

EIGHTY-SEVENTH DAY - MAY 27, 2015
LEGISLATIVE JOURNAL
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

EIGHTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
 Wednesday, May 27, 2015

PRAYER

The prayer was offered by Senator Campbell.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Foley presiding.

The roll was called and all members were present except Senators Bolz, Friesen, Hansen, Krist, Morfeld, and Pansing Brooks who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighty-sixth day was approved.

COMMITTEE REPORT(S)
 Enrollment and Review

LEGISLATIVE BILL 176. Placed on Select File with amendment.
 ER143

- 1 1. Strike the original sections and all amendments thereto and
- 2 insert the following new sections:
- 3 Section 1. Section 54-2602, Reissue Revised Statutes of Nebraska, is
- 4 amended to read:
- 5 54-2602 For purposes of the Competitive Livestock Markets Act:
- 6 (1) Animal unit means one head of cattle, three calves under four
- 7 hundred fifty pounds, or five swine;
- 8 (2) Contract swine operation means a livestock operation in which
- 9 swine owned or controlled by a packer are produced according to an oral
- 10 or written agreement that does not contain a confidentiality clause and
- 11 that is agreed to by the packer and a person other than the packer who
- 12 owns, leases, or holds a legal interest in the livestock operation;
- 13 (3) Department means the Department of Agriculture;
- 14 (4) Director means the Director of Agriculture or his or her
- 15 designee;

16 (5 4) Livestock means live cattle or swine;
17 (6) Livestock operation means a location, including buildings, land,
18 lots, yard corrals, and improvements, adapted to and utilized for the
19 purpose of feeding, keeping, or otherwise providing for the care and
20 maintenance of livestock;
21 (7 5) Packer means a person, or agent of such person, engaged in the
22 business of slaughtering livestock in Nebraska in excess of one hundred
23 fifty thousand animal units per year; and
24 (8 6) Person includes individuals, firms, associations, limited
25 liability companies, and corporations and officers or limited liability
26 company members thereof.
27 Sec. 2. Section 54-2604, Reissue Revised Statutes of Nebraska, is
1 amended to read:
2 54-2604 (1) Except as provided in subsection (2) of this section, a
3 packer shall not:
4 (a) Directly or indirectly own, control, or operate a livestock
5 operation in this state; or
6 (b) Directly or indirectly be engaged in the ownership, keeping, or
7 feeding of livestock, other than temporary ownership, keeping, and
8 feeding not to exceed fourteen days which is necessary and incidental to,
9 and immediately prior to, the process of slaughter.
10 (2) Subdivision (1)(b) of this section does not apply to the
11 ownership, keeping, or feeding of swine by a packer at one or more
12 contract swine operations in this state if the packer does not own, keep,
13 or feed swine in this state except for the purpose of the slaughtering of
14 swine or the manufacturing or preparation of carcasses of swine or goods
15 originating from the carcasses in one or more processing facilities owned
16 or controlled by the packer.
17 (3) For purposes of this section, indirectly own, control, or
18 operate a livestock operation and indirectly be engaged in the ownership,
19 keeping, or feeding of livestock includes:
20 (a) Receiving the net revenue or a share of the net revenue derived
21 from a livestock operation or from a person who contracts for the care
22 and feeding of livestock in this state, unless the packer is not involved
23 in the management of the livestock operation;
24 (b) Assuming a morbidity or mortality production risk if the
25 livestock are fed or otherwise maintained as part of a livestock
26 operation in this state, unless the packer is not involved in the
27 management of the livestock operation; and
28 (c) Loaning money for or guaranteeing, acting as a surety for, or
29 otherwise financing a livestock operation in this state or a person who
30 contracts for the care and feeding of livestock in this state. For
31 purposes of this subdivision, loaning money for or guaranteeing, acting
1 as a surety for, or otherwise financing a livestock operation does not
2 include executing a contract for the purchase of livestock by a packer,
3 including, but not limited to, forward contracts, marketing agreements,
4 long-term arrangements, formula arrangements, other noncash sales
5 arrangements, contracts that contain a ledger balance unsecured by
6 collateral of the debtor or other price-risk-sharing arrangements, or

7 providing an open account or loan unsecured by collateral of the debtor
8 or a ledger balance or loan secured by collateral of the debtor so long
9 as the amount due from the debtor does not exceed one million dollars.
10 ~~After May 27, 1999, it is unlawful for a packer to directly or~~
11 ~~indirectly be engaged in the ownership, keeping, or feeding of livestock~~
12 ~~for the production of livestock or livestock products, other than~~
13 ~~temporary ownership, keeping, and feeding, not to exceed five days,~~
14 ~~necessary and incidental to the process of slaughter.~~

15 Sec. 3. Section 54-2627.01, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 54-2627.01 (1) Sections 54-2607 to 54-2627 are preempted by the
18 federal Livestock Mandatory Reporting Act of 1999, 7 U.S.C. 1635 to
19 1636h, when such federal act is in effect.

