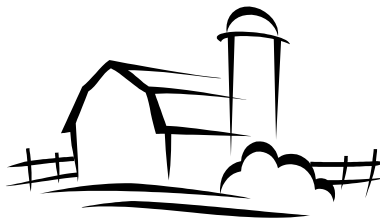

COMMITTEE ON AGRICULTURE

ONE HUNDRED SEVENTH LEGISLATURE
1st and 2nd Sessions

2021 - 2022



SUMMARY AND REPORT OF DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

Agriculture Committee Members

Senator Steve Halloran, Chair
Senator Tom Brandt, Vice-Chair
Senator Tom Brewer
Senator John Cavanaugh
Senator Tim Gragert
Senator Ben Hansen
Senator Mike Jacobson
Senator Steve Lathrop

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STATUS REPORT BY BILL NUMBER

(Bills/Resolutions introduced in 2021 session)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 90	Halloran	Change fee provisions under the Pesticide Act and the Nebraska Commercial Fertilizer and Soil Conditioner Act	1/26/21	Enacted			Consent Calendar
LB 91	Brandt	Change germination seed testing provisions under the Nebraska Seed Law	1/26/21	Enacted	AM96 ER116		Consent Calendar
LB 235	Brewer	State intent regarding implementation of a meat processing establishment inspection program	2/02/21	General File		AM2045	
LB 324	Brandt	Change provisions of the Nebraska Meat and Poultry Inspection Law	2/02/21	Enacted	AM150 ER24		Agriculture Committee 2021 session priority
LB 571	Halloran	Provide for backgrounder lot registration under the Livestock Brand Act	2/09/21	Held			
LB 572	Halloran	Change provisions of the Livestock Brand Act	2/09/21	Enacted	AM410 AM686 AM813 ER29		Agriculture Committee 2021 session priority
LB 584	Vargas	Adopt the Mobile Food Unit Act and change fees for a mobile food unit	2/02/21	Held			
LB 614	Erdman	Eliminate registered feedlot provisions under the Livestock Brand Act	2/09/21	Held			AM484 to LB 572 to add provisions of LB 614 withdrawn
LR5	Gragert	Accept the findings and recommendations of the Healthy Soils Task Force	2/02/21	Adopted	AM197		
LR242	Brewers	Urge Nebraska congressional delegation to support legislation to assist small meat processors	2/01/22	IHeld			

(Bills/Resolutions introduced in 2022 session)

LB #	Primary Introducer	One-Line Description	Hearing Date	Disposition	Amends Adopted	Amends Pending	Comment
LB 712	Hughes	Change provisions of the Black-Tailed Prairie Dog Management Act	1/18/22	Gen File			Incorporated into LB 805 by AM1976
LB 744	Erdman	Change provisions relating to identification and inspection of livestock	2/15/22	Gen File		AM1932	
LB 802	Hughes	Change provisions relating to the Nebraska Wheat Resources Act	1/18/22	Gen File			Incorporated into LB 805 by AM1976
LB 805	Hughes	Change qualification for a grant program under the Noxious Weed Control Act	1/18/22	Enacted	AM1976 ER130		Ag Committee 2022 session priority; LB 712 & LB 802 incorporated into LB 805 by AM1976; LB805A companion funding enacted
LB 848	Halloran	Change provisions of the Animal Health & Disease Control Act relating to catastrophic livestock mortality	1/25/22	Enacted	AM1626		Ag Committee 2022 session priority; LB 848A companion funding enacted
LB 889	Halloran	Change provisions of the Nebraska Hemp Farming Act	1/25/22	Gen File			
LB 1095	Halloran	Change provisions of the Animal Health & Disease Control Act	2/01/22	IPP			
LR 284	Blood	Declare support for a federal review and reform of the use of the “product of USA” label	2/15/22	Adopted			

BILLS ENACTED AND SIGNED BY THE GOVERNOR

LB 90 (Halloran) Change fee provisions under the Pesticide Act and the Nebraska Commercial Fertilizer and Soil Conditioners Act

Date of Public Hearing: 1/26/21

Date Reported from Committee: 2/11/21

Committee Amendment: none

Other Adopted Amendments: none

Effective Date: August 28, 2021

LB 90 reallocates a portion of the pesticide product registration fee, increases the statutory maximum annual inspection fee in the fertilizer & soil conditioners inspection program, and inserts fee management parameters to avoid excessive cash fund reserves in that program.

Sec. 1: Amends §2-2634 of the Nebraska Pesticide Act to reallocate \$10 of the current \$60 of the annual pesticide registration fee from the buffer strip program to the Pesticide Administrative Cash Fund

Allocation of Pesticide Product Registration Fee: Current vs. LB 90

	Current	LB 90
Noxious Weed Cash Fund	\$30	\$30
Buffer Strip Incentive Fund	\$60	\$50
Natural Resources Water Quality Fund	\$55	\$55
Pesticide Admin Fund	\$15	\$25
Total Fee	\$160	\$160

Sec. 2: Amends §81-2,162.06 of the Commercial Fertilizer & Soil Conditioners Act as follows:

- increases the statutory maximum annual inspection fee from \$0.10 / ton to \$0.15 / ton.
- Provides that the fee shall be set by the Director annually within the following parameters:
 - Fee revenue is not anticipated to be more than 107 % of the cash fund appropriation
 - That the fee is set so that anticipated carryover balance at the end of the year does not exceed 17% of the cash fund appropriation.

LB 91 (Brandt) Change germination and seed testing provisions under the Nebraska Seed Law

Date of Public Hearing: 1/26/21

Date Reported from Committee: 2/11/21

Committee Amendment: AM96

Other Adopted Amendments: ER116

Effective Date: July 21, 2022

LB 91 expands the date after germination or viability testing that native flower and grass seeds may continue to be sold or offered for sale without retesting and to allow a seed viability test in lieu of germination rate testing for certain seeds.

