

COOPERATION IN NEBRASKA

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2007 Legislative Session Is A Busy One

The 2007 legislative session has proven to be one of the busiest in recent memory for the Council. We anticipated more activity because of the fact that we planned to offer legislation creating a new cooperative business model. Creating new legislation always creates higher demands for the Council; however, in addition to this bill, another major issue (vacation pay/sick leave) materialized in December. The Council provided a great deal of leadership on this issue so in addition to the number of other bills that we are monitoring, we also have two major bills that we are guiding through the legislative process.

Two-thirds of the 90-day legislative session is completed. Senators and committees have designated their priority bills for the session, all committee hearings are done, and the body has moved into all-day legislative sessions. Adjournment is currently scheduled for May 31st.

The status for all the bills below is as of April 6, 2007.

LB 368 - LIMITED COOPERATIVE ASSOCIATIONS (LCAs) [Support]

Introduced by Senator Philip Erdman of Bayard on the Council's behalf, LB 368 would create LCAs. This legislation is the outgrowth of the Council's New Generation Cooperatives Task Force's study and recommendation this past year that the Nebraska Cooperative Council should pursue legislation creating a new business model.

For a complete background on this bill, please refer to the article in the December 2006 issue of Cooperation in Nebraska (which is posted on our website at www.nebr.coop). It should be pointed out that the referencing of Investor Patron Associations and New Generation Cooperatives has been changed to LCAs to conform with the most recent National Conference of Commissioners on Uniform State Laws' (NCCUSL) language. This language is being drafted to create a uniform law so that the states' New Generation Cooperative business models are materially the same much like the Uniform

Commercial Code or Model Business Corporation Act.

Since the introduction of LB 368, we have been actively engaged with the respective stakeholders as to what this legislation achieves and responding to questions and concerns on the bill. The Nebraska Bankers Association (NBA) has raised numerous concerns.

The hearing on LB 368 was conducted February 26th before the Banking, Commerce & Insurance Committee. Just hours prior to the hearing, the NBA forwarded us a copy of the amendment that they planned on offering during the hearing. While the timing of the amendment is certainly notable considering the numerous discussions with the NBA since last December; we were not surprised because we expected the NBA to offer some type of amendment. Their amendment contained three provisions. The first part prohibited the issuance of bonds, debentures, and the indebtedness to a "non accredited" member. This was acceptable by the Council at the outset.

The second part prohibited an LCA from extending payment terms to its customers over six months and that this could not be secured by real property. We have mutually agreed that any extension of credit shall not exceed nine months; however,

(continued on page 4)

WHAT'S INSIDE...

2007 Legislative Session	1
President's Message	2
Council Completes 06/07 Education Programs	3
Woeppel Receives FFA Distinguished Service Award ...	8
State FFA Cooperative Speaking Contest Results	9
Farm Credit HORIZONS Project	10
Sales Tax on Mineral Oil	11
CoBank Provides FFE Contribution	13
Scholarship Application Deadline Reminder	15
Calendar of Upcoming Events	17

President's Message



This past quarter, we have been extremely busy with education and legislative programs. With over 360 participants in our educational programs this year, we give special thanks to both CoBank and the University of Nebraska-Institute of Agriculture and Natural Resources who served as the co-sponsors of some of these programs. This was the first year in which Dr. Dennis Conley participated in our programs as the "Nebraska Cooperative Council Distinguished Professorship in Agricultural Economics" and he was an asset to the program and was well received.

I do want to acknowledge that during the Cooperatives For Tomorrow program on February 7th, Robert Engel, CoBank CEO, announced that CoBank was going to make a contribution of \$5,000 to the Council's Fund For Excellence. I want to both thank and compliment CoBank for their unsolicited and gracious contribution to the educational mission of the Council.

Legislatively, we have been actively involved with hearings and working with senators and stakeholders. There were 705 legislative bills introduced this session, and we're involved either directly or closely monitoring 69 bills. With the implementation of term limits for state legislators this year which resulted in 22 new legislators within a body of 49, it has taken more time on our end as an Association. I have been watching with great interest the impact and changes within the legislative body due to term limits; it has been interesting and challenging, yet, like all things in life, it has its positives and negatives.

