner	Eliminate the Nebraska Brand Committee and provide powers and duties of the Department of Agriculture	2/18/20	Held			
LB1200	Brewer	Rename the Livestock Brand Act and the Brand Committee and change provisions relating to livestock	2/18/20	Held			
LB 1219	Wayne	Change provisions relating to hemp and adopt the Nebraska Hemp Transportation and Sales Licensing Act	2/18/20	Held			

BILLS ENACTED AND SIGNED BY THE GOVERNOR

LB 61 (Halloran) Change and eliminate provisions relating to rabies

Date of Public Hearing: 1/22/19

Date Reported from Committee: 1/28/19

Committee Amendment: AM41

Other Adopted Amendments: ER8

Effective Date: September 1, 2019

LB 61 is introduced to resolve conflicts between current statutes regarding the prevention and control of rabies with current science detailed in the Compendium of Animal Rabies and Control published by the National Association of State Public Health Veterinarian in the Journal of the American Veterinary Medical Association. The bill would adopt a current reference to the Compendium in various provisions of §§71-4401 to 71-4412. LB 61 also removes statutory prescription that conflicts with current rabies exposure response and management practices as recommended in the Compendium, and authorizes the Department of Health and Human Services (DHHS) to adopt by rule and regulation consistent vaccination and rabies incident protocols and standards. The enacted version of LB 61, as amended by the committee amendment (AM41) adopted during general file debate, makes the following section-by-section specific substantive revisions:

Sec 1: Amends §71-4401 to follow statutory convention to place defined terms in alphabetical order. The definition of “domestic animal” is revised to include the species identification of dogs and cats and to add ferrets. The term “vaccination against rabies” is revised to refer to USDA licensed vaccine administered in accordance with labeling rather than as approved by DHHS.

Sec 2: Amends §71-4402.03 to more accurately identify a federal agency that is a source of recommendations consulted by the DHHS in promulgating rabies regulations. This section was further revised by the adopted committee amendment to insert statutory guidance regarding the purposes for which DHHS may promulgate rules and regulations.

Sec 3: Amends §71-4403 to make a clarification pertaining to information to be entered by veterinarians on certificates of vaccination that more clearly state the effective period of the vaccination used and the date the next vaccination is due.

Sec 4: Amends §71-4406 which currently prescribes protocols for the impoundment and observation of “any animal” that has bitten a person. LB 61 provides that the section applies only to the defined term “domestic animals”, strikes statutory prescription relating to post-bite protocols, and provides that post-incident management of the biting domestic animal shall be according to rules and regulations adopted by DHHS.

Sec 5: Amends §71-4407 which currently prescribes protocols for domestic and hybrid animals that are bitten by a rabid animal. LB 61 strikes statutory prescription and provides that post-exposure management of the animal shall be according to rule and regulation of the DHHS. Such protocol would apply to animals exposed to a confirmed or suspected rabid animal.

Sec 6: Repealers

Sec 7: Outright repeals §77-4402.01 which directs the Department of Health to adopt regulations identifying rabid animal species, species amenable to rabies immunizations, and tests for detecting rabies.

Original section 2 of the bill would have amended §71-4402 which requires domestic animals to be vaccinated against rabies according to initial and booster schedules prescribed by rule and regulation of DHHS. LB 61 would have prescribed initial vaccination at three months of age and one year, and booster vaccination consistent with vaccine labeling. The adopted committee amendment struck this section of the bill, leaving existing statute §71-4402 unchanged.

LB 243 (Gragert) Create the Healthy Soils Task Force

Date of Public Hearing: 1/29/19

Date Reported from Committee: 3/15/19

Committee Amendment: AM640

Other Adopted Amendments: AM789, AM937, ER57

Effective Date: April 18, 2019

LB 243 provides for the creation of a task force facilitated by the Department of Agriculture to develop an initiative to promote adoption of stewardship practices on Nebraska farms and ranches that preserve and improve soil quality. A section-by-section description of the enacted version of LB 243, as amended by the committee amendment (AM640) and other floor amendments adopted during floor debate, follows:

Sec 1: States legislative findings and intent recognizing the importance of productive soils to agricultural productivity and for optimizing environmental services provided by agricultural lands, and the value of planning activities to promote greater adoption of soil stewardship practices.

Sec 2: Creates the Healthy Soils Task Force and specifies its membership. As introduced, the bill named as members the Director of Ag (or designee), 2 representatives of NRDs, 2 academic experts in agriculture and natural resources, 5 agricultural producers, 2 representatives of agribusiness, and 1 representative of environmental organizations. The chairs of the Agriculture and Natural Resources committees of the Legislature (or designees) are appointed as non-voting members. The task force is assigned to the Department of Agriculture for administrative support purposes, and is authorized to request advisory support from state and federal agencies relevant to its mission. As amended by the committee amendment, the membership was revised to include one additional agricultural producer representative, an additional environmental group representative, and further specified that the governor seek to appoint persons with expertise in soil stewardship and optimizing environmental services.

As amended, the enacted version of the bill incorporated organizational details including: 1) that appointments be completed within 60 days of the effective date, 2) expressly provides that task force members be reimbursed for actual and necessary expenses, 3) directs that the task force shall hold its first meeting by September 1, 2019, 4) that at its initial meeting the task force shall select a chairperson, and 5) that the task force shall meet as necessary at the call of the chairperson. The amended version more specifically provides that the task force may accept support from relevant state and federal agencies to facilitate as well as to advise its work.

Sec 3: As introduced, LB 243 assigned duties to the Healthy Soils Task Force including development of a healthy soils initiative and an action plan to implement the initiative, identify soil quality benchmarks, establish goals and a timeline for completing elements of the plan, and to identify resources needed. In developing the action plan, the task force may draw upon the NRCS of USDA, the Soil Health Institute and Soil Health Partnership, and shall examine: 1) issues in disseminating research and technical assistance, 2) options for financial incentives, and 3) the contribution of livestock to healthy soils. The task force is to develop a timeline to improve soil health within 5 years.

The adopted committee amendment inserted two additional tasks to identify realistic goals and timelines through voluntary partnerships among growers and relevant state, local and private entities, and to review the provisions of the 2018 Farm Bill and identify funding opportunities for purposes of soil health. As amended, the task force is authorized to consult with a number of listed organizations.

Sec 4: Directs the task force to provide a report of its findings and recommendations to the governor and the Natural Resources Committee on or before January 1, 2021 and terminates the task force on January 1, 2021. Amendments adopted during the bill's progress provide for the report to be submitted electronically and submitted to the Agriculture Committee.

Sec 5: This section, inserted by the adopted committee amendment, amends §81-2,162.27 to authorize use of the Fertilizers and Soil Conditioners Administrative Fund to defray the costs of the task force, up to a limit of \$10,000.

Sec 6: Repealer

Sec 7: Inserts the emergency clause to enable the appointment and initial meeting of the task force to occur by timelines specified in the enacted version of the bill.

LB 227 (Hughes) Change provisions governing nuisance under the Right-to-Farm Act

Date of Public Hearing: 2/12/19

Date Reported from Committee: 3/21/19

Committee Amendment: AM746

Other Adopted Amendments: AM1287, AM1485, ER80

Effective Date: September 1, 2019

The Nebraska Right-to-Farm Act (§§2-4401 – 2-4404) codifies common law principles in nuisance actions that shield farming and grain warehouse operations from being found to be a nuisance if the farming or warehouse operation preexisted changes in surrounding landuse. In its application over time, courts have limited right-to-farm protections if a significant change in the operation has occurred subsequent to the change in surrounding land use. LB 227, as proposed and in its enacted version, expands conditions under which a farm or public grain warehouse is shielded from liability as a public or private nuisance.

As introduced, section 2 of LB 227 proposed a substantive change to §2-4403. The bill retained the existing right-to-farm nuisance shield established by the farm or grain warehouse operation preceding surrounding landuse changes as subsection (1), but inserted new subsections (2) and (3) describing additional conditions under which the nuisance liability shield applied:

- If the farm or grain warehouse has not undergone a significant change in the type of operation. For purposes of this provision, LB 227 as introduced defined “significant change” to exclude certain events including conversion to a different type of operation, a change in ownership or size, change in farm program participation, or incorporation of new technology; and
- If reasonable measures are employed to minimize dust, odors, etc. and the farm or grain warehouse complies with applicable regulations including zoning regulations.

The proposed committee amendment (AM746) struck the original provisions and became the bill. The committee amendment rewrote revisions to §2-4403 to clarify conjunctive/injunctive intent. The existing shield from nuisance liability if a farm or grain warehouse operation existed prior to changes in surrounding landuse was retained unchanged as subsection (1). The amendment further combined original subsections (2)

& (3) of the original bill as subdivisions (a) and (b) of a new subsection (2) describing conditions separate and independent from subsection (1), under which an operation could retain right-to-farm protections for changes to the operation.

AM746 was adopted on general file as substantially revised by AM1287. In its amended form, AM746 revised §2-4403 to require that in addition to an operation preceding changes in surrounding landuse, right-to-farm protections applied if the operation employs measures to mitigate nuisance impacts on surrounding properties and the operation is in compliance with any applicable zoning or other regulation. Further, a new section would have been inserted into the Right-to-Farm Act creating a statute of repose excluding an operation from being a nuisance if established two or more years prior to a nuisance action being brought against it. If there was a substantial change in the operation, the date of establishment for purposes of the 2-year repose period would be the date the change in operation occurred.

AM1485 adopted during select file debate struck all previously adopted amendments and became the bill in its final form. As amended by AM1485, the enacted version of LB 227 amends §2-4403 by inserting new subsections (2) and (3). New subsection (2) inserts a statute of limitations for bringing a nuisance action against a farm or grain warehouse operation by barring actions brought 2 or more years after the nuisance condition complained of was sufficient to sustain a nuisance claim. New subsection (3) excludes application of the statute of limitation established in subsection (2) if the action is brought to enforce compliance with a previous court order relating to a nuisance claim.

LB 304 (Crawford) Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act

Date of Public Hearing: 3/5/19

Date Reported from Committee: 3/27/19

Committee Amendment: AM990

Other Adopted Amendments: ER73

Effective Date: September 1, 2019

LB 304 amends §81-2,245.01 of the Nebraska Pure Food Act by expanding commercial venues a small food business operating out of a private home, often referred to as a cottage food business, could engage in without being defined as a “food establishment” for purposes of the act. This section currently excludes private homes where non-hazardous food is prepared for sale directly to the consumer at a farmers market provided the consumer is informed at the sale location that the food was prepared in an unlicensed kitchen. LB 304 would expand this exclusion to businesses preparing non-hazardous foods in private homes sold at additional public events, and when picked up or delivered from a private home, provided:

- For farmers market or similar event sales, notification that the food is not prepared in a regulated facility is given at the sales location. For sales for pick up or delivery, such notification is provided at the home and on the producer’s website or in any advertising, and the consumer is notified of potential allergens;
- The product label includes the name and address of the producer;
- Product delivery is through a direct to the consumer transaction or by mail or commercial delivery service; and
- The producer follows any applicable food safety handling guidelines required by the county for food vendors at public event venues.

The committee amendment (AM990) adopted on general file clarifies that the producer follow any applicable public event food vender safety handling guidelines of any county, city or village. The amendment also adds three additional requirements to qualify for the cottage food exemption:

- The producer (for sales other than at a farmers market) has completed an accredited food safety education course or has acquired such training as part of a degree program or as required for a food handler permit;
- If using a private water well, the producer has had the water tested for nitrates and bacteria; and
- The producer complies with section 3 of the bill as enacted. Section 3 inserts a new section into the Pure Food Act to require persons selling under the expanded cottage food exemption to register with the Department of Agriculture. Information to be provided for a registration is prescribed to include the name and contact information, information regarding food safety and training, and water well testing proof if applicable.

