

**NEBRASKA DAIRY INDUSTRY DEVELOPMENT
BOARD**

Annual Report

July 1, 2017 - June 30, 2018

NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

Annual Report
July 1, 2017 – June 30, 2018

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NEBRASKA MILK PURCHASERS
June 22, 2018

<u>Company</u>	<u>Grade A</u>	<u>Manufacturing</u>	<u>Total</u>
Associated Milk Producers PO Box 430 Freeman, SD 57029	25	4	29
Countryside Dairy 56670 880 Road Hartington, NE 68739	1	0	1
Dairy Farmers of America PO Box 901546 Kansas City, MO 64190-1546	103	0	103
Dean Foods PO Box 1210 LeMars, IA 51031-1210	10	0	10
Land O'Lakes Inc. PO Box 168 Volga, SD 57071	1	0	1
Wells Dairy Inc. #1 Blue Bunny Drive LeMars, IA 50131	2	0	2
Jisa Farm Inc. 2653 Q Road Brainard, NE 68626	1	0	1
West Point Dairy LLC/Grassland N8790 Fairgrounds Ave Greenwood, WI 54437	1	0	1
Clear Creek Organic Farms 82228 499 th Ave Spalding, NE 68665	1	0	1
Justman Dairy (Ben Gotschall provides milk) 3945 Garfield St Lincoln, NE 68506	1	0	1

<u>Company</u>	<u>Grade A</u>	<u>Manufacturing</u>	<u>Total</u>
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Wakefield Farms, LLP – Agropur 86051 588 th Ave Emerson, NE 68733	1	0	1
McCarty Farms Beaver City, LLC 42426 Road 713 Beaver City, NE 68926	1	0	1
TOTALS:	148	4	152

GOAT

Dutch Girl Creamery 1
2201 W. Denton Rd
Lincoln, NE 68523

Victory Hill Farm LLC 1
200444 CRF
Scotsbluff, NE 69361

SHEEP

Halligan Enterprises 1
P.O. Box 96
Bushnell, NE 69128

NDID Board - Directory

6/7/2018

Bill Thiele

Thiele Dairy
PO Box 41 611 Colorado
Clearwater, NE 68726
Home: (402) 485-2355
Mobile: (402) 649-2608
Work:
Fax:
Email: tldairy@nntc.net
Represents: At Large
Board Position Type: Director - Appointed
Officer Position: None
Ships Milk To: Deans Foods - Corporate
Term End Date: 11/2/2019

Jim Eschliman

Eschliman Family Dairy
82793 494th Ave.
Ericson, NE 68637
Home: (308) 653-2127
Mobile: (308) 750-0974
Work:
Fax: (308) 653-2127
Email: jeschliman@hotmail.com
Represents: At-Large
Board Position Type: Member
Officer Position: Chair
Ships Milk To: Dairy Farmers of America, Inc.
Term End Date: 11/2/2020

Mat Habrock

Nebraska Department of Agriculture
P.O. Box 94947
Lincoln, NE 68509
Home:
Mobile: (402) 499-4572
Work: (402) 471-2341
Fax:
Email: mat.habrock@nebraska.gov
Represents: NE Dept of Ag
Board Position Type: Ex Officio - Government
Officer Position: None
Ships Milk To: Not Applicable
Term End Date: 1/2/2099

Mike Henn

Henn House Dairy Inc.
54615 1/2 Mile Rd.
Norfolk, NE 68701
Home: 402-675-2449
Mobile:
Work:
Fax:
Email: hhdairy@frontiernet.net
Represents: Other First Purchaser
Board Position Type: Member
Officer Position: None
Ships Milk To: Land O' Lakes, Inc. - Corporate
Term End Date: 11/2/2018

Lowell Mueller

Vi-View Farms
27268 Cty.Rd. 14
Hooper, NE 68031
Home: (402) 654-3575
Mobile: (402) 720-0264
Work: (402) 654-3418
Fax: (402) 654-3575
Email: loismueller_51@hotmail.com
Represents: DFA
Board Position Type: Member
Officer Position: Vice Chair
Ships Milk To: Dairy Farmers of America, Inc.
Term End Date: 11/2/2020

Kent Pulfer

M.P.M.
811 Brooke Dr.
Wayne, NE 68787-1248
Home: (402) 375-2285
Mobile: (402) 369-0918
Work:
Fax:
Email: mpm@inebraska.com
Represents: Other First Purchaser
Board Position Type: Member
Officer Position: None
Ships Milk To: Wells Dairy, Inc. - Corporate
Term End Date: 11/2/2019

Joyce Racicky

Elk Creek Dairy
78074 Elk Creek Rd.
Mason City, NE 68855
Home:
Mobile: (308) 212-0542
Work: (308) 732-3263
Fax: (308) 732-3263
Email: racickygregjoyce@yahoo.com
Represents: DFA
Board Position Type: Member
Officer Position: None
Ships Milk To: Dairy Farmers of America, Inc.
Term End Date: 11/2/2020

Doug Temme

Temme Agri-Business Inc
57618 858th Rd.
Wayne, NE 68787
Home:
Mobile: (402) 375-0542
Work: (402) 375-4191
Fax:
Email: temmdo@gmail.com
Represents: AMPI
Board Position Type: Member
Officer Position: Secretary/Treasurer
Ships Milk To: AMPI - Corporate Office
Term End Date: 11/2/2019

**NEBRASKA DAIRY INDUSTRY DEVELOPMENT
BOARD**

Financial
Reports

NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD
FISCAL REPORT
JULY 1, 2017 - JUNE 30, 2018

DESCRIPTION	FY 2017-18 BUDGET	JUNE 2018	FY 2017-18 YR-TO-DATE	% OF BUDGET
BEGINNING CASH BALANCE	\$ 120,211	\$ 132,255.35	\$ 120,210.81	
REVENUE:				
Dairy Checkoff	\$ 1,491,500	\$ 125,791.29	\$ 1,458,004.13	
Penalty	100	0.00	158.52	
Other Revenue	25	0.00	25.00	
Investment Interest	2,300	280.85	2,914.02	
Total Revenue	<u>\$ 1,493,925</u>	<u>\$ 126,072.14</u>	<u>\$ 1,461,101.67</u>	98%
TOTAL AVAILABLE CASH	\$ 1,614,136	\$ 258,327.49	\$ 1,581,312.48	
EXPENDITURES:				
Fee Collection Contract	\$ 6,830	\$ 224.33	\$ 6,830.00	
Midwest Dairy Association	1,486,012	125,551.59	1,361,050.44	
Southwest Dairy Association	0	5,688.56	80,092.50	
Board Expense	1,000	585.19	590.22	
DAS Assessments	1,400	0.00	1,171.00	
Annual Audit	6,000	0.00	5,300.50	
Total Expenditures	<u>\$ 1,501,242</u>	<u>\$ 132,049.67</u>	<u>\$ 1,455,034.66</u>	97%
Adj. to fund bal.	0	0.00	0.00	
ENDING CASH BALANCE	<u><u>\$ 112,894</u></u>	<u><u>\$ 126,277.82</u></u>	<u><u>\$ 126,277.82</u></u>	

* The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year Elapsed: 100%

FY 15-16 Revenue to Date: \$ 1,413,467.86 FY 15-16 Expenditures to Date: \$ 1,401,523.74

DESCRIPTION	CONTRACT AMOUNT	JUNE 2018	FY 2017-18 YR-TO-DATE
Department of Agriculture Contract			
Fee Collection	\$ 1,200	\$ 69.54	\$ 1,454.50
Budget & Accounting	3,765	143.57	3,588.05
Auditing	1,865	11.22	1,787.45
Total	<u><u>\$ 6,830</u></u>	<u><u>\$ 224.33</u></u>	<u><u>\$ 6,830.00</u></u>

**Midwest Dairy Association
Nebraska Division
July 1, 2017 - June 30, 2018**

REVENUE:

NDIDB Checkoff Revenue \$ 1,359,268

EXPENSES:

Innovation:

DMI Projects (incl. UDIA Membership)	348,055
Business Development	181,276
Product & Economic Research - Midwest Dairy Foods Research Center	62,110

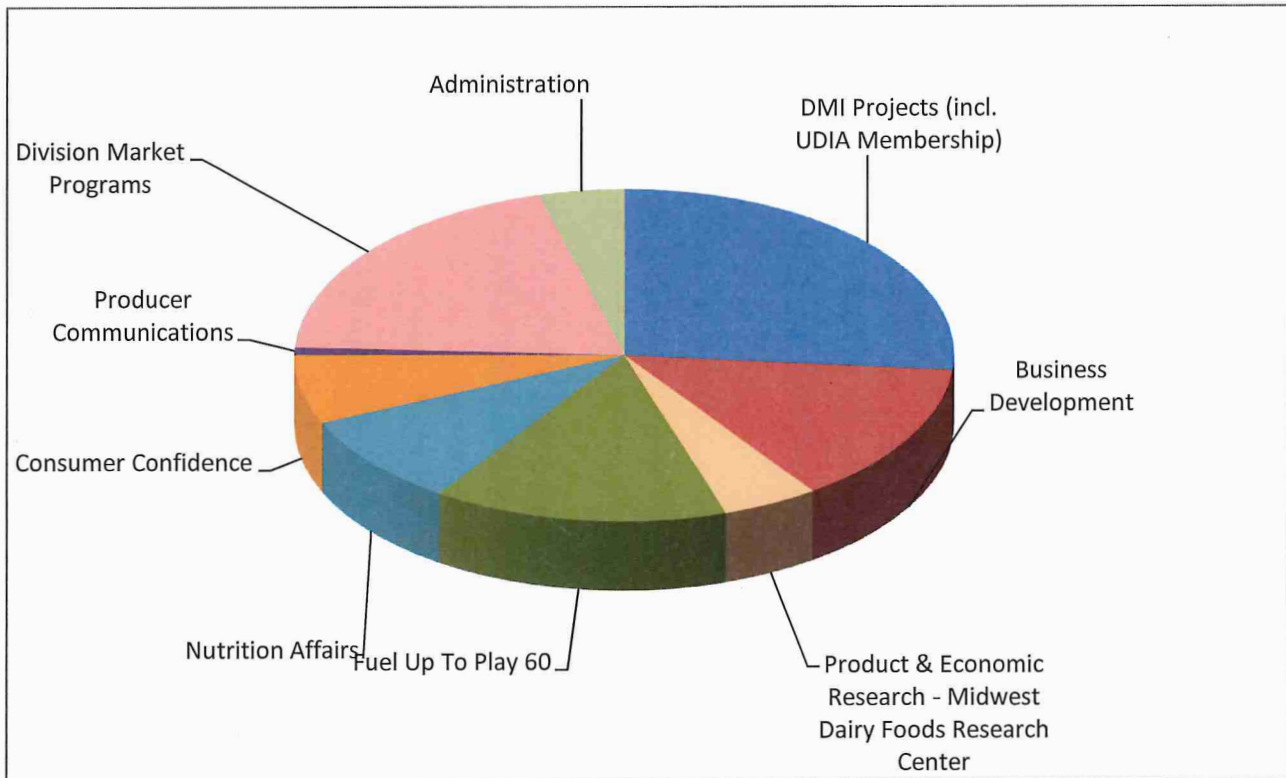
Health & Wellness:

