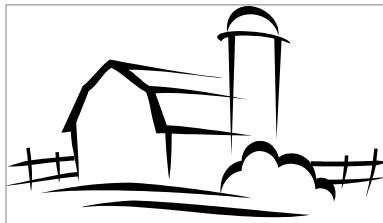


---

# COMMITTEE ON AGRICULTURE

ONE HUNDRED FIFTH LEGISLATURE  
2017 - 2018



## SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

### Agriculture Committee Members

Senator Lydia Brasch, Chair  
Senator Carol Blood, Vice-Chair  
Senator Joni Albrecht  
Senator Ernie Chambers  
Senator Steve Halloran  
Senator Bob Krist  
Senator John Lowe  
Senator Theresa Thibodeau

---



## TABLE OF CONTENTS

STATUS BY DISPOSITION . . . . .	iii
STATUS BY BILL NUMBER . . . . .	v - vi
BILLS ENACTED . . . . .	1 - 7
BILLS ADVANCED BUT NOT ENACTED . . . . .	8 - 10
BILLS HELD IN COMMITTEE . . . . .	11 - 13
BILLS INDEFINITELY POSTPONED . . . . .	14
BILLS WITHDRAWN . . . . .	15
REPORT ON PRIORITIZATION OF INTERIM STUDY RESOLUTIONS . . . . .	16 - 17



# STATUS REPORT BY DISPOSITION

	Page #
<b>Bills Enacted and Signed by the Governor</b>	
LB 134 . . . . .	1
LB 135 . . . . .	3
LB 274 . . . . .	3
LB 276 . . . . .	4
LB 600 . . . . .	5
LB 766 . . . . .	7
 <b>Bills Advanced by the Committee but not Enacted</b>	
LB 449 . . . . .	8
LB 477 . . . . .	8
LB 808 . . . . .	9
 <b>Bills Held by the Committee</b>	
LB 260 . . . . .	11
LB 499 . . . . .	11
LB 617 . . . . .	11
LB 764 . . . . .	12
LB 893 . . . . .	12
LB 1133 . . . . .	13
 <b>Bills Indefinitely Postponed by the Committee</b>	
LB 348 . . . . .	14
 <b>Bills Withdrawn</b>	
LB 125 . . . . .	15
LB 805 . . . . .	15



## STATUS REPORT BY BILL NUMBER

(Bills introduced in 2017 session)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 125	Brasch	Change registered feedlot & dairy fees under the Livestock Brand Act		Withdrawn			
LB 134	Brasch	Change provisions of the Nebraska Pure Food Act and Eliminate the Nebraska Graded Egg Act	1/77/17	Enacted	AM59 ER2		
LB 135	Lowe	Change and eliminate Department of Agriculture provisions relating to publicity, publications, and personnel	1/24/17	General File			
LB 260	Hansen	Provide for a state food insecurity nutrition incentive grant program and state intent regarding appropriations	2/07/17	Held			
LB 274	Halloran	Change provisions of the Plant Protection and Plant Pest Act and eliminate the Nebraska Rangeland Grasshopper Act	2/07/17	Enacted	AM254		
LB 276	Albrecht	Change provisions relating to hybrid seed corn and provide enforcement powers and judicial remedies	1/24/17	Enacted	AM50 AM952		Agriculture Committee 2017 session priority
LB 348	Larson	Eliminate licensing, an excise tax, and other provisions of the Nebraska Potato Development Act	1/31/17	IPP'd			
LB 449	Chambers	Repeal the Black-Tailed Prairie Dog Management Act	2/14/17	Vetoed		AM536	Chambers 2018 session priority
LB 477	McCollister	Prohibit certain unlawful acts as prescribed relating to the Weights and Measure Act	1/31/17	General File		AM2409 AM2559 AM2603	Agriculture Committee 2018 session priority.
LB 499	Brewer	Provide for voluntary registration and duties of the Department of Agriculture under the Nebraska Apiary Act	2/14/17	Held			
LB 600	Ag Committee	Change various provisions of the Livestock Brand Act relating to the Nebraska Brand Committee	2/07/17	Enacted	AM605 AM613 ER35		Agriculture Committee 2017 session priority
LB 617	Wayne	Adopt the Industrial Hemp Act	2/21/17	Held			

**(Bills introduced in 2018 session)**

<b>LB #</b>	<b>Primary Introducer</b>	<b>One-Line Description</b>	<b>Hearing Date</b>	<b>Disposition</b>	<b>Amends Adopted</b>	<b>Amends Pending</b>	<b>Comment</b>
LB 764	Crawford	Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act	1/23/18	Held			
LB 766	Brasch	Change provisions relating to division fences	1/30/18	Enacted			Related Interim Study Resolution (LR371)
LB 805	Brasch	Provide for an annual reporting requirement under the Nebraska Potato Development Act and eliminate obsolete provisions		Withdrawn			
LB 808	Harr	Change provisions relating to community gardens and seed libraries	1/23/18	General File		AM2312	Agriculture Committee 2018 session priority
LB 893	Wishart	Change seller disclosure statement requirements and provide for restrictions and duties on pet shop owners under the Dog and Cat Purchase Protection Act	2/20/18	Held			
LB 1133	Wayne	Adopte the Industrial Hemp Act, provide an exemption under the Uniform Controlled Substances Act, and eliminate a provision relating to industrial hemp research	2/06/18	Held			