20 (2) The Legislature finds that the mandatory reporting of price and
21 other terms in negotiated or contract procurement of livestock that has
22 been in place under the federal Livestock Mandatory Reporting Act of 1999
23 is an important reform of livestock markets that contributes to greater
24 market transparency, enhances the ability of livestock sellers to more
25 competently and confidently market livestock, and lessens the existence
26 of conditions under which market price manipulation and unfair preference
27 or advantage in packer procurement practices can occur. It is a purpose
28 of the Competitive Livestock Markets Act to provide for the continuation
29 of mandatory price reporting for the benefit of Nebraska producers and
30 protection of the integrity of livestock markets in Nebraska in the event
31 of termination of the federal Livestock Mandatory Reporting Act of 1999
1 and its preemption of similar state price reporting laws as well as to
2 provide for an orderly implementation of the state price reporting system
3 authorized by the Competitive Livestock Markets Act, should Congress fail
4 to reauthorize the federal Livestock Mandatory Reporting Act of 1999.

5 (3) (a) If Congress does not reauthorize the federal Livestock
6 Mandatory Reporting Act of 1999 before December 1, 2006, the director
7 shall, on December 1, 2006, or as soon before or after as practicable,
8 prepare a budget and an appropriation request from the General Fund, from
9 the Competitive Livestock Markets Cash Fund, or from other cash funds
10 under the control of the director, for submission to the Legislature in
11 an amount sufficient to enable the department to carry out its duties
12 under sections 54-2607 to 54-2627, and such sections shall become
13 applicable on October 1, 2007.

14 (b) If, on or after December 1, 2006, Congress does not reauthorize
15 the federal Livestock Mandatory Reporting Act of 1999, the director shall
16 prepare such budget and appropriation request on or before a date that is
17 twelve calendar months after the date such federal act expires or is
18 terminated, and sections 54-2607 to 54-2627 shall become applicable on
19 the first day of the calendar quarter that is eighteen months after the
20 date such sections are not preempted by the federal act. No General Funds
21 shall be appropriated for implementation of sections 54-2607 to 54-2627
22 after the date of commencement provided for in this section of reporting
23 of price and other data regarding livestock transactions pursuant to
24 sections 54-2613 and 54-2623. It is the intent of the Legislature that

25 any General Funds appropriated for purposes of this section shall be
26 reimbursed to the General Fund.
27 Sec. 4. Original sections 54-2602, 54-2604, and 54-2627.01, Reissue
28 Revised Statutes of Nebraska, are repealed.
29 Sec. 5. The following section is outright repealed: Section
30 54-2603, Reissue Revised Statutes of Nebraska.

(Signed) Matt Hansen, Chairperson

COMMITTEE REPORT(S)

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Douglas M. Anderson - Environmental Quality Council
Jeremy J. Buhl - Environmental Quality Council
Dennis D. Grams - Environmental Quality Council
John Kinter - Environmental Quality Council
Ronald J. Sheppard - Environmental Quality Council
John C. Turnbull - Environmental Quality Council

Aye: 8 Friesen, Hughes, Johnson, Kolowski, Lindstrom, McCollister, Schilz, Schnoor. Nay: 0. Absent: 0. Present and not voting: 0.

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Frank J. Reida - Nebraska Power Review Board

Aye: 8 Friesen, Hughes, Johnson, Kolowski, Lindstrom, McCollister, Schilz, Schnoor. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Ken Schilz, Chairperson

SELECT FILE

LEGISLATIVE BILL 643. Senator Garrett offered the following motion:
MO139
Unanimous consent to bracket until June 5, 2015.

No objections. So ordered.

LEGISLATIVE BILL 315. ER140, found on page 1770, was adopted.

Senator Howard offered her amendment, AM1747, found on page 1877.

The Howard amendment was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 315A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 452. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 540. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 457. ER142, found on page 1872, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 577. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 581. ER141, found on page 1874, was adopted.

Senator Nordquist offered the following amendment:
FA78

(Amendments to E and R amendments, ER141)

1. On page 2, line 8, after the semicolon insert "and"; strike beginning with "and" in line 10 through the semicolon in line 11; and in line 26 strike "or flex-fuel dispenser".

2. On page 3, line 9, after "Act" insert "up to the amount transferred under subsection (3) of this section".

The Nordquist amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 581A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 176. ER143, found in this day's Journal, was adopted.

Senator Bloomfield offered his amendment, AM1636, found on page 1735.

SPEAKER HADLEY PRESIDING

Senator Bloomfield moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Bloomfield requested a roll call vote on the amendment.

Voting in the affirmative, 18:

Baker	Crawford	Haar, K.	Kolowski	Schnoor
Bloomfield	Davis	Hansen	Kuehn	Sullivan
Brasch	Ebke	Howard	McCoy	
Cook	Groene	Kintner	Riepe	

Voting in the negative, 12:

Campbell	Hadley	Murante	Stinner
Coash	Hughes	Schilz	Watermeier
Gloor	Kolterman	Seiler	Williams

Present and not voting, 16:

Bolz	Garrett	McCollister	Pansing Brooks
Chambers	Harr, B.	Mello	Scheer
Craighead	Krist	Morfeld	Schumacher
Friesen	Lindstrom	Nordquist	Smith

Excused and not voting, 3:

Hilkemann	Johnson	Larson
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The Bloomfield amendment lost with 18 ayes, 12 nays, 16 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Groene offered his amendment, AM1634, found on page 1777.