Fuel Up To Play 60	190,147
Nutrition Affairs	117,723

Consumer Confidence	87,930
Producer Communications	9,796
Division Market Programs	262,505
Administration	55,192

Total Expenses **\$ 1,314,734**

Excess of Revenue over Expenses **\$ 44,534**



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Cash Basis

Southwest Dairy Museum, Inc.
Receipts and Disbursements
July 2017 through June 2018

	<u>Jul '17 - Jun ...</u>
Income	
4000 - Income	<u>4,867,984.52</u>
Total Income	<u>4,867,984.52</u>
Gross Profit	<u>4,867,984.52</u>
Expense	
6000 - Basic Expenses	<u>3,038,139.28</u>
7000 - Special Promo Program Expen...	<u>1,269,348.66</u>
8000 - Capital Asset Expenses	<u>252,068.66</u>
Total Expense	<u>4,559,556.60</u>
Net Income	<u><u>308,427.92</u></u>

Supplemented Information for Annual Reporting Purposes:

NDIDB Checkoff Funds Received **\$ 80,093**

NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

Dairy Promotion Organizations

Nebraska dairy farmers pay checkoff of fifteen cents per hundred-weight of milk they produce. The checkoff is collected by the first purchaser of each producer's milk. Five cents is sent to the National Dairy Board which provides funds for the national Unified Marketing Plan (UMP) developed by Dairy Management, Inc. The other ten cents is paid to the Nebraska Dairy Industry Development Board (NDIDB). The NDIDB funds USDA qualified program organizations for dairy promotion activities. The NDIDB is itself a USDA qualified program organization.

During the period July 1, 2017 through June 30, 2018, NDIDB funded the following two qualified program organizations:

1. Midwest Dairy Association (Midwest Dairy). Under contract, Midwest Dairy implemented programs intended to contribute to the betterment of Nebraska's dairy farmers and the state's dairy industry, including 1) the local components of the UMP, 2) the national UMP funding commitment, and 3) other promotion programs in Nebraska consistent with the interests of Nebraska dairy producers. Programs funded during the period are further described in the Promotion Highlights.
2. Southwest Dairy Farmers (Southwest Dairy). Under contract, Southwest Dairy began implementing Mobile Dairy Classroom programs in Nebraska. Programs are further described in the Report of Activities.

Nebraska Dairy Promotion Highlights

July 1, 2017 - June 30, 2018

Midwest Dairy works with the national dairy checkoff to build dairy trust and sales and to ensure dairy farmers' investment is effective and efficient. Our goal is to bring dairy to life by giving consumers an excellent dairy experience. The impact of national programs—such as partnerships with McDonald's, Domino's, Pizza Hut and Taco Bell—help increase sales of dairy, while local strategies—such as collaboration on the Undeniably Dairy campaign, working with and through thought leaders and helping dairy farmers tell their stories—help build overall consumer trust.

With these priorities in mind, this past year, Midwest Dairy worked with Nebraska schools to increase dairy consumption and supported student activity via Fuel Up to Play 60. We reached out to thought leaders, including health and wellness professionals and industry leaders, to help them better understand how dairy foods get from the farm to the store. Additionally, Midwest Dairy supported the national Undeniably Dairy campaign, pursued research benefiting our product priorities and provided research and insights to local companies.

The following are examples of Midwest Dairy's work in Nebraska, representing the implementation of the national plan and activities unique to Nebraska and the region.

Fuel Up to Play 60 Continues Efforts Toward Healthier Nebraska Students



Dairy farmer Jodi Cast shares her farm story with students at Lefler Middle School.

Midwest Dairy celebrated the efforts of the more than 336,000 students and program advisors from 878 Nebraska schools working to make wellness part of the game plan at their school as part of the Fuel Up to Play 60 program. Here are some ways the Fuel Up to Play 60 program has come to life in Nebraska:

This year, Midwest Dairy was invited to speak at a conference led by the Nebraska Department of Education to share farm-to-school resources to all Nebraska schools. Through Fuel Up to Play 60, funding is available to schools to support their efforts to connect to local farmers to learn more about farm-to-table stories. In partnership with Discovery Education, Midwest Dairy also

offered a virtual field trip and other virtual experiences to visit a dairy farm for schools who might not have the opportunity to visit a farm in person.

- Through Fuel Up to Play 60 farm-to-school outreach, Nebraska dairy farmer Jodi Cast, a new board member for the Nebraska division, visited Lefler Middle School in Lincoln to share stories about how milk gets from the farm to the store. She talked about her dairy farm and answered questions about dairy farming. Lefler Middle School has been involved in Fuel Up to Play 60 for many years, and the Nebraska Student Ambassador, Mateo Perales, attends this school.
- Midwest Dairy also sponsored a session at the Nebraska School Nutrition Association (SNA) conference which featured a panel of school nutrition directors from various districts who have implemented successful alternative breakfast programs, increasing access to nutritious foods as students start their school day. The panel discussion was attended by more than 100 foodservice professionals from across the state eager to take away best practices to use in their schools. Nebraska is ranked 49th out of 50 in terms of school breakfast participation. As part of the United States Department of Agriculture National School Breakfast Program, milk is offered on every breakfast tray and cheese and yogurt are also often on the menu. Increased breakfast participation means more dairy being sold in schools. The breakfast participation in Nebraska has increased more than 5 percent in the past five years.
- Midwest Dairy also worked with school food service directors in Nebraska who were interested in providing popular coffee-based milk beverages to high school students. Through a partnership with Franke Coffee Systems, Midwest Dairy provided up to \$5,000 toward the cost of coffee machines. Various schools in Nebraska participate in this project, including Millard Public, Elkhorn Public and North Platte. These special milk-based coffee projects have impacted milk sales. Millard Public Schools in Nebraska sold around 9,500 coffee drinks last year, which equals 4,750 pounds of milk.

Midwest Dairy Continues to Support Nebraska Food Banks



KC Wolf visits students in Nebraska to reward them for their support of local food banks.

This year, three schools throughout the state received a special visit from KC Wolf, the Kansas City Chiefs mascot, as a reward for being a winner of the Pints to Gallons contest in the Omaha metro community. Pints to Gallons is a partnership between Midwest Dairy, Food Bank for the Heartland and the Alliance for a Better Omaha. Fuel Up to Play 60 schools in Omaha were encouraged to participate by raising money for the food bank to purchase milk for food pantries.

The schools raised more than \$10,000 for the food bank to purchase milk for families in need. Dan Meers, otherwise known as KC Wolf, talked with students about the importance of health and wellness and how staying active and eating healthy foods, including dairy, will help them stay strong and healthy. KC Wolf visited approximately 450 students at Hartman Elementary in Omaha, 350 students at West Dodge Station in Elkhorn and 350 students at Rumsey Station in Papillion.

Farm Tours Help Provide Dairy Background to Influential Leaders



Dietetic interns visit Butler County Dairy and learn about life on the farm.

Learning where our food comes from continues to be a topic of interest among consumers, educators and everyone in between. In honor of National Dairy Month, Midwest Dairy offered a farm tour to dietetic interns from the University of Nebraska-Lincoln (UNL) and the University of Nebraska Medical Center offering up-and-coming nutrition professionals the opportunity to visit Butler County Dairy near Rising City where they learned about animal care and a cow's diet and spent time in the milking parlor where milk quality and safety were discussed.

Nebraska Extension also led a group of Extension staff, master gardeners, and agribusiness professionals on a tour of three farms, including Prairieland Dairy near Firth. Attendees learned about on-farm practices, cow care and comfort, and milk safety and quality. Nebraska Extension plans to continue to offer tours like this for influencer groups to learn more about where food comes from. Their partnership and advocacy for dairy and dairy farming continues to be an opportunity to educate others through trust and transparency in the on-farm experience.

University of Nebraska Hosts Session on Fermented Foods

For many years, cultures around the world have used bacteria and other microorganisms to transform foods into nutritious products consumers enjoy. With this in mind, this year, Midwest Dairy, the National Dairy Council (NDC) and the University of Nebraska-Lincoln (UNL) hosted a symposium on the health benefits of fermented dairy foods and related food safety considerations. The event focused on bacteria in fermented foods, including yogurt, kefir and cheese, and highlighted current science showcasing the positive impact these microorganisms have on overall health. The symposium was well attended by key partners including Wells Enterprises, Hy-Vee, the U.S. Food and Drug Administration, Dean Foods, HP Hood, Fairlife, Conagra and General Mills.



Fermented foods, including yogurt, include good microorganisms that have a positive impact on overall health.

Bringing Dairy to Life for Consumers Throughout Nebraska

This year marked the 28th year that Omaha's Henry Doorly Zoo featured dairy at its Moo at the Zoo event during National Dairy Month. For the ninth year, Engelman's Classic Dairy displayed six dairy breeds, bringing the farm to 29,000 zoo visitors. More than 100 dairy farmers and their families talked to zoo visitors and encouraged them to engage with the animals and learn more about where dairy comes from. Visitors also participated in a zoo scavenger hunt and were asked to take pictures of things around the zoo that connected them to life on a dairy farm, including water, sand and feeding. Nebraska Governor Pete Ricketts also attended and shared a milk toast, proclaiming June as Dairy Month in Nebraska.



Governor Ricketts shared a milk toast with Division Board Chair Mary Temme and dairy princess Elizabeth Junck.