# BILLS ENACTED AND SIGNED BY THE GOVERNOR

## **LB 134** (Brasch) Change provisions of the Nebraska Pure Food Act and Eliminate the Nebraska Graded Egg Act

Date of Public Hearing: 1/17/17

Date Reported from Committee: 1/19/17

Committee Amendment: none

Other Adopted Amendments: AM59

Effective Date: August 24, 2017

LB 134 outright repeals the Nebraska Graded Egg Act but expands authorities of the Department of Agriculture under the Nebraska Pure Food Act to promulgate any necessary regulatory standards governing those who provide eggs for human consumption. The bill makes other revisions to the Pure Food Act to strengthen the Department's general inspection authority, to clarify a fee schedule for food delivery services and applicability of other Pure Food Act standards to food delivery services, and to make other minor clarifications.

### Repeal Graded Egg Act:

Section 16 of LB 134 outright repeals the Graded Egg Act (§2-3501 to §2-3525). In conjunction with repeal of the Graded Egg Act, LB 134 makes the following changes within the Pure Food Act and conforming changes elsewhere in state law:

- Inserts a new section into the Pure Food Act (LB 134 Section 8) assigning a duty to persons packing, selling or otherwise providing eggs for human consumption to comply with applicable rules and regulation of the Department of Agriculture, and to identify eggs by source on packaging utilizing a packer ID # assigned by USDA or the Department. As amended by adoption of AM59 during select file debate, LB134 provides that this duty applies only to persons supplying eggs for remuneration to expressly exclude non-commercial hobby producers.
- §81-2,270(8) of the Pure Food Act currently excludes persons licensed under the Graded Egg Act from the permit and annual inspection and permit fee requirements applicable to food establishments set forth in subsections 1-6 of this section. With repeal of the Graded Egg Act, this exclusion becomes obsolete and is stricken. LB 134 would continue to exempt from the permit and fee requirements of this section a) egg producers whose only food establishment activity is the handling and sale for human consumption of their own egg production, b) those whose food establishment activity is limited to handling and selling eggs for human consumption sourced from no more than four producers, and c) until August 1, 2018, any current holder of a valid egg handler license under the Graded Egg Act. For purposes of this latter exclusion, section 3 of the bill inserts "egg handler" as a new defined term. Its definition mirrors the description of those currently subject to, or exempt from, licensure under the Graded Egg Act.
- Conforming or harmonizing revisions due to the outright repeal of §2-2521 (Graded Egg Cash Fund) are made as appropriate elsewhere in state statutes as follows:

Section 13 inserts a new section directing the State Treasurer to transfer any remaining funds in the Graded Egg Act to the Pure Food Cash Fund upon the effective date of the Act. (The Graded Egg Act Cash Fund ceases to exist with the outright repeal of the Graded Egg Act).

Section 14 strikes a reference to the Graded Egg Act Cash Fund from cash fund expenditure authority provided by §99-538.

#### Food Delivery Services:

LB 134 inserts “food delivery service” as a new defined term for purposes of the Pure Food Act (Section 4). A food delivery service is defined as an operation that falls within the definition of food establishment only by virtue of delivering food to a final consumer through home delivery drivers or contract carriers. (Delivery services do not prepare, store or otherwise handle food). The insertion of “food delivery service” as a defined term in effect distinguishes food delivery services as a category of food establishments for the following purposes elsewhere within the Pure Food Act:

- Sets forth food delivery service as a distinct subcategory of food establishment for purposes of the annual license and inspection fee schedule in §81-2,270 (Section 7). Food delivery services is added as a distinct fee category in the fee table within §81,2,270(4)(b). Currently, food delivery services are included within the “all other food establishments” category. The resulting fee would reduce the annual inspection fee from a statutory maximum of \$120.64 to \$17.23;
- Clarifying the requirements of a food delivery service under §81-2,271, which assigns a duty to food establishments to display a copy of their permit to operate a food establishment on the premises. LB 134 (Section 9) is amended to require that the permit be displayed at the business’ contact location;
- Adding food delivery services to the types of food establishments for which standards for water service and toilet facilities under §81-2,272.31 are not applicable.