LB 320 (Albrecht) Change various provisions of the Pesticide Act and update federal references

Date of Public Hearing: 2/5/19

Date Reported from Committee: 3/7/19

Committee Amendment: none

Other Adopted Amendments: ER61

Effective Date: September 1, 2019

LB 320 is introduced to bring provisions of the Pesticide Act (§§2-2622 to 2-2659) into alignment with recent revisions to the Certification of Pesticide Applicators Rule at 40 CFR 171, which establishes standards for state programs to certify persons applying restricted use pesticides (RUPs), training/competency to be demonstrated by applicators to obtain certification and licensure, and related recordkeeping. The revisions increase federal applicator certification program standards, enhance pesticide safety training and standards for supervision of noncertified applicators, and establish a minimum age requirement for noncertified applicators using RUPs under the direct supervision of a certified applicator. States have until March, 2020 to submit to EPA revised certification plans that comply with the updated rule requirements. The bill also contains other statutory housekeeping and clarifications.

Section-by-section Description:

Sec 1: Amends §2-2624 making revisions to defined terms utilized throughout the Act.

Sec 2: Amends §2-2626 which assigns duties and authorities to the Department to carry out the Pesticide Act. The revisions include 1) a clarification of the Department's authority to regulate use and possession of state limited use pesticides, 2) changes from prescriptive to permissive the Department's authority to adopt certain rules and regulations, 3) updates reference to federal rules regarding certification categories, 4) expands authority to issue stop-use orders to unlawful uses of a pesticide, and 5) removes express authority to declare pests.

Sec 3: Amends §2-2628 which requires pesticides distributed in the state and upon certain movements in commerce to be registered by the manufacturer or other distributor. The bill clarifies a listed exception to the registration requirement for products merely transported through the state and adds an additional authority of the Department to not require registration of products exempted from EPA registration.

Sec 4: Amends §2-2629 which sets forth information to be supplied on an application for

registration of a pesticide. The revisions include that the applicant 1) supply the trade name of the pesticide, and 2) identify locations of online sources of pesticide information. The bill includes that a non-resident application either name a designated resident agent for service of process or consent to jurisdiction of the state.

Sec 5: Amends §2-2630 prescribing information to be included on a pesticide label. The revision would require inclusion of federal registration identification and remove a requirement for arsenic content.

Sec 6: Amends §2-2632 to clarify grounds under which the Department may deny a pesticide product registration.

Sec 7: Amends §2-3635 which requires persons distributing pesticides to be licensed as a dealer and sets forth information to be supplied by applicants for a dealer license. The bill includes that a non-resident application either name a designated resident agent for service of process or consent to jurisdiction of the state. Removes an application fee for a duplicate dealer's license.

Sec 8: Amends §2-2636 which prescribes requirements to apply restricted use pesticides. The bill requires that applicators be at least 18 years old (the referenced exception is for persons at least 16 years old applying RUPs under the supervision of a family member licensed as a private applicator for ag applications) and are a licensed applicator or working under the direct supervision of a certified applicator. Harmonizes requirements for application of general use pesticides for hire for lawn care, structural pest and outdoor vector control, and also harmonizes an internal reference.

Sec 9: Amends §2-2637 authorizing the Department to establish categories for certification of applicator licensees. Revisions enable consistency with revisions in federal regulations regarding certification categories and competency, and presentation of identification to attend training and certification sessions.

Sec 10: Amends §2-2638 which requires persons using RUPs for hire to be licensed as a commercial applicator and be certified in the necessary categories of pesticide application, and specifies requirements for applying for a commercial license. Revisions appear to enable consistency with revisions in federal regulations regarding certification categories, and harmonize an internal reference to an existing exception allowing application of general use lawn care and structural pest control products by non-certified persons under the supervision of licensed applicators. The revision also includes that a non-resident applicant for a commercial license either name a designated resident agent for service of process or consent to jurisdiction of the state.

Sec 11: Amends §2-2639 which sets forth requirements for licensure as a non-commercial applicator. The revisions add grounds for denial of a license and that a non-resident applicant for a commercial license either name a designated resident agent for service of process or consent to jurisdiction of the state.

Sec 12: Amends §2-2640 to remove reference to subcategories of uses of restricted use pesticides to enable consistency with revisions in federal regulations regarding certification categories.

Sec 13: Amends §2-4641 which authorizes licensure as a private applicator, in lieu of commercial or noncommercial licensure for agricultural producers, applying pesticides on their own farming operation or non-commercially in exchange of services with other producers. The revisions strike provisions inconsistent with the revisions to the definition of "private applicator" in section 2. Inserts new federal requirement for identification to be presented for participants in certification training or exams.

Sec 14: Amends §2-4642 which governs application by non-certified persons applying pesticides for a period prior to obtaining certification while under the supervision of a certified applicator. The revisions appear to enable consistency with updated federal requirements pertaining to training and limitations on pesticide applications by non-certified applications.

Sec 15: Amends §2-2643 to enable consistency with updated federal regulations pertaining to recordkeeping of RUP applications.

Sec 16: Amends §2-2643.02 which assigns a duty of license holders to comply with the Act, rules and regulations, and orders of the Director. The revision extends the duty to complying with requirements of license holder supervising application by non-certified person as referenced.

Sec 17: Amends §2-2645 which assigns responsibilities to the Department to investigate complaints. The revisions clarify grounds by which the Department may decline to investigate.

Sec 18: Amends §2-2646 which lists unlawful acts. The revision adds advertising or recommending a pesticide in contradiction with the act or regulations as a prohibited act.

Sec 19: Amends §2-2653 to update nomenclature of the state pesticide plan.

Sec 20: Amends §2-2656 which provides for the requirement to obtain licensure as an aerial pesticide business, and specifies information to be supplied by an applicant for licensure. The revision provides that a non-resident applicant for a commercial license either name a designated resident agent for service of process or consent to jurisdiction of the state.

LB 333 (Slama) Update federal references and redefine a term under the Nebraska Milk Act

Date of Public Hearing: 1/29/19
Date Reported from Committee: 2/7/19
Committee Amendment: none
Other Adopted Amendments: none
Effective Date: September 1, 2019

LB 333 is a statutory maintenance of the Nebraska Milk Act (§§2-3965 – 2-3992) to incorporate into the Act the most recent revisions of reference publications and authorities that provide recognized regulatory standards for sanitation, inspection, labeling and handling of milk and dairy products. The Act currently incorporates the 2011 versions of codes developed by the National Conference on Interstate Milk Shipments. These include the Grade A Pasteurized Milk Ordinance, Methods of Making Sanitary Ratings of Milk Shippers, Procedures Governing Cooperative State-Public Health Service, and Evaluation of Milk Laboratories. LB 333 would incorporate the 2017 editions of these publications. The bill also incorporates the definition of “3-A Sanitary Standards” from the Pasteurized Milk Ordinance and updates reference to the 2018 version of 7 CFR 58.134 for methods of determining sediment content of milk.

LB 344 (Agriculture Committee) Adopt the Animal Health and Disease Control Act

Date of Public Hearing: 1/29/19
Date Reported from Committee: 2/19/20
Committee Amendment: AM2486

Other Adopted Amendments: AM2705, ER 181
Effective Date: November 14, 2020

LB 344 is brought at the request of the Nebraska Department of Agriculture (NDA) to update and consolidate animal disease authorities of the Department under a single, comprehensive Animal Health and Disease Control Act. The bill outright repeals several disease and species specific acts, the Animal Import Act and various duties and provisions of Chapter 54, Article 7 that are referred to as the Department's "general powers." These general powers grant the Department the authority to impose quarantine and other animal movement restrictions, perform disease surveillance activities, regulate carcass disposal, and other authorities to contain and prevent instances of livestock disease, and impose duties of the veterinary and livestock communities for the reporting of, and response to, animal diseases. LB 344 is lengthy and complex. A detailed section-by-section summary is not included here but is available upon request to Committee staff. The primary substantive revisions to current animal health authorities are summarized as follows:

- Updates animal disease control activities consistent with current veterinary practices in the field and expressly requires the Department, as far as practical, to conform its animal disease control and eradication activities to federal rules, regulations and guidelines;
- Defines, redefines, and strikes outdated terms, consistent with USDA/APHIS/VS animal disease control and eradication and current veterinary practices;
- Expressly provides that animal identification requirements for interstate movement be consistent with the requirements of USDA/APHIS/VS;
- Allows the Department to obtain a search warrant when it is denied access to infected or suspected to be infected animals, or premises, buildings, equipment, or vehicles affected by such affected animals, for purposes set forth in the bill. This does not add or subtract from existing authority for the Department to have access to premises of affected or suspected to be affected animals or premises;
- Provides for administrative hearings and the assessment of administrative fines for violators, including nonresident violators;
- Provides authority relating to trichomoniasis, for the Department to issue an order requiring a trichomoniasis positive bull to go directly to slaughter if the owner refuses to comply. Current law, §54-742(3), prohibits an infected bull from being sold or transported except to go directly to a federally recognized slaughter establishment. The original provisions do not provide recourse for the Department if an owner refuses to comply;
- LB 344 expressly exempts the Department from paying costs associated with animal disease eradication and control program activities. Such activities include: testing for change of ownership at private treaty; costs of gathering, confining, and restraining animals subjected to testing; costs of providing necessary facilities and assistance; costs of testing to qualify or maintain herd accreditation, certification or validation; or indemnity for an animal destroyed as a result of being affected with a program or other dangerous disease. This language is consistent with current Department statutory provisions repealed by the bill;
- Expressly exempts the Department from liability for actual or incidental costs incurred by any person due to Departmental actions in enforcing the Act. This provision is consistent with other agency statutes;
- Carries over authorities from the proposed repealed provisions allowing the Department to assess and collect payment for services provided, and expenses incurred, pursuant to its responsibilities under the Act;
- Provides the Department with more flexibility for sustained mitigation of animal disease impacts, especially in regard to restricted animal movement control and quarantine. There are certain animal diseases for which eradication may not be practical or economically feasible. For example, long-term quarantines could seriously impede trade or interstate commerce, and having flexibility for options other than outright quarantines allows for continuity of business. USDA/APHIS/VS has moved toward a process of allowing the establishment of compartments or zones for such purpose;

- Removes references to the Bureau of Animal Industry, which no longer exists due to Departmental restructure several years ago. The Bureau of Animal Industry is now part of the Animal and Plant Health Protection focus area. This proposal replaces a specific division name with the broader term, “Department”; and
- LB 344 additionally harmonizes sections affected by this proposal.

The committee amendment (AM2486) adopted on general file is a white copy which replaced the bill. The amendment consolidates related provisions for duties and authorities of the Department, duties for persons with disease affected animals, penalty provisions and unlawful acts, carcass disposal and other concepts. Other substantive revisions are noted in the section-by-section summary. AM2705 adopted on general file made a series of technical corrections. These include a clarification of circumstances under which a herd management plan can be required to be consistent with defined terms “affected animals or flocks”, and “affected premises”; adoption of consistent terminology in section 45 pertaining to trichomoniasis reporting; removed an unnecessary qualification of labs where carcasses may be taken for post mortem analysis, restored certain carcass disposal practices, and corrected an incorrect substitution of the term “infected” for “affected” animals in provisions pertaining to anthrax.

Section-by-section summary:

Secs 3-38: Definitions. AM2039 clarifies definitions, removes some substantive requirements that duplicate other provisions in the bill.

Sec 39: Legislative intent. Replaces the legislative declarations contained in Section 41 of bill, as introduced. AM2039 emphasizes purposes to support agricultural growth and also includes legislative intent that the Department utilize USDA/APHIS/VS program standards as available and appropriate to guide disease prevention and eradication. AM2039 omits introduced section 50 which adopted by reference a number of federal animal disease regulations.

