

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 262

Introduced by Johnson, 23.

Read first time January 14, 2015

Committee:

- 1 A BILL FOR AN ACT relating to the Dairy Industry Development Act; to
- 2 amend sections 2-3949, 2-3957, and 2-3959, Reissue Revised Statutes
- 3 of Nebraska; to define a term; to eliminate provisions relating to
- 4 refunds; to change powers and duties; to harmonize provisions; and
- 5 to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-3949, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 2-3949 For purposes of the Dairy Industry Development Act:

4 (1) Board shall mean the Nebraska Dairy Industry Development Board;

5 (2) Commercial use shall mean sale for retail consumption or sale
6 for resale, for manufacture for resale, or for processing for resale;

7 (3) First purchaser of milk shall mean a person who buys milk from a
8 producer and resells to another person the milk or products manufactured
9 or processed from the milk;

10 (4) Milk shall mean any class of cow's milk produced in the State of
11 Nebraska;

12 (5) Milk production unit shall mean any producer licensed by the
13 Department of Agriculture;

14 (6) Producer shall mean any person engaged in the production of milk
15 for commercial use;

16 (7) Producer-processor shall mean a producer who processes and
17 markets the producer's own milk;~~and~~

18 (8) Qualified program shall mean any state or regional dairy product
19 promotion, research, or nutrition education program which is certified
20 pursuant to 7 C.F.R. 1150.153, as amended. Such program shall: (a)
21 Conduct activities as defined in 7 C.F.R. 1150.114, 1150.115, and
22 1150.116 intended to increase consumption of milk and dairy products
23 generally; (b) except for programs operated under the laws of the United
24 States or any state, have been active and ongoing before November 29,
25 1983; (c) be financed primarily by producers, either individually or
26 through cooperative associations; (d) not use any private brand or trade
27 name in advertising and promotion of dairy products unless the National
28 Dairy Promotion and Research Board established pursuant to 7 C.F.R.
29 1150.131 and the United States Secretary of Agriculture concur that such
30 requirement should not apply; (e) certify to the United States Secretary
31 of Agriculture that any request from a producer for a refund under the

1 program will be honored by forwarding that portion of such refund equal
2 to the amount of credit that otherwise would be applicable to the program
3 pursuant to 7 C.F.R. 1150.152(a e)(3) to either the National Dairy
4 Promotion and Research Board or a qualified program designated by the
5 producer; and (f) not use program funds for the purpose of influencing
6 governmental policy or action; and -

7 (9) Refund shall mean a refund of a producer's assessment required
8 to be issued pursuant to the federal Dairy Promotion and Research Order,
9 7 C.F.R. Part 1150, and shall not refer to assessments described under 7
10 C.F.R. 1150.152.

11 Sec. 2. Section 2-3957, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 2-3957 The board shall:

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

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

19 (3) Direct the distribution of funds collected;

20 (4) Prepare and approve a yearly budget;

21 (5) Adopt and promulgate rules and regulations to carry out the act;

22 (6) Establish a means by which all producers are informed annually
23 on board members, policy, expenditures, and programs for the preceding
24 year;

25 (7) Authorize the expenditure of funds to conduct activities
26 provided for by the act;

27 (8) Bond such persons as necessary to ensure adequate protection of
28 funds;

29 ~~(9) Make refunds to other qualified programs in other states and~~
30 ~~disburse as directed by producers pursuant to subdivision (8)(e) of~~
31 ~~section 2-3949;~~

1 (9 10) Require that all books and records which clearly reflect all
2 the transactions of its funded qualified programs be made available for
3 audit by the board;

4 (10 11) Initiate appropriate enforcement of the act and the rules,
5 regulations, and orders promulgated under the act;

6 (11 12) Accept remittances or credits and apply for and accept
7 advances, grants, contributions, and any other forms of assistance from
8 the federal government, the state, or any public or private source for
9 administering the act and execute contracts or agreements in connection
10 therewith;

11 (12 13) When necessary, appoint committees and advisory committees,
12 the membership of which reflects the different funding regions of the
13 United States and of the State of Nebraska in which milk is produced and
14 delegate to such committees the authority reasonably necessary to
15 administer the act under the direction of the board and within the
16 policies determined by the board;~~and~~

17 (13) Forward a producer's assessments prescribed in section 2-3958
18 to the National Dairy Promotion and Research Board or to a qualified
19 program in another state if the producer requested that the assessments
20 be so transferred prior to January 1, 2015; and

21 (14) Exercise all incidental powers useful or necessary to carry out
22 the act.

23 Sec. 3. Section 2-3959, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 2-3959 The assessment prescribed in section 2-3958 shall be paid by
26 producers at the time of first sale or delivery of milk for commercial
27 use and shall be collected by the first purchaser of milk except as
28 provided in this section. The first purchaser of milk shall remit the
29 assessment to the board when the first purchaser of milk issues the milk
30 payroll to producers. When milk is sold by producers to nonresident first
31 purchasers of milk, the nonresident first purchaser of milk shall remit

1 the assessments to the board. Producer-processors shall remit the
2 assessments to the board. All assessments shall be remitted to the board
3 not later than the last day of the month following the month in which the
4 milk was commercially used, and a report shall be filed by the person
5 responsible for remitting the assessment at the time that the assessment
6 is remitted. ~~The board shall make proper refunds to producers pursuant to~~
7 ~~subdivision (8)(e) of section 2-3949 at least quarterly.~~ The board shall
8 promulgate rules and regulations concerning the payment, remittance,
9 ~~refunding,~~ and reporting of assessments. All money collected by the board
10 shall be remitted to the State Treasurer for credit to the Nebraska Dairy
11 Industry Development Fund.

12 Sec. 4. Original sections 2-3949, 2-3957, and 2-3959, Reissue
13 Revised Statutes of Nebraska, are repealed.