#### Food Act Enforcement Authority

Section 11 amends §81-2,281 of the Pure Food Act which currently authorizes the Department to delegate certain Pure Food Act functions to qualified political subdivisions or other state agencies and states standards and inspection authorities for delegated activities performed by such entities acting as regulatory authorities for Pure Food Act purposes. LB 134 inserts what becomes new subsection (1) enumerating express authorities of the Department of Agriculture with respect to inspection, as follows:

- To enter or examine property of food establishments, processing plants or salvage operations including associated structures, vehicles, equipment, containers, and records. Such entry shall be at a reasonable time and shall not be subject to actions for trespass or damage provided the Department exercises reasonable care;
- To hold food suspected on non-compliance for inspection and sampling;
- To inspect food in transport through the state and to take any enforcement action;
- To obtain an inspection warrant.

#### Miscellaneous

Rewrites for clarity the exemption of persons regulated under the Nebraska Milk Act from the permit and inspection fee requirements of the Pure Food Act.

**LB 135 (Lowe)** Change and eliminate Department of Agriculture provisions relating to publicity, publications, and personnel

Date of Public Hearing: 1/24/17

Date Reported from Committee: 2/03/17

Committee Amendment: none

Other Adopted Amendments: ER93

Effective Date: July 19, 2018

LB 135 consolidates five statutes assigning duties and authorities to the Department of Agriculture relating to agricultural publicity. As part of, and in support of, the Department's general promotional authorities enumerated in section §81-201, sections §81-2,163 through §81-2,164.03 authorize the Department to gather, compile and publish data concerning the economic resources, industries and conditions of the state.

Revisions to section §81-2,163 revise the Department's authorized activities under this section to reflect current activities of compiling and providing information directly relevant to agricultural resources development. The Department's authority under repealed section §81-2,164 to cooperate with the federal government and farm industry associations and individuals to assemble and publish information relating to market conditions for agricultural commodities is partially transferred to new subsection (2) of section §81-2,163 inserted by the bill. The transferred authority omits the market reporting services authorized within the repealed section, limiting to providing general information regarding the state's agricultural production.

Section 2 revises section §81-1,164.03 which authorizes the Department of Agriculture to accept gifts and contributions from federal agencies, farm groups and individuals and to collect fees or charges for publications or services provided to defray costs incurred by the Department. LB 135 expands the authorization to accept gifts to include gifts from any other person.

**LB 274 (Halloran)** Change provisions of the Plant Protection and Plant Pest Act and eliminate the Nebraska Rangeland Grasshopper Control Act

Date of Public Hearing: 2/07/17

Date Reported from Committee: 3/02/17

Committee Amendment: AM254

Other Adopted Amendments:

Effective Date: August 24, 2017

LB 274 outright repeals the Nebraska Rangeland Grasshopper Control Act (§2-1066 through §2-1071) while providing authorities of the Department of Agriculture under the Plant Protection and Plant Pest Act (§2-1072 through §2-10,117) to implement and manage programs to control grasshopper and other plant pest infestations. Specifically, LB 274 inserts a series of revisions throughout the Act to effect the purposes of the bill as follows:

- Amends §2-1073 which articulates policy objectives of the Act to include the protection of agricultural interests and recognizing a need to regulate the movement and control of plant pests;

- Amends §2-1091 which lists authorities of the Department under the Act, by inserting new subsection (15) providing express authority to implement programs to eradicate, manage, treat or control plant pests;
- Amends §2-10,110 which authorizes the Department of Agriculture to enter into cooperative agreements with USDA or other federal agency in implementation or enforcement of the Plant Pest and Plant Protection Act or the 1944 Organic Act as amended. LB 274 revises this section to expand cooperative activities with other agencies expressly authorized to include the receipt and dispersion of aid or pass-through funds, expands entities with whom the Department may enter into cooperative agreement to include USDA and any other person, and strikes language confining cooperative agreements between the Department and other agencies to federal assistance under the Organic Act of 1944, substituting a generic reference to federal programs related to plant protection and plant pests.
- Amends §2-10,116 which grants authority to adopt regulations by inserting new subsection (12) expressly authorizing regulations relating to the implementation of programs involving control of plant pests.

**LB 276 (Albrecht) Change provisions relating to hybrid seed corn and provide enforcement powers and judicial remedies**

Date of Public Hearing:

Date Reported from Committee: 1/24/17

Committee Amendment: AM50

Other Adopted Amendments: AM952

Effective Date: August 24, 2017

LB 276 amends sections §81-2,155 and §81-2,156 to redefine hybrid corn seed for purposes of a prohibition against selling or representing corn seed as a hybrid variety that does meet the identity standard set forth in these sections. Specifically, LB 276 makes the following revisions:

- Section 1 amends section §81-2,155 which defines hybrid seed corn as seed of the first generation crosses of 2, 3 or 4 inbred lines, restricted to seed of single, three-way and double crosses. LB 276 retains that seed represented as hybrid seed be a first generation of crosses involving up to 4 inbred lines, but strikes the portion of the identity standard that restricts that the seed be the product of single, three-way or double crosses.
- Section 2 amends section §81-2,156 which sets forth isolation standards for performing the crosses of inbred lines for purposes of assuring the exchange of genetic information is limited to the intended exchange between parent plants. This section currently specifies that the cross fertilization be controlled by hand or by detasseling under isolation. LB 276 revises the standard to clarify that crosses be performed under conditions of isolation by time and distance and controlled by hand, detasseling or by utilization of male sterility methods.