The night before the Moo at the Zoo event kicked off, Midwest Dairy celebrated a Dinner with Dairy and invited local community leaders to join dairy farmers for dinner and to ask questions and learn about life on the farm.

Midwest Dairy also partnered with Southeast Community College, through their culinary arts department, and Prairieland Dairy near Firth to host a Dairy from Farm to Table food and culinary experience. Participants visited Prairieland Dairy to learn about the day in the life of a dairy farmer and discussed a variety of topics including cow care, technology on the farm and on-farm sustainability practices. Following the farm tour, Alice Henneman, a registered dietitian with Nebraska Extension, shared smart strategies for reducing food waste at home or in a foodservice setting. Participants also enjoyed a cheesemaking activity showcasing the joy of dairy foods with an Undeniably Dairy theme and further sharing on social media.

Board Leadership Steers Midwest Dairy Nebraska Division



Nebraska Division officers for 2018 include, from left: Secretary/Treasurer, Deb Eschliman, Chair, Mary Temme and Vice Chair, Joyce Racicky

The Nebraska Division board of Midwest Dairy elected its 2018-2019 officers during its annual meeting in April. The following dairy farmers were elected:

- Chair: Mary Temme, Wayne;
- Vice Chair: Joyce Racicky, Mason City; and
- Secretary/Treasurer: Deb Eschliman, Ericson.

Lowell Mueller, Hooper, and Mary Temme were chosen to continue representing Nebraska on the Midwest Dairy Corporate board.

Nebraska Dairy Leaders Attend Governor's Ag Conference



Lowell Mueller, Bill Thiele, UNL Athletic Director Bill Moos and Rod Johnson discuss dairy issues.

Nebraska dairy was represented at this year's Governor's Ag Conference. Lowell Mueller, Midwest's Nebraska Division chair; and Bill Thiele, Nebraska State Dairy Association president, joined Midwest Dairy staff to discuss several topics relevant to the dairy industry with Governor Ricketts and Director of Ag Steve Wellman, along with about 30 other ag organizations during the morning breakfast. During the discussion, the dairy leaders highlighted efforts in schools, activities with influencers and other events that bring dairy to life to consumers throughout the state.

Midwest Dairy Sponsors Speakers on Dairy-Related Topics

Midwest Dairy continued to sponsor speakers at a variety of industry conferences on dairy-related topics. For example:

- Brenda Jacob, registered dietitian, spoke about upcoming changes to the nutrition label on food to the 200 dietitians attending the Nebraska Academy of Nutrition and Dietetics Conference. Jacob is the labeling manager for Land O'Lakes and oversees labeling and regulatory compliance for the company's Dairy Foods and Animal Feed divisions. She shared good news for dairy, in that changes to the nutrition label will include the percent of daily value for calcium, vitamin D and potassium which are all nutrients found in dairy products.
- Alan Sarka, a physical education teacher at Neihardt Elementary in Omaha, presented information on the importance of integrating nutrition into physical education classes through Fuel Up to Play 60 to attendees of the Nebraska SHAPE Conference which includes physical education educators from across the state. Sarka has been implementing



Alan Sarka presents at the Nebraska SHAPE conference.

Fuel Up to Play 60 in his elementary school for several years and currently has 35 Fuel Up to Play 60 student ambassadors who lead Fuel Up to Play 60 activities at school.

- Midwest Dairy staff in Nebraska have had the opportunity to share dairy-related resources for patient education at the Nebraska Academy of Family Physicians annual conference for the past few years. In an added collaboration, this year, Midwest Dairy presented a lunchtime session to Thayer County Medical Center hospital staff on the DASH diet, Dietary Approaches to Stop Hypertension. The presentation highlighted existing and new research outlining the benefits of consuming a diet high in fruits and vegetables as well as dairy foods, and the impact of the diet on reducing or preventing high blood pressure (hypertension). Attendees noted they felt this "was the best kept secret" out there, as they had not been introduced to the DASH approach previously. We also had the opportunity to discuss the dairy industry with members of the Nebraska L.E.A.D. class as they prepare to be future ag industry leaders.

Nebraska Dairy Ambassador Program Kicks Off Third Year

For the third year, Midwest Dairy collaborated with Nebraska Dairy Extension to offer a Nebraska Dairy Ambassador program, giving six students the opportunity to learn more about dairy production through dairy farm tours, job shadows and community events. Ambassadors also communicate their passion for the dairy industry and engage with consumers at a variety of events throughout the year including the Nebraska Agriculture Youth Institute, Moo at the Zoo and the Nebraska State Fair. Ambassadors receive a scholarship from Midwest Dairy at the completion of the program.



Nebraska Dairy Ambassadors were introduced at this year's Nebraska Dairy Convention.

State Fair Reaches Consumers with All Things Dairy



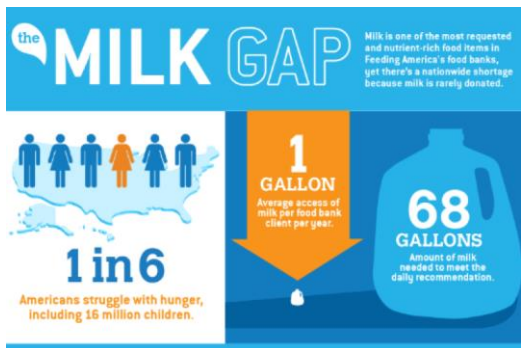
Students learn about dairy foods at the Raising Nebraska display.

The Nebraska State Fair offered three days of the State's Largest Classroom where nearly 3,000 students visited the fairgrounds, participating in various educational experiences related to agriculture. Midwest Dairy, through support from Dairy Farmers of America and Hiland Dairy, offered nearly 1,500 students a morning break featuring half-pint bottles of milk.

The students also learned about the path milk follows from the cow to the store and about the value of dairy products in their diet. Midwest Dairy also

sponsored the state fair milking parlor, where consumers can visit with dairy farmers and learn about the care that they take to provide quality dairy products.

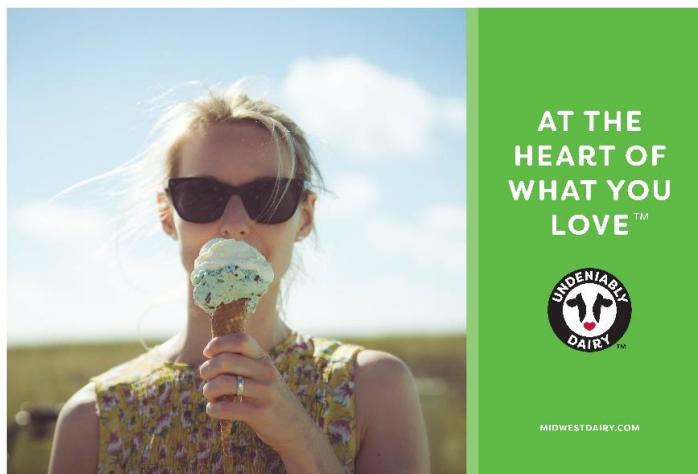
Milk 2 MyPlate Program Launches in Omaha Providing a New Channel for Milk Sales



Milk is one of the most requested items at Nebraska food banks.

Building on a three-year collaboration with the Food Bank for the Heartland, Hunger Free Heartland and the Alliance for a Better Omaha to increase milk donations to local food banks, Midwest Dairy introduced a new Milk2MyPlate model this year that allows the food bank and Hiland Dairy to partner to determine a process to deliver a consistent supply of milk to food pantries. The pilot project kicked off in November, with an order of 750 half gallons per week to local pantries, with the opportunity to grow and include other pantries across the state. The new partnership opens a new channel for milk sales in the Nebraska market, while delivering dairy goodness to so many families in need.

Undeniably Dairy is at the Heart of What You Love



Midwest Dairy continued to support the Undeniably Dairy campaign throughout the year.

Midwest Dairy continued to support the Undeniably Dairy campaign, a multi-year program that unites the dairy industry with one voice to help reconnect consumers with dairy. It has been the centerpiece of the dairy community's consumer outreach and loudly and proudly reminds them of all the reasons they love nutrient-rich dairy products, while showcasing the dairy community's commitment to animal care, their local communities, and the environment.

The campaign is built on four messaging pillars which tell dairy's story: Dairy is Responsibly Produced, Locally Driven, Nutrient-Rich and offers Real Enjoyment. The campaign has clearly caught

people's attention and played out in our region and nationally in many ways: online, in the media, at local events, and through partnerships. The entire value chain has been engaged, with nearly 300 partners—including retail, foodservice and processors—sharing the campaign's messages.



Southwest Dairy Farmers

2018 - 2019

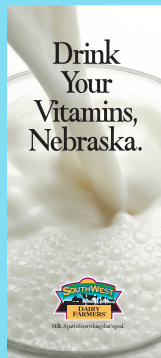
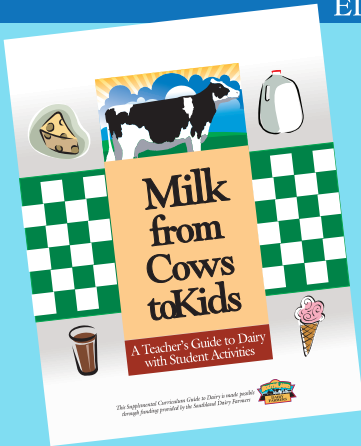
Proposed Promotional Activities in Nebraska

MOBILE DAIRY CLASSROOM



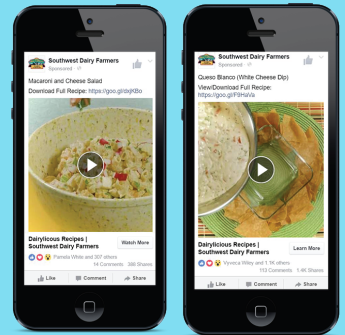
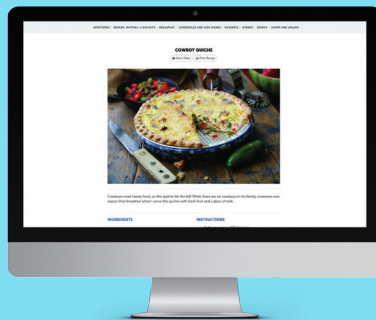
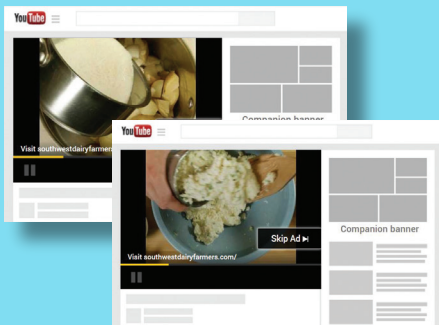
The Mobile Dairy Classroom is a traveling, fully operational milking parlor, featuring a live cow. This education initiative reaches over 700,000 children and consumers each year.