- Sec. 1: As introduced, LB 91 amended §81-2,147.01 of the Nebraska Seed Law by expanding the definition of “agricultural seed” to include seeds of habitat restoration or maintenance species and by inserting new defined terms, “native plant species” and “nonnative plant species”. The Agriculture Committee amendment (AM96): 1) struck the revision of the definition of agricultural seed, and 2) revised the definition of native and non-native plant species to delineate this seed classification by whether the species was native prior to European settlement.
- Sec. 2: Amends §81-2,147.02 which prescribes labeling requirements to appear on or with packaging or containers of various categories of commercial seeds.
- Subsection (2) enumerates required labeling disclosures for agricultural seed. Subdivision (2)(i) currently prescribes disclosures for germination, seed viability or dormant seed percentage required for an enumerated list of grass species. LB 91 revises this subdivision to apply to the defined term “native plant species” and yellow bluestem. The Agriculture Committee amendment (AM96) struck the inclusion of yellow bluestem.
 - Subsection (9) enumerates required disclosures for certain types of flower seeds for home gardens or household use. Subdivision (b) prescribes a “below standard” disclosure when flower seeds for which germination testing procedures exist if the germination falls below the germination standards for that seed established in rules and regulations. LB 91 adds that the “below standard” disclosure is required if a viability test in lieu of germination test indicates viability rate less than a standard.
- Sec. 3: Amends §81-2,147.03 which enumerates unlawful acts, including to sell commercial seed not labeled in accordance with the Act. For agricultural, vegetable or flower seed germination disclosures, subdivision (1)(a) currently prescribes germination testing be completed within 9 months prior to the sale, except for:
- seeds which by rule and regulation the Department permits to be sold within 12 months of the testing date, or
 - seeds sold in hermetically sealed packaging if sold within 36 months of the test date without retesting and beyond 36 months if retested within 9 months of the sale date.

As introduced, LB 91 proposed revising this section by:

- inserting seed viability testing date in lieu of germination rate where applicable
- inserts new subdivision (1)(a)(i) prescribing the period after testing “native plant species” may be sold. For such species, it would be lawful to sell within 15 months of the germination test date or the seed viability test date, except hermetically sealed native plant species may be sold up to 36 months without retesting and if sold after 36 months, retested for germination or viability (TZ test) within 9 months of sale.

Existing requirements that currently apply to all agricultural, vegetable or flower seeds are set forth as subdivision (1)(a)(ii) and apply to “non-native plant species”. This subdivision is further amended to add viability testing in lieu of germination testing for retesting of hermetically sealed seeds sold more than 36 months after initial test.

The adopted Agriculture Committee amendment (AM96) replaced introduced new subdivision 1(a)(i). The substitute text reduces the allowable period after germination or viability (TZ) testing native seeds may be offered for sale without being mislabeled from 15 months to 12 months. The amendment also removed the option of viability (TZ) testing in lieu of germination testing for hermetically-sealed non-native species.

Sec. 4: Amends §81-2,147.06, subdivision (1)(c). LB 91 inserts a harmonizing revision to terminology utilized in this provision to conform to the changes made by Section 2 of the bill. The Agriculture Committee amendment (AM96) revised the harmonization to be consistent with changes elsewhere in the committee amendment.

LB 324 (Brandt) Change provisions of the Nebraska Meat and Poultry Inspection Law

Date of Public Hearing: 2/02/21

Date Reported from Committee: 2/25/21

Committee Amendment: AM150

Other Adopted Amendments: ER24

Effective Date: August 28, 2021

LB 324 provides that certain direct marketing of meat through animal share arrangements are excluded from regulation under the Nebraska Meat and Poultry Inspection Law and authorizes a state grant program to stimulate expansion of meat processing capacity.

Sec. 1: Amends §54-1901 to include sections 10 and 11 of LB 324 within the statutory sections cited as the Nebraska Meat and Poultry Inspection Act.

Sec. 2: Amends §54-1902 to insert a new defined term “animal share” to mean an ownership interest obtained in an animal boarded and raised on behalf of owners by a farmer or rancher in which the person with an ownership interest is entitled to a share of the meat. The remainder of this section makes Revisor’s office revisions to list defined terms in alphabetical order.

Secs. 3-9: Revisor’s office revisions substituting the named act for reference to specific statutory sections contained in the act, and other revisions to utilize currently preferred statutory conventions.

Sec. 10: Inserts a new section which exempts meat obtained through animal/herd share arrangements from the requirements of the Nebraska Meat & Poultry Inspection Law. The section sets forth criteria for meat to qualify for this exemption and limitations, documentation and other requirements of farmers or ranchers to market meat through animal share arrangements.

The Agriculture Committee amendment (AM150) adopted on general file struck the original section and replaces with revised section 10. The revisions remove provisions of the original bill that would create duties for the Department of Agriculture including that the farmer or rancher register with the Department and make an annual report to the Department. Strikes certain restrictions including a limitation on the number of animals that can be offered annually through herd share agreements, and a required warning statement. Adds a requirement that the names and address of animal/herd share owners be provided to the processor.

Sec. 11: Inserts a new section creating the Independent Processor Assistance Program. The new section would authorize the Department to disburse funds to assist existing custom exempt processors or small meat processor who are qualified to process meat under a grant of state or federal

inspection. Funds disbursed would be for one or more enumerated capital, operating or other expenses incurred by processors to expand physical processing capacity or to qualify for federal inspection.

The Agriculture Committee amendment (AM150) adopted on general file added clarification that the authorization delegated to the Department is contingent on funds being made available for the purpose authorized by Section 11.

LB 572 (Halloran) Change provisions of the Livestock Brand Act

Date of Public Hearing: 2/09/21

Date Reported from Committee: 3/04/21

Committee Amendment: AM410

Other Adopted Amendments: AM686, AM813, ER29, ST26

Effective Date: August 28, 2021

LB 572 expressly authorizes and makes necessary statutory revisions to support the Brand Committee making electronic inspections available as a means of brand inspection compliance. As introduced, the bill would have decoupled registered feedlot fees from the per-head fee, temporarily lowered the per-head inspection fee, changed brand recording and other administrative fees, allow a limited exemption for inspection of feedlot owned cattle received from a backgrounding lot, and reclassified various violations of the Livestock Brand Act as infractions enforceable by citation.