Pending.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 364. Introduced by Garrett, 3.

WHEREAS, Senator Dave Bloomfield served in the United States Army from 1966 to 1968 and fought in the war in Vietnam; and

WHEREAS, Senator Ernie Chambers volunteered to serve in the United States Army from 1959 to 1963 where his infantry commander wrote that he constantly demonstrated outstanding character; and

WHEREAS, Senator Tommy Garrett served in the United States Air Force as an intelligence officer from 1976 to 2003, retiring as a colonel; and

WHEREAS, Senator Mike Gloor served as a medic in the United States Air Force from 1972 to 1976 and was stationed in Germany and at F.E. Warren Air Force Base; and

WHEREAS, Speaker Galen Hadley served in the United States Marine Corps Reserve from 1960 to 1966; and

WHEREAS, Senator Rick Kolowski served in the United States Marine Corps from 1964 to 1967, serving on active duty at Marine Corps Base Quantico from 1964 to 1965; and

WHEREAS, Senator Bob Krist served in the United States Air Force from 1979 to 2000, retired as a lieutenant colonel, served in both Operation Desert Shield and Operation Desert Storm, and was inducted into the Nebraska Aviation Hall of Fame; and

WHEREAS, Senator Merv Riepe served in the United States Navy from 1960 to 1963 as a senior corpsman at Balboa Naval Hospital; and

WHEREAS, Senator David Schnoor served in the United States Air Force for 20 years, retiring as a master sergeant and was awarded the Bronze Star for a rescue mission in Panama; and

WHEREAS, Senator Les Seiler served in the United States Army Reserves from 1966 to 1967 and in the Nebraska National Guard as a captain in the Judge Advocate General's Corps from 1967 to 1977.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends all veterans serving in the Legislature and throughout the State of Nebraska.

Laid over.

LEGISLATIVE RESOLUTION 365. Introduced by Kuehn, 38.

WHEREAS, the Holdrege High School Dusters won the 2015 Class B Girls' State Track and Field Championship; and

WHEREAS, the Holdrege High School girls' track and field team was led by the dedicated and talented Coach Jason Hale; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Holdrege High School Dusters for winning the 2015 Class B Girls' State Track and Field Championship.

2. That a copy of this resolution be sent to the Holdrege High School girls' track and field team and their coach, Jason Hale.

Laid over.

COMMITTEE REPORT(S)

Government, Military and Veterans Affairs

LEGISLATIVE RESOLUTION 23. Reported to the Legislature for further consideration.

(Signed) John Murante, Chairperson

MESSAGE(S) FROM THE GOVERNOR

May 27, 2015

Patrick J. O'Donnell
 Clerk of the Nebraska Legislature
 2018 State Capitol
 Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 81, 81A, 106, 106A, 175e, 183, 196, 199, 199A, 226, 243e, 243A, 265e, 265A, 292, 292A, 329, 330e, 330Ae, 382, 382A, 390e, 390Ae, 504, 504A, 525, 539e, 559e, 566, 566A, and 642 were received in my office on May 21, 2015.

These bills were signed and delivered to the Secretary of State on May 27, 2015.

Sincerely,
 (Signed) Pete Ricketts
 Governor

PR/lhk

SELECT FILE

LEGISLATIVE BILL 176. The Groene amendment, AM1634, found on page 1777 and considered in this day's Journal, was renewed.

SENATOR SCHEER PRESIDING**SENATOR COASH PRESIDING**

Senator Groene moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Senator Groene requested a roll call vote on the amendment.

Voting in the affirmative, 40:

Baker	Friesen	Hughes	McCoy	Schilz
Bloomfield	Garrett	Johnson	Mello	Schnoor
Brasch	Gloor	Kintner	Morfeld	Schumacher
Campbell	Groene	Kolowski	Murante	Seiler
Coash	Haar, K.	Kolterman	Nordquist	Stinner
Crawford	Hadley	Kuehn	Pansing Brooks	Sullivan
Davis	Hansen	Lindstrom	Riepe	Watermeier
Ebke	Howard	McCollister	Scheer	Williams

Voting in the negative, 0.

Present and not voting, 4:

Chambers Cook Krist Smith

Excused and not voting, 5:

Bolz Craighead Harr, B. Hilkemann Larson

The Groene amendment was adopted with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator McCoy offered the following amendment:

FA79

Insert the words, "has a majority American ownership" after the word "and" on page 2, line 21.

SPEAKER HADLEY PRESIDING

Senator McCoy withdrew his amendment.

Senator Schilz offered the following motion:

MO140

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Schilz moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Schilz requested a roll call vote, in reverse order, on the motion to invoke cloture.