LB 276 further revises enforcement authorities set forth in section §81-2,157. This section currently provides that violations of the prohibition regarding selling of seed misrepresented as hybrid corn seed is a class III misdemeanor and directs the Department of Agriculture to report violations to the Attorney General or appropriate county attorney for prosecution. Section 3 of LB 276 rewrites this section as follows:

- Declares that a person violating sections §81-2,155 through §81-2,156 is guilty of a Class III misdemeanor.
- In addition to criminal sanction, authorizes equitable remedies of restraining order or injunction against persons violating or threatening to violate sections §81-2,155 through §81-2,156 and provides that jurisdiction for granting such relief resides in the district court of the county where such violating activity occurs or is about to occur. Such restraining order or injunction is available regardless of other remedies available and shall be granted without bond.
- Assigns jurisdiction to the Attorney General or appropriate county attorney (county attorney of county where violations are occurring or about to occur) to pursue appropriate equitable (subsection 2) or criminal (subsection 1) remedies when notified of violations or threatened violations of sections §81-2,155 through §81-2,156 or by the Director of Agriculture.

The enforcement provisions were substantially rewritten by adoption of AM952 on select file to avoid inference that the revisions to §81-2,157 inadvertently created a new criminal offense of threatening to violate the prohibitions under the seed corn provisions, and to eliminate actual or perceived conflict with prosecutorial discretion.

**LB 600 (Agriculture Committee) Change provisions of the Nebraska Livestock Brand Act**

Date of Public Hearing: 2/07/17

Date Reported from Committee: 3/15/17

Committee Amendment: AM605

Other Adopted Amendments: AM613, ER35

Effective Date: August 24, 2017

LB 600 would remove statutory prescription regarding staff positions employed by the Brand Committee and change duties assigned to the director, insert express authority to record and collect a fee for brand leases, repeal the registered dairy program and make various other clarifications and statutory maintenance revisions to the Livestock Brand Act as described in the section-by-section summary:

Sec. 1: Amends §54-179 to revise information to be recorded on a certificate of brand inspection. Currently, §54-179 requires that the certificate identify the method of transportation and include a rail car number when available. LB 600 eliminates this obsolete requirement but retains a requirement to include the vehicle license number or commercial carrier of a vehicles used to transport livestock to the site where inspected.

Sec. 2: Adds “genomic testing certificates” to a list of documentation expressly recognized by §54-198 as items that may be utilized to establish “satisfactory evidence of ownership.”

Sec. 3: Amends §54-191 which establishes the Brand Committee and designates its membership and method of selection. LB 600 strikes obsolete text inserted by LB 422 enacted in 2007 that made changes to the makeup of the committee. The stricken text facilitated the transition to the new membership and is now obsolete.

The enacted version of LB 600 contained revisions as inserted by adoption of the committee amendment (AM605) that insert numbered paragraphing breaks for readability. The amendment

further prescribes that Brand Committee member terms begin on August 28, and end on August 27 in the year the term expires.

Sec 4: Revises §54-192 which authorizes the Brand Committee to employ personnel as necessary to carry out its functions. This section currently prescribes that the Brand Committee shall employ a director and further prescribes that that person shall hold the titles of chief brand inspector and chief investigator, in addition to serving as the administrative head of the Agency. As introduced, LB 600 would change from prescriptive to permissive that the Director simultaneously serves as chief brand inspector and investigator. LB 600 also eliminates specific reference to the position of deputy director.

By definition (§54-182), the term “investigator” is a state deputy sheriff commission requiring law enforcement certification and infers a requirement for appropriate law enforcement credentialing for the director to assume the duties of chief investigator. Under general law enforcement credentialing provisions in Chapter 81, Article 14, a person employed in a law enforcement position not law enforcement credentialed at the time of hire has one year from the date of hire to complete necessary certification requirements. The committee amendment (AM605 as amended by AM613) adopted during general file debate retained statutory prescription that the director assume the title of chief investigator and chief inspector. However, the enacted revisions this section provide that a person named as director who lacks necessary certification at the time of hire shall have two years from the date of hire to complete certification requirements and only assumes the title of chief investigator upon completion of certification requirements.

Sec 5: Amends §54-195 by relocating text authorizing the Brand Committee to utilize employees to disseminate materials promoting the cattle industry.

Sec. 6: Removes text implying a requirement that a person must own livestock in order to exercise the privilege of recording a brand.