EDUCATIONAL MATERIALS AND PROGRAMS



Additional educational aids provide guidelines for teachers and information for students to reinforce healthy eating habits. Programs such as the Yogurt for Youth initiative bring the story of dairy and dairy products to young, developing minds.

DIGITAL PROMOTION AND SOCIAL MEDIA



Using Facebook, Google, and YouTube, we are promoting a variety of dairy recipes with our short and entertaining Dairylicious videos. Consumers are interacting positively with our videos via social media, by sharing content and telling and showing others how they are preparing our recipes.

EDUCATIONAL EVENTS AND TRADE SHOWS



Taking our message on the road allows us to reach consumers in engaging settings. Serving everything from butter rolls to cheese quesadillas, or handing out promotional bags and educational material, our presence at State Fairs and Trade Shows is always noticed.

UNIVERSITY ATHLETICS PROMOTIONS



Southwest Dairy Farmers has entered into a partnership with Creighton Athletics. We will distribute drawstring backpacks to Nebraska's youth at highly-visible sporting events to including basketball, baseball, and soccer.

A DAIRY PROMOTION PARTNERSHIP



Southwest Dairy Farmers is committed to local consumer-driven marketing, advertising, and promotion of the dairy industry, and your dairy's role in it.

**NEBRASKA DAIRY INDUSTRY DEVELOPMENT
BOARD**

Dairy Industry
Development
Act

DAIRY INDUSTRY DEVELOPMENT ACT

- Administration: This Act is administered by the Nebraska Dairy Industry Development Act Board. The Department of Agriculture is involved with some of these sections.
- Adoption: This act was last revised during the 2013 session of the Nebraska Legislature.
- Rules: The Nebraska Department of Agriculture has no authority to promulgate regulations under this Act. The Dairy Industry Development Board, however; has promulgated a regulation under this Act, known as Title 484, Chapter 1 – Dairy Industry Development Board Regulations.

Index

<u>Section</u>	<u>Subject</u>
2-3948.	Act, how cited.
2-3949.	Terms, defined.
2-3950.	Legislative findings.
2-3951.	Nebraska Dairy Industry Development Board; created; members; qualifications.
2-3951.01.	Board members; appointment; terms; officers; expenses.
2-3951.02.	Board members; nomination and appointment.
2-3951.03.	Board members; vacancies.
2-3951.04.	Board members; nominations; notification; procedure.
2-3955.	Board; meetings; minutes.
2-3956.	Board; administration; limitation on expenses.
2-3957.	Board; powers and duties.
2-3958.	Mandatory assessment; board; duties.
2-3959.	Assessment; payment; procedures.
2-3960.	Nebraska Dairy Industry Development Fund; created; use; investment.
2-3961.	Use of funds; limitations.
2-3962.	Board; report; contents.
2-3963.	Violations; penalties; unpaid assessment; late payment fee.

2-3948. Act, how cited.

Sections 2-3948 to 2-3963 shall be known and may be cited as the Dairy Industry Development Act.

Source: Laws 1992, LB 275, § 1; Laws 2001, LB 194, § 1; Laws 2004, LB 836, § 1.

2-3949. Terms, defined.

For purposes of the Dairy Industry Development Act:

- (1) Board shall mean the Nebraska Dairy Industry Development Board;
- (2) Commercial use shall mean sale for retail consumption or sale for resale, for manufacture for resale, or for processing for resale;
- (3) First purchaser of milk shall mean a person who buys milk from a producer and resells to another person the milk or products manufactured or processed from the milk;
- (4) Milk shall mean any class of cow's milk produced in the State of Nebraska;
- (5) Milk production unit shall mean any producer licensed by the Department of Agriculture;
- (6) Producer shall mean any person engaged in the production of milk for commercial use;
- (7) Producer-processor shall mean a producer who processes and markets the producer's own milk; and
- (8) Qualified program shall mean any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. 1150.153, as amended. Such program shall: (a) Conduct activities as defined in 7 C.F.R. 1150.114, 1150.115, and 1150.116 intended to increase consumption of milk and dairy products generally; (b) except for programs operated under the laws of the United States or any state, have been active and ongoing before November 29, 1983; (c) be financed primarily by producers, either individually or through cooperative associations; (d) not use any private brand or trade name in advertising and promotion of dairy products unless the National Dairy Promotion and Research Board established pursuant to 7 C.F.R. 1150.131 and the United States Secretary of Agriculture concur that such requirement should not apply; (e) certify to the United States Secretary of Agriculture that any request from a producer for a refund under the program will be honored by forwarding that portion of such refund equal to the amount of credit that otherwise would be applicable to the program pursuant to 7 C.F.R. 1150.152(c) to either the National Dairy Promotion and Research Board or a qualified program designated by the producer; and (f) not use program funds for the purpose of influencing governmental policy or action.

Source: Laws 1992, LB 275, § 2.

2-3950. Legislative findings.

The Legislature declares it to be in the public interest that producers in Nebraska be permitted and encouraged to maintain and expand domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices relating to marketing or processing of milk and dairy products, and inform and educate consumers of sound nutritional principles including the role of milk in a balanced diet. It is the purpose of the Dairy Industry Development Act to provide the authorization and to prescribe the necessary procedures by which the dairy industry in Nebraska may finance programs to achieve the purposes expressed in this section. The Nebraska Dairy Industry Development Board shall be the agency of the State of Nebraska for such purpose.

Source: Laws 1992, LB 275, § 3.

2-3951. Nebraska Dairy Industry Development Board; created; members; qualifications.

The Nebraska Dairy Industry Development Board is hereby created. Members of the board shall (1) be residents of Nebraska, (2) be at least twenty-one years of age, (3) have been actually engaged in the production of milk in this state for at least five years, and (4) derive a substantial portion of their income from the production of milk in Nebraska. Board members shall be nominated and appointed as provided in sections 2-3951.01 to 2-3951.04.

Source: Laws 1992, LB 275, § 4; Laws 2004, LB 836, § 2; Laws 2013, LB70, § 1.

2-3951.01. Board members; appointment; terms; officers; expenses.

(1) Members of the board shall, as nearly as possible, be representative of all first purchasers of milk and individual producer-processors in the state and, to the extent practicable, result in equitable representation of the various interests of milk producers both in terms of the manner in which milk is marketed and geographic distribution of milk production units in the state.

(2) The terms of the members of the board shall be three years, except that the first term of the initial and additional members of the board shall be staggered so that one-third of the members are appointed each year. The number of years for the first term of new and additional members shall be determined by the Governor. Once duly appointed and qualified, no member's term shall be shortened or terminated by any subsequent certification by the Department of Agriculture of milk production units from which a first purchaser of milk purchases milk.

(3) The Director of Agriculture or his or her designee shall be an ex officio member of the board but shall have no vote in board matters.

(4) Members of the board shall elect from among the members a chairperson, a vice-chairperson, and such other officers as they deem necessary and appropriate.

(5) Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2004, LB 836, § 3; Laws 2013, LB70, § 2.

2-3951.02. Board members; nomination and appointment.

(1) Members of the board shall be nominated and appointed as follows:

(a) Each first purchaser of milk which purchases milk from at least twenty-one milk producers may submit to the Governor the names of up to two nominees for each forty milk production units, or major portion thereof, from which the first purchaser purchases milk. The Governor shall appoint one member for each forty production units, or major portion thereof, from nominees submitted pursuant to this subdivision, except that if milk production units certified by the Department of Agriculture have decreased so that each board member appointed pursuant to this subdivision represents less than a major portion of forty production units, the Governor shall maintain representation of one member for each forty production units, or major portion thereof, by not filling a vacancy caused by a member's term expiring; and

(b) All other first purchasers of milk and individual producer-processors who are not included among milk production units claimed by a first purchaser of milk entitled to submit nominees under subdivision (1)(a) of this section shall be combined as a group for the purpose of submitting nominees, and each first purchaser and individual producer-processor of the group may nominate up to two nominees. The Governor shall appoint two members from nominees submitted pursuant to this subdivision.

(2) Whenever the number of members of the board as determined by subsection (1) of this section results in less than seven members, the Governor shall appoint a member or members from the state at large to maintain membership of the board at seven members. Whenever such appointment is required, the board shall call for and submit a list of two or more nominees for each additional member needed to the Governor, and the Governor shall appoint a member or members from the nominees submitted pursuant to this subsection.

(3) Nominations in the case of term expiration or new or at-large membership and for all other vacancies shall be provided according to the process prescribed in section 2-3951.04. The Governor may choose the members of the board from the nominees submitted or may reject all nominees. If the Governor rejects all nominees, names of nominees shall again be provided to the Governor until the appointment is filled.

Source: Laws 2004, LB 836, § 4; Laws 2013, LB70, § 3.

2-3951.03. Board members; vacancies.

(1) A vacancy on the board exists in the event of the death, incapacity, removal, or resignation of any member; when a member ceases to be a resident of Nebraska; when a member ceases to be a producer in Nebraska; or when the member's term expires. Members whose terms have expired shall continue to serve until their successors are appointed and qualified, except that if such a vacancy will not be filled, as determined by the Governor under section 2-3951.02, the member shall not serve after the expiration of his or her term.

(2) For purposes of filling vacancies on the board, the Governor shall appoint one member from up to two nominees submitted by the vacating member's nominator under section 2-3951.02. In the event of a vacancy, the board shall certify to the vacating member's nominator that such a vacancy exists and shall request nominations to fill the vacancy for the remainder of the unexpired term or for a new term, as the case may be.

Source: Laws 2004, LB 836, § 5; Laws 2013, LB70, § 4.

2-3951.04. Board members; nominations; notification; procedure.