Voting in the affirmative, 31:

Baker	Gloor	Kintner	Murante	Stinner
Campbell	Hadley	Kolterman	Pansing Brooks	Watermeier
Coash	Hansen	Larson	Scheer	Williams
Craighead	Harr, B.	Lindstrom	Schilz	
Ebke	Hilkemann	McCollister	Schumacher	
Friesen	Hughes	Mello	Seiler	
Garrett	Johnson	Morfeld	Smith	

Voting in the negative, 11:

Bloomfield	Crawford	Haar, K.	Schnoor
Bolz	Davis	Kuehn	Sullivan
Brasch	Groene	McCoy	

Present and not voting, 7:

Chambers	Howard	Krist	Riepe
Cook	Kolowski	Nordquist	

The Schilz motion to invoke cloture failed with 31 ayes, 11 nays, and 7 present and not voting.

The Chair declared the call raised.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 315. Placed on Final Reading.
LEGISLATIVE BILL 315A. Placed on Final Reading.
LEGISLATIVE BILL 452. Placed on Final Reading.
LEGISLATIVE BILL 457. Placed on Final Reading.
LEGISLATIVE BILL 540. Placed on Final Reading.
LEGISLATIVE BILL 577. Placed on Final Reading.
LEGISLATIVE BILL 581. Placed on Final Reading.
LEGISLATIVE BILL 581A. Placed on Final Reading.

(Signed) Matt Hansen, Chairperson

RESOLUTION(S)

LEGISLATIVE RESOLUTION 366. Introduced by Johnson, 23.

WHEREAS, Bishop Neumann High School won the 2015 Class C Boys' State Track and Field Championship; and

WHEREAS, the Bishop Neumann Cavaliers sent 12 athletes to the state championship meet, more than any other Class C team; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Bishop Neumann High School for winning the 2015 Class C Boys' State Track and Field Championship.

2. That a copy of this resolution be sent to the Bishop Neumann High School boys' track and field team.

Laid over.

LEGISLATIVE RESOLUTION 367. Introduced by Johnson, 23.

WHEREAS, Morgan Vasa, a senior at Bishop Neumann High School, won a gold medal in the 100 meter hurdles at the 2015 Class C Girls' State Track and Field Championship; and

WHEREAS, Morgan helped the Bishop Neumann Cavaliers girls' track and field team place 5th at the state championship; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Morgan Vasa on winning a gold medal in the 100 meter hurdles at the 2015 Class C Girls' State Track and Field Championship.

2. That a copy of this resolution be sent to Morgan Vasa.

Laid over.

LEGISLATIVE RESOLUTION 368. Introduced by Mello, 5; Cook, 13; Nordquist, 7.

WHEREAS, on June 4, 2015, the South Omaha Neighborhood Alliance (SONA) will present awards to six distinguished honorees at the annual South Omaha Neighborhood Alliance awards banquet; and

WHEREAS, the 2015 Volunteer of the Year Award will be presented to Mary Ann Krzemien. Mary Ann is receiving this award for her exceptional dedication and service to the South Omaha community. Mary Ann is a founding member of SONA and is active in numerous community initiatives critical to creating a stronger South Omaha. Mary Ann has provided organizational and administrative leadership in SONA and also volunteers her time in animal rescue efforts, the South Omaha Environmental Task Force, traffic safety, and the Dorothy Patach Natural Environmental Area; and

WHEREAS, the 2015 Project of the Year Award will be presented to the Omaha Coalition of Citizen Patrols which operates in over 30 neighborhoods in Omaha to increase public safety and reduce crime. Coalition volunteers also collaborate with local law enforcement during special events, have been called on to assist in criminal investigations, and provide a rapid response team to assist in the search for missing persons; and

WHEREAS, a 2015 Student Volunteer Award will be presented to Jenny Le, a student at Bryan High School in Omaha. Jenny is a member of Latino Leaders where she has volunteered her time in fundraising as well as providing babysitting services during parent-teacher conferences and Latino Night parent meetings. Jenny is a member of Future Farmers of America (FFA) through Bryan High School's Urban Agriculture and Natural Resources Career Academy, receiving a red ribbon in the state FFA competition; and

WHEREAS, a 2015 Student Volunteer Award will be presented to Rukiya Mohamed, a student at Bryan High School in Omaha. Rukiya is a member of Careers for Kids, the Urban League, Safe, Secure, and Disciplined Schools, and the Thrive Club which welcomes refugees and helps them acculturate to Bryan High School and of which Rukiya was elected secretary and public relations chair. Rukiya also volunteers her time at the Open Door Mission and local nursing homes; and

WHEREAS, a 2015 Student Volunteer Award will be presented to Maria Cubilla-Briceno, who is a student at Omaha South High School. Maria is a member of the National Honor Society, student council, Future Business Leaders of America, Senior Class Cabinet, and Character In Action where she has served as a mentor to younger students. Maria has volunteered at the Boys and Girls Club, the Make-A-Wish Foundation, and with the Salvation Army as a bell ringer. Maria maintained a 4.3 grade point average while being involved with these numerous academic and volunteer activities; and

WHEREAS, a 2015 Student Volunteer Award will be presented to Jacqueline Lopez-Ortiz, a student at Omaha South High School. Jacqueline is a member of the National Honor Society and has served as a mentor to younger students. Jacqueline helped raise funds for the American Red Cross, the American Heart Association, and other charities, as well as volunteering at Lydia House and local pediatric hospitals. Jacqueline maintained a 4.1 grade point average while being involved with these numerous academic and volunteer activities as well as being a full-time mother.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the award recipients of the South Omaha Neighborhood Alliance awards banquet and extends its appreciation for their continued service to their local communities and to the State of Nebraska.