Sec 7: Amends §54-1,102 by inserting new subsection (5) which establishes express authority for the Brand Committee to record evidence of brand leases and to collect a filing fee for recording leases of brands. The revision codifies current practice.

The committee amendment (AM605) adopted struck original section 7 and inserted a new section 7 relocating the insertion of explicit authority to record brand leases to §54-1,100 to place the provision in better context within the brand law. The amendment further resolves a conflict between the recording fee (no more than \$40) currently specified in §54-1,100 for the sale, assignment, or transfer of a recorded brand and the fee for brand leases as current practice and as proposed by LB 600 as introduced.

Sec. 8: Amends §54-1,105 by removing a reference to markings on sheep to allow identification of ownership of comingled sheep. The Brand Committee does not have any responsibility or authority with respect to determining ownership of sheep. Removal of this reference is intended to remove any ambiguity or implication that Brand Committee has authority or duty to resolve cases of stray sheep or disputes over competing claims to comingled sheep.

Sec. 9: Removes internal reference to registered dairies due to repeal of registered dairy program by section 14

Sec. 10: Amends sec §54-1,111 which provides that brand inspection is required for transfers of ownership of cattle originating within the brand area. Subsection (2) lists a number of exceptions

to this general requirement, including when the transfer of ownership is to a family farm corporation whose shares are owned by immediate family members. LB 600 would add a similar exemption for transfers to a limited liability company when membership in the LLC is limited to immediate family members. LB 600 also amends existing subdivision (2)(g) to replace the term “purebred” with “seedstock” to utilize a more universal and updated term for the livestock registered with a breed association.

Sec. 11: Amends §54-1,115 which currently provides that when a person other than an owner of the livestock transports livestock over land within the Brand Area, the person moving the livestock shall have in possession a livestock transportation permit, brand certificate or shipping certificate. Transportation permits have largely fallen into disuse and much of the industry is unaware of this requirement. LB 600 would remove distinctions between the mandatory brand inspection area and non brand areas regarding ownership documentation to be carried by a transporter. LB 600 further redesignates the transportation permit as a “transportation authority form” and only requires that the document, if used, may be drawn up by the livestock owner.

Sec. 12: Removes internal reference to registered dairies due to repeal of registered dairy program by section 14

Sec. 13: Repealers

Sec. 14: Outright repeals §54-1,122.01 and §54-1,122.02 creating the voluntary registered dairy program.

## **LB 766 (Brasch) Change provisions related to division fences**

Date of Public Hearing: 1/30/18

Date Reported from Committee: 2/22/18

Committee Amendment: none

Other Adopted Amendments: none

Effective Date: July 19, 2018

§34-112.02 of the Nebraska law of division fences provides a mechanism whereby a landowner may compel an adjoining landowner’s fulfillment of the shared fencing obligation by filing a fence dispute claim in county court. LB 766 amends §34-112.02 as follows:

- Inserts new text into subsection (2) to clarify that a landowner may initiate a fence dispute claim only if the written notice to neighbors of intent to build/repair a fence and request for contribution as provided in subsection (1) is given prior to commencing construction/repair work. A corresponding revision is made in subsection (1).
- Amends subsection (2) to provide that a fence dispute claim may not be filed until after 30-days after written notice is given, rather than the current 7 days.

These changes are consistent with legislative intent that recourse to the fence dispute remedy provided by §34-112.02 be a last resort in the event the landowners are unable to reach agreement among themselves on allocation of fencing responsibilities and costs. The revisions would facilitate opportunity for landowners to resolve fencing disputes before resorting to a fence dispute filing.

## **BILLS ADVANCED BUT NOT ENACTED**

### **LB 449 (Chambers) Repeal the Black-Tailed Prairie Dog Management Act**

Date of Public Hearing: 2/14/17

Date Reported from Committee: 3/13/17

Committee Amendment: AM536

Other Adopted Amendments:

Other Pending Amendments:

LB 449 outright repeals §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, and procedures and standards by which counties may assume and implement authorities under the Act to compel landowner responsibility.

§81-2,236 authorizes the Director of Agriculture to cooperate with USDA-APHIS for control and management of predators, rodents and other wildlife injurious to livestock, game and human health. Section 1 of the bill would strike express text that this authorization includes the control of black-tailed prairie dogs. The adopted committee amendment (AM536) struck sections 1 and 2 leaving only the outright repeal of sections §23-3801 through §23-3810.

LB 449 was passed by the Legislature on final reading but vetoed after the Legislature adjourned sine die.