LB 572 underwent considerable revision as the bill progressed through the legislative process. The following summary organizes the enacted version of LB 572 by distinct substantive elements, grouping sections where related changes occur. Substantive differences of the enacted bill from LB 572 as introduced are described.

1. Definitions (Sections 1 – 15, Section 34)

Sections 3-9 insert new defined terms and these sections are incorporated into the Livestock Brand Act by sections 1 & 2. Sections 10-15 make revisions to existing defined terms to conform with changes elsewhere in the bill that provide for electronic inspection as an option for brand inspection compliance.

The committee amendment (AM410) adopted on general file struck original sections which would have inserted new defined terms “audit”, “backgrounder lot”, and “permanently fenced”. These terms become obsolete due to revisions elsewhere made by the committee amendment.

2. Legislative confirmation of Brand Committee appointments (Section 16)

Amends §54-191 which prescribes membership on the Nebraska Brand Committee and provides for membership to be appointed by the Governor. LB 572 as amended by the adoption of AM 686 during general file debate inserts text that such appointments are subject to legislative confirmation.

3. Authorize electronic inspection of cattle (Sections 17, 18 & 21)

LB 572 contemplates and makes necessary changes to authorize the Brand Committee to offer electronic inspection utilizing non-visual identifiers as an alternative to physical inspection to satisfy brand inspection requirements. The revisions provide for a statutory structure whereby livestock owners would enroll livestock with associated ownership information to be eligible to be moved or sold without physical inspection, instead utilizing a reporting system for enrolled livestock. Specific revisions include:

- §54-198 & §54-199 are revised to remove an inference that non-visual identifiers (e.g. EID tags, nose prints, eye scans, etc.) can be authorized as a “brand” as that term is used elsewhere in the Act. LB 572 would reserve the term “brand” to refer to visual markings applied to the hide of an animal by hot or freeze brand. A provision of §54-199 (which pertains primarily to requirements for recording visual brands) that currently authorizes the Brand Committee to record non-visual animal identifiers as “brands” is relocated for better context within the section and revised to clarify that approved non-visual identifiers do not function as a brand but may be used identifiers for enrolling cattle for eligibility for electronic inspection. The adopted committee amendment (AM410) further revised remaining residual text within the provisions inconsistent with the intent that the use of non-visual ID is for the purpose of supporting enrollment of animals to qualify for electronic inspection and not to function as a brand.
- Revisions to §54-1,108 distinguish physical inspection from electronic inspection. Current provisions that provide for a brand inspection by physical observation of animals are set out as subsection 1 with clarifications added regarding when physical inspection is required. New subsection 2 provides for electronic inspection. Note that electronic inspection expressly does not require inspectors to be present on site but is limited to cattle that have been previously enrolled. The bill is written to provide for a separate inspection fee for electronic inspection that although written with the same statutory maximum inspection fee contemplates that electronic inspection fees may vary from physical inspection. It is contemplated that electronic inspection fees will be less than physical inspection fees presuming the Brand Committee’s costs to perform them are less.

The section also requires the Brand Committee to provide a report to the Legislature regarding implementation of electronic inspection. The adopted committee amendment (AM410) reworded the report provision to clarify that the intent is for the Brand Committee to inform the Legislature regarding progress in implementing e-inspection to avoid interpretation that the provision required a report prepared through third-party contracted services.

- Additional revisions to §54-1,108 provide for alternative means of compliance for dairies moving calves out of the brand inspection area. In lieu of physical inspection, LB 572 would authorize dairies to provide information electronically to the Brand Committee and for the Brand Committee to issue a certified bill of sale and transportation permit. The adopted committee amendment (AM410) replaced an instance of the term “licensed dairy” with the defined term “qualified dairy”

4. Reclassify certain violations of the Brand Law as infractions (Sections 22-28 & 32)

Designates violations described in various sections as an infraction punishable by a fine of \$200 / animal for which a peace officer may write a citation. These violations include:

- §54-1,110 – Moving cattle out of the brand area without brand inspection

- §54-1,111 – Selling cattle within the brand area without inspection
- §54-1,112 – Failure of slaughterers or purchaser of hides to keep records
- §54-1,113 – Persons butchering animals to exhibit brand inspection records and hides
- §54-1,114 – Slaughtering cattle within the brand area without inspection
- §54-1,115 – Person other than owner transporting cattle within brand area without necessary documentation
- §54-1,116 – Failure to provide bill or sale or certificate of inspection when selling livestock
- §54-1,128 – Use of brand recorded in another state without permit

5. Brand inspection & recording fee revisions: (Sections 19 - 21)

Fee description	Current	LB 572
Brand Inspection	Statutory Max \$1.10 / hd (current \$1.00 / hd) Travel surcharge for country inspection -- \$20	Physical Inspection: \$0.85 / hd beginning October 1, 2021 through June 30, 2023. Beginning July 1, 2023, fee set by the Brand Committee not to exceed \$1.10 / hd Surcharge replaced by actual mileage \$50 late notification fee if less than 48-hr notice of request for inspection Electronic Inspection: Statutory max \$0.85 / hd beginning October 1, 2024 through June 30, 2023. Beginning July 1, 2023, fee set by Brand Committee not to exceed \$1.10 / hd.
Brand Recording	New brand app - Statutory max \$10 (currently \$100) Brand Renewal (every 4 years) – Statutory Max - \$50 + late renewal fee of \$5 / month Duplicate brand and other docs - \$1 / page + research fee not to exceed \$20	Statutory max \$150 + research fee not to exceed \$50 Brand Renewal (every 4 years) – Statutory Max \$200 + late renewal fee of \$5 / month + research fee not to exceed \$50. Duplicate brand & other documents - \$1 / page + research fee not to exceed \$40

As introduced, LB 572 would have only lowered the inspection fee for both physical and electronic inspection to \$0.95 / hd from the effective date of the bill through June 30, 2023. LB 572 as introduced would have also raised the maximum physical and electronic inspection fee cap to \$1.50 / hd. The committee amendment (AM410) adopted on general file retained the current statutory fee cap of \$1.10 / hd.