In addition to the various legislative proposals before the body this year, your Association has taken on two major legislative issues this year; namely, LB 255 - vacation and sick leave and LB 368 - Limited Cooperative Associations. I am pleased to report to you that on March 30, the Legislature passed LB 255 with the emergency clause in response to the October 20, 2006 Nebraska Supreme Court Opinion *Roseland v Strategic Staff Management* ruling. Governor Heineman signed the bill into law on April 2; thus it is now the law of the state. This issue had a major financial impact upon cooperatives and all businesses in the state. I am especially appreciative of Senator Kent Rogert of Tekamah who introduced this bill at our request and his leadership in same. A more detailed report is included within this publication.

LB 368, Limited Cooperatives, has been advanced from the Banking, Commerce, and Insurance Committee to General File (first reading) before the full Legislature. The bill was selected as Senator Philip Erdman's individual priority bill. I felt that Senator Erdman's closing at the hearing was exceptional as to

why the State of Nebraska should proceed forward with LB 368. As this publication goes to press, we believe that this issue will be heard in the next few days. Please review the article in this publication for more details.

The long and short of this is that a lot of time was devoted to the two aforementioned bills plus all the other legislative issues. Due to the nature of the process, it requires the usage of legal counsel in drafting and reviewing bills and amendments and attending meetings per these issues. Indicative of the high level of legislative activity this year, in our first seven months of operations we have already exceeded this year's projected budget for legal costs. As I have shared before, leadership has its costs.

Recently, we learned that the Nebraska Department of Revenue (DOR) has taken the position that the sales of mineral oil to cooperatives and other grain handlers for dust suppression is subject to the Nebraska Sales and Use Tax. We sought a Declaratory Ruling from the DOR to clarify this position, which we deem improper; however, the DOR has now provided a Declaratory Ruling supportive of their original position. The two options before us were to seek legislation or to seek litigation against the DOR. The Council's Board of Directors, after studying the merits of both options, has elected to challenge this by litigation. A special voluntary request was submitted to those affected locals to offset the projected legal costs of such an undertaking; estimated at \$15,000 - \$20,000. Please refer to the article within this publication for more details.

I regretted having to postpone the two Membership Input Meetings which were scheduled for late February and early March. This action was predicated on the hearing on LB 368 on February 26 and the need to "follow up" after the hearing with committee members. We have rescheduled these meetings for December 4 in York and December 5 in North Platte. More information will be forthcoming in the near future.

These input meetings are important to your Council's management team in evaluating the Council's three principal programs: legislative, regulatory, and education. These meetings also provide the membership with the opportunity to share their vision and input as to the services and programs the members seek and are willing to financially support. The Board has used these meetings as a planning tool.

In the cooperative spirit, I remain..

Robert C. Andersen

Council Completes 2006/07 Education Programs

This year, 362 cooperative directors, managers, and employees took part in Council educational programs. A total of 31 cooperatives (or 69%) were represented at the various programs.

This is an increase of 9 attendees from last year's programs which is good news considering we offered one less program this year. The reason for this increase was the greater attendance at the Director/Manager Workshops and the Cooperatives For Tomorrow workshop.

DIRECTOR/MANAGER WORKSHOPS (DMW)

The DMW were created to address timely issues of importance to Nebraska cooperatives. Directors and managers are encouraged to attend the workshops together; thus, allowing each to bring a valuable perspective to the discussion and work together in applying alternatives to meet changing business needs.

Principal co-sponsors include the Council, University of Nebraska-Lincoln (UNL) Institute of Agriculture & Natural Resources (IANR), and CoBank. The following federated regionals serving Nebraska serve as supporting sponsors: AGP, CHS Inc., and Land O'Lakes.

The theme for this year's workshops was "Ethanol's Impact on Cooperatives". Key items addressed throughout the day-long program were:

- Worldwide view of energy demand
- Current/planned ethanol production
- Impact on agronomy
- How will the flow of grain change?
- What will DDG's do to your feed business?
- How will we meet this new demand?