### **LB 477 (McCollister) Prohibit certain unlawful acts as prescribed relating to the Weights and Measure Act**

Date of Public Hearing: 1/31/17

Date Reported from Committee: 3/21/18

Committee Amendment: AM2409

Other Adopted Amendments:

Other Pending Amendments: AM2559, AM2603

LB 477 amends §89-197 of the Nebraska Weights and Measures Act which lists unlawful acts under the Act. The bill would insert two new subsections (19) & (20) relating to motor vehicle retail locations to declare the following as unlawful acts:

- To advertise a price on signage for an automotive spark ignition fuel that is not available at all fueling positions unless the signage simultaneously advertises a price of a second automotive spark ignition fuel price that is available at all fueling positions. “Spark ignition fuel” is defined to mean gasoline and its blends with oxygenates such as alcohol and ethers.
- 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 does not preclude discounts to the base price for cash payments, self-serve, customer loyalty, or other types of discount programs not based on octane.

The committee amendment (AM2409) strikes the new subsection (19) in the original bill and substitutes a revised new subsection (19). The revised new subsection (19) provides that it shall be an unlawful practice 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 subsection (19).

The committee amendment also revises the last sentence describing price variances due to discount programs that are excluded from otherwise prohibited pricing practice of new subsection (20) for readability and clarity.

LB 477 was not debated on general file due to lack of time. Subsequent to the advancement of LB 477, two additional amendments were filed. AM2603 to the committee amendment would have replaced the pending committee amendment primarily to insert an identical exclusion in new subsection (19) as found in new subsection (20) for price variances due to certain discount programs from the otherwise prohibited pricing practices under those sections. Pending amendment AM 2559 would strike the original provisions of LB 477 and substitute new text imposing signage requirements for retail fuel locations when an advertised fuel price is offered at only limited fueling positions to direct customers to pumps where the advertised price was available.

## **LB 808 (Harr) Change provisions relating to community gardens and seed libraries**

Date of Public Hearing: 1/23/18

Date Reported from Committee: 2/26/18

Committee Amendment: AM1907

Other Adopted Amendments:

Other Pending Amendments: AM2312

LB 808 renames sections 2-301 through 2-304 and Section 5 of the bill as the Community Food Production Act. The bill revises legislative findings and other provisions of the act to incorporate terminology referring to the broader concept of community food production which encompasses elements of community gardening and urban agriculture.

§2-303 is amended to revise and insert defined terms as follows:

- “Community gardens” -- redefined to mean land cultivated for not-for-profit food production by one or more organizations within a community;
- A new defined term for “urban agriculture” is inserted, defined as land cultivated for for-profit food production by one or more organizations within a community.
- The term “garden” is replaced by the defined term “food production” and defined to mean the cultivation of listed food products;
- Inserts defined terms for “Department” and “Director”

Section 5 of the bill inserts a new section of the Act creating the Community Food Production Water Fund as new cash fund utilized to provide financial assistance for water-related costs associated with community gardens. Such costs are enumerated to include water hook-up and usage fees and conservation efforts.

Under section 5, the Director of Agriculture is authorized to award grants from the fund in equal allocations by congressional district, except that if insufficient qualified applications are received from a congressional district, grant awards may be reallocated to other districts. Awarding of grants is subject to the entity receiving the award providing matching funding from sources other than other legislatively appropriated funds. Any amounts in the fund not awarded as grants in a fiscal year may be carried over to the next fiscal year. A one-time transfer of \$100,000 from the Water Sustainability Fund to the Community Food Production Water Fund is directed by section 6 to be made on or before July 1, 2018.

The Department of Agriculture is directed to promulgate rules and regs to carry out the purposes of the grant program, include regs prescribing grant cycle schedules, application requirements, application evaluation guidelines, and evaluation and reporting components.

Section 7 amends §19-5210 of the Nebraska Municipal Land Bank Act (§§19-5201 through 19-5218). This section currently enumerates priority uses of land bank properties that are conveyed or leased by a municipal land banks which currently includes use for community gardening. LB 808 clarifies that a priority use may include urban agriculture.

Section 8 amends §51-201.01 which enumerates basic and nonbasic services provided by public libraries. LB 808 redefines nonbasic services to include provision of seed library services.

The Committee amendment (AM1907) would have struck original sections 5 and 6 and substituted new sections 5 & 6. New section 5 amended §2-1506(1)(d) to include community garden purposes as an express element of water supply management that is among goals eligible for financial assistance through Water Sustainability Fund. New Section 6 amends §2-1508(4) to add contribution to community gardening as an express element of the multiple water supply management category of scoring/ranking criteria applied to funding applications. Other harmonizing revisions throughout the bill striking unnecessary terms and references to the Department of Agriculture made obsolete by striking original section 5 were included in the amendment. The Committee amendment failed, leaving LB 808 unchanged from its introduced version.

Pending amendment AM2312 under consideration when the Legislature left debate on the bill would have transferred \$50,000 annually from the Nebraska Environmental Trust Fund to the Community Food Production Water fund for Fiscal Years 2018-19 and 2019-20. LB 808 was passed over after three hours of debate and did not return to the floor for further discussion.