(1) When nominations for board members are required, written notification shall be given to each producer represented or to be represented by such member, including an at-large member. The first purchaser or purchasers of milk shall notify each producer from whom the first purchaser buys milk that each producer may submit written nominations. If the group represented is a combination of first purchasers of milk and individual producer-processors or if the member is an at-large member, the individual producer-processors shall receive notification from the Department of Agriculture.

(2) Nominations shall be in writing and shall contain an acknowledgment and consent by the producer being nominated. The nomination shall be returned by the producer to the first purchaser of milk or to the department from whom the producer received notification within fifteen days after the receipt of the notification. For nominations to replace a member whose term is to expire or for a new member, the producers shall receive notification between August 1 and August 15 preceding the expiration of the term of the member or the beginning of the term of a new member. For all other vacancies, the producers shall receive notification within thirty days after the member vacates his or her position on the board or within thirty days after the board calls for an at-large member or members as provided in section 2-3951.02.

(3) The first purchasers of milk, the department, or the board shall submit nominations to the Governor by September 30, in the case of term expiration or new or at-large member, or forty-five days after the member vacates his or her position for all other vacancies. The Governor shall make the appointments within thirty days after receipt of the nominations.

(4) All nominees shall meet the qualifications provided in section 2-3951.

Source: Laws 2004, LB 836, § 6; Laws 2013, LB70, § 5.

2-3952. Repealed. Laws 2004, LB 836, § 8.

2-3952.01. Repealed. Laws 2004, LB 836, § 8.

2-3953. Repealed. Laws 2004, LB 836, § 8.

2-3954. Repealed. Laws 2004, LB 836, § 8.

2-3955. Board; meetings; minutes.

(1) The board shall meet at least once every six months at a time and place fixed by the board. Special meetings may be called by the chairperson and shall be called by the chairperson upon request of at least twenty-five percent of the members of the board. Written notice of the time and place of all meetings shall be mailed in advance to each member of the board. A majority of members of the board shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the board shall be necessary for the adoption of rules and regulations.

(2) The board shall at each regular meeting review all expenditures made since its last regular meeting.

(3) The board shall keep minutes of its meetings and other books and records which shall clearly reflect all of the acts and transactions of the board. Such records shall be open to examination during normal business hours.

Source: Laws 1992, LB 275, § 8.

2-3956. Board; administration; limitation on expenses.

The board may contract for the necessary office space, furniture, stationery, printing, and personnel services useful or necessary for the administration of the Dairy Industry Development Act. The total administrative costs and expenses of the board shall not exceed five percent of the annual assessments collected in accordance with section 2-3958.

Source: Laws 1992, LB 275, § 9.

2-3957. Board; powers and duties.

The board shall:

(1) Arrange or contract for administrative and audit services which are necessary for the proper operation of the Dairy Industry Development Act;

(2) Procure and evaluate data and information necessary for the appropriate distribution of funds collected;

- (3) Direct the distribution of funds collected;
- (4) Prepare and approve a yearly budget;
- (5) Adopt and promulgate rules and regulations to carry out the act;
- (6) Establish a means by which all producers are informed annually on board members, policy, expenditures, and programs for the preceding year;
- (7) Authorize the expenditure of funds to conduct activities provided for by the act;
- (8) Bond such persons as necessary to ensure adequate protection of funds;
- (9) Make refunds to other qualified programs in other states and disburse as directed by producers pursuant to subdivision (8)(e) of section 2-3949;
- (10) Require that all books and records which clearly reflect all the transactions of its funded qualified programs be made available for audit by the board;
- (11) Initiate appropriate enforcement of the act and the rules, regulations, and orders promulgated under the act;
- (12) Accept remittances or credits and apply for and accept advances, grants, contributions, and any other forms of assistance from the federal government, the state, or any public or private source for administering the act and execute contracts or agreements in connection therewith;
- (13) When necessary, appoint committees and advisory committees, the membership of which reflects the different funding regions of the United States and of the State of Nebraska in which milk is produced and delegate to such committees the authority reasonably necessary to administer the act under the direction of the board and within the policies determined by the board; and
- (14) Exercise all incidental powers useful or necessary to carry out the act.

Source: Laws 1992, LB 275, § 10.

2-3958. Mandatory assessment; board; duties.

- (1) There shall be paid to the board a mandatory assessment of ten cents per hundredweight on all milk produced in the State of Nebraska for commercial use.
- (2) The board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

(3) For purposes of the act, when milk is sold to an out-of-state purchaser, the sale shall be deemed to have occurred in Nebraska if the milk was otherwise produced within Nebraska immediately prior to such sale and such sale is the first purchase of the milk for commercial use.

(4) For purposes of the act, when milk is produced out-of-state but sold to a first purchaser of milk in Nebraska, the assessment provided for in this section may be assessed and retained in Nebraska only if the producer consents.

Source: Laws 1992, LB 275, § 11.

2-3959. Assessment; payment; procedures.

The assessment prescribed in section 2-3958 shall be paid by producers at the time of first sale or delivery of milk for commercial use and shall be collected by the first purchaser of milk except as provided in this section. The first purchaser of milk shall remit the assessment to the board when the first purchaser of milk issues the milk payroll to producers. When milk is sold by producers to nonresident first purchasers of milk, the nonresident first purchaser of milk shall remit the assessments to the board. Producer-processors shall remit the assessments to the board. All assessments shall be remitted to the board not later than the last day of the month following the month in which the milk was commercially used, and a report shall be filed by the person responsible for remitting the assessment at the time that the assessment is remitted. The board shall make proper refunds to producers pursuant to subdivision (8)(e) of section 2-3949 at least quarterly. The board shall promulgate rules and regulations concerning the payment, remittance, refunding, and reporting of assessments. All money collected by the board shall be remitted to the State Treasurer for credit to the Nebraska Dairy Industry Development Fund.

Source: Laws 1992, LB 275, § 12.

2-3960. Nebraska Dairy Industry Development Fund; created; use; investment.

The Nebraska Dairy Industry Development Fund is hereby created. Money in the fund shall be used for the administration of the Dairy Industry Development Act, including advertising and promotion, market research, nutrition and product research and development, and nutrition and educational programs. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1992, LB 275, § 13; Laws 1994, LB 1066, § 7.

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

2-3961. Use of funds; limitations.

The board shall not set up programs or agencies of its own but shall fund active, ongoing, qualified programs as stated in section 114 of the Dairy Production Stabilization Act of 1983, Public Law 98-180, as amended, and the regulations promulgated pursuant thereto. Funds may be used by qualified programs to jointly sponsor projects with any private or public organization to meet the objectives of the Dairy Industry Development Act.

Source: Laws 1992, LB 275, § 14.

2-3962. Board; report; contents.

The board shall prepare a report on or before October 1 of each year setting forth the income received from the assessments collected in accordance with section 2-3958 for the preceding fiscal year, and the report shall include:

(1) The expenditure of funds by the board during the year for the administration of the Dairy Industry Development Act;

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

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

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

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

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

The board shall submit the report electronically to the Clerk of the Legislature and shall make the report available to the public upon request.

Source: Laws 1992, LB 275, § 15; Laws 2013, LB222, § 1.

2-3963. Violations; penalties; unpaid assessment; late payment fee.

(1) Any person violating any of the provisions of the Dairy Industry Development Act shall be guilty of a Class III misdemeanor.

(2) Any unpaid assessment shall be increased one and one-half percent each month beginning with the day following the date such assessment was due. Any remaining amount due, including any unpaid charges previously made pursuant to this section, shall be increased at the same rate on the corresponding day of each succeeding month until paid.

(3) For purposes of this section, any assessment that was determined at a date later than prescribed by section 2-3959 because of the failure to submit a report to the board when due shall be considered to have been payable on the date it would have been due if the report had been timely filed. The timeliness of a payment to the board shall be based on the applicable postmarked date or the date actually received by the board, whichever is earlier. Any assessments and late payment fees may be recovered by action commenced by the board.

(4) The remedies provided in this section shall be in addition to and not exclusive of other remedies that may be available by law or in equity.

Source: Laws 1992, LB 275, § 16.

NEBRASKA ADMINISTRATIVE CODE

TITLE 484, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1
NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD
DAIRY INDUSTRY DEVELOPMENT BOARD REGULATIONS

December, 2015

MAY 16 2016

NEBRASKA ADMINISTRATIVE CODE

TITLE 484 – NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

CHAPTER 1 - DAIRY INDUSTRY DEVELOPMENT BOARD REGULATIONS

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APPROVED

MAY 16 2016

Pete Ricketts
PETE RICKETTS
GOVERNOR



APPROVED
DOUGLAS J. PETERSON
ATTORNEY GENERAL

APR 25 2016

BY *Emily Rose*
ASSISTANT ATTORNEY GENERAL

NEBRASKA ADMINISTRATIVE CODE

TITLE 484 - NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

CHAPTER 1 - DAIRY INDUSTRY DEVELOPMENT BOARD REGULATIONS

001 Mandatory Assessments.

001.01 Payment. Payment of mandatory assessments shall be made to the Board as set forth in the Dairy Industry Development Act.

001.02 Remittance. The Board shall accept remittances or credits as set forth in the Act.

001.03 Reporting. The Board may audit records of first purchasers, producers and their agents pursuant to the Act.

002 Refunds.

002.01 Refund Request. Producers desiring the redirection of their mandatory checkoff assessment under Neb. Rev. Stat. §2-3958(1) shall make a refund request to the Nebraska Department of Agriculture, P.O. Box 94947, Lincoln, NE, 68509. Refund requests shall be received within sixty days of the date of assessment. A refund request shall contain the following:

002.01A Proof that an assessment has been deducted by a first purchaser, in the form of a copy of a settlement form or check stub, clearly indicating the nature, purpose and amount of the deducted assessment, and the date deducted.

002.01B A statement indicating whether the checkoff assessment is to be redirected to the National Dairy Board or a qualified program designated by the producer.

002.01C If the producer requests that the checkoff assessment be redirected to a qualified program, proof that such program is a "qualified program" as defined pursuant to Neb. Rev. Stat. §2-3949(8).

TITLE 484
CHAPTER 1

002.02 If a producer designates a qualified program in a redirection request rather than the National Dairy Board, the Board shall verify whether the producer's designee is a qualified program as set forth under Neb. Rev. Stat. §2-3949(8).

002.03 If the program designated by the producer is a qualified program under Neb. Rev. Stat. §2-3949(8), funding shall be disbursed after a contract is entered into between the Board and the qualified program.