2. That a copy of this resolution be given to Mary Ann Krzemien, the Omaha Coalition of Citizen Patrols, Jenny Le, Rukiya Mohamed, Maria Cubilla-Briceno, and Jacqueline Lopez-Ortiz.

Laid over.

MOTION - Override Veto on LB268

Senator Chambers offered his motion, MO135, found on page 1872, that LB268 becomes law notwithstanding the objections of the Governor.

Senator Chambers moved for a call of the house. The motion prevailed with 47 ayes, 0 nays, and 2 not voting.

Senator Chambers requested a roll call vote, in reverse order, on the motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass

notwithstanding the objections of the Governor?" "

Voting in the affirmative, 30:

Baker	Crawford	Hadley	Kolterman	Nordquist
Bolz	Davis	Hansen	Krist	Pansing Brooks
Campbell	Ebke	Harr, B.	Lindstrom	Schumacher
Chambers	Garrett	Hilkemann	McCollister	Seiler
Coash	Gloor	Howard	Mello	Sullivan
Cook	Haar, K.	Kolowski	Morfeld	Williams

Voting in the negative, 19:

Bloomfield	Groene	Kuehn	Riepe	Smith
Brasch	Hughes	Larson	Scheer	Stinner
Craighead	Johnson	McCoy	Schilz	Watermeier
Friesen	Kintner	Murante	Schnoor	

Not voting, 0.

Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

COMMUNICATION

May 27, 2015

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB268 with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB268, notwithstanding the objections of the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO;jk
Enc.

CERTIFICATE

Legislative Bill 268, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature

by the constitutional majority, has become law this 27th day of May 2015.

(Signed) Galen Hadley
President of the Legislature

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 340, 341, 342, 343, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, and 355 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 340, 341, 342, 343, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, and 355.

SENATOR WATERMEIER PRESIDING

AMENDMENT(S) - Print in Journal

Senator Davis filed the following amendment to LB176:
AM1608

(Amendments to Standing Committee amendments, AM495)

- 1 1. Strike amendment 1 and insert the following new amendments:
- 2 1. Strike original section 2 and insert the following new sections:
- 3 Section 1. Section 54-2601, Reissue Revised Statutes of Nebraska, is
- 4 amended to read:
- 5 54-2601 Sections 54-2601 to 54-2631 and section 4 of this act shall
- 6 be known and may be cited as the Competitive Livestock Markets Act.
- 7 Sec. 3. Section 54-2604, Reissue Revised Statutes of Nebraska, is
- 8 amended to read:
- 9 54-2604 (1) Except as provided in subsection (2) of this section, a
- 10 packer shall not:
- 11 (a) Directly or indirectly own, control, or operate a livestock
- 12 operation in this state; or
- 13 (b) Directly or indirectly be engaged in the ownership, keeping, or
- 14 feeding of livestock, other than temporary ownership, keeping, and
- 15 feeding not to exceed fourteen days which is necessary and incidental to,
- 16 and immediately prior to, the process of slaughter.
- 17 (2) Subdivision (1)(b) of this section does not apply to the
- 18 ownership, keeping, or feeding of swine by a packer at one or more
- 19 contract swine operations in this state if the packer does not own, keep,
- 20 or feed swine in this state except for the purpose of the slaughtering of
- 21 swine or the manufacturing or preparation of carcasses of swine or goods
- 22 originating from the carcasses in one or more processing facilities owned
- 23 or controlled by the packer. Agreements for such contract swine
- 24 operations shall be subject to section 4 of this act.
- 25 (3) For purposes of this section, indirectly own, control, or
- 26 operate a livestock operation and indirectly be engaged in the ownership,
- 1 keeping, or feeding of livestock includes:
- 2 (a) Receiving the net revenue or a share of the net revenue derived