6. Fraudulent ID tampering (Section 31)

As amended by AM686 adopted on general file, the enacted version of LB 572 inserted a wholly new section within the brand law that creates a criminal offense of knowingly performing an act to apply, remove, damage or alter a non-visual identifier (e.g. electronic ear tag) or to alter, expunge, render inaccessible or otherwise corrupt information embedded in a nonvisual device for a fraudulent purpose. A violation is defined as a Class III felony. This new provision mirrors a similar existing provision declaring acts to alter or deface a brand for fraudulent intent as a criminal felony offense.

Provisions of the introduced version of LB 572 omitted from the enacted version of the bill:

- Registered feedlot fees

As introduced, LB 572 amended §54-1,120 to distinguish registered feedlot fees from inspection fees, and designated the primary assessment as an audit fee. Currently, registered feedlots pay a fee that is equivalent to the per-head inspection fee imposed under §54-1,108 (statutory maximum \$1.10 / hd, currently \$1.00 / hd) applied initially to the feedlot capacity and each subsequent year to the average daily inventory of the feedlot. While the current annual registration fee is not truly charged per-head, the fee is required by law to correspond to the per-head inspection fee. LB 572 would have revised the fee to be two components, a flat annual registration fee of \$250 and an audit fee that is 50% of the amount calculated by applying the per head inspection fee to the feedlot capacity. AM410 adopted on general file struck the proposed changes to the registered feedlot fees (i.e. retains current law).

- Remove an inspection requirement for certain backgrounder cattle received by a registered feedlot

§54-1,122 currently allows cattle entering a registered feedlot to be received without inspection provided the animals are shipped directly from the point origin to the feedlot and accompanied by a certificate of inspection or brand clearance (if originating in a brand inspection area of any state) or by other satisfactory evidence if originating from a point outside a brand inspection jurisdiction. In all other cases, cattle are to be inspected upon entering the feedlot, including if cattle are not moved directly from point of origin to the feedlot.

As introduced, LB 572 would have provided an exception to inspection of ownership if the animals are not shipped directly to the feedlot but are placed within a background lot prior for a period prior to entering a feedlot. The exception applies only if 100% of the backgrounder cattle are owned by the feedlot that affiliates the backgrounder, the backgrounder is permanently fenced, and documentation of ownership from the point of origin accompanies the cattle. The committee amendment (AM410) adopted on general file removed this limited exemption from inspection and therefore retains current law.

LB 805 (Hughes) Change qualifications for a grant program under the Noxious Weed Control Act and revise legislative intent regarding appropriations

Date of Public Hearing: 1/18/22

Date Reported from Committee: 2/23/22

Committee Amendment: AM1976

Other Adopted Amendments: ER130

Effective Date: July 21, 2022

As introduced, LB 805 makes a clarification to area in which vegetation management activities within riparian areas of the state that are funded through a grant program may be applied and changes legislative intent regarding the amount of general funds to be appropriated to the grant program.

The bill amends §2-958.02, which creates the Noxious Weed and Invasive Plant Species Assistance Fund and prescribing criteria applied to determine eligibility for, and to prioritize recipients of, grants awarded from the fund. Subsection (4) creates a subcategory of eligible grant awards that ties those funds to projects advancing objectives and

priorities of the Riparian Vegetation Management Task Force. Currently, subsection (4) limits eligible management activities to those that occur within a streambank or up to 100 ft beyond the banks of a channel of a stream, and states legislative intent to appropriate \$1 million general funds annually for projects eligible under this subsection. LB 805:

- expands eligibility to management projects anywhere within the floodplain of a stream.
- increases the intended appropriation to \$3 million annually.
- amends a criteria under (3)(g) for prioritizing projects eligible for grant awards from the Fund to include the extent to which the project will reduce or prevent populations of designated noxious weeds or invasive plant species.

The Committee Amendment (AM1976) adopted on general file strikes the original sections and becomes the bill. The effect of the amendment is to add the provisions of LB 712 and LB 802 as introduced. As enacted, the original substantive provision of LB 805 is retained as Section 1. Section 14 is a revised repealer section to incorporate new sections added by the amendment. The new provisions of LB 805 added by the amendment are summarized below by section number of the enacted bill.

Sections 2 – 7 Add provisions of LB 802:

Sections 2-7 revises powers and duties of the Wheat Board to expressly authorize additional avenues for commercializing new wheat varieties developed with checkoff funds and clarifies points in commerce when the checkoff is assessed and collected.

Sec. 2: Amends §2-2303 which defines terms utilized in the Nebraska Wheat Resources Act.

- The term “commercial channels” is revised to exclude sales of wheat that will be resold as seed.
- The term “first purchaser” is revised to exclude entities that acquire wheat through mortgage, pledge, lien or similar claim. A harmonizing revision to the term “sale” is made to exclude the establishment of a mortgage or pledge of wheat.

Sec. 3: Amends §2-2309 which designates the Wheat Board as the agency to carry out market development programs for wheat and assigns authorities to the Board for that purpose. The revisions would insert express authority for the Board to acquire intellectual property in wheat varieties and to carry out programs relating to the commercialization/dissemination of Board owned wheat varieties. Subsection (5) is revised to enumerate and expand the purposes for which the Board may enter into grant and contractual relationships with public and private entities to include development of new wheat varieties, securing intellectual property rights, and production of wheat for sale.

Sec. 4: Amends §2-2311 which imposes an assessment of wheat sold through commercial channels. This section assigns a duty to the first purchaser to collect the assessment at the time of settlement. LB 802 revises the section for clarity and to specify that the levy of the assessment is against wheat growers.

Sec. 5: Amends §2-2312 to provide that the assessment is not deducted from loan proceeds of wheat placed under federal price support loan at the time the loan is made.

Sec. 6: Amends §2-2315 which prescribes procedures for purchasers of wheat to collect and remit the checkoff assessment. The bill makes a series of statutory clarifications and harmonizing revisions to specify that the section applies to “first” purchasers, modifies recordkeeping requirement, and information to be entered on forms for purpose of reporting and remitting assessment collections.