Sec 40: Outlines duties of the NDA to carry out control of disease outbreaks including authority for NDA to issue quarantines, regulate animal movement, require testing, treatment or euthanasia, perform inspections, allow controlled feedlots and other exemptions, and to adopt regulations for program disease standards in line with USDA/APHIS/VS protocols. General duties and authorities of the Department are contained in Section 42 as introduced. AM2039 consolidates duties and authorities under section 40 that are scattered throughout the bill.

Sec 41: Allows veterinary inspectors assigned by USDA/APHIS/VS to perform duties as authorized by NDA. This is identical to section 56 of the introduced bill. In both cases, the text is identical to existing §54-704

Sec 42: Allows NDA to contract and cooperate with appropriate persons when carrying out animal disease control and eradication responsibilities. Consolidates original section 49(1) and section 53(7). Similar or identical provisions are contained in §54-701.02(7) and in animal disease specific acts.

Sec 43: Requires the reimbursement of NDA’s administrative costs due to owners or custodians of animals not complying with required program disease activities or responsibilities. Failing to reimburse NDA would result in late fees capped at 100% of the original amount. This provision is originally contained in section 64(2-5) of LB 344 as introduced. Both LB 344 as introduced and AM2039 introduce the concept of a late fee if assessments are not timely paid. As introduced, LB 344 required persons assessed administrative costs to reimburse the Department within 15 days before late fee assessments begin. AM2039 expands that to 30 days. Various disease specific acts currently authorize assessment for costs when a livestock owner is uncooperative in facilitating gathering and restraint of animals and the Dept. is required to obtain private services. AM2039 section 43(3) retains additional provisions of Section 64 of LB 344 as introduced that authorizes the Department may provide funds for herd specific disease program costs if funds are appropriated or federal funds are provided for that

purpose except for costs expressly prohibited. This provision in both AM2039 and LB 344 as introduced are contained in current law.

Sec 44: Requires owners or custodians of affected animals or premises infected by a dangerous disease to develop a management plan as required by NDA. NDA may require cleanup of infected premises to prevent the spread of disease. The section also requires anyone who suspects an animal affected by a dangerous disease to report the information to the NDA. AM2039 section 44(1) and (2) consolidates comparable provisions in sections 43 and 45 of LB 344 authorizing the Department to require cleaning and disinfection of affected premises and a herd management plan to minimize potential for spread of dangerous diseases. Such authority is currently contained in disease specific acts. AM2039(3) is identical to section 58(1) of LB 344 as introduced. The provision is brought within Section 44 of AM2039 for better context and grouping of duties of an animal owner having diseased animals. The reporting requirement is substantively identical to existing §54-742.

Sec 45: Requires owners of beef or dairy breeding bulls suspected to be infected with bovine trichomoniasis not to sell or transport the animal except to a federally recognized slaughter facility and further outlines requirements for animals with a positive trichomoniasis test. This provision was originally contained in section 58(3)&(4) of LB 344 as introduced. The provisions regarding trichomoniasis reporting, notification and disposition of animals are identical to current law except that LB 2039 retains a new authority of the Department to order Trich positive animals to go direct to slaughter. AM2039 redirects where funds recovered for administrative costs to perform notification are deposited.

Sec 46: Requires and outlines proper procedures for disposal of dead animals within 36 hours unless a different timeframe is outlined in a herd management plan. The section outlines the duties of the county sheriff regarding proper disposal of carcasses. It further details procedures for disposal of any animal that died due to anthrax infection. AM2039 section 46 consolidates provisions regarding carcass disposal contained in sections 59 & 60 of LB 344 as introduced which includes most provisions for carcass disposal currently contained in 54-743 through 54-750. The Amendment eliminates a provision of current law assigning a duty to a county sheriff to take responsibility for unburied carcasses at the expense of the county. Both LB 344 as introduced and AM2039 revise the duty of the sheriff to act only upon notice by the Department of carcasses improperly disposed of. AM2039 incorporates anthrax specific disposal requirements and eliminates a current authority for the Department to license experimental carcass disposal facilities (current authority has never been used). AM2039 also reinstates a provision of current law omitted in LB 344 as introduced that allows animal carcasses to be buried on an adjacent property to where the animal died if the property is owned by the livestock owner.

Sec 47: Requires all animals have a certificate of veterinary inspection (CVI) upon entering Nebraska with exceptions outlined in the section. AM2039 retains provisions of LB344 found in section 52 requiring animals brought into the state to be accompanied by a pre-entry certificate or veterinary inspection, except for listed exemptions. The requirement and exceptions are consistent with current provisions of the Animal Import Act and Department regulations. AM2039 section 47(3) through (5) retain existing text from section 52(6)-(8) defining unlawful acts with respect to imports of animals.

Sec 48: Requires livestock imported to Nebraska comply with federal animal disease traceability requirements. AM2039 section 48 retains a new requirement introduced by LB 344, section 54(1)&(2) that animals entering the state be ID'd in compliance with federal animal disease traceability rules. Subsection 54(3), which specifies that it is unlawful to import livestock not in compliance, is moved to section 56 of AM2039, which consolidates unlawful acts under that section.

Sec 49: Protects premises and owner information shared in compliance with animal disease traceability provisions from public records disclosure and gives exceptions as outlined. AM2039 section 49 is identical to section 51 of LB 344 as introduced. Both AM2039 and LB 344 as introduced are identical to existing general law

of the Department of Agriculture to perform services such as premise registration that support certain animal ID protocols but protects confidentiality of provided information.

Sec 50: Requires persons subject to the Act to keep records for five years regarding vaccination, diagnostic testing, and animal movement for animals infected, suspected or exposed to program diseases. AM2039 section 50 is identical to LB 344 section 48. This section is a general application of requirements of a number of disease specific acts.

Sec 51: Allows the State Veterinarian to restrict the sale and use of vaccines and outlines guidance for vaccination or infected animals. AM2039 section 51 retains portions of section 44 pertaining to the sale and use of vaccines. AM2039 retains existing general law authorities but omits a provision regarding recordkeeping that were specific to only two disease-specific programs which is unnecessary duplication with record keeping provisions elsewhere. AM2039 corrects a reference to the name of the agency for vaccination license and approvals.

Sec 52: Disallows the feeding of waste animal products with exceptions outlined in the section.

Sec 53: Allows NDA to issue cease and desist orders and assess administrative fines up to \$5,000 for any violation of the Act, any rule or regulation adopted and promulgated under the Act or any order of the Director. The section outlines the factors considered for fines. AM2039 section 53 contains the administrative sanction procedures in the event of violations of the act found in section 65 of LB 344 as introduced. AM2039 retains procedural concepts including the right to hearing and administrative remedies of cease and desist and the ability to seek injunctions in the event a person is found in violation. AM2039 retains new authority proposed in LB 344 for administrative fines. The amendment provides that administrative fines assessed shall be per violation, eliminating an original provision that if the violation involved a load of animals, each animal was a separate violation. Adds express authority for the Department to report non-payment of administrative fines to the Attorney General to pursue judicial action to recover the fine, replacing section 66.

Sec 54: Defines law enforcement and special investigator and outlines duties of said officers to execute the orders of NDA and arrest violators of the Act. AM2039 section 54 is identical to section 57 of LB 344 as introduced.

Sec 55: Outlines penalties for importing livestock in violation of an embargo or importation order. AM2039 consolidates penalty provisions for violations of the Act. It retains that violation of an embargo or import order is a Class IV felony, which is the current penalty under the Animal Import Act. All other violations are a Class II misdemeanor unless otherwise specified in the Act.

Sec 56: Outlines actions that are unlawful. AM2039 consolidates specific acts that are deemed unlawful that are otherwise designated throughout the act by LB 344 as introduced.

Sec 57: Creates the Animal Disease Control Act Cash Fund. AM2039 is identical to section 67 of LB 344 as introduced

Secs 58 – 78: Strikes obsolete provisions and harmonizes language with new sections of the Act, including the termination of cash funds associated with existing disease specific acts and transfer of any residual funds to the Animal Health and Disease Control Act Cash Fund. These sections are contained in sections 68 – 88 of LB 344 as introduced with one additional affected section inadvertently omitted from the original bill. These are non-substantive harmonizations in other sections of law, including external references in those sections the Animal Health and Disease Control Act.

Sec 79: Adds definition and duties of the State Veterinarian. This is the same as section 88 of LB 344 as introduced.

Sec 80: Inserts instruction for the statutory assignment of Sections 1 to 57 of the bill.

Sec 81: Repealer

Sec 82: Sections outright repealed.

LB 657 (Wayne) Adopt the Nebraska Hemp Farming Act and change provisions relating to the industrial hemp agricultural pilot program

Date of Public Hearing: 2/12/19

Date Reported from Committee: 4/2/19

Committee Amendment: AM988

Other Adopted Amendments: AM988, AM1541, AM1941, ER87

Effective Date: May 30, 2019

LB 657 provides for the growing and processing/handling of industrial hemp under regulation of the Nebraska Department of Agriculture (Department), and provides the authorities necessary for the Department to prepare and implement a state plan for purposes of the hemp provisions of the federal Agriculture Improvement Act of 2018 (2018 Farm Bill). The bill defines hemp as cannabis sativa L and any part of the plant and derivatives having a delta-9 tetrahydrocannabinol (THC) of not more than 0.3% by dry weight, and excludes hemp from the definition of marijuana for purposes of the Uniform Controlled Substances Act. Additionally, LB 657 creates a commission to advise the governor and legislature regarding policies to remove constraints to hemp production and to coordinate programs to promote the hemp industry.

LB 657 underwent considerable change from its introduced version as the bill progressed through the legislative process. The committee amendment (AM988) adopted on general file struck the original provisions and became the bill. The amendment retained key elements of the original bill, but addressed certain elements in a modified manner, with overall reorganization of the bill for clarity and readability. The most significant changes from LB 657 as introduced include:

- Temporarily expands participation in the hemp research pilot program authorized under §2-5701 to enable wider participation for the 2019 growing season. It is anticipated that the hemp program authorized by the bill would provide the structure to prepare and implement a state plan to conform to 2018 Farm Bill hemp provisions for the 2020 growing season and beyond;
- Delegates more discretion to the Department regarding the contents of the state plan submitted for purposes meeting the requirements of the 2018 Farm Bill;
- Reorganizes the Hemp Commission as a checkoff program, creating a separate fund and revenue stream to support promotional aspects of the bill; and
- Inserts additional provisions to be consistent with the hemp provisions of the 2018 Farm Bill including the enforcement of negligent violations and prohibiting persons having prior felony drug convictions from obtaining licensure.

AM1541 adopted on select file inserted harmonizing changes to §2-401 of the Controlled Substances Act to remove hemp as defined by the Hemp Farming Act from the definition of marijuana, and further removed resins derived from hemp when possessed as authorized by the Hemp Farming Act from the definition of hashish. Additional revisions to definitions and provisions of the Hemp Farming Act were made to reflect hemp was no longer regulated as a controlled substance under the Controlled Substances Act. AM1541 also removed the Directors of Agriculture and Economic Development as members of the hemp promotional program and established the Hemp Commission as an independent agency. Finally, the amendment removed certain administrative enforcement provisions for intentional violations of the Hemp Farming Act and specified post-decarboxylation or other reliable methodology for determining THC concentration.

Subsequent to the first advancement from select file to final reading, the Legislature returned LB 657 to select file and further amended the bill with adoption of AM1941. The substantive revisions include the following:

- Inserted two new sections temporarily authorizing use of the Noxious Weed Control Fund and the Fertilizers and Soil Conditioners Administrative Fund to defray the Department's costs to implement the Act until January 1, 2020. Any expenditures from these funds for such purpose are to be documented and the funds reimbursed from the Hemp Program Fund no later than October 1, 2022;
- Inserted as a purpose of the Act the facilitation and avoidance of impeding interstate commerce in hemp. Related changes authorize the Department of Agriculture in consultation with the State Patrol to develop documentation to be carried by persons transporting hemp in Nebraska originating outside the state and prohibits possession and transport of hemp except as authorized by the Hemp Farming Act, and provides that a violation is a Class IV misdemeanor.