A video presentation was utilized featuring Jim Fischer, U.S. Department of Energy; Brian Jennings, Executive Vice President for the American Coalition for Ethanol; Todd Sneller, Nebraska Ethanol Board; Dr. Terry Klopfenstein, UNL Animal Science Professor; and Mike Edgerton from Monsanto. This video was a cost-effective way of allowing us to utilize nationally recognized leaders in their respective fields to provide workshop participants with the latest in information and cutting edge technology as it relates to the ethanol industry.



(continued on page 12)

Jerome "Lefty" Gabriel 1933 - 2007

The Nebraska cooperative community lost a good friend and a long-time leader this past week. Jerome "Lefty" Gabriel passed away on Tuesday, April 3rd at his home in Shelby.

Lefty's legacy of cooperative leadership will be felt for many years to come. During his career, Lefty served on the NCC Board of Directors for 19 years with 7 of those serving as Board Chair. Lefty also served in numerous other cooperative leadership roles during his career.



Education of board members was a high priority for Lefty and upon retirement, Lefty was instrumental in the success of the Council's Fund For Excellence funding drive. He also helped establish guidelines for the Council's Hall of Fame which he became a member of in 2005.

Our thoughts and prayers are with the Gabriel family as they reflect on the life of a true cooperative leader.



On March 30, 2007, a luncheon was held to commemorate the creation of the NCC Distinguished Professorship in Agricultural Economics. The luncheon was hosted by the University of Nebraska Foundation. Those attending were (L to R) Dr. John

Owens, IANR Vice Chancellor; Ann Bruntz, NU Foundation; Dr. Alan Baquet, UNL Ag Economics Dept. Head; NCC Distinguished Professor Dr. Dennis Conley; NCC Excellence in Cooperative Education Committee (ECEC) Member Mike Hechtner of CoBank; Marsha Conley; NCC ECEC Member Eric Johnson of O'Neill; NCC Board Chair Dale Piper; NCC President Bob Andersen; and NCC Education & Program Director Ed Woepfel (not pictured). During the luncheon, Dr. Owens and Dr. Baquet indicated their appreciation for the partnership between the University and the Council. Andersen and Hechtner thanked the University for their support and indicated that education was vital to the success of today's cooperatives.

Legislative Session *(cont. from page 1)*

it can be renewed following the initial nine month period and at such time be secured by real property.

The third part the NBA sought would have prohibited an LCA from borrowing funds from the Farm Credit System if the collective vote of the patron members was less than 80% of the total vote on general matters of the association. The NBA restriction on lending eligibility would have raised serious and substantial questions of federal preemption law. This provision would have seriously hindered LCAs and local cooperatives.

During the hearing, the following groups testified or provided a letter in support of LB 368: Senator Erdman; NE Cooperative Council; Stateline Bean Producers Co. - Bridgeport; Panhandle Co-op Assn - Scottsbluff; Heartland Co-op-Hastings; Frontier Co-op Co. - Brainard; NE Farm Bureau; NE Corn Growers Assn; Dairy Council of Nebraska; NE Turkey Growers Co-op, Gibbon; NE Pork Producers Assn; and NE Cattlemen. The Secretary of State's office and an NCCUSL Commissioner testified in a neutral capacity. The lone group testifying in opposition was the NBA.

Since the hearing, NCC legal counsel and staff have been in numerous meetings with both the NBA and Senator Erdman and his staff to resolve the issues NBA had. Another important factor in resolving the issues was the fact that Senator Erdman chose LB 368 as his priority bill for the session. This move by Senator Erdman showed his strong commitment to LB 368 because at the time that he designated this as his priority bill, it had not yet been voted out of committee.

Senator Erdman also provided strong support to the Banking, Commerce & Insurance Committee on our behalf and was instrumental in many of our discussions with the NBA. Through these discussions, the NBA agreed to drop the provision that limited the Farm Credit System from lending to LCAs.

With that agreement, the Banking Committee voted 8-0 on March 15th to advance LB 368 to General File with Committee Amendment AM717.

It should be noted that in addition to Senator Erdman, Speaker of the Legislature Senator Mike Flood of Norfolk and Senator Tim Gay of Papillion have signed on as co-sponsors of LB 368.