3 from a livestock operation or from a person who contracts for the care
4 and feeding of livestock in this state, unless the packer is not involved
5 in the management of the livestock operation;
6 (b) Assuming a morbidity or mortality production risk if the
7 livestock are fed or otherwise maintained as part of a livestock
8 operation in this state, unless the packer is not involved in the
9 management of the livestock operation;
10 (c) Loaning money or guaranteeing, acting as a surety for, or
11 otherwise financing a livestock operation in this state or a person who
12 contracts for the care and feeding of livestock in this state. For
13 purposes of this subdivision, loaning money or guaranteeing, acting as a
14 surety for, or otherwise financing a livestock operation does not include
15 executing a contract for the purchase of livestock by a packer,
16 including, but not limited to, forward contracts, marketing agreements,
17 long-term arrangements, formula arrangements, other noncash sales
18 arrangements, contracts that contain a ledger balance unsecured by
19 collateral of the debtor or other price risk sharing arrangements, or
20 providing an open account or loan unsecured by collateral of the debtor
21 or a ledger balance or loan secured by collateral of the debtor so long
22 as the amount due from the debtor does not exceed one million dollars.
23 After May 27, 1999, it is unlawful for a packer to directly or
24 indirectly be engaged in the ownership, keeping, or feeding of livestock
25 for the production of livestock or livestock products, other than
26 temporary ownership, keeping, and feeding, not to exceed five days,
27 necessary and incidental to the process of slaughter.
28 Sec. 4. (1) For purposes of this section:
29 (a) Association means an organization, corporate or otherwise, with
30 or without capital stock, formed for a common purpose;
31 (b) Contract grower means a person or entity to the extent that
1 person or entity enters into a contract grower agreement;
2 (c) Contract grower agreement means an agreement between a packer
3 and a contract grower for purposes of establishing a contract swine
4 operation;
5 (d) Contract input means a commodity, an organic or synthetic
6 substance, a compound, or a service that is used by a contract grower to
7 produce swine under a contract grower agreement; and
8 (e) Prospective contract grower means a person or entity in active
9 contact with a packer with respect to the establishment of a contract
10 grower agreement.
11 (2) Contract growers and prospective contract growers have the
12 following rights:
13 (a) The right to join or to refrain from joining or belonging to an
14 association of contract growers;
15 (b) The right to lawfully provide statements or information,
16 including to the United States Secretary of Agriculture or to a law
17 enforcement agency, regarding alleged improper actions or violations of
18 law by a packer. This right does not include the right to make statements
19 or provide information if such statements or information are determined
20 to be libelous or slanderous; and

21 (c) The right to file, continue, terminate, or enforce a lien under
22 Nebraska law.
23 (3) Packers shall not engage in the following in connection with
24 contract growers or prospective contract growers:
25 (a) Impose less favorable terms and conditions in contract grower
26 agreements on the basis of a contract grower's or prospective contract
27 grower's membership in a contract grower association or activities in
28 such association;
29 (b) Take action to coerce, retaliate, or discriminate against any
30 contract grower or prospective contract grower because that contract
31 grower or prospective contract grower exercises, or attempts to exercise,
1 any right provided in subsection (2) of this section, including:
2 (i) Any such coercive, retaliatory, or discriminatory action in
3 connection with the execution, termination, extension, or renewal of an
4 agricultural contract between the packer and a contract grower;
5 (ii) Any such coercive, retaliatory, or discriminatory action in
6 connection with the execution, termination, extension, or renewal of a
7 contract grower agreement;
8 (iii) Any such coercive, retaliatory, or discriminatory action in
9 connection with the imposition of discriminatory or preferential terms in
10 a contract grower agreement or the interpretation of the terms of a
11 contract grower agreement in a discriminatory or preferential manner;
12 (iv) Any such coercive, retaliatory, or discriminatory action in
13 connection with the imposition of a penalty, including the unreasonable
14 denial of a reward;
15 (v) Any such coercive, retaliatory, or discriminatory action in
16 connection with the altering of the quality, quantity, or delivery times
17 of contract inputs provided to the contract grower by the packer as
18 required in the contract grower agreement, except that delivery times may
19 be changed by mutual agreement due to weather and market conditions; and
20 (vi) Any such coercive, retaliatory, or discriminatory action in
21 connection with the use of the performance of any other contract grower
22 as a basis for the termination, cancellation, or renewal of a contract
23 grower agreement or to negatively affect the contract grower's
24 compensation, except that nothing in this subdivision shall prohibit a
25 packer from using a program which rewards contract growers with monetary
26 bonuses based on superior performance; and
27 (c) Provide false material factual information to contract growers
28 or prospective contract growers regarding the following:
29 (i) Other contract growers with whom the contract grower or
30 prospective contract grower associates;
31 (ii) An association of contract growers;
1 (iii) An agricultural organization with which the contract grower or
2 prospective contract grower is affiliated; or
3 (iv) The contract grower rights provided in subsection (2) of this
4 section.
5 (4) To the extent applicable to the contract grower agreement, a
6 packer shall provide to the contract grower, upon request, the
7 statistical information and data used to determine payment to the