LB 660 (Brewer) Change provision relating to the executive director and chief investigator of the Nebraska Brand Committee

Date of Public Hearing: 2/5/19

Date Reported from Committee: 2/13/19

Committee Amendment:

Other Adopted Amendments: ER38

Effective Date: March 22, 2019

LB 660 amends §54-192 of the Nebraska Brand Act by removing statutory prescription in subsection (2) that the executive director assumes the titles of chief investigator and chief inspector, and eliminates that the executive director have or obtain law enforcement credentials necessary to assume assignment of an investigator position.

LB 660 further inserts a new subsection (3) which directs the Brand Committee to create and employ the position of chief investigator and describes the duties and qualifications for the position.

LB 803 (Hughes) Adopt the Dry Peas and Lentil Resources Act

Date of Public Hearing: 1/28/20

Date Reported from Committee: 2/13/20

Committee Amendment: none

Other Adopted Amendments: AM2999, ER186

Effective Date: November 14, 2020

LB 803 creates a new promotional checkoff program for Dry Peas, Lentils and other listed pulse crops. The bill also expands a waiver of a distance limitation for overweight/oversize vehicles transporting crops to include pulse crops.

As introduced, LB 803 would have designated the new promotional program as the Pulse Crop Resources Act and designated the governing agency as the Pulse Crop Development, Utilization, and Marketing Board. Promotional assessments would have been introduced beginning July 1, 2020 and the bill carried the emergency clause to enable organizational steps to appoint the board and the initiation of assessments to occur during the 2020 growing season.

AM2999 adopted during select file debate revised the name of the act to the Dry Pea and Lentil Resources Act and designated the governing board as the Dry Pea and Lentil Commission to better distinguish those pulse crops subject to the new assessment from dry beans subject to the Nebraska Dry Bean Resources Act. Due to a prolonged suspension of the legislative session in response to the COVID-19 pandemic while LB 803 awaited select file debate, AM2999 revised the beginning date to occur beginning in the 2021 growing season and removed the emergency clause.

Section-by-section Description (as enacted):

Sec 1: Names Sections 1 – 19 the Pulse Crop Resources Act

Sec 2: Defines terms for purposes of the Act. Dry peas and lentils are defined to include dry peas, lentils, chickpeas or garbanzo beans, and faba beans.

Sec 3: Creates the Dry Pea and Lentil Commission (Commission).

Sec 4: Specifies membership on the Commission and qualifications for membership. The Commission is to be composed of five appointed grower members, one member appointed from each of three grower districts as defined in this section, and two selected from the state at large. The Director of Agriculture and IANR Chancellor are non-voting, ex officio members.

Sec 5: Sets out initial terms of the original appointed members to provide for a staggering of terms. Successors are appointed for 3-year terms and members are limited to 3 terms.

Sec 6: Provides for actual and necessary expenses for appointed members.

Sec 7: Provides for removal of Commission members for cause and specifies that cause includes loss of qualification to serve.

Sec 8: Directs the selection of a Chairperson at the initial meeting. Defines a quorum and specifies a majority vote to adopt rules and regulations. Allows the Commission to meet by videoconference or teleconference as permitted and within the limitations under the Open Meetings Act.

Sec 9: Declares the public policy of the state to support the dry pea and lentil industry. Assigns agency to the Commission to carry out that purpose and assigns duties and authorities to the Commission.

Sec 10: Authorizes the Commission to establish an administrative office at an appropriate location in the state but limits administrative offices to leased space.

Sec 11: Imposes an assessment of 1% of the net market value of pulse crops sold in commercial channels beginning July 1, 2021 collected by the first purchaser at the time of delivery or sale. Beginning July 1, 2023, the Commission is authorized to adjust the assessment by rule and regulation within a statutory maximum of 2% of net market value.

Sec 12: For crops pledged as security for a federal price support program, the assessment is deducted from the proceeds of the loan.

Sec 13: Directs that the assessment applies regardless of storage of the crop out of state.

Sec 14: Directs that the assessment does not apply to federal government purchases of dry peas and lentils for food assistance programs when such assessment is prohibited by federal law.

Sec 15: Specifies the procedure for assessment collection and remission by first purchasers.

Sec 16: Creates the Dry Pea and Lentil Fund as a cash fund repository for assessments and other revenues and authorizes use of the fund to carry out the Act.

Sec 17: Prohibits the Board from establishing its own research or development programs. The Board shall contract with the University of Nebraska and other public and private entities to carry out the purpose of the Act.

Sec 18: Violations of the Act are declared a Class III misdemeanor.

Sec 19: Prohibits expenditure of funds to influence state legislation or to promote or oppose political candidates. No more than 25% of funds may be utilized to influence federal legislation.

Sec 20: Amends §2-3740 of the Dry Bean Resources Act to exclude chickpeas or garbanzo beans from the definition of dry beans.

Sec 21: Amends §49-1499.02 which addresses conflict of interest for executive branch employees or officials. This section currently expressly provides that commodity board members participation in commodity board decisions is not in conflict with this section. LB 803 adds the Dry Pea and Lentil Commission to the list of commodity boards covered by the exception.

Sec 22: Amends §52-1308 to add dry peas and lentils to the definition of farm products for purposes of lien security filings.

Sec 23: Amends §60-6,298 which authorizes an overweight/overdimension permit for transport of crops from field to market or storage. The section imposes a distance limitation but allows waiver of the distance limitation for transport of dry beans when necessary to reach marketing sites. LB 803 extends this distance waiver to transport of dry peas and lentils.

Sec 24: Repealers

LB 835 (Halloran) Change Provisions of the Nebraska Pure Food Act

Date of Public Hearing: 1/21/20

Date Reported from Committee: 1/31/20

Committee Amendment: AM2185

Other Adopted Amendments: ER216

Effective Date: November 14, 2020

LB835 is a statutory maintenance of the Nebraska Pure Food Act (§81-2,239 through §81-2,292) to incorporate into the Act the regulatory standards of the 2017 Food Code. The bill clarifies the term “priority item” and repeals obsolete provisions.

The committee amendment (AM2185) adopted on general file inserted new sections that become sections 5 – 8 of LB 835 as enacted, incorporating portions of LB 321. LB 321, as introduced, updates reference to standards published by the National Conference on Weights and Measures incorporated into the Nebraska Weights & Measures Act to most current editions, removes statutory prescription of inspection duties of the Department of Agriculture for weighing and measuring devices, and strikes obsolete provisions. The provisions of LB 321 incorporated into LB 835 by the committee amendment omits an original provision of LB 321 that would have changed a requirement obligating the Department of Agriculture to perform at least annual inspection of all weighing and measuring devices. The version of LB 321 incorporated by the amendment retains current law with respect to inspection frequency.

Section-by-section summary:

Sec 1: Amends the definition of “Food Code” to define by reference the 2017 Recommendations of the U.S. Public Health Service, USDA except for enumerated exclusions of specific food code sections.

Sec 2: Amends §81-2,272.01 to include as a priority item the food safety standard set out in §81-2,272.01 which pertains to the maintenance of cold and hot holding temperatures of potentially hazardous foods, and specifications of related cooling equipment. LB 835 corrects an unintended omission of this standard as a priority item.

Sec 3: Strikes obsolete text for an expired exemption from food establishment fees for persons formerly licensed under the Graded Egg Act which was repealed in 2017.

Sec 4: Amends §81-2,288.01 which prescribes items to be included on food establishment inspection reports, including whether a violation is a critical violation. LB 835 replaces the term “critical” violation with current terminology “priority item.”

Sec 5: Updates references to current titles and year of publication editions of Handbooks published by the National Institute of Standards and Technology containing standards of the National Conference of Weights and Measures utilized in the Weights and Measure Act. The Act currently references the 2003 edition of the Handbooks. LB 321 references the 2019 editions.

Sec 6: Amends §89-187 by striking an obsolete provision pertaining to initial device inspection fees subsection (20)(i) and renumbering of remaining subdivisions made accordingly.

Sec 7: Strikes obsolete text

Sec 8: Strikes a requirement for a signature on a permit application

Sec 9: Repealer

Sec 10: Outright repeals §81-2,243.01 which defines “egg handler”. The term becomes obsolete due to the expiration of a fee exemption for egg handlers and its deletion in section 3.

LB 1152 (Halloran) Change provisions relating to hemp

Date of Public Hearing: 2/4/20

Date Reported from Committee: 2/25/20

Committee Amendment: AM2581

Other Adopted Amendments: ER192

Effective Date: August 8, 2020

LB 1152 is brought to conform the authorities and duties of the Department of Agriculture under the Nebraska Hemp Farming Act to the requirements for state plans as provided under USDA's Interim Final Rule (7 CFR 990, hereinafter referenced as "IFR"), for implementing the 2018 Farm Bill. The bill makes various other statutory adjustments to aid implementation of the Act and to address matters that have arisen since enactment of the hemp licensure program. As introduced, section 14 of the bill inserted a new section into the Hemp Farming Act stating legislative intent that the number of licensees not be capped administratively, i.e. that licensure was available to all qualified applicants, and would have also stated intent to appropriate \$50,000 general funds annually for two years to supplement fee revenues to help assure sufficient resources to carry out the program. Section 14, and a harmonizing deletion of section 1 of the bill as introduced was omitted by the committee amendment (AM2581). The remaining sections of the enacted bill were renumbered as described in the section-by-section summary. Other revisions to original provisions, due to adoption of the committee amendment, are noted in the section-by-section summary.

Section-by-section summary:

Sec 1: Amends §2-503 which sets out defined terms used in the Act to insert, delete or modify terms as used elsewhere in the Act as amended by LB 1152.

The enacted version of LB 1152 contained committee amendment revisions to the definition of "handle or handling" to restore existing text in the definition excluding possession, storage or transport of finished hemp products and eliminate unutilized terms for "post processed hemp" and "consumable hemp". The amendment also excluded the handling, storage etc. of hemp seeds so that seed storage, transportation, incidental to cultivation would not require a processing license. A harmonizing revision was simultaneously made to §2-506 by section 4 of the bill as enacted.

Sec 2: Amends §2-504 which declares lawful acts with respect to growing or processing hemp and generally sets forth duties and authorities of the Department of Agriculture to regulate hemp producers and processors. LB 1152 deletes an exclusion of non-commercial cultivation of Nebraska heirloom cannabis plants from regulation under the Act but revises the definition of cultivation in §2-503 within section 2 of the enacted bill to provide that the mere presence of feral hemp that grows as uncultivated, naturalized plants in the environment is not "cultivation" for purposes of the Hemp Farming Act. LB 1152 also expands purposes for which rules and regulations may be adopted to include standards governing approval and denial of license applications, to develop bill of lading forms, and standards for transporting hemp.

The committee amendment revised this section to insert requirements for recordkeeping as a purpose for which the Department of Agriculture could exercise regulatory authority.

Sec 3: Amends §2-505 which sets out the requirement for licensure under the Hemp Farming Act to cultivate hemp in this state and establishes procedures and documentation to apply for a license. LB 1152 adds USDA licensed hemp producers to persons who may cultivate hemp. (USDA licensure would be dormant unless at some point in the future Nebraska were to elect not to license cultivators. Also, under the 2018 Farm Bill and the IFR, tribal members in Nebraska may elect in some circumstances be directly licensed by USDA.) The bill adds to information to be supplied for a cultivator license application, to include "key participants" which is a new requirement under the Interim Final Rule. Finally, the revisions to this section strikes a requirement that

license applicants submit site registration fees with the application. The bill does not eliminate the fees to register growing locations if a license is granted but avoids administrative difficulty of holding payments for refundable registration fees if the application is eventually denied.