## **BILLS HELD BY THE COMMITTEE**

**LB 260** (Hansen) Provide for a state food insecurity nutrition incentive grant program and state intent regarding appropriations

Date of Public Hearing: 2/07/17

LB 260 inserts new subsection (2) into §2-3815 directing the Department of Agriculture to establish a state food insecurity nutrition incentive grant program. The bill would authorize state grant awards to recipients of the federal Food Nutrition Incentive (FINI) grant program authorized under the 2008 Federal Food, Conservation, and Energy Act for purposes of startup and operational costs associated with FINI participation.

New subsection (3) states legislative intent to appropriate \$150,000 to carry out the purposes of the bill.

**LB 499** (Brewer) Provide for voluntary registration and duties for the Department of Agriculture under the Nebraska Apiary Act

Date of Public Hearing: 2/14/17

LB 499 would in effect prohibit commercial beekeeping operations relocating apiaries or hives from out-of-state to a location within the state that is within three miles of a registered apiary. The bill would provide for voluntary registration of domestic apiaries and assign a duty to the Department of Agriculture to immediately investigate reported violations and to issue notice to owners or operators of noncompliant apiaries to remove or relocate the apiary within three days. Persons failing to fulfill the notice would be in violation of the Nebraska Apiary Act and subject to penalty provided in §81-2,179.

**LB 617** (Wayne) Adopt the Industrial Hemp Act

Date of Public Hearing: 1/21/17

Sections 1-14 of LB 617 would insert new sections collectively cited as the Industrial Hemp Act. The bill, which appears to be closely modeled after Kentucky revised statutes KRS 260.850 to 260.869, would create the Industrial Hemp Commission to establish an industrial hemp research program and to assist the development of commercial markets for Nebraska industrial hemp and hemp products, to license growers, and to generally oversee and regulate industrial hemp production in the state through licensure mechanisms.

**LB 764 (Crawford)** Exempt certain operations from the definition of a food establishment under the Nebraska Pure Food Act

Date of Public Hearing: 1/23/18

LB 764 would amend §81-2,245.01 of the Nebraska Pure Food Act by expanding an existing limited exclusion of private homes from the definition of “food establishments” for purposes of the Pure Food Act. Subsection (6) currently excludes private homes when preparing non-potentially hazardous food for sale or service at a charitable fundraiser, or for sale at a farmers market, provided disclosure is given that the food is not prepared in a licensed and inspected kitchen.

LB 764 would expand the existing exclusion of private homes from the definition of a food establishment where foods that are not time/temperature control for safety food (i.e. not potentially hazardous) are prepared within the following limitations:

- The food is for sale directly to the consumer;
- The consumer is notified by signage at the point of sale or by package or container labeling that the food is prepared in a location not subject to inspection or regulation of the food safety regulatory authority;
- The operation has \$25,000 or less in gross annual sales;
- Use of internet is confined to product advertising, order taking, and payment processing if such payments are confined to intrastate commerce; and,
- Product delivery is confined to direct delivery transactions from producer to consumer within the state of Nebraska, expressly excluding use of mail or courier service delivery.

**LB 893 (Wishart)** Change seller disclosure statement requirements and provide for restrictions and duties on pet shop owners under the Dog and Cat Purchase Protection Act

Date of Public Hearing: 2/20/18

LB 893 would amend the Dog and Cat Purchase Protection Act (§§54-644 to 54-650). The primary substantive provision is section 4 of the bill which would insert a new section into the Act that would apply the following prohibitions and requirements to pet shops:

- Prohibits sale of pet animals (defined term limited to dogs and cats) in a pet shop unless sourced from an animal control facility, shelter or rescue as those terms are defined under the Commercial Dog and Cat Operator Inspection Act;
- In addition to other records requirements, pet shops shall have and retain for 1 year documentation of the source of all pet animal housed in a pet shop; and,
- Post signage on the pet animal enclosure identifying the shelter, control facility or rescue from which the animal is obtained.

Corresponding harmonizing revisions to section 4 are made in other provisions of the Act by sections 1-3.

**LB 1133** (Wayne) Adopt the Industrial Hemp Act, provide an exemption under the Uniform Controlled Substances Act, and eliminate a provision relating to hemp research

Date of Public Hearing: 1/23/18

Sections 1-11 of LB 1133 would insert new sections collectively cited as the Industrial Hemp Act. The Act assigns duties and authorities to the Department of Agriculture to support the development of industrial hemp through general promotional efforts and primarily through establishment of a research pilot program utilizing demonstration plots cultivated by licensed growers. The bill also excludes industrial hemp when possessed as authorized by the Industrial Hemp Act from the definition of marijuana under §28-401 of the Uniform Controlled Substances Act. LB 1133 would further outright repeal an existing authorization (§2-5701) under which more limited industrial hemp research has been conducted by the University of Nebraska.