Sec. 7: Amends §2-2318 which requires the Board to utilize the Department of Agriculture, the University of Nebraska or other appropriate third parties to conduct research and carry out programs of development. Revisions to this section more clearly authorize the Board to cooperate and contract with public and private entities to carry out research and promotional activities. New subsection (2) expressly clarifies that the Board is not constrained in acquiring intellectual property in, or commercial development of, wheat varieties including the production and sale of wheat..

Sections 8 – 13 Add provisions of LB 712:

The provisions of LB 712 added by the committee amendment makes a series of revisions to the Black-Tailed Prairie Dog Management Act to address or remove constitutionally questionable provisions of current law.

Sec. 8: Amends §23-3803 which prescribes elements of county management plans. The bill inserts a requirement that a plan include a method for landowners to waive objection to incursion of a prairie dog colony due to expansion from adjacent property.

Sec. 9: Amends §23-3804 which states a duty of an owner of land where a prairie dog colony exists to manage the colony to prevent expansion to neighboring property. Currently, this duty arises if the neighboring landowner objects to the expansion. The revision asserts this is an affirmative duty unless the neighboring landowner waives objection. The revision is intended to avoid a potential delegation defect as currently written.

Sec. 10: Amends §23-3805 which assigns authorities of county boards of counties that have adopted a management plan. The bill inserts express authority that a county may assign performance of activities necessary to carry out the plan, including investigation of complaints.

Sec. 11: Makes the following revisions to §23-3806:

- Removes infraction as an enforcement mechanism in the event a landowner fails to meet obligations to manage a prairie dog colony present on the property, striking the individual notice and associated due process provisions associated with that remedy. The revisions would retain only that counties may cause remedial action to occur and the liability of the landowner for the costs of such action.
- Removes a statement construing that a county's failure to publish general notice does not relieve a landowner's duty to manage a prairie dog colony.
- Adds a requirement that an individual notice be delivered by certified mail.
- Removes procedures for collecting unpaid prairie dog colony management expenses incurred by the county as a special assessment.

Sec. 12: Amends §23-3808 which states a right of entry for a county to enter property to perform prairie dog colony abatement actions. The revision removes a limitation on liability of the county to torts of trespass or damages provided reasonable care is exercised. (Note: any such liability would defer to the Political Subdivisions Tort Claims Act)

Sec. 13: Severability clause

LB 848 (Halloran) Change provisions of the Animal Health & Disease Control Act relating to catastrophic livestock mortality

Date of Public Hearing: 1/25/22

Date Reported from Committee: 2/10/22

Committee Amendment: AM1626

Other Adopted Amendments:

Effective Date: July 21, 2022

LB 848 inserts express authorities relating to planning for and responding to catastrophic livestock mortality emergencies.

Sec. 1: Amends §54-2940 of the Animal Health and Disease Control Act (AH&DCA) which enumerates authorities assigned to the Department of Agriculture to carry out the purposes of the Act. LB 848 inserts a new subsection (8) authorizing the Department to assist local emergency authorities with catastrophic livestock disease emergency planning and response.

Sec. 2: Amends §54-2946 of the AH&DCA which assigns a duty to livestock owners to timely and properly dispose of dead animals. This section generally requires burial, composting or incineration on the property where the animal dies but allows limited transport offsite for disposal. LB 848 adds express authority for transport to a disposal site designated by a local emergency authority in the event of an emergency.

The Committee amendment (AM1626) adopted on general file revises the express authority relating to catastrophic livestock mortality emergencies to clarify that the authority was not limited to the Department only assist local emergency authorities but to include both state and local investments in planning, preparation and in execution of an emergency response. The amendment also clarified that the disposal option added as new subdivision (1)(h) should be subsection (vi) of subdivision (1)(g). It is intended transports off the premises where the animal died occurs only under written permission of the Director.

BILLS ENACTED BY INCORPORATION INTO OTHER BILLS

LB 712 (Hughes) Change provisions of the Black-Tailed Prairie Dog Management Act

Date of Public Hearing: 1/18/22

Date Reported from Committee: 2/10/22

Committee Amendment: none

** The provisions of LB 712 were amended into, and enacted as sections 8-13, of LB 805

LB 712 Makes a series of revisions to the the Black-Tailed Prairie Dog Management Act to address or remove constitutionally questionable provisions of the current law and other criticisms of the Act as currently written.

Sec. 1: Amends §23-3803 which prescribes elements of county management plans. The bill inserts a requirement that a plan include a method for landowners to waive objection to incursion of a prairie dog colony due to expansion from adjacent property.

Sec. 2: Amends §23-3804 which states a duty of an owner of land where a prairie dog colony exists to manage the colony to prevent expansion to neighboring property. Currently, this duty arises if the neighboring landowner objects to the expansion. The revision asserts this is an affirmative duty unless the neighboring landowner waives objection. The revision is intended to avoid a potential delegation defect as currently written.

Sec. 3: Amends §23-3805 which assigns authorities of county boards of counties that have adopted a management plan. The bill inserts express authority that a county may assign performance of activities necessary to carry out the plan, including investigation of complaints.

Sec. 4: Makes the following revisions to §23-3806:

- Removes infraction remedy as an enforcement mechanism in the event a landowner fails to meet obligations to manage a prairie dog colony present on the property, striking the individual notice and associated due process provisions associated with that remedy. The revisions would retain only that counties may cause remedial action to occur and the liability of the landowner for the costs of such action.
- Removes a statement construing that a county's failure to publish general notice does not relieve a landowner's duty to manage a prairie dog colony.
- Adds a requirement that an individual notice be delivered by certified mail.
- Removes procedures for collecting unpaid prairie dog colony management expenses incurred by the county as a special assessment.

Sec. 5: Amends §23-3808 which states a right of entry for a county to enter property to perform prairie dog colony abatement actions. The revision removes a limitation on liability of the county to torts of trespass or damages provided reasonable care is exercised. (Note: any such liability would defer to the Political Subdivisions Tort Claims Act.)

Sec. 6: Severability clause

LB 802 (Hughes) Change provisions of the Nebraska Wheat Development Act

Date of Public Hearing: 1/18/22

Date Reported from Committee: 2/22/22

Committee Amendment: none

** The provisions of LB 802 were amended into and enacted as sections 2-7 of LB 805

Revises powers and duties of the Wheat Board to expressly authorize additional avenues for commercializing new wheat varieties developed with checkoff funds and clarifies points in commerce when the checkoff is assessed and collected.