Sec 4: Amends §2-506 which set out the requirements for licensure under the Hemp Farming Act as a processor/handler or broker and establishes procedures and documentation to apply for a license. LB 1152 more precisely provides that the requirement for licensure applies to processing, handling or brokering hemp plants and plant parts excluding seeds and expands an exclusion from the requirement for licensure under this section for handling by license cultivators incidental to cultivation to include handling by cultivators licensed directly by USDA. Finally, LB 1152 removes the current requirement that licensure as a processor/handler is only available if the state has a USDA approved hemp plan.

Sec 5: Amends §2-507 which authorizes the Department of Agriculture to promulgate rules and regulations governing approval or denial of license applications and prescribes that the Department deny licensure under certain circumstances. LB 1152 removes text in potential conflict with intended self-executing statutory prescription for when denial of licensure is required and adds additional prescribed conditions for which licensure shall be denied to include an applicant's ineligibility for licensure due to time periods of ineligibility arising from previously disqualifying events.

Sec 6: Amends §2-510 which requires licensees to consent to a background check, and entry of the Department for purposes of inspection and testing, and destruction of hemp on premises that is not in compliance with the Act, including that the hemp exceeds the maximum THC content. LB 1152 adopts the IFR standard that noncompliant hemp is hemp exceeding the "acceptable THC level". The bill further adopts the IFR standard designating "lots" of hemp as the regulatory unit (the terms "acceptable THC level" and "lot" are new defined terms under §2-503, as amended by section 1 of the enacted bill).

Sec 7: Amends §2-511 which sets forth enforcement options for persons who "unintentionally" violate the Act. LB 1152 replaces the term "unintentional violation" with the term "negligent violation" and incorporates text for acts that do not rise above negligent violations from the 2018 Farm Bill and the IFR.

Sec 8: Amends §2-512 which sets forth enforcement actions in the event of an "intentional violation", including potential administrative fines, referral to law enforcement, and potential ineligibility for licensure for 10 years. LB 1152 replaces the term "intentional" violation to provide that the enforcement mechanisms under this section apply to violations with a culpable mental state greater than negligence and sets forth a definition of culpable mental state.

Sec 9: Amends §2-514, which sets out standards for sampling and testing, to be consistent with the IFR. The substantive changes include: a) that a hemp lot is to be harvested within 15 days of testing, b) that testing is to determine total THC and the measurement of uncertainty to support determination whether the sample meets the acceptable THC standard, and c) deletes existing statutory prescription for test sample collection to allow sample collection methodology to be specified by the Department in conformity with the IFR.

The committee amendment revised this section to clarify that while a licensee is free to privately have samples tested any number of times at the licensee's expense, the Department is obligated to provide only one official sampling and test submission and that the 15-day harvest window is initiated from the date of the official sample taking.

Sec 10: Amends §2-515 which sets forth documentation to accompany hemp transported by licensees under the Hemp Farming Act, to include a copy of the license and the THC test results for each lot being transported. LB1152 excludes hemp samples transported for any official or private testing purpose from the requirement to carry test results. The bill further inserts a new subsection (3) to require that a licensee provide at least 7 days notice to the Department prior to transporting hemp. Provision of §2-515 pertaining to documentation required by persons transporting hemp other than a licensee under the Hemp Farming Act are stricken from this provision and relocated to the Controlled Substances Act under sections 15 – 17 of the enacted bill. Provisions of §2-515 that authorize the Department of Agriculture in consultation with the State Patrol to develop bill-of-lading forms as documentation to accompany shipments of hemp are relocated to §2-504.

The committee amendment eliminated the requirement that licensees give 7-days advance notice of shipments of hemp. AM2581 substitutes a requirement that licensees keep a record of shipments of hemp and inserts recordkeeping requirements and procedures as a purpose of regulatory authority the Department may exercise under §2-504. The amendment provides that licensees may elect to give up to seven days advance notice of shipments to the State Patrol by methodology to be provided by the patrol and provides that such notification is not a public record for purposes of the Public Records Act. AM2581 further relocates the exclusion of hemp samples transported for testing to a new subsection (4). The exemption from documentation and recordkeeping is expanded to also include transportation between a licensee's registered locations, and hemp seedlings received for planting by a cultivator.

Sec 11: Amends §2-516 with a non-substantive harmonizing change.

Sec 12: Amends §2-517 which creates the Hemp Commission and prescribes the Commission's membership, and its duties and authorities. New text pertaining to the timeframe and process of appointment of Commission members is inserted to harmonize with the delayed effective date of this section under LB 657, as enacted last session and section 19 of LB 1152.

The committee amendment inserted the preservation and development of Nebraska heirloom hemp varieties as an additional purpose of the Nebraska Hemp Commission.

Sec 13: Amends §2-5701 to sunset a pilot hemp research program on November 1, 2020.

Secs 15-16: Relocates language currently in §2-515 regarding requirements for transporting hemp into, through and within the state by persons other than persons licensed under the Hemp Farming Act as a new section of the Criminal Code and the Controlled Substances Act. The relocated provisions set forth documentation to be carried with shipments, and provides that if the hemp being transported originates in Nebraska, the hemp is produced in compliance with the Hemp Farming Act, and if originating outside the state, it is produced in compliance with the 2018 Farm Bill hemp provisions.

Sec 17: Sets for July 2021 operative date for sections 12 and 18.

Sec 19: Repealers

Sec 20: Emergency clause

BILLS WITH PROVISIONS/PORCTIONS ENACTED BY INCORPORATION INTO OTHER ENACTED BILLS

LB 321 (B. Hansen) Update certain standards and regulations change Director of Agriculture duties and Department of Agriculture fee and permit provisions under the Weights and Measures Act

Date of Public Hearing: 1/29/19

Amended into LB 835 by AM 2185

LB 321 is introduced at the request of the Department of Agriculture to update references to standards published by the National Conference on Weights and Measures incorporated into the Nebraska Weights & Measures Act to the most current editions. The bill further removes statutory prescription of inspection duties of the Department of Agriculture for weighing and measuring devices and strikes obsolete provisions. Specifically, LB 321 as introduced would effect the following revisions to the Act:

- Updates references to current titles and year of publication editions of Handbooks published by the National Institute of Standards and Technology containing standards of the National Conference of Weights and Measures utilized in the Weights and Measure Act. The Act currently references the 2003 edition of the Handbooks. LB 321 references the 2019 editions;
- Amends §89-187 by adopting permissive authorization to exercise duties and authorities of the Director of Agriculture under this section. Subsection (9) of this section is revised to no longer expressly require at least annual inspection of devices used in commerce or by the State Patrol, but authorizes the director to inspect as deemed necessary;
- Strikes obsolete date references in a provision pertaining to an initial device inspection fee and in a provision prohibiting operation of a weighing and measure device without a permit; and
- Strikes an unnecessary requirement for a signature on a permit application.

The provisions of LB 321 amended into LB 835 by committee amendment AM2185 to that bill omitted changes to §89-187 from LB 321 as introduced that would have eliminated statutory prescription of at least annual inspection of all devices.

RESOLUTIONS ADOPTED

LR13 (Murman) Urge federal agencies of the U.S. Government responsible for food labeling to establish and enforce standards for nomenclature of plant-based imitation milk and dairy food products

Date of Public Hearing: 2/19/19

Date Reported from Committee: 3/7/19

Committee Amendment: AM435

President/Speaker signed and delivered to the Nebraska Secretary of State: 5/31/2019

LR 13 is a resolution stating various findings and observations regarding market distortions and inference of false equivalency to real dairy in nutritional and other characteristics of plant-based products that mimic milk and other real dairy food products in appearance as well as in packaging and marketing strategies, and by incorporation of standardized dairy food terms into plant-based product names and descriptions. The resolved clause urges federal agencies with responsibility for food labeling to establish and enforce rules for plant-based product nomenclature and description that clearly distinguish plant-based milk analogue products from real dairy milk and dairy food products conforming to referenced federal standards of identity for such products.

The adopted committee amendment (AM435) rewrote the whereas clauses of the resolution to utilize consistent terminology throughout and to resolve a typo in the third whereas clause. Resolved clause 1.c. is revised to address awkward sentence structure and for clarification of the purpose of the clause.

BILLS ADVANCED BUT NOT ENACTED

LB 157 (Brewer) Provide for voluntary registration, duties for the Department of Agriculture, and a cause of action under the Nebraska Apiary Act

Date of Public Hearing: 2/26/19

Date Reported from Committee: 4/26/19

Committee Amendment: AM1484

Other Pending Amendments: none

LB 157 would amend the Nebraska Apiary Act to provide for the voluntary registration of apiary locations with the Department of Agriculture. The Department is authorized to charge a reasonable fee to offset administrative costs for establishing such registry. The bill would further prohibit commercial beekeepers from locating hives within three miles of a registered apiary. A person who has registered an apiary would have a cause of action to seek damages and equitable relief against persons locating apiaries within three miles of a registered apiary. Such violation would also be subject to administrative remedies under §81-2,179 of the Nebraska Apiary Act.

The pending committee amendment (AM1484) would revise the bill to provide just the establishment of a voluntary registry maintained by the Department, omitting provisions of the original bill making it a violation of the Act to place apiaries within a distance of a registered apiary and associated enforcement provisions. Under the amendment, registration would be limited only to commercial beekeepers as defined and inserts a series of limitations on apiary registration. These limitations include: 1) no commercial beekeeper may register more than five locations, 2) if the registered location is on property not owned by the beekeeper, the applicant for registration must provide a written statement of agreement of the landowner, 3) an apiary location may not be registered that is within two miles of a previously registered location, and 4) the site must be utilized as an apiary by the person requesting registration.

Registrations would be first accepted on the effective date of the bill. The registration period would expire on March 31 of the year subsequent to initial registration and could be renewed annually with each annual renewal period beginning April 1 and expiring March 31 of the following year. The Department is authorized to establish initial and renewal registration fees to cover the costs of establishing and maintaining the registry and specifies any such fees are deposited in the Apiary Cash Fund.

LB 594 (Blood) Provide for a deceptive trade practice relating to meat under the Uniform Deceptive Trade Practices Act

Date of Public Hearing: 2/19/19

Date Reported from Committee: 3/7/19

Committee Amendment: AM313

Other Pending Amendments: none

LB 594 amends the Uniform Deceptive Trade Practices Act (§87-301 to §87-306) to declare a deceptive trade practice to misrepresent a food product as “meat” that is derived from sources other than livestock and poultry animals. Section 1 of LB 594 amends §87-301 by inserting a new subsection (19) adding “meat” as a defined term for purposes of the Uniform Deceptive Trade Practices Act. Section 2 amends §87-302 which lists specific acts that

are a deceptive trade practice. LB 594 inserts a new subdivision (a)(23) declaring it a deceptive practice to advertise, label, or otherwise misrepresent insect or plant based, or lab-grown, food products as meat.

The pending committee amendment (AM313), strikes Section 1. The amendment further strikes original subdivision (a)(23) inserted by Section 2 of the bill and substitutes a new subdivision (23), which adds violations of the Nebraska Pure Food Act relating to labeling, packing or packaging, or advertising of food to the list of deceptive trade practices in §87-302.

LB 972 (Brandt) Change germination seed testing provisions under the Nebraska Seed Law

Date of Public Hearing: 1/28/20

Date Reported from Committee: 2/13/20

Committee Amendment: none

Other Pending Amendments: none

LB 972 expands the date after germination testing that certain packaged commercial seeds may continue to be sold or offered for sale without the requirement for retesting or relabeling.