8 contract grower under the contract grower agreement.
9 (5) To the extent applicable to the contract grower agreement, a
10 packer shall allow a contract grower or a contract grower's designated
11 representative, if within the packer's authority, reasonable access to
12 observe, by actual observation at the time of weighing, the weights and
13 measures used to determine the contract grower's compensation under a
14 contract grower agreement.
15 (6) A packer shall not require a contract grower to make capital
16 investments associated with an existing contract grower agreement that
17 are in addition to the investment requirements of the contract grower
18 agreement unless fair and equitable compensation is paid to the contract
19 grower by the packer in a manner the contract grower agrees to in
20 writing, except that the packer can require a contract grower to make
21 necessary capital improvements at the contract grower's expense to meet
22 statutory or regulatory standards and requirements as a condition to
23 continuing the contractual relationship. If the contract grower cannot
24 reasonably pay for or secure third-party financing for such improvements
25 and modifications, the packer shall attempt to negotiate mutually
26 agreeable financing, terms, and conditions for financing by the packer,
27 enhanced compensation to the contract grower by the packer, or other
28 contract modifications with the contract grower for such mandated
29 improvements or modifications. If the contract grower cannot reasonably
30 pay or secure third-party financing for such improvements or
31 modifications and no mutual agreement is reached with the packer
1 regarding financing, compensation, or other contract modifications,
2 either party may declare a force majeure event under the contract grower
3 agreement. Nothing in this subsection shall affect a contract grower's
4 obligation to reasonably maintain its existing facilities or the
5 facilities as they are improved and modified as referenced in this
6 subsection.
7 (7) Contract growers or prospective contract growers may form and
8 operate an association of agricultural product producers pursuant to the
9 Capper-Volstead Act, 7 U.S.C. 291 and 292, and such an association may
10 negotiate with a packer with respect to the terms of contract grower
11 agreements, including, but not limited to, negotiations related to the
12 compensation to be paid pursuant to contract grower agreements. To the
13 extent that contract growers or prospective contract growers organize
14 such an association:
15 (a) A packer shall not retaliate or discriminate against such
16 contract growers or prospective contract growers because they have
17 organized such an association; and
18 (b) A packer shall negotiate in good faith with any such
19 association.
20 (8)(a) A contract grower who suffers damages as a result of a
21 packer's violation of this section or a contract grower agreement may
22 obtain appropriate legal and equitable relief in a suit against the
23 packer.
24 (b) A prospective contract grower who suffers damages as a result of
25 a packer's violation of this section may obtain appropriate legal and

26 equitable relief in a suit against the packer.
 27 (c) The laws of the State of Nebraska shall be applicable to any
 28 contract grower agreement between a packer and a contract grower located
 29 in the State of Nebraska.
 30 (d) A packer shall not use binding alternative dispute resolution as
 31 a mechanism to resolve any dispute related to, or arising from, this
 1 section or a contract grower agreement.
 2 (e) If the contract grower or prospective contract grower prevails
 3 in such an action against a packer, the contract grower or prospective
 4 contract grower shall be entitled to court costs, reasonable attorney's
 5 fees, and reasonable litigation expenses.
 6 (f) If injunctive relief is sought in such an action, a contract
 7 grower or prospective contract grower shall not be required to post a
 8 bond.
 9 (g) A packer shall not contract to limit the measure of damages
 10 available to a contract grower under Nebraska law.
 11 (h) Except as otherwise provided in this section, a contract grower
 12 or prospective contract grower shall be entitled to damages as provided
 13 by Nebraska law and a packer shall be entitled to defenses as provided by
 14 Nebraska law.
 15 (9) The Attorney General may enforce this section and any of the
 16 rights of contract growers and prospective contract growers identified in
 17 this section against a packer. The Attorney General shall also be
 18 entitled to injunctive relief, if appropriate, in order to redress
 19 violations of this section.
 20 2. Renumber the remaining sections and correct the repealer
 21 accordingly.

Senator Schilz filed the following amendment to LB176:
 AM1755

(Amendments to E and R amendments, ER143)

1 1. Insert the following new sections:
 2 Section 1. Section 54-2601, Reissue Revised Statutes of Nebraska, is
 3 amended to read:
 4 54-2601 Sections 54-2601 to 54-2631 and section 4 of this act shall
 5 be known and may be cited as the Competitive Livestock Markets Act.
 6 Sec. 4. (1) For purposes of this section:
 7 (a) Swine production contract means the agreement between a packer
 8 and a swine production contract grower which establishes a contract swine
 9 operation; and
 10 (b) Swine production contract grower means the person who enters
 11 into a swine production contract with a packer to establish a contract
 12 swine operation.
 13 (2) A swine production contract grower may cancel a swine production
 14 contract by mailing a cancellation notice to the packer not later than
 15 the later of:
 16 (a) Three business days after the date on which the swine production
 17 contract is executed; or
 18 (b) Any cancellation date specified in the swine production

19 contract.

20 (3) A swine production contract shall clearly disclose:

21 (a) The right of the swine production contract grower to cancel the
22 swine production contract;

23 (b) The method by which the swine production contract grower may
24 cancel the swine production contract; and

25 (c) The deadline for canceling the swine production contract.

26 (4) A swine production contract shall contain on the first page a
1 statement identified as the Additional Capital Investments Disclosure
2 Statement, which shall conspicuously state that additional large capital
3 investments may be required of the swine production contract grower
4 during the term of the swine production contract. This subsection shall
5 apply to any swine production contract entered into, amended, altered,
6 modified, renewed, or extended after the effective date of this act.

7 (5) The forum for resolving any dispute among the parties to a swine
8 production contract shall be a court of competent jurisdiction within the
9 state in which the principal part of the performance takes place under
10 the swine production contract.

11 (6) Any swine production contract that contains a provision
12 requiring the use of arbitration to resolve any controversy that may
13 arise under the contract shall contain a provision that allows a swine
14 production contract grower, prior to entering the contract, to decline to
15 be bound by the arbitration provision.