003 Annotation. Neb. Rev. Stat. §§2-3948 to 2-3963.

APPROVED

MAY 16 2016

Pete Ricketts
PETE RICKETTS
GOVERNOR



APPROVED
DOUGLAS J. PETERSON
ATTORNEY GENERAL

APR 25 2016

BY *Emily Rose*
ASSISTANT ATTORNEY GENERAL

**NEBRASKA DAIRY INDUSTRY DEVELOPMENT
BOARD**

Contracts

NEBRASKA DEPARTMENT OF AGRICULTURE
FEE COLLECTION PROGRAM

ENFORCEMENT PROCEDURES

FOR COLLECTION OF FEES AS PROVIDED FOR
IN THE DAIRY INDUSTRY DEVELOPMENT ACT (SECTION 2-3948)

Requirement:

There shall be paid, to the Nebraska Dairy Industry Development Board, a mandatory assessment of ten cents (10¢) per hundredweight (cwt) on all milk produced in the state of Nebraska for commercial use. The assessment shall be paid by producers at the time of first sale or delivery of milk for commercial use and shall be collected by the first purchaser of milk. Producer/processors shall remit the assessments to the Board. The first purchaser shall maintain the necessary record of fees collected for each purchase of milk produced in the state of Nebraska. All assessments shall be remitted to the Board no later than the last day of month following the month in which the milk was commercially used, and a report shall be filed by the person responsible for remitting the assessment at the time the assessment is remitted.

Any request from a producer for a refund under the Program will be honored by forwarding that portion of such refund equal to the amount of credit, that otherwise would be applicable to the Program, to either the National Dairy Promotion and Research Board or a qualified program designated by the producer.

Definitions:

1. First purchaser of milk shall mean a person who buys milk from a producer and resells to another person the milk or products manufactured or processed from the milk.
2. Board shall mean the Nebraska Dairy Industry Development Board.
3. Commercial use shall mean sale for retail consumption or sale for resale, for manufacturing for resale, or for processing for resale.
4. Milk shall mean any class of cow's milk produced in the state of Nebraska.
5. Milk production units shall mean any producer licensed by the Department of Agriculture.
6. Producer shall mean any person engaged in the production of milk for commercial use.
7. Producer/processor shall mean a producer who processes and markets the producer's own milk.

8. Qualified program shall mean any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. 1150.153.

Confidentiality:

The independent collection agency shall maintain all fee collection records in strict confidence in accordance with State statutes. Only agency total data will be released to the Board or the public upon request. The independent collection agency will release data related to the first purchaser only after written permission is received by the independent collection agency from the Board.

Procedure for Determining First Purchaser:

When a party or board member gives a name of an individual or firm to the Nebraska Dairy Industry Development Board which they believe is a first purchaser of milk and not assessing the checkoff, the Fee Collection Program will take the following action:

1. A letter is written to the individual or firm in question advising that the mailing list is being updated and asking whether or not they are a first purchaser.
2. If they respond they are a first purchaser of milk, they will be set up on the mailing list to receive a monthly notification. A copy of the Statute will be mailed out to them.
3. If they respond they are not a first purchaser of milk, the Fee Collection Program will inform the Dairy Industry Development Board of the response.
4. Board action will determine enforcement action and enforcement steps desired to garner compliance. This may include a request for a special audit or request the State Attorney General Office to initiate legal proceedings in accordance with the law.

Procedure for Collecting the Assessment from First Purchasers:

1. Monthly Notification will be mailed to those first purchasers on the mailing list.
2. Non-respondents will be mailed delinquent second notice letters with penalty due the first week following the month they were due.
 - If the form is received late (according to the postmark), the firm will receive a letter for payment on the penalty.

- If, after the due date, we haven't received the fee form, a letter notifying the firm of being delinquent and having the penalty due will be sent.
 - Penalty assessed shall be 1½% each month, beginning with the day following the date such assessment was due. Any remaining amount due, including any unpaid charges previously made pursuant to the act, shall be increased at the same rate on the corresponding day of each succeeding month until paid.
3. If no response, a third notice notification will be sent (for the appropriate situation in #2) the first week following the month in which the second notice was sent with the penalty added into the letter for each month delinquent. The letter will be jointly signed by the Chairman of the Board and Fee Collection Program.
 4. If, after two weeks, there is no response after the third notice, a call will be made to the firm and a delinquent list will be sent to the Board. Legal enforcement of the Nebraska Dairy Industry Development Board statutory requirements will be the Board's responsibility.
 5. Board action will determine enforcement action and enforcement steps desired to garner compliance. This may include a request for a special audit, or utilizing the State Attorney General's Office to initiate legal proceedings in accordance with the law.

Auditing Procedures:

Audit Authority:

Neb. Rev. Stat. §2-3958(2) R.R.S., 1997, states:

The Board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

Audit Scope:

Neb. Rev. Stat. §2-3958(1) R.R.S., 1997, states:

There shall be paid to the Board a mandatory assessment of ten cents (.10) per hundredweight on all milk produced in the State of Nebraska for commercial use.

The auditor will verify reports submitted to the Dairy Industry Development Board by examining records that may include, but are not limited to, the general ledger and its accounts, purchases journals or registers, check registers, producer accounts, and/or any other record or records which pertain to the assessment or compliance with the Act.

A primary contact person will be noted for use in follow up for making future contact, and will be presented with the results of the audit. The standard audit form presented will serve as a notice of refund due in the case an overpayment, or as an invoice in the case of an underpayment. Payments are to be sent to the customary fee collection agency and not collected by the auditor. The audit results, less any proprietary information, will also be presented to the Board at its next regularly scheduled meeting.

The auditor conducts compliance reviews of first purchasers on a random sample basis. The audit covers a one-year review of the monthly forms that are received. Special audits may also be conducted at the specific request of the Board.

An internal review will be done on a quarterly basis to verify accuracy of the Dairy Industry Development Board fee form data. This review will include a comparison to data received from the National Dairy Promotion and Research Board. Total pounds of milk purchased from pooled and non-pooled sources are compared and a reconciliation is done. In addition, the Nebraska Department of Agriculture will verify Grade A milk purchased by an individual entity to data received by the Department of Agriculture Dairy Regulatory Division under the Nebraska Pasteurized Milk Law. A report of all findings will be discussed at each Nebraska Dairy Industry Development Board meeting. The Milk Market Administrator, not the Department of Agriculture, will be able to verify manufactured milk purchases made. These would be incorporated into first purchaser on-site audits conducted under agreement by the Department of Agriculture and the Board.

The Nebraska Dairy Industry Development Board contracts for fee collection, audit, and fiscal services with the Nebraska Department of Agriculture. The Memorandum of Agreement, entered into annually, details services performed by the Department of Agriculture for the Dairy Industry Development Board and the amount and method of reimbursing costs incurred.

6-16-17
Date

for Robert Storant
Greg Ibach, Director
Department of Agriculture

6-13-17
Date

James Eschleman
Chairman
Nebraska Dairy Industry Development Board

AGREEMENT

between the

NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

and the

NEBRASKA DEPARTMENT OF AGRICULTURE

#18-01-176

This Agreement is entered into by and between the Nebraska Dairy Industry Development Board, (hereafter "Board,") and the Nebraska Department of Agriculture, (hereafter "Department").

PURPOSE: The purpose of this Agreement is that the Board desires the Department to assist the Board in performing fee collection, budget, accounting, and auditing services, and the Department is desirous of providing such assistance.

AUTHORITY: This Agreement is being entered into pursuant to the Dairy Industry Development Act, Neb. Rev. Stat. §§2-3948 to 2-3963 (hereafter "Act") and Neb. Rev. Stat. §§81-201.03 and 81-201.04 authorizing the Department to provide management services.

THEREFORE, in consideration of the covenants herein contained, it is agreed by and between the parties hereto as follows:

A. DESCRIPTION OF WORK

1. The Department agrees to assist the Board from **July 1, 2017, to June 30, 2018**, by providing the following services on a cost reimbursement basis, but such services shall not exceed six thousand eight hundred thirty dollars and no cents (\$6,830.00) in value.
 - a. Fee Collection Services:
 - (1) Distribution of monthly fee forms
 - (2) Processing and return of forms
 - (3) Follow-up on delinquent accounts in accordance with enforcement procedures.
 - (4) Process refunds as requests are made.
 - (5) Update enforcement procedures as needed for Board approval.

- (6) Maintain an updated mailing list of first purchasers.
 - (7) Maintain records in accordance with State record retention schedule.
- b. Fiscal Services:
- (1) Prepare and electronically submit Board approved budget.
 - (2) Perform accounting functions to enable the Board to operate as a State agency.
 - (3) Monitor fund investment.
 - (4) Deposit revenue into Nebraska Dairy Industry Development Cash Fund.
 - (5) Prepare revenue and expenditure documents.
 - (6) Review expenditures for compliance with State guidelines.
 - (7) Prepare a monthly summary of revenue and expenditure fiscal report.
 - (8) Maintain records in accordance with State record retention schedule and LB 429 of 2013 related to State contracts.
- c. Auditing Services:
- (1) Conduct field auditing of first purchaser accounts as authorized by Board action as set out in Attachment A.
 - (2) Internal auditing of revenue and expenditures for compliance.
- d. Miscellaneous Services:
- (1) Statewide inventory.
- e. To provide the above services, the Department shall employ the necessary personnel and incur the necessary operating and travel expenditures. Each month a State Budget Status report shall be provided to the Board detailing the total budget, monthly expenditures, and fiscal year-to-date expenditures incurred, along with an Interagency Billing Transactions Document billing for the prior month's services performed.
2. The Department and the Board agree, that the Department will keep all producer and first purchaser fee collection data and audit information confidential to the extent possible under the State of

Nebraska Public Records Laws, Neb. Rev. Stat. §§84-712 to 84-712.09. Due to a limited number of first purchasers and/or processors, it is the Board's desire that records and information generated pursuant to this Agreement not create a proprietary advantage for a first purchaser of milk. The Department shall report total dollars deposited and/or refunded to the Board and the Board's administrative office, but not disclose to Board members, the administrator, or others individual milk first purchaser data. It is agreed the Department shall not be liable nor responsible for an agency or employee of the State of Nebraska not part of, or employed by, the Department or for any other individual not employed by the Department relative to the confidentiality of this paragraph. Any dispute relative to this shall be the responsibility of the Board to seek legal guidance from the State Attorney General.