Sec. 1: Amends §2-2303 which defines terms utilized in the Nebraska Wheat Resources Act.

- The term “commercial channels” is revised to exclude sales of wheat that will be resold as seed.
- The term “first purchaser” is revised to exclude entities that acquire wheat through mortgage, pledge, lien or similar claim. A harmonizing revision to the term “sale” is made to exclude the establishment of a mortgage or pledge of wheat.

Sec. 2: Amends §2-2309 which designates the Wheat Board as the agency to carry out market development programs for wheat and assigns authorities to the Board for that purpose. The revisions would insert express authority for the Board to acquire intellectual property in wheat varieties and to carry out programs relating to the commercialization/dissemination of Board owned wheat varieties.

Subsection (5) is revised to enumerate and expand the purposes for which the Board may enter into grant and contractual relationships with public and private entities to include development of new wheat varieties, securing intellectual property rights, and production of wheat for sale.

Sec. 3: Amends §2-2311 which imposes an assessment of wheat sold through commercial channels. This section assigns a duty to the first purchaser to collect the assessment at the time of settlement (typically, the assessment is deducted from the payment to the producer). LB 802 revises the section for clarity and to specify that the levy of the assessment is against wheat growers.

Sec. 4: Amends §2-2312 which prescribes procedures for purchasers of wheat to collect and remit the checkoff assessment. The bill makes a series of statutory clarifications and harmonizing revisions to specify that the section applies to “first” purchasers, modifies recordkeeping requirement, and information to be entered on forms for purpose of reporting and remitting assessment collections.

Sec. 5: Amends §2-2318 which requires the Board to utilize the Department of Agriculture, the University of Nebraska or other appropriate third parties to conduct research and carry out programs of development. Revisions to this section more clearly authorize the Board to cooperate and contract with public and private entities to carry out research and promotional activities. New subsection (2) expressly clarifies that the Board is not constrained in acquiring intellectual property in, or commercial development of, wheat varieties including the production and sale of wheat.

RESOLUTIONS ADOPTED

LR5 (Gragert) Accept the findings and recommendations of the Healthy Soils Task Force

Date of Public Hearing: 2/02/21

Date Reported from Committee: 2/11/21

Committee Amendment: AM197

President/Speaker signed and delivered to the Nebraska Secretary of State: 5/27/2021

LR 5 would state various findings relating to the work of the Healthy Soils Task Force. The resolution contains a number of statements describing the creation and process of the Healthy Soils Task Force and three related resolved clauses as follows:

1. That the Legislature accepts the task force report and its findings and recommendations
2. That the Legislature supports voluntary efforts to protect and enhance soil health
3. That the Legislature encourages state agencies to assist voluntary efforts.

The adopted committee amendment (AM197) revises the word “accepts” in the first resolved clause to state that the Legislature “acknowledges” the task force report.

LR284 (Blood) Support a review of the “Product of the U.S.A.” label

Date of Public Hearing: 2/15/22

Date Reported from Committee: 2/17/22

Committee Amendment: none

President/Speaker signed and delivered the Nebraska Secretary of State: 4/13/22

LR 284 declares the Legislature’s support for a federal review of rules governing use of the “Product of U.S.A” labeling claim on meat product and for USDA taking appropriate steps to restrict use of the labeling claim.

BILLS ADVANCED BUT NOT ENACTED

LB 235 (Brewer) State intent regarding implementation of a meat processing establishment inspection program

Date of Public Hearing: 2/02/21

Date Reported from Committee: 2/22/22

Committee Amendment: AM799

As introduced, LB 235 states legislative intent to establish a state meat and poultry inspection program and assigns related implementing duties and authorities to the Director of Agriculture.

Sec. 1: Amends §54-190 to incorporate sections 2 & 3 of LB 235 into the Nebraska Meat and Poultry Inspection Law.

Sec. 2: States legislative intent that the Director of Agriculture begin a cooperative state meat inspection program meeting the requirements of cited provisions of the Federal Meat Inspection Act on or before January 1, 2023. Authorizes the Director to employ a program director to coordinate all aspects necessary to prepare for and implement a program, including all necessary consultations with USDA to prepare a state performance plan providing meat inspection standards at least equal to those required under the Federal Meat Inspection Act.

Directs that on or before December 1, 2021, the director shall prepare a report to the Legislature describing actions and identifying resources necessary to carry out state meat inspection meeting at least equal to standards. Such report shall include any necessary revisions to the Department's statutory authorities and identify a schedule of fees to cash fund the program.

Sec. 3: Creates a cash fund as a repository of any fee revenues, appropriations, grants or other public or private funds obtained for purpose of the bill.

The pending committee amendment (AM799) strikes the original provisions and becomes the bill. The amendment inserts a new section into the Nebraska Meat and Poultry Inspection Law stating legislative intent to appropriate \$1 million for FY's 22-23 and 23-24 to fund a 2-year pilot program for a cooperative state meat inspection program consistent with cited provisions of federal meat and poultry inspection acts. The amendment further directs that the administrator shall be a licensed veterinarian employed by the Department. The Department is directed to establish a program to certify licensed veterinarians to perform inspection activities in participating establishments. The amendment essentially establishes a 2-year pilot program to provide state inspection services for up to 10 meat processing establishments.

LB 744 (Erdman) Change provisions relating to inspection and identification of livestock

Date of Public Hearing: 2/15/22

Date Reported from Committee: 2/17/22

Committee Amendment: AM1932

As introduced, LB 744 would strike provisions of the brand law that authorize the Brand Committee to offer e-inspection as a means of compliance with brand inspection requirements. The primary revisions are found in sections 10 and 11. Sec. 10 amends §54-199 to strike subsection (5) which currently authorizes the Brand Committee to issue rules and regulations governing the use of non-visual identifiers for purposes of enrolling animals to be eligible for e-inspection. Sec. 11 amends §54-1,108 by striking portions of subsection (2) which authorize the Brand Committee to allow e-inspection as a means of meeting brand inspection requirements. The bill retains an option for dairy producers to submit documentation in lieu of physical inspection and specifies the fee. The remainder of the bill makes conforming revisions as necessary throughout the Livestock Brand Act.