16 (7) Any swine production contract grower that declines a requirement
17 of arbitration pursuant to subsection (6) of this section has the right
18 to seek to resolve any controversy that may arise under the swine
19 production contract using arbitration if, after the controversy arises,
20 both parties consent in writing to use arbitration to settle the
21 controversy.

22 (8) Subsections (6) and (7) of this section shall apply to any swine
23 production contract entered into, amended, altered, modified, renewed, or
24 extended after the effective date of this act.

25 (9) Whenever the Attorney General has reason to believe that a
26 packer is violating this section, he or she shall commence an action in
27 district court to enjoin the violation. The court, upon determination
28 that such packer is in violation of this section, shall assess the packer
29 a fine of not less than one thousand dollars for each day of violation.

30 (10) The Department of Agriculture may adopt and promulgate such
31 rules and regulations regarding swine production contracts as are needed
1 to further protect swine production contract growers from unfair business
2 practices and coercion.

3 2. On page 2, line 16, after the period insert "Any agreement that
4 establishes such a contract swine operation shall be subject to section 4
5 of this act."

6 3. Renumber the remaining sections and correct the repealer
7 accordingly.

COMMITTEE REPORT(S)

Transportation and Telecommunications

LEGISLATIVE RESOLUTION 338. Reported to the Legislature for further consideration with the following amendment:

AM1745

1 1. Strike the original provisions and insert the following new
2 provisions:
3 WHEREAS, the Federal Railroad Administration is in the process of
4 drafting federal rules on the subject of appropriate train crew size; and
5 WHEREAS, the purpose of these rules is to establish minimum
6 requirements for train crew size based on the type of operation; and
7 WHEREAS, the minimum requirements for train crew size are expected
8 to take into account the various safety risks posed to railroad
9 employees, the general public, and the environment; and
10 WHEREAS, the volume of freight transported by rail is particularly
11 heavy through Nebraska, and these freight shipments include hazardous
12 materials such as ethanol, chlorine, and Bakken crude oil; and
13 WHEREAS, former Federal Railroad Administrator Joseph C. Szabo has
14 stated, "We believe that safety is enhanced with the use of a multiple
15 person crew—safety dictates that you never allow a single point of
16 failure. Ensuring that trains are adequately staffed for the type of
17 service operated is critically important to ensure safety redundancy."
18 Accordingly, the safety risks posed by such shipments could be reduced by
19 requiring a train crew of at least two individuals whenever a train or
20 light engine is used in connection with the movement of freight.
21 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED
22 FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:
23 1. That the Legislature urges the Federal Railroad Administration to
24 carefully review the comments and evidence produced by all interested
25 parties, complete the rulemaking process, and adopt a final rule on
26 appropriate train crew size that ensures public safety and promotes the
27 efficient movement of freight, while supporting interstate commerce.
1 2. That a copy of this resolution be sent to Sarah Feinberg, Acting
2 Administrator of the Federal Railroad Administration, and to each member
3 of the Nebraska congressional delegation.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 369. Introduced by Kintner, 2;
Watermeier, 1.

WHEREAS, Greg Olsen has retired as band director at Nebraska City High School where he taught for 12 years; and

WHEREAS, Greg has taught instrumental music in Nebraska for over 30 years; and

WHEREAS, Greg joined the Nebraska National Guard in 1976 and played the saxophone and directed jazz bands in the Nebraska National Guard 43rd Army Band.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Greg Olsen on his retirement from Nebraska City High School and recognizes his many years of teaching instrumental music in Nebraska.

2. That a copy of this resolution be sent to Greg Olsen.

Laid over.

LEGISLATIVE RESOLUTION 370. Introduced by Nordquist, 7; Cook, 13; Harr, B., 8; Howard, 9; Krist, 10; Mello, 5.

WHEREAS, Father Thomas Fangman was awarded the Distinguished Pastor Award by the Elementary Schools Department of the National Catholic Educational Association; and

WHEREAS, the Distinguished Pastor Award is given to honor pastors who have given outstanding support to Catholic elementary education; and

WHEREAS, Father Fangman has been on staff at Sacred Heart School in Omaha for 17 years; and

WHEREAS, Father Fangman has been active in urban Catholic education, including fundraising for Sacred Heart School as well as two other urban schools.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Father Thomas Fangman for being awarded the Distinguished Pastor Award by the National Catholic Educational Association.

2. That a copy of this resolution be sent to Father Thomas Fangman.

Laid over.

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Crawford, Mello - LB306

VISITORS

Visitors to the Chamber were 8 members from Cavett Elementary, Girl Scout Junior Troop #20287; 7 high school students and teacher from Schuyler Central High School; 6 guests of Senators Kolterman and Campbell from Seward and Lincoln; Senator Schnoor's wife, Nickie, and nephews, Jake and Shawn, from Scribner; Rui Shi from Beijing, China, Schuyler Sharp from Lincoln, and Steve and Sarah Achepol from Omaha.

ADJOURNMENT

At 4:04 p.m., on a motion by Senator Kolowski, the Legislature adjourned until 9:00 a.m., Thursday, May 28, 2015.

Patrick J. O'Donnell
Clerk of the Legislature