B. ALLOWABLE COSTS and PAYMENTS

1. The Board shall provide a sum not to exceed six thousand eight hundred thirty dollars and no cents (\$6,830.00) under this Agreement. If services in excess of \$6,830.00 are requested by the Board, this Agreement shall be amended in writing, if both parties agree to such amendment;
2. The Department shall bill the Board monthly. A one-month advance payment shall be made by the Board to the Department upon receipt of an Interagency Billing Transaction Document from the Department. Final billing shall be received no later than July 30, 2017;
3. Payment for services under this Agreement is contingent upon the receipt of sufficient funding pursuant to the Act;
4. The Department agrees that funds provided under this Agreement shall be used only for the project and purpose enumerated herein; and
5. Any funds paid to the Department under this Agreement and not fully utilized and earned pursuant to this Agreement during the Agreement period shall be returned to the Board.

C. AGREEMENT PERIOD:

The term of this Agreement is from **July 1, 2017, to July 30, 2018**, unless sooner terminated or completed as provided for in Section D.

D. AGREEMENT PROVISIONS

1. **Termination:** This Agreement may be terminated, at any time, upon mutual written consent of the parties, or by either party, with or without cause, upon thirty (30) days written notice to the other party. In the event of termination, the Board shall pay the Department for the cost of services provided up to the date of termination.
3. **Complete Understanding:** This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
4. **Relationship of Parties:** It is understood by both the Department and the Board that neither is an employee of the other party and that neither party assumes any responsibility beyond those specifically stated in this Agreement.
5. **Assignable:** This Agreement is not assignable without the express written approval of the Board.
6. **Governing Law:** This Agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the Department or Board regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by Nebraska State law.
7. **Indemnification:** To the extent allowable by Nebraska State Law, the Board and the Department, agree each party is responsible for its own costs, and shall indemnify the other party for such costs, arising from any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of its own employees, subcontractors, consultants, representatives, and agents. The obligation to indemnify shall survive the expiration or termination of this Agreement.
8. **Authority to Enter Agreement:** The Board and the Department warrant that the individual signing this Agreement has the legal power, right, and authority to enter into this Agreement and to bind itself accordingly.

9. Severability: If any term or condition of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.
10. Penalty for Breach: In the event that either party fails to perform as specified under this Agreement, the party failing to perform shall pay any additional costs resulting from the failure to perform.

E. RECORDS AND WORK PRODUCT PROVISIONS

1. Records Available: The books of account, files, and other records which are applicable to this Agreement shall be made available in the State of Nebraska for inspection, review, copying, and audit by the other party and its representatives to determine the proper application and use of all funds used pursuant to the Agreement. All records involving transactions related to this Agreement are to be maintained for a period of five (5) years from the date the term of this Agreement begins. If any litigation or audit is begun, or a claim is instituted involving the Agreement, records shall be retained beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved.
2. Auditing Standard: The Board, under the Office of Management and Budget's Uniform Guidance, will utilize a risk-based approach to review federal and state contract dollars expended to subrecipients. This may include the Department providing recent audit reports to evaluate prior audit experiences and audit findings; Board review of subrecipient control environment; and the Department providing copies of invoices detailing how the funds were expended.

F. COMPLIANCE PROVISIONS

1. Nondiscrimination:
 - a. The Department and the Board, and any and all subcontractors, agree to comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §§48-1101 to 48-1125, prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating

against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensations, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin. Both parties guarantee compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of this Agreement.

2. **ADA Compliance:** All provisions under this Agreement are subject to the Americans with Disabilities Act.
3. **Worker's Compensation:** The Department and the Board, and any and all subcontractors agree to guarantee payment of compensation to injured workers according to the Nebraska Worker's Compensation Act.
4. **Drug Free:** The Department and the Board, and any and all subcontractors agree to have in force during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - a. A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the workplace;
 - b. The specific actions that will be taken against employees for violating the policy; and
 - c. A requirement that each employee receive a copy of the policy.
5. **Immigration Verification:**
 - a. The Department and any and all subcontractors shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronics verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of newly hired employees.

- b. If the Department uses a subcontractor who is an individual or sole proprietorship, the Department agrees to require the subcontractor to complete the United States Citizenship Attestation Form available in the DAS website at <http://das.nebraska.gov/materiel/purchasing.html/>. If the subcontractor indicates on such attestation from that he or she is a qualified alien, the subcontractor shall provide to the Department the U.S. Citizenship and Immigration Service documentation required to verify the subcontractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

IN WITNESS WHEREOF, the parties execute this Agreement.

NEBRASKA DAIRY INDUSTRY
DEVELOPMENT BOARD

6-13-17
Date

James Eschliman
James Eschliman, Chairperson

NEBRASKA DEPARTMENT OF
AGRICULTURE

6-16-17
Date

Robert Ibach
Greg Ibach, Director

Attachment A

Audit Authority of the Act:

Neb. Rev. Stat. §2-3958(2), states:

The Board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

Audit Scope of the Act:

Neb. Rev. Stat. §2-3958(1), states:

There shall be paid to the Board a mandatory assessment of ten cents (.10) per hundredweight on all milk produced in the State of Nebraska for commercial use.

Under this Agreement, auditors of the Department will verify reports submitted to the Board by examining records that may include, but are not limited to, the general ledger and its accounts, purchases journals or registers, check registers, producer accounts, and/or any other record or records which pertain to the assessment or compliance with the Act. A primary contact person will be noted for use in follow up for making future contact, and will be presented with the results of the audit. The standard audit form presented will serve as a notice of refund due in the case an overpayment, or as an invoice in the case of an underpayment. Payments are to be sent to the customary fee collection agency and not collected by the auditor. The audit results, less any proprietary information, will also be presented to the Board at its next regularly scheduled meeting.

AGREEMENT

Between

THE NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

And

MIDWEST DAIRY ASSOCIATION

This Agreement is made and entered into this 1st day of July, 2017, by and between Midwest Dairy Association, herein called "Midwest," and the Nebraska Dairy Industry Development Board, herein called "Board."

WHEREAS, the Legislature of the State of Nebraska has enacted the Dairy Industry Development Act (Neb. Rev. Stat. §2-3948 et seq.), which, by this reference, is hereby incorporated into this Agreement;

WHEREAS, the purpose of the Act is to maintain and expand domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices relating to marketing or processing of milk and dairy products, and inform and educate consumers of sound nutritional principles including the role of dairy products in a balanced and healthful diet;

WHEREAS, Neb. Rev. Stat. § 2-3950 of the Act designates the Board as the agency of the State of Nebraska responsible for carrying out the purposes of the Act;

WHEREAS, Neb. Rev. Stat. § 2-3961 of the Act authorizes the Board to jointly sponsor projects with any private or public organization that is a qualified program (any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. § 1150.153 as amended) to meet the objectives of the Act;

WHEREAS, the purposes of the Act will be effectively and meaningfully carried out if the Board cooperates with Midwest in carrying out said purposes; and

WHEREAS, both parties hereto desire to enter into this Agreement in order to carry out the purposes of the Act.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties that:

1. Midwest hereby certifies that it is a "qualified program" within the meaning of Neb. Rev. Stat. § 2-3949.
2. The term of the Agreement shall be from July 1, 2017, through June 30, 2018.

3. The relationship of the Board and Midwest under this Agreement shall be that of principal and independent contractor. It is understood by both the Board and Midwest that Midwest is not an employee or agent of the Board and it is understood that the Board assumes no responsibility beyond those specifically stated in this Agreement.
4. Midwest shall provide the following Administrative Services that will include and are not limited to:
 - Coordinate meeting notices, records, and agenda with the Nebraska Department of Agriculture.
 - Provide minutes, information reports, and follow-up reports as requested by the Board and required by law.
 - Advance Board-approved expenses to the State for payment in accordance with the requirements of the Nebraska Department of Administrative Services ("DAS") and other applicable laws.
 - Obtain stationery and letterhead for the Board as needed and in accordance with DAS requirements and other applicable laws.
 - Maintain and update the roster of the Board.
 - Correspond with first purchasers with regard to nominations and appointments to the Board and the operative dates.
 - Follow-up with the Governor's office on appointments to the Board.
 - Remind first purchasers if a vacancy exists on the Board.
 - Assist the Nebraska Attorney General's office as needed with relation to Dairy Board contracts.
 - Obtain certified audits and proof of bonding from qualified programs contracted to the Board and forward to the Department of Agriculture to review for compliance.
 - Develop and publish an annual report on or before October 1 of each year, setting forth the income received from the assessments collected in accordance with Neb. Rev. Stat. § 2-3958, for the preceding fiscal year and the report shall include:

- (1) The expenditure of funds by the Board during the year for the administration of the Dairy Industry Development Act;
- (2) A brief description of all contracts requiring the expenditure of funds by the Board;
- (3) The action taken by the Board on all such contracts;
- (4) An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of dairy products and the direct expense associated with each program;
- (5) The name and address of each member of the Board; and a brief description of the rules, regulations, and orders adopted and promulgated by the Board.
- (6) Such report shall be reviewed by the Board Chair prior to filing, and shall be available to the public upon request.

5. In consideration of satisfactory and good faith performance of the Administrative Services described in Paragraph 4 by Midwest, the Board agrees to:

- 1) Reimburse Midwest monthly an administrative fee in association with the redirection of checkoff dollars by a producer to a qualified program other than Midwest. This administrative fee shall be one percent (1.0%) of the revenue collected from producers who choose this redirection option. Payment of the administrative fee by the Board shall be made provided that sufficient funds, as budgeted under Neb. Rev. Stat. § 2-3960, are generated and legislative appropriation is made.
- 2) The administrative fee shall be used to fund the Administrative Services provided by Midwest as described in Paragraph 4 of this Agreement.
- 3) The amount of the administrative fee will be included in the monthly contractual payment of the unexpended fund balance as described in Paragraph 8 of this Agreement.

6. Midwest shall provide the Board a summary evaluation report within thirty (30) days after the end of the contract period, including a summarization of revenue received and a general categorization by type of expenditure, expenditures made.