The pending committee amendment (AM1932) strikes the original provisions and becomes the bill. The amendment revises §54-199 to provide that information provided by producers for brand inspection are not public records for purposes of sections 84-712 to 84-712.09

LB 889 (Halloran) Change provisions Nebraska Hemp Farming Act

Date of Public Hearing: 1/25/22

Date Reported from Committee: 2/10/22

Committee Amendment: none

LB 889 makes a series of revisions to the Nebraska Hemp Farming Act to be consistent with the Final Rule of the USDA implementing the 2018 Farm Bill hemp provisions to make other minor adjustments to facilitate administration of the Act.

Sec. 1: Amends §2-503 to update the definition of “acceptable THC level” and “measurement of uncertainty” to incorporate these terms as defined by 7 CFR 990 as existing on January 1, 2022. The revisions to these definitions in the final rule removes an ambiguity that the 0.3% threshold refers to total THC. LB 889 also inserts a new defined term for “remediation” incorporating that term as defined in 7 CFR 990.

Sec. 2: Amends §2-504 which assigns rulemaking and implementing authority for various purposes to the Department. The revisions authorize the Department to also accomplish necessary changes in requirements governing hemp production through amendment to the state hemp plan and specify purposes for recordkeeping requirements

Sec. 3: Amends §2-505 to remove an obsolete external reference and to adopt the most recent reference to a federal CFR definition of “key participants.”

Secs. 4, 6 & 12: Amends §§2-506, 2-509 & 2-514 to strike an obsolete external reference

Sec. 5: Amends §2-508 to remove a date specific requirement for initial license application or annual license renewal and removes what becomes obsolete late fee provisions.

Sec. 7: Amends §2-510 to specify that destruction of non-compliant hemp be performed within 30 days of notification by the Department.

Sec. 8: Amends §2-511 to increase the threshold at which hemp exceeding the acceptable THC level is deemed a negligent violation from 0.5% to 1.0%. Note, this does not increase the THC concentration of hemp that may be harvested. Any hemp above 0.3% THC is still subject to destruction.

Sec. 9: Amends §2-514 to:

- remove statutory prescription that sampling occur at each lot to defer to sampling as specified in the Hemp plan. The hemp plan will continue to require sampling and testing of each lot unless the Department amends the plan to allow alternative sampling where appropriate for certain categories of hemp as authorized under the final rule;
- increase the harvest deadline after sample collection from 15 to 30 days;
- require 7-days notice of a request for official sample collection and provides that the licensee assumes risk of any damage resulting from failure to timely request sampling;
- add remediation, if allowed by the Department, as an option in the event of an adverse test result.

Sec. 10: Amends §2-515 which prescribes documentation to be carried by persons transporting hemp. LB 889 clarifies that this duty applies when transporting hemp cultivated under the Hemp Farming Act. Expands an exclusion for growers when transporting untested hemp for purpose of private testing to include testing for any private purpose.

Sec. 11: Amends §2-517 to require the Nebraska Hemp Commission to meet at least annually instead of quarterly.

Sec. 13. Repealer

Sec. 14: Outright repeals obsolete §2-5701.

BILLS HELD BY THE COMMITTEE

LB 571 (Halloran) Provide for backgrounder lot registration under the Livestock Brand Act

Date of Public Hearing: 2/09/21

LB 571 would create a program for qualifying backgrounder lots similar to the existing registered feedlot program to allow backgrounded cattle to be shipped to a registered feedlot without inspection.

Sec. 1: Amends §54-170 to incorporate section 3-7 of the bill into the Livestock Brand Act

Sec. 2: Amends §54-171 to incorporate sections 3-5 as defined terms for purposes of the Act

Secs. 3–5: Defines new terms: “backgrounder lot”, “permanently fenced” and “registered backgrounder”

Sec. 6: Inserts a new section into the brand law providing application for approval as a backgrounder lot. The section prescribes information to be provided with the application and provides for an inspection by the Brand Committee to verify the applicant meets prescribed requirements to qualify for registration. Sets out initial and annual registration and audit fees. Prescribes certain record keeping requirements and authorizes the Brand Committee to promulgate rules and regulations and other oversight authorities to verify compliance with registration rules.

Sec. 7: Exempts cattle shipped from a registered backgrounder lot directly to a registered feedlot from inspection that would otherwise apply provided that a shipping certificate issued by the registered backgrounder lot accompany the cattle. Prescribes the information to be provided on the shipping certificate, assigns a duty to the Brand Committee to create and provide the shipping certificate forms, and directs distribution of copies of the certificate.

Sec. 8: Amends §54-1,122 which currently requires cattle received at a registered feedlot to be inspected unless inspected at the point of origin and shipped directly to the feedlot. LB 571 inserts a new subsection to exempt registered feedlot owned livestock that are diverted to a backgrounder lot for a period before being received at the feedlot to be received without inspection provided the cattle are received from a registered backgrounder, that the ownership has remained intact and that documentation of ownership issued at the point of origin accompanies the cattle.

Sec. 9: Repealer

LB 584 (Vargas) Adopt the Mobile Food Unit Act and change fees for a mobile food unit

Date of Public Hearing: 2/02/21

Provides for state permitting of mobile food units and seeks to mitigate duplicative and onerous permitting and inspection requirements that apply across multiple jurisdictions and events.