Generally, §81-2,147.03 the Nebraska Seed Law prohibits the sale of commercial seeds if more than 9 months has elapsed since the germination testing date but authorizes the Department of Agriculture to designate by rule and regulation seeds that may be sold up to 12 months past the testing date. LB 972 would allow the Department discretion to allow sales of designated seeds up to 15 months after the germination test date.

Additionally, §81-2,147.03 currently allows hermetically sealed seeds to be sold up to 36 months after the initial germination testing provided the seed is retested within 12 months prior to sale. LB 972 would allow the sale if the retesting is within 15 months prior to sale.

LB 1159 (Stinner) Change certain use restrictions and provide for unlimited license examination attempts under the Pesticide Act

Date of Public Hearing: 2/11/20

Date Reported from Committee: 2/24/20

Committee Amendment: none

Other Pending Amendments: none

Expands a period under the Pesticide Act whereby a noncertified applicator may apply pesticides while pursuing initial licensure as either a commercial or non-commercial applicator. Specifically, LB 1159 amends §2-2642 of the Nebraska Pesticide Act to:

- Expand from 60 to 120 days a one-time period during which noncertified applicators may apply general or restricted use pesticides prior to obtaining initial licensure and appropriate certifications as a commercial or noncommercial applicator; and
- Codify that during that period, a noncertified applicator shall have unlimited attempts to pass applicable examinations.

BILLS HELD BY THE COMMITTEE

LB 45 (Chambers) Repeal the Black-Tailed Prairie Dog Management Act

Date of Public Hearing: 3/5/19

LB 45 would outright repeal §23-3801 through §23-3810 which collectively are cited as the Black-tailed Prairie Dog Management Act. The Act imposes an affirmative duty upon landowners and managers within a county that has adopted a black-tailed prairie dog management plan to prevent uncontrolled spread of colonies of black-tailed prairie dogs to neighboring properties. The Act sets forth minimal elements of county management plans, procedures and standards by which counties may assume and implement authorities under the Act to compel landowner responsibility.

LB 201 (McCollister) Prohibit certain unlawful acts as prescribed relating to the Weights and Measures Act

Date of Public Hearing: 2/26/19

LB 201 would amend §89-197 of the Nebraska Weights and Measures Act which lists unlawful acts in violation of the Act. The bill would insert two new subsections (19) & (20) relating to motor vehicle retail locations to declare the following as additional unlawful acts:

- To sell an advertised blend of spark ignition engine fuel containing 10% or less ethanol blend at a price other than as advertised on manual, electronic, digital or other medium. The new subsection additionally declares a duty for a location that utilizes multi-product fuel dispensers with six or more fueling positions to make such advertised fuel blends available at all fueling positions. The sale of ethanol fuel blends of greater than 10% is expressly excluded from the prohibitions and duties set forth in new subsection (19) and expressly provides that certain discounts to the base price are not prohibited; and
- To vary the base price of a grade of fuel dispensed at more than one fuel dispenser if the dispensers are supplied by a single storage tank or by multiple storage tanks joined in a manner that comingles the fuel from the tanks. This prohibition also does not preclude certain types of discounts to the base price.

LB 229 (Groene) Prohibit certain unlawful acts as prescribed under the Weights and Measures Act

Date of Public Hearing: 2/26/19

LB 229 amends §89-197 of the Nebraska Weights and Measures Act, which lists unlawful acts in violation of the Act. The bill would insert a new subsection (19) relating to motor vehicle fuel retailing to add the following as an unlawful act:

- To advertise an automotive fuel that is not available at all fueling locations unless the price and fueling position where the advertised fuel is available is shown in equal font and wattage and each fueling position shall be clearly marked and identified to match identified information.

LB 382 (Geist) Change the Dog and Cat Purchase Protection Act

Date of Public Hearing: 2/26/19

LB 382 amends the Dog and Cat Purchase Protection Act (§54-644 to §54-650) with the following substantive changes:

- Expands disclosures required of sellers of pet animals under §54-646 to include the animal control, shelter, or rescue sources of animals if applicable. The bill further provides that information to be provided by sellers be available to customers for review rather than the current minimal statutory requirement that such information is delivered to a purchaser at the time of the sale;
- Inserts “pet shop” as a defined term and requires pet shops to maintain records documenting where animals offered for sale were acquired from;
- Prohibits pet shops from knowingly selling inbred or linebred dogs; and
- Inserts a new section of the Act declaring a preemption of location regulation of activity governed by the Act.

LB 655 (Wayne) Change division fence provisions

Date of Public Hearing: 3/12/19

LB 655 would apply obligations under the fence law only to situations where there is mutual agreement between adjacent landowners to share responsibility for building and maintaining a division fence, makes changes in various provisions of the fence law accordingly, and proposes changes in the processes of pursuing fence and boundary dispute claims. Specific revisions are described further in the section-by-section summary.

Sec 1: Amends §34-101 to define a “division fence” for purposes of the fence law to mean a fence located on a property line and to expressly exclude a fence located entirely on one property.

Sec 2: Amends §34-102 to modify current statutory assignment of a mutual duty of adjacent landowners for the building and maintenance of division fences by: 1) providing that the duty is one of equal contribution unless otherwise provided by law or by agreement of the parties and 2) that a landowner not desiring a fence is not subject to the mutual obligation for fencing assigned by this section.

Sec 3: Amends §34-103 which assigns a duty to persons with an obligation for division fencing to maintain their portion in good repair, including the management of conflicting vegetation. LB 655 revises this section so that a landowner may be subject to a nuisance action for allowing conflicting vegetation even if not obligated to construct or maintain the fence.

Sec 4: Amends §34-112 with revisions for clarity.

Sec 5: Amends §34-112.01 which provides a limited right of entry upon adjacent property for purposes of fence construction, maintenance or repair. LB 655 inserts an express liability for damages to the property of the adjacent landowner.

Sec 6: Amends §34-112.02 which sets forth procedure for compelling fulfillment of an adjacent landowner’s obligation for fence construction, repair or maintenance. LB 655 makes revisions to this section to modify requirements for service of a written notice requesting contribution to fence construction, maintenance or

repair, inserts additional information to be included of such written notice, and requires a landowner serving notice to allow 30 days to respond to a notice before commencing fence work or initiating a fence dispute claim.

Sec 7: Amends §34-301 which provides for an action for establishing lost or disputed property boundaries. LB 655 inserts clarification regarding service of notice of such action and expressly provides that the existence of a division fence does not determine the true boundary or boundary established by adverse possession.

Sec 8: Repealers

LB 729 (Walz) Adopt the Soil Health and Productivity Incentive Act

Date of Public Hearing: 2/19/19

LB 729 inserts wholly new sections designated the Soil Health and Productive Incentive Act which would assign duties and authorities to the Department of Agriculture to award incentive payments to encourage the planting of cover crops in proximity to certain designated stream segments. The details of the program authorized under the Act are described in the following section-by-section description.

Sec 1: Names Sections 1 – 6 the Soil Health and Productivity Incentive Act

Sec 2: Declaration of legislative intent -- identifies public welfare purposes advanced by the Act

Sec 3: Defines terms utilized throughout the Act. The terms “zone 1”, “zone 2”, and “zone 3” are defined as land within 2 ½ miles of certain designated stream segments, and “zone 4” as any land not included in zones 1, 2 or 3 that is within 2 ½ miles of any other stream segment.

Sec 4: Assigns a duty to the Department of Agriculture to award incentive payments to encourage farmers to plant cover crops utilizing funding obtained from federal, state or local grants or other designated funds. Applications are to be accepted for incentive payments on the following schedule: 1) beginning in calendar year 2020, applications received for land in zone 1; 2) 2021, applications for land in zones 1 or 2, 3) 2022, application for land in zones 1, 2 or 3; 4) 2023, applications for land in zones 2, 3 or 4; 4) 2024, applications for land in zones 3 or 4; and 5) 2025, applications for land in zone 4.

Subsection (2) prescribes the amount of award payment that varies between \$20 or \$45 for every qualified acre planted to cover crops depending on whether the planting is of a single or multiple species.

Subsection (3) prescribes information to be provided on an application for incentive payments.

Sec 5: Directs the Department to approve an application determined to meet the qualifications set forth in Section 4. The maximum payment per qualified claimant is capped at \$45,000 in any calendar year.

Sec 6: Authorizes the Department to adopt rules and regulations to carry out the Act.

Sec 7: Inserts an operative date of January 1, 2020

LB 732 (Vargas) Adopt the Mobile Food Unit Act and change fees for a mobile food unit

Date of Public Hearing: 3/5/19

LB 732 would establish a new registration requirement for mobile food units under wholly new provisions of law designated the Mobile Food Unit Act. The bill further assigns duties to the Department of Agriculture for inspection, and limits fees and permits, and operational restrictions that can be imposed by local governments upon mobile food unit operations as detailed in the following section-by-section summary.

Sec 1: Amends §81-2,170 of the Nebraska Pure Food Act to lower the maximum initial permit and inspection fee for mobile food units.

Sec 2: Designates sections 2 – 10 of the bill as the Mobile Food Unit Act

Sec 3: Defines terms for purpose of the Act

Sec 4: Prohibits operation of a mobile food unit without registration with the Department, authorizes the Department to assess registration and inspection fees and prescribes maximum registration and inspection fees to accompany application for registration or renewal. Prescribes information to be provided with the application for registration. Prescribes procedure to challenge denial of registration.

Sec 5: Authorizes the Department to order persons believed to be conducting activities not in compliance with the Act to appear for a show cause hearing.

Sec 6: Limits required permits and fees that may be imposed by local governments for mobile food unit operations, sets a maximum inspection fee and excludes periods when local government inspections may occur. Expressly lists certain local regulations pertaining to the operation of mobile food units that are not preempted, but precludes local governments from regulating the duration of operation on private property, the operation on public property, or setbacks from established retail or restaurant businesses.

Sec 7: Requires mobile food unit compliance with applicable fire codes. Limits the Department to two inspections of mobile food units during a registration period unless critical violations are found. Authorizes the Department to deny, revoke or deny renewal of a registration for listed actions of the registrant.

Sec 8: For registrants that are business entities, provides that acts or omissions of any partner, trustee, member, manager or director of the business entity is grounds for denial, revocation or renewal denial of a mobile food unit registration. Provides that persons applying for registration are responsible for the acts of employees or agents of the applicant.

Sec 9: Creates the Mobile Food Unit Cash Fund, directs remission of fees collected under the Act to this fund, and authorizes uses and investment of the fund.

Secs 10 - 11: Assigns rule and reg authority to the Department to carry out the Act and repeals revised statutes.

LB 791 (Slama) Change provisions of the Livestock Animal Welfare Act relating to ownership, possession, or seizure of animals

Date of Public Hearing: 1/21/20

The Livestock Animal Welfare Act currently provides that in addition to criminal penalties, courts may order a person convicted of an animal cruelty violation to not have possession of a livestock animal for 5-10 years if the violation is a felony, and for up to 5 years if the violation is a misdemeanor. Such order is mandatory upon a felony violations of reckless abandonment or cruel neglect or mistreatment and discretionary for lesser violations. The Act is currently silent with regard to a convicted person's ownership or possession of non-livestock animals.

LB 791 expands the scope of court orders prohibiting persons committing felony or misdemeanor violations of cruel neglect, abandonment or mistreatment of a livestock animal from owning or possessing pet animals in addition to livestock animals

LB 791 was selected as a committee priority bill to serve as a vehicle to create a task force to examine Nebraska Brand Law issues. An amendment to create such task force and assign its duties would have replaced the original provisions of the bill. Because of the disruption of the 2020 session due to the Covid 19 pandemic, the committee did not proceed with a vote on the proposed amendment and held LB 791.