7. In addition to the Administrative Services provided under Paragraph 4 above, Midwest shall provide the following services:

Implementation of the Nebraska components of Dairy Management, Inc.'s national Unified Marketing Plan programs (Exhibit A), including:

- Nutrition Affairs:
 - Build Champions for Dairy
 - Engage, Empower and Impact Youth
 - Translate, Align and Activate Science With Emotionally-Compelling Support for Dairy
 - Operations

 - Training

- Integrated Communications, including Industry Relations and Consumer Confidence:
 - Consumer Communications and Support
 - Fuel Up to Play 60 Communications
 - General Communications Support
 - Farmer Relations
 - Local Farmer Relations

- Strategic Initiatives
- Fuel Up to Play 60:
 - Program Delivery
 - School Dairy Optimization, School Incentives and Rewards

- Dairy Product Research
 - Coordination of Research through National Research Plan/Midwest Dairy Foods Research Center/University of Nebraska

- Administration necessary to conduct the above programs including accounting tracking and reporting to meet Dairy Management, Inc.'s Unified Marketing Plan requirements.

8. In consideration of satisfactory and good faith performance of the services described in Paragraph 7 by Midwest, the Board agrees to make monthly contractual payments in an amount equal to the unexpended fund balance of the Nebraska Dairy Industry Development Fund as reflected on the Nebraska Information System ("NIS") on the fifth working day each calendar month after Board, administrative, fee collection, accounting, and auditing expenses are calculated. This dollar amount shall be based upon the State's official NIS accounting system. The Board agrees to make payment provided sufficient funds, as budgeted under Neb. Rev. Stat. § 2-3960, are generated and legislative appropriation is made.

9. Midwest shall provide a final report within sixty (60) days after the completion of this Agreement. The Final Report shall include a description of activities undertaken a full accounting of all money spent under this agreement, and include materials produced under this Agreement.

Midwest shall also prepare and submit a full accounting of all expenditures before each meeting of the Board so that expenditures can be reviewed in accordance with Neb. Rev. Stat. § 2-3955.

10. Midwest shall provide a copy of its annual report covering Midwest's prior fiscal year to the Board during the June board meeting.

11. Midwest shall:

- a. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and
- b. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex or any other qualified disability. It is further understood that, if Midwest is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such act or action is unlikely.
- c. Have in force during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in Midwest's workplace;
 - (2) The actions that will be taken against employees for violating the policy; and
 - (3) The requirement that each employee receive a copy of the policy.

12. Midwest shall indemnify and hold harmless the Board from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of Midwest to perform such duties for the Board as herein specified. This obligation shall survive the expiration or termination of this Agreement.

13. The provisions of this Agreement may be amended by mutual agreement of the parties hereto in writing, at any time.

14. This Agreement may be terminated by either party hereto at any time by ninety (90) day advance written notice to the other party.
15. This Agreement is not assignable without the express written approval of the Board.
16. Midwest agrees that the books of account, files, and other records of Midwest which are applicable to this Agreement shall, at all times, be available for inspection, review, and audit by the Board or its contract representatives to determine the proper application and use of all funds paid to or for the account or benefit of the Board or as otherwise required by the laws of the State of Nebraska.
17. Furthermore, Midwest agrees to maintain all books, documents, papers, or any other records involving transactions related to this Agreement for a period of five (5) years or as otherwise required by the laws of the State of Nebraska. If any litigation or audit is begun or a claim is instituted involving the Agreement, Midwest shall retain the records beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved, and the Board has agreed that such records do not need to be retained.
18. Any funds paid to Midwest under this Agreement, and not fully utilized pursuant to the terms of this Agreement during the Agreement period or prior to termination shall be returned to the Board, unless otherwise agreed in writing by the parties. Furthermore, if Midwest fails to perform as outlined herein, Midwest may be required to repay funds received not utilized under this Agreement.
19. The funds expended pursuant to this Agreement shall be spent only on Midwest's performance pursuant to this Agreement and for no other purpose.
20. Midwest shall procure a policy or policies of insurance from an insurance company licensed to write such insurance in the state which policy or policies of insurance shall guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act if an employee of Midwest is subject to the Nebraska Workers Compensation Act.
21. All provisions of this Agreement are subject to the Americans with Disabilities Act.
22. Midwest is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by

agency authorized to verify the work eligibility status of a newly hired employee.

23. This Agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by Nebraska State law.

IN WITNESS WHEREOF, The parties hereto do execute this Agreement.

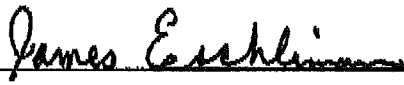
MIDWEST DAIRY ASSOCIATION
Federal ID Number, 41-0433125

8-4-17
Date


Lucas Lentsch, CEO

NEBRASKA DAIRY INDUSTRY
DEVELOPMENT BOARD

8-1-17
Date


James Eschliman, Chairman

NDID Midwest Contract 7-1-17.docx

-7-

AGREEMENT

Between

THE NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

And

SOUTHWEST DAIRY MUSEUM, INC

This Agreement is made and entered into this 13th day of June 2017, by and between Southwest Dairy Museum, Inc, herein called "Southwest," and the Nebraska Dairy Industry Development Board, herein called "Board."

WHEREAS, the Legislature of the State of Nebraska has enacted the Dairy Industry Development Act, (Neb. Rev. Stat. §2-3948, et seq.), which, by this reference, is hereby incorporated into this Agreement;

WHEREAS, the purpose of the Act is to maintain and expand domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices relating to marketing or processing of milk and dairy products, and inform and educate consumers of sound nutritional principles including the role of dairy products in a balanced and healthful diet;

WHEREAS, pursuant to Neb. Rev. Stat. § 2-3949(8)(e), the Board has received a request from a producer that his promotion check-off funds be remitted to Southwest.

WHEREAS, Neb. Rev. Stat. § 2-3950 of the Act designates the Board as the agency of the State of Nebraska responsible for carrying out the purposes of the Act;

WHEREAS, Neb. Rev. Stat. §§ 2-3949(8)(e) and 2-3959 of the Act requires that the Board transfer the funding of producers who request to have their promotion check-off dollars directed to a Qualified Program certified pursuant to 7 C.F.R. 1150.153.

WHEREAS, the purposes of the Act will be effectively and meaningfully carried out if the Board cooperates with Southwest in carrying out said purposes; and

WHEREAS, both parties hereto desire to enter into this Agreement in order to carry out the purposes of the Act.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The term of the Agreement shall be from July 1, 2017, through June 30, 2018.
2. It is understood by both the Board and Southwest that Southwest is not an employee or agent of the Board, and it is understood that neither the Board nor Southwest assumes any responsibility beyond those specifically stated in this Agreement.
3. Southwest shall provide the following services:
 - a. Promotional and educational services that further the purpose of the Act, which may include, but not necessarily be limited to:
 - i. Mobile Dairy Classroom presentations, primarily in the southern tier of counties in Nebraska.
 - ii. Provided adequate funding is available, and it is mutually agreed by both parties, Mobile Dairy Classroom presentations in other designated areas of Nebraska.
 - iii. Other dairy educational and promotional programs in schools, fairs, and community events, provided adequate funding is available
4. Southwest shall submit to the Board documentation that they are a USDA-qualified program within thirty (30) calendar days upon execution of the Agreement.
5. In consideration of satisfactory and good faith performance hereunder by Southwest, the Board agrees to make monthly payments in an amount equal to producer requests to have their promotion check-off dollars directed to Southwest as reflected on the State's official Nebraska Information System (NIS) accounting system on the fifth working day of each calendar month less a 1% administrative fee. The Board agrees to make payment to Southwest provided that check off dollars were received from the Producer and that Southwest continues to maintain its status as a Qualified Program.
6. Southwest shall provide a summary evaluation report within thirty (30) days after the end of the contract period, which includes a summary of revenue received and a general categorization by type of expenditure, expenditures made and a summary of all activities undertaken, including all materials produced under this Agreement.

Southwest shall also provide an accounting of all expenditures prior to each regular meeting of the Board to allow for review as required by Neb. Rev. Stat. § 2-3955.

7. Southwest shall:
 - a. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and
 - b. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex or any other qualified disability. It is further understood that, if Southwest is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such act or action is unlikely.
 - c. Have in force during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in Southwest's workplace;
 - (2) The actions that will be taken against employees for violating the policy; and
 - (3) The requirement that each employee receive a copy of the policy.
8. Southwest shall indemnify and hold harmless the Board from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of Southwest to perform such duties for the Board as herein specified. Southwest's obligation to indemnify the Board shall survive the expiration or termination of this Agreement. Such indemnification and assumption of liability found in this section is limited to the extent provided for by law.
9. The provisions of this Agreement may be amended by mutual agreement to the parties hereto in writing, at any time.
10. This Agreement may be terminated by either party hereto at any time by ninety (90) day advance written notice to the other party. Termination of the Agreement does not extinguish the Board's obligation under §§ 2-3949(8)(e) and 2-3959 of the Act to transfer the funding of producers who request to have their promotion check-off dollars directed to a Qualified Program certified pursuant to 7 C.F.R. 1150.153.
11. This Agreement is not assignable without the express written approval of the Board.

12. Southwest agrees to maintain all books, documents, papers, or any other records involving transactions related to this Agreement for a period of five (5) years or as otherwise required by law. If any litigation or audit is begun or a claim is instituted involving the Agreement, Southwest shall retain the records beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved, and the Board has agreed that such records do not need to be retained.
13. The funds transferred to Southwest under this Agreement shall be utilized only for the purposes as set forth in Paragraph 3 of this Agreement and for no other purpose.
14. Southwest shall procure a policy or policies of insurance from an insurance company licensed to write such insurance in the state which policy or policies of insurance shall guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act if an employee of Southwest is subject to the Nebraska Workers Compensation Act.
15. All provisions of this Agreement are subject to the Americans with Disabilities Act.
16. Southwest is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
17. If any term or condition of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.
18. This agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the Board regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by Nebraska State law.

IN WITNESS WHEREOF, the parties hereto do execute this Agreement.

SOUTHWEST DAIRY MUSEUM, INC
Federal ID Number, 75-1899434

6-29-17
Date

James C. Hill
Jim Hill, CEO and General Manager

NEBRASKA DAIRY INDUSTRY
DEVELOPMENT BOARD

6-13-17
Date

James Eschliman
James Eschliman, Chairman