- Sec. 1: Amends §81-2,270 of the Nebraska Pure Food Act to establish a maximum initial permit and annual inspection fee for mobile food units.
- Sec. 2: Names 2 – 9 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 after July 1, 2022 without a permit issued by the Department of Agriculture. Prescribes maximum fees for registration or renewal and limits the amount of inspection fee imposed by a local authority. Prescribes information to be provided with the application for a permit and procedure to challenge denial of a permit. Vests authority in the Department to enforce the Mobile Food Unit Act.
- Sec 5: Precludes more stringent requirements (presumably than those imposed under section 4) or fees for local authorizations of mobile food unit operations. Establishes a maximum local inspection fees and mandates that in counties having cities of the metropolitan or primary class, all health authorities shall enter reciprocity agreements providing mutual recognition of mobile food unit inspections. In all other counties, the health authority is authorized to enter reciprocity agreements with other health authorities. Expressly lists certain local regulations affecting the operation of mobile food units that are not preempted, but precludes local governments from regulating the duration of operation on private property.
- Sec. 6: Requires mobile food unit compliance with applicable fire codes. For inspections that occur at events, limits the inspection to occur beginning 1 ½ hours prior to the event, or at any time during the event if the mobile food unit was not available for inspection prior to the event start. Provides that for any violation of the Act, an administrative penalty no more than \$300 may be assessed.
- Sec. 7: For operators 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 8: 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.
- Sec 9: Assigns rule and regulation authority to the Department of Agriculture to carry out the Act.
- Sec 10: Repealer

LB 614 (Erdman) Eliminate registered feedlot provisions under the Livestock Brand Act

Date of Public Hearing: 2/09/21

LB 614 eliminates the registered feedlot program that provides an alternative recordkeeping and auditing method of brand law compliance for qualifying feedlots when shipping finished cattle.

Secs. 1 – 4: Revises various sections of the Brand Law by removing references to exceptions to inspection

or other brand law requirements that apply to registered feedlot cattle to conform to the outright repeal of the statutes creating the registered feedlot program in section 6.

Sec. 5: Repealer

Sec. 6: Outright repeals §§54-1,120 through §54-1,122 which provide for the registered feedlot program.

LR 242 (Brewer) Urge the congressional delegation of Nebraska to pass legislation **to support** farmers, ranchers, and small meat processors without compromising food safety standards and foreign market access

Date of Public Hearing: 2/01/22

LR 242 is a resolution stating a series of findings relating to expanded opportunities for small meat processors and the corresponding benefits to the livestock sector and urging Nebraska Congressional delegation to pursue appropriate federal legislation.

BILLS INDEFINITELY POSTPONED BY THE COMMITTEE

LB 1095 (Halloran) Change provisions of the Animal Health and Disease Control Act

Date of Public Hearing: 2/01/22

Reported as IPP'd: 2/10/22

LB 1095 proposed changes to provisions of the Animal Health & Disease Control Act (AH&DCA) regarding choice of ID methodology for disease traceability and duties of the Department regarding premise registration.

Sec. 1: Amends §54-2949 of the Animal Health and Disease Control Act (AH&DCA). This section currently declares information provided for purposes of compliance with or voluntary participation in disease traceability are not public records subject to FOIA disclosure and limits Department disclosure of such information to that necessary for disease surveillance and epidemiological investigations.

LB 1095 revises this section as follows:

- Inserts express authority for the Department to facilitate participation in animal disease traceability systems.
- Provides that a livestock owner may utilize any form of animal ID authorized by a referenced federal disease traceability for animals moving interstate as such rule existed on January 1, 2020.
- Directs that the Department shall facilitate a request to remove a premise registration except where removal would be in conflict with any disease traceability or disease program requirement.

Sec. 2: Repealer

REPORT ON THE PRIORTIZING OF INTERIM STUDY RESOLUTIONS

Pursuant to Rule 4, Section 3(c)

COMMITTEE: Agriculture

DATE: April 20, 2022

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

<u>Resolution No.</u>	<u>Priority Category</u>	<u>Subject</u>
LR 277	3	Interim study to determine what is needed to develop a plan to protect managed and native Nebraskan pollinators from current harmful practices
LR 328	3	Interim study to determine whether rules and regulations guiding the inspection and permitting of mobile food units are being applied consistently between jurisdictions
LR 400	3	Interim study to examine current farm economic conditions in Nebraska and how best to aid and support beginning farmers and livestock and dairy producers in the state

- 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

Senator Steve Halloran, Chair
Agriculture Committee

2022 Interim Study Resolutions Referred to the Agriculture Committee

LR277 (Blood) PURPOSE: The purpose of this resolution is to determine what is needed to develop a plan to protect managed and native Nebraskan pollinators from current harmful practices. This study shall include, but not be limited to:

- (1) Analyzing the effects of neonicotinoids on pollinators such as bees, butterflies, moths, and bats;
- (2) Understanding the population decline of managed and native pollinators in Nebraska;
- (3) Outlining better practices for entities engaged in activities that can affect pollinator viability, as well as practices that enhance and create habitats to support and grow Nebraska's population of pollinators;
- (4) Determining efficient and cost-effective practices to protect pollinators; and
- (5) Providing leadership and guidance relating to the protection of pollinators to localities and the private sector.

LR328: (Vargas) PURPOSE: The purpose of this resolution is to propose an interim study to determine whether rules and regulations guiding the inspection and permitting of mobile food units are being applied consistently between jurisdictions and, if not, how to streamline such rules and regulations to better promote business success. The study shall include, but not be limited to:

- (1) Identifying the jurisdictions responsible for regulating mobile food units in Nebraska;
- (2) Reviewing the state and local rules and regulations applicable to these jurisdictions;
- (3) Determining whether such rules and regulations are being applied consistently between jurisdictions;
- (4) Assessing the business uncertainty that results from an inconsistent application of rules and regulations between jurisdictions; and
- (5) Developing proposed revisions to the Nebraska Pure Food Act and any rules and regulations adopted and promulgated under the act or any other laws in order to create certainty and promote business success for mobile food units.

LR 400 (Brandt) PURPOSE: The purpose of this resolution is to propose an interim study to examine current farm economic conditions in Nebraska and how best to aid and support beginning farmers and livestock and dairy producers in this state. The study shall include, but need not be limited to:

- (1) Examining current statutory policies used to support beginning farmers and livestock and dairy producers, the effectiveness of such policies, and potential changes to such policies, including the Beginning Farmer Tax Credit Act;
- (2) Determining the type of supports most beneficial to beginning farmers and livestock and dairy producers;
- (3) Developing recommendations related to supporting beginning farmers and livestock and dairy producers in order to continue to grow the agriculture industry in the state; and
- (4) Examining the Department of Agriculture implementation of the NextGen program.