LB 919 (Wayne) Change requirements for approval or denial of licenses or licensing agreements under the Nebraska Hemp Farming Act

Date of Public Hearing: 2/4/20

LB 919 would have inserted clarification in two hemp licensure provisions to clarify that the number of licenses issued to cultivate, process or broker hemp shall not be administratively capped. Specifically, LB 919:

- Amends §2-507 of the Nebraska Hemp Farming Act to state that all applications for licensure not disqualified for defects listed in this section shall be approved and adds nonpayment of application and registration fees as a disqualifying factor; and
- Amends §2-5701 by removing text authoring the Department to exercise discretion in the number of licensing agreements entered into under a pilot hemp research program.

LB 1040 (Vargas) Provide for a state food insecurity nutrition incentive grant program

Date of Public Hearing: 2/11/20

LB 1040 would have directed the Department of Agriculture to establish and administer a food insecurity nutrition incentive program awarding grants to entities receiving funding under the federal Gus Schumacher Nutrition Incentives Program (GusNIP). Specifically, LB 1040 proposed amendments to §2-3815 which authorizes the Department to establish agriculture promotion and development programs. LB 1040 would have inserted a new subsection (5) directing the Department to establish a state food insecurity program authorized to award grants as described and states legislative intent to appropriate \$150,000 general funds for that purpose.

LB 1165 (Stinner) Eliminate the Nebraska Brand Committee and provide powers and duties for the Department of Agriculture under the Livestock Brand Act

Date of Public Hearing: 2/18/20

LB 1165 would have eliminated the Nebraska Brand Committee as well as mandatory brand inspection, theft investigation and other duties under the Livestock Brand Act currently assigned to the Brand Committee. Remaining duties for brand registration would have been transferred to the Department of Agriculture.

Section-by-section:

Sec 1: Amends §11-201 with harmonizing revision removing the Brand Committee from entities for which the Risk Manager may prescribe amounts of bonding for state officials

Sec 2: Amends §33-151 with harmonizing revision removing what becomes an obsolete reference to the Brand Inspection and Theft Prevention Fund.

Sec 3: Amends §54-170 to conform section citations contained within the named Livestock Brand Act.

Sec 4: Redefines the term “estrays” to conform a reference to changes elsewhere in the bill

Sec 5: States legislative findings and intent

Secs 6 - 16: Amends §54-193 through §54-1,105 to reassign duties, authorities and processes relating to brand registration and renewal, and recording instruments evidencing brand assignment, to the Department of Agriculture.

Sec 17: Amends §54-1.107 by adding “evidence of marks” to a list of documents and items that are competent evidence of ownership in court proceedings.

Secs 18 - 20: Amends §54-1,115, §54-1,116, and §54-1118, which prescribe documentation to accompany livestock or carcasses transported by persons other than the owner, procedures to verify ownership of unbranded livestock, and procedures of the Brand Committee or law enforcement for disposition of livestock and sale proceeds of animals for which ownership cannot be determined.

LB 1165 harmonizes these sections to reflect elimination of the Brand Committee and mandatory brand inspection.

Sec 21: Amends §54-1,128 to reassign regulatory duties relating to the use of out-of-state registered brands to the Department of Agriculture.

Secs 22-26: Inserts a series of sections providing for the transfer of employees, property, cash funds, appropriation authority, contractual obligations and liabilities of the Brand Committee to the Department of Agriculture.

Sec 27: Revises §54-415 to remove obsolete references to the Brand Committee and its duties with respect to stray animals

Secs 28-34: Revises various external statutes pertaining to state employees and state agency administrative procedures to eliminate what becomes obsolete references to the Brand Committee.

Sec 35: Operative date- Changes made by the bill become operative July 1, 2020.

Sec 36: Repealers of sections amended but retained

Sec 37: Outright repeals a number of sections of the Brand Law that establish the Brand Committee and assign its duties and authorities, that designate the brand inspection area and that mandate ownership inspection for certain movements and transfers of ownership of cattle, and impose fees.

Sec 38: Emergency clause

LB 1200 (Brewer) Rename the Livestock Brand Act and the Nebraska Brand Committee and change provisions relating to livestock

Date of Public Hearing: 2/18/20

LB 1200 proposed a number of significant revision to the Brand Law. The proposed revisions would expand beyond brands types of identification (e.g. EID) that may be recorded and utilized for purpose of brand inspection, expand methods of performing brand inspection, and incorporate information technology to expand the role of the Brand Committee to provide other identification services to the industry. In addition, the bill would decouple registered feedlot fees from the per-head fee, change brand recording and other administrative fees, and add infraction citations as an enforcement mechanism for various violations

The more detailed summary below describes LB 1200 by substantive themes rather than section-by-section. The bill renames the Livestock Brand Act the Livestock Identification Act and changes the name of the Nebraska Brand Committee to the Livestock Identification Agency. Throughout the Act, LB 1200 would substitute the term “identification” or related terminology for “brand.” In most sections of the bill, there is no substantive change other than to substitute terminology or to conform internal and external references to the renamed Brand Committee and the Livestock Brand Act. Below, I have summarized the substantive changes citing only to those sections of the bill where these occur.

1. (Sections 2, 4 & 25) Changes the name of the Livestock Brand Act to the Livestock Identification Act and the Brand Committee to the Livestock Identification Agency. References to the agency and the Act, and brand inspection activities, to conform with the name change are made throughout the Act and account for the bulk of the bill.
2. (Sections 4, 5, 9, 10, 11, 13, 22 & 23) Inserts new defined terms:
 - Agency, Audit, Electronic Inspection, Electronic transaction, Grow Yard, Enrollment Permanent fence, Physical inspection
3. (Section 32) Expands forms of non-visual identification that may be recorded if permitted by rule and regulation for purposes of ownership verification (currently limited to EID) to include nose prints, retinal scans, DNA match or other technology
4. (Sections 33 & 35) Brand Recording/Administrative fee changes
 - Adds research fee (\$50 statutory max – nonrefundable) for brand recording.
 - Increase the statutory maximum initial brand recording fee from \$100 to \$150
 - Increase statutory maximum brand renewal fee (paid every 4 years) from \$50 to \$200
 - Increase research fee for requests for brand copy (currently \$12-20, change to \$25 – 40)
5. (Section 42) Inspections

- Distinguishes between physical and electronic inspection.

Physical inspection (Essentially existing inspection where inspector travels to site to view animals and their markings or other evidence of ownership)

- Requires 48-hour notice (\$50 surcharge if 48-hour notice not given)
- Where applied hot iron or freeze brands are sole evidence of ownership, physical inspection required
- Eliminates travel surcharge and imposes actual mileage in addition to per-head inspection fee
- Adds that physical inspection may be requested by neighboring livestock owner
- Increases the statutory maximum inspection fee from \$1.10 to \$1.50 / hd
- Conforming changes to fees charged for inspections performed outside of the brand area

Electronic Inspection (using enrolled certification of EID, nose prints, retinal scans, DNA)

- Inspection does not require physical presence of inspector. (Brand Committee has stated possibility of performing inspection remotely utilizing information technology).
- Establishes statutory maximum, electronic inspection fee of \$1.50 / head. (Note -- Does not require that electronic inspection per head fee to be same as physical inspection per head fee).
- Electronic inspection available to producers who enroll non visual individual animal IDs.

6. (Sections 44 – 50 & 61) Designates that violation of certain movements or transactions that require brand inspection or recordkeeping/documentation possession or other brand law compliance act are an infraction for which investigators may issue citations. Infraction fine not to exceed \$200 and each animal in violation is a separate offense. Violations charged in county where violation occurred.
 - §54-1,110 – Movements of animals out of brand area
 - §54-1,111 – Transfer of ownership within the brand area
 - §54-1,112 – Packers and other persons located within brand area that slaughter cattle to keep records of purchases.
 - §54-1,113 – Sale or trade of carcasses, cattle killed for personal use
 - §54-1,114 – Packers and butchers within brand area buying cattle for slaughter
 - §54-1,115 – Persons other than owner transporting cattle within the state
 - §54-1,116 – Bill of sale or certificate of inspection required to be given when cattle are sold
 - §54-1,128 – Recording and use of out-of-state brand
7. (Section 54) Registered Feedlots
 - Replaces the current feedlot annual registration fee, which is applied to the average daily inventory of the feedlot to arrive at a fee amount that roughly corresponds to the amount that would be charged if applying the per-head inspection fee in §54-1,108. (Currently, the annual registration fee varies widely based on size). LB 1200 would substitute a fixed initial registration fee of \$650 and annual renewal fee of \$325. Participating feedlots would also be charged audit fees of \$600 per audit. A feedlot would be audited from 4 to 12 times per year based on size, with audit frequency increasing for every increment of 7,500 hd increase in average annual capacity.
 - Allow feedlots to affiliate feedlot owned grow yards supplying cattle to feedlot. Movement of animals from a grow yard to a feedlot does not require inspection. Annual enrollment fee not to exceed \$150.
8. (Section 65) Estrays

Strikes current text that allows the Brand Committee (or county if outside brand area) to include actual investigative costs to determine ownership of stray livestock if ownership determined other than by brand in expenses that may be deducted from proceeds from the sale of stray livestock. New text is inserted that upon completion of an investigation into ownership of strays. The Brand Committee may directly charge an investigative fee to the owner determined.

LB 1219 (Wayne) Change provisions of law relating to hemp and adopt the Nebraska Hemp Transportation and Sales Licensing Act

Date of Public Hearing: 2/4/20

LB 1219 proposed a regulatory scheme for the transportation, sale, and distribution of consumable hemp products and other post-processed hemp and coordinates this purpose with the regulation of the production and processing of hemp under the Hemp Farming Act.

Section-by-section summary:

Sec 1: Incorporates Sections 9 and 12 of LB 1219 into the Nebraska Hemp Farming Act

Sec 2: Amends §2-503 which defines terms for purpose of the Nebraska Hemp Farming Act as follows:.

- New terms defined: Agricultural Improvement Act of 2018, approved testing facility, cannabidiol or CBD, consumable hemp product, non-consumable hemp product, post-processed hemp, and processed hemp
- Existing defined terms deleted: federally defined THC level, Nebraska heirloom cannabis plant or seed, and testing facility
- Existing terms revised: handle or handling, hemp, process or processing, processor-handler

Sec 3: Amends §2-504 which declares lawful cultivation of hemp and other lawful possession of hemp and assigns duties and authorities to the Department of Agriculture to regulate hemp production, handling and processing through licensure and rule and regulation. LB 1219 makes the following substantive revisions:

- Confines the lawful cultivation and other possession of hemp to preprocessed hemp, i.e. excludes post processed hemp products.
- Removes an exclusion of noncommercial cultivation of heirloom hemp from regulation under the Hemp Farming Act.
- Expands the authority of the Department to issue regulations pertaining to destruction of hemp grown, handled or processed in violation of the Hemp Farming Act to incorporate terminology for pre and post processed hemp and to include nonconsumable hemp products in violation of the Hemp Farming Act or any other provision of law.
- Expands authority to issue regulations pertaining to inspections for purpose of verifying compliance with the Hemp Farming Act to include as a purpose verification of compliance with any other state law.

Sec 4: Amends §2-505 with a non-substantive revisers revision.

Sec 5: Amends §2-506 which provides for licensure of processors, handlers and brokers of hemp. LB 1216 makes a non-substantive change to effect an exemption of handling by approved testing facility from the requirement for licensure.

Sec 6: Amends §2-509 to conform an internal reference.

Sec 7: Amends §2-514 to utilize defined terminology referring to approved testing facilities.

Sec 8: Amends §2-515 which pertains to documentation to accompany shipments of hemp to verify its legal source and possession. Currently, licensees under Hemp Farming Act are required to carry documentation of licensure and test results of the hemp items being transported. For persons other than licensees, (i.e. person transporting hemp grown or processed in another state into or through the state) a bill of lading showing ownership and points of origin and destination, and verification that the hemp items in transport were produced in compliance with the hemp provisions of the 2018 Farm Bill. This section further authorizes the Department to develop bill of lading forms for compliance with this section and to promulgate regulations pertaining to hemp transport, prohibits transport of hemp not grown in compliance with the Hemp Farming Act or the 2018 Farm Bill.