## **BILLS INDEFINITELY POSTPONED**

**LB 348** (Larson) Eliminate licensing, an excise tax, and other provisions of the Nebraska Potato Development Act

Date of Public Hearing: 1/31/17

LB 348 would have effectively terminated the Nebraska Potato Development Act. The Act establishes a Division of Potato Development within the Department of Agriculture vesting in the Director authority to carry out a program of potato research and promotion funded by excise taxes assessed against those meeting the definition of a potato shipper. Specifically, the substantive elements of LB 348 included:

- Outright reals of §2-1805 through §2-1807 and §2-1810 through §2-1812. These sections collectively provide mechanisms for assessing and collecting the promotional assessment, directing funds collected to be deposited into the Potato Development Fund, authorizing the Director to make expenditures for promotion of the potato industry of the state, and creating the Nebraska Potato Development Committee to advise the Director in his duties under the Act;
- Amends §2-1808 of the Act to terminate the Nebraska Potato Development Fund created under this section on the effective date of the Act and directs the transfer of the balance of the fund to the General Fund at that time;
- Amend §2-1809 to strike portions of the section that are obsolete due to the repeal of the remainder of the Act.

## **BILLS WITHDRAWN BY THE INTRODUCER**

### **LB 125 (Brasch) Change fee requirements for registered feedlots and dairies under the Livestock Brand Act**

Date withdrawn: 1/13/17

LB 125 would have amended §54-1,120 and §54-1,122.01 which provides for a registered feedlot and dairy program for feedlots and dairies operating within the Brand Area. Essentially, the registered feedlot and dairy programs substitutes an intensified auditing program in place of physical brand inspection for participating facilities. Registered livestock operations are required to maintain cattle inventory records on forms provided by the Brand Committee and such records are subject to audit by the Brand Committee. §54-1,120 and §54-1,122.01 currently provide that the registered feedlot and dairy fees are an inspection fee to correspond with the per head inspection fee imposed pursuant to §54-1,108 (currently \$1 per head). The fee is assessed annually based on the annual average inventory. Thus, if the per head inspection fee is set at \$1 / hd, the fee would be \$1000 per every thousand head of average annual inventory of the registered feedlot or dairy.

LB 125 would have redesignated the registered feedlot and dairy fees as an “audit fee” and removed a requirement that the fee correspond to the per head inspection fee set pursuant to §54-1,108.

### **LB 805 (Brasch) Provide an annual reporting requirement under the Nebraska Potato Development Act and eliminate obsolete provisions**

Date withdrawn: 1/19/18

LB 805 would have inserted a duty of the Director of Agriculture to produce an annual report of receipts and expenditures under the Nebraska Potato Development Act. The report would have been due December 1, 2018 and each December 1 thereafter, and would include a fiscal report of the Potato Development Fund for the most recently completed fiscal year, a description of programs relating to research, promotion and market development, and a copy of rules and regulations promulgated under the Act. Notice of availability of the annual report was to be provided to the Clerk of the Legislature and potato shippers subject to the potato promotion excise tax. The report and copies of contracts committing expenditures from the Potato Development Fund were made available to the public upon demand.

# **REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS**

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: April 18, 2018

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

<b>Resolution No.</b>	<b>Subject</b>
LR 371	Examine use of the fence dispute claim filings under the Nebraska Law of Division Fences, the utilization of mediation to resolve fencing disputes, and the feasibility and options for reinstating a fenceviewer mechanism as a fact finder and arbitrator in fence disputes.
LR 416	Examine fuel retail advertising practices from an unfair and deceptive trade practice analysis and applicability of Weights and Measures Act unlawful practices enforcement to regulate such practices.



## **2018 Session Interim Study Resolutions Referenced to the Agriculture Committee**

**LR 371** (Brasch) **PURPOSE:** The purpose of this resolution is to compile information regarding the number and nature of fence dispute claims filed pursuant to section 34-112.02 of the Nebraska Revised Statutes since enactment of Legislative Bill 108 in 2007 and the extent to which mediation services have been utilized to resolve fencing disputes. The study shall further examine the utility of, and options for, reinstating a fenceviewing mechanism into the Nebraska fence law to provide factfinding and arbitration functions for fencing disputes between adjacent landowners.

**LR 416** (Halloran) **PURPOSE:** The purpose of this study is to examine which advertising practices should be considered unlawful acts under the Weights and Measures Act in section 89-197. The study shall include, but not be limited to, the following issues:

- (1) What pricing structures are unfair or deceptive practices in the advertising of retail motor fuel;
- (2) From an unfair and deceptive practices perspective, the acts or practices that are likely to result in substantial injury to consumers, cannot be reasonably avoided by consumers, and are not outweighed by countervailing benefits to consumers or to competition;
- (3) What constitutes an act or practice that is deceptive where (a) a representation, omission, or practice misleads or is likely to mislead the consumer, (b) a consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances, and (c) the misleading representation, omission, or practice is material; and
- (4) Whether or not certain pricing practices violate other areas of consumer protection laws or regulations.