LB 1216 makes the following substantive changes:

- Provides that documentation required of cultivators transporting hemp is confined to transport of preprocessed hemp and requires that the cultivator license and test results be conspicuously affixed to shipping containers
- For other than cultivators transporting pre-processed hemp, expands the documentation requirements to include the transport of post-processed hemp and consumable hemp products and requires documentation to be conspicuously affixed to shipping containers
- Incorporates post-processed hemp and consumable hemp products as items subject to the requirements for transport and regulatory authority of the Department and State Patrol.

Sec 9: Inserts a new section into the Hemp Farming Act to require 7 days advance notice to the State Patrol of the shipment of hemp items. Violations are a class III misdemeanor.

Sec 10: Amends §2-516 with a nonsubstantive revisers revision

Sec 11: Amends §2-517 which provides for the creation of the Hemp Commission and appointment of its members. Clarifies manufacturer membership to incorporate defined terminology and revises provisions relating to the timeframe and process of appointment members of the commission to harmonize with the delayed effective date of the section under LB 657.

Sec 12: Inserts a new section into the Hemp Farming Act to state non-preemption of local subdivision regulation of post processed or consumable hemp products.

Sec 13: Incorporates Sections 16 through 21 into the Nebraska Criminal Code

Sec 14: Amends §2-401 to insert “Cannabidiol”, “consumable hemp product”, “nonconsumable hemp product”, “post processed hemp product” and “preprocessed hemp product” as defined under the Hemp Farming Act as defined terms for purposes of the Controlled Substances Act.

Sec 15: Incorporates Sections 16 – 21 into the Uniform Controlled Substances Act

Sec 16: Declares a Class III misdemeanor to knowingly sell or otherwise transfer post-processed hemp or consumable hemp products to persons under 21 years of age.

Sec 17: Declares it an infraction for persons under 21 years of age to knowingly possess post-processed hemp or consumable hemp products other than cannabidiol in a federally approved drug product.

Sec 18: Requires post-processed hemp products or consumable hemp products to be packaged and labeled with declarations of CBD and THC content and other disclosures. Persons selling such products are required

to provide a receipt showing the date and quantity of product sold, and identify the seller. Persons purchasing such products are to keep such receipt until the product is consumed or otherwise disposed of.

Sec 19: Prohibits manufacture of consumable hemp product with intent to sell within Nebraska and defines the sale of consumable hemp products within the state as unlawful distribution. Violation of the prohibition on manufacturing within the state is a Class IV felony and unlawful distribution is a Class I misdemeanor.

Sec 20: Requires persons transporting or distributing more than one-pound of post-processed hemp or consumable hemp products to be licensed under the Hemp Farming Act or licensed by the Tax Commissioner pursuant to Section 25. Prescribes documentation to be in the possession of the person transporting hemp items and to conspicuously affix such documentation to transport containers. Violation is a Class I misdemeanor.

Sec 21: Prohibits falsified documentation.

Sec 22: Names Sections 22 through 30 the Nebraska Hemp Transportation and Sales Licensing Act

Sec 23: Defines terms

Sec 24: Requires first owners of post-processed hemp or consumable hemp products, and non-residents selling or shipping such products into the state, to be licensed by the Tax Commissioner. Information to be provided with a license application is prescribed.

Sec 25: Requires licensure for each place of business. Prescribes an application fee fo \$25. The license is perpetual unless revoked or cancelled.

Sec 26: Provides that qualifying applicants shall be issued a license. Such license shall be valid for a specified place of business only and is not assignable.

Sec 27: Authorizes the Tax Commission to revoke, cancel or suspend a license, subject to administrative process prescribed in Section 29.

Sec 28: Prescribes process and conditions for restoration of a license.

Sec 29: Prescribes procedure for licensees to request a hearing to contest a notice of intent to revoke, cancel or suspend a license.

Sec 30: Conduct of business without licensure as required under the Act is a Class II misdemeanor and disqualification for licensure for a 1 year period.

Sec 31: Declares an operative date of July 1, 2021 for Sections 11 and 31.

Sec 32: Repealer

Sec 33: Repealer

BILLS WITHDRAWN BY THE INTRODUCER

LB 14 (Blood) Provide for truth in advertising and labeling in the sale of meat and provide a penalty

Date withdrawn: 1/24/19

LB 14 would have prohibited persons advertising, offering for sale or selling meat, meals or other food product having meat as an entree or ingredient from engaging in any misleading or deceptive practice including representing a product as meat that was not derived from livestock or poultry. Violation of the prohibition would have been a Class I misdemeanor.

LB 953 (Wishart) Prohibit certain public entities from charging a fee for adoption or purchase of a dog or cat by a veteran

Date withdrawn: 1/22/2020

LB 953 would have amended the Commercial Dog and Cat Operator Inspection Act by inserting a new section prohibiting political subdivisions operating a pound or shelter from charging adoption or purchase fees if the person acquiring the animal is a veteran, as evidenced by presentation of a veteran designation on a driver's license or state ID card.

The bill was withdrawn by the introducer prior to the Committee setting a hearing date.

REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: August 13, 2020

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

<u>Study Category</u>	<u>Resolution No.</u>	<u>Subject</u>
1	LR 378	Interim study to examine the Livestock Brand Act and the role and mission of the Nebraska Brand Committee
3	LR 337	Interim study to reexamine which Nebraska-grown food products can feasibly be used for school meals and snacks
3	LR 380	Interim study to examine the feasibility of creating a state meat inspection program
3	LR 435	Interim study to examine and document the economic impacts of the COVID-19 pandemic emergency on the agricultural sector of Nebraska

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

2020 Session Interim Study Resolutions Referenced to the Agriculture Committee

LR 337 (Brandt) **PURPOSE:** It has been ten years since Legislative Resolution 42 (2009) first explored the statewide economic and educational potential of a "farm to school" program in Nebraska. In the intervening decade, notable progress has been made in instituting the methods and systems necessary to assist Nebraska producers in providing local schools with fresh and minimally processed foods for school meals and snacks. The addition of a local foods coordinator and introduction of "Nebraska Thursdays" and "Harvest of the Month" programs from the Department of Education have resulted in more school districts sourcing from local farmers and market gardeners. Interest has increased on the federal level as well, with the United States Department of Agriculture's Farm to School Grant Program receiving more requests than it has available funding, and additional federal legislation currently under consideration by Congress, the "Farm to School Act" and the "Kids Eat Local Act", both cosponsored by Rep. Jeff Fortenberry. A follow-up legislative interim study examining the status of Nebraska's "farm to school" activities and the needs of the stakeholders involved shall ensure that the necessary coordination and strategic planning is in place for further growth.

This interim study shall reexamine which Nebraska-grown food products can feasibly be used for school meals and snacks, including use of appropriate preservation methods of local foods by school nutrition staff for use later in the school year, and shall review existing regulations of the Department of Agriculture, Department of Education, Department of Health and Human Services, and other authorities that may impact the supply of Nebraska-grown foods provided to local schools. In addition, the study shall assemble a catalog of where "farm to school" activities are happening in the state, along with volume and cost totals for foods locally sourced, to provide insight into best practices as well as barriers that are impeding participation.

To reflect the interests and needs of the various stakeholders concerned with creating successful statewide farm to school opportunities, this interim study shall include input from:

- (1) Producers of agricultural products marketed at Nebraska food markets, including producers of fruits and vegetables, agricultural protein products, and grains;
- (2) Suppliers of agricultural products, including grocers and school suppliers;
- (3) Meat processors;
- (4) Food distributors;
- (5) Food assistance agencies;
- (6) Resource conservation and development organizations;
- (7) Representatives of school food services from rural and urban public school districts;
- (8) Representatives from a summer food service program and from a child and adult care food program;
- (9) Tribal organizations;
- (10) An agricultural education extension organization;
- (11) A member-based agricultural marketing promotion and education program;
- (12) Representatives from the Department of Agriculture, State Department of Education, and Department of Health and Human Services; and
- (13) Any other interested parties or organizations.

LR 378 (Halloran) **PURPOSE:** The purpose of this resolution is to examine the Livestock Brand Act and the role and mission of the Nebraska Brand Committee. Specifically, the study shall:

- (1)(a) Compare and describe similarities and differences between brand inspection services and mandates applied in Nebraska and those applied in other states where brand inspection is performed. Such comparison shall:
 - (b) Identify public or private entities responsible for performing brand inspection, carrying out livestock brand recording, and carrying out other related services and regulations;
 - (c) Identify any employment of law enforcement personnel or relationships with other law enforcement agencies by such entities; and
 - (d) Compare the points in commerce where brand inspection is performed, the cost of brand inspection, and how such cost is supported;
- (2) Gather data, literature, and other information, along with opinions from the Nebraska livestock industry relevant to the following questions:

- (a) Whether brand recording, brand inspection, and related services and regulations under the Livestock Brand Act remains a cost-effective, essential, and valued tool for theft detection and prevention;
 - (b) Whether brand inspection services continue to have commercial utility to all segments of the cattle industry and provide a vital contribution to the integrity of the marketplace;
 - (c) Whether the Livestock Brand Act and the rules and regulations of the Nebraska Brand Committee, or any provisions thereof, impose unnecessary regulatory costs and burdens or result in competitive disadvantages for Nebraska's cattle industry as a whole or for segments of the cattle industry;
 - (d) Whether any revisions to the Livestock Brand Act and its implementation would eliminate or mitigate such burdens or competitive disadvantages;
 - (e) Whether alternative methods of organizing and providing brand inspection and related services would more cost effectively and more appropriately serve the cattle industry in Nebraska; and
 - (f) Whether the mission of the Nebraska Brand Committee should expand or evolve to provide other livestock identification recording and verification services that would be of value to the cattle industry; and
- (3) Consult and involve various interested parties and organizations in its inquiry under this resolution, including, but not limited to, the Nebraska Brand Committee, cow-calf producers, livestock feeders, dairy producers, breeding stock producers, livestock auction market operators, livestock processors, and academic and industry experts in livestock identification methods and technologies as related to herd management, livestock marketing, and disease traceability.

LR 380 (Brewer) **PURPOSE:** The purpose of this interim study is to examine the feasibility of creating a state meat inspection program. A state meat inspection program would allow cattle producers and small beef processors in this state to better feed Nebraska residents, greatly strengthen and secure the beef supply chain from cattle producers to consumers, and spur economic development in rural Nebraska. The study should seek to consult with and involve various interests and stakeholders in its inquiry under this resolution including, but not limited to, livestock producers, small plant processors, the Department of Agriculture, and industry and trade groups. The study should examine, but not be limited to, the following:

- (1) Different ways cattle producers and meat processors can take advantage of federal law and legislation to allow intrastate, interstate, and e-commerce sales of state-inspected meat;
- (2) How cattle producers can develop their own branded beef programs and take advantage of available United States Department of Agriculture (USDA) producer grants;
- (3) Courses of action that are safe so that the requirements of the Food Safety and Inspection Service of the USDA are met or exceeded, and which do not have a General Fund impact;
- (4) Programs offered in other states to stimulate the expansion of local meat processing; and
- (5) How to support investment in custom and small plant processing and expand direct-to-the-consumer marketing of inspected meat.

LR 435 (Halloran) **PURPOSE:** The purpose of this resolution is to examine and document the economic impacts of the COVID-19 pandemic emergency on the agricultural sector of Nebraska. The study shall examine means to support increased resiliency in the processing, distribution, and retail sectors of the food system and to avoid disruptions due to pandemic or other public health emergencies.