Priority Bill: Senator Erdman
Status: General File

LB 255 - VACATION PAY/SICK LEAVE [Support]

Those who attended the Council's Annual Meeting and Legal, Tax & Accounting Workshop this past November may recall the attorneys reference to the October 20, 2006 Nebraska Supreme Court Opinion of *Roseland v. Strategic Staff Management* which held that once an employee meets

stated conditions for fringe benefits (i.e., vacation pay, sick leave, etc.) to be fully earned or "accrued" then these amounts are treated as wages and must be paid following termination of the employment relationship. Knowing that this is a critical issue for our member cooperatives' employee benefit packages, the Council attempted to create a consensus among the stakeholders per an acceptable legislative proposal. Unfortunately, a strong difference of opinion existed among the group's attorneys as to the legislative intent of the resolvement legislation. The Council advocated that the resolvement legislation should only address vacation pay and sick leave aspects; conversely, other stakeholders wanted to include other fringe benefits (i.e., 401K plans) along with sick leave and vacation pay; and still others wanted to add commission sales. By broadening the intent, we felt the issue became more politically challenging. Ultimately, the Council's proposal (LB 255) was introduced by Senator Kent Rogert of Tekamah. The broader bill of sick leave and vacation pay plus fringe benefits (LB 271) was introduced by Senator Mike Friend of Omaha, and the commission sales bill (LB 505) was introduced by Senator Mick Mines of Blair. The Nebraska Rural Electric Association indicated they supported our bill.

On February 5th, the joint hearings for LBs 255, 271, and 505 were conducted. Attorney Tom Jeffers of Crosby Guenzel LLP, who drafted LB 255, provided testimony on behalf of the Council. Other Council members testifying were Tim Esser, employee of Central Valley Ag Co-op in O'Neill, and Pete McHargue, employee of Farmers Cooperative in Dorchester.

Proponents sighted the ambiguity that now exists regarding unused vacation and sick leave due to the recent Supreme Court ruling in the Roseland case. That ambiguity made passage of either LBs 255 or 271 imperative for employers and employees as well.

Throughout the process of negotiation with other groups, the Council maintained that a tightly crafted bill focused only on vacation pay/sick leave would be the most "sellable" approach for the Legislature. Ultimately, the Business & Labor Committee agreed by indefinitely postponing LB 271 thus leaving LB 255 as the "primary vehicle" to address the vacation/sick leave issue.

LB 255 was advanced to General File on February 23rd with Committee Amendment AM453 which stated the following:

"Paid leave, other than earned but unused vacation leave, provided as a fringe benefit by the employer shall not be included in the wages due and payable at the time of separation as provided elsewhere in the Nebraska Wage Payment and Collection Act, unless the employer and the employee or the employer and the collective bargaining representative have specifically agreed otherwise."

From our perspective, this gave us about 85-90% of our original proposal.

During Select File (second round) floor debate, an amendment was adopted which added commission sales to the bill. Both amendments are referenced in the Jeffers letter below.

On March 30th, LB 255 was passed by the Legislature on a vote of 47 ayes, 0 nays, 1 present/not voting, and 1 excused/not voting. It was signed by the Governor on April 2. Since

the bill included the emergency clause, provisions became effective on April 3.

With the adoption of LB 255, businesses have the clear statutory authority to establish policies that limit the amount of sick pay/vacation leave that would be required to be paid out upon employee termination, thereby capping the liability that co-ops would be required to show on their Balance Sheet.

(continued on page 6)

Reproduced below is a letter from Attorney Tom Jeffers. For those cooperatives with Paid Time Off or Paid Leave Plans, we encourage you to carefully review his comments as to how the passage of LB 255 may or may not affect your co-op.

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DONN E. DAVIS (1929-1998)

where vacation leave has traditionally been a component of such plan, employers will either need to separate out the vacation leave component of such plans or face the risk of having to pay all unused leave out as wages upon termination.

The reason is that, in light of the new provisions contained in LB 255, the Wage Act will differentiate between vacation leave and all other paid leave. If paid vacation benefits are merely part of a large comprehensive paid leave plan, the risk is that the courts will construe the policy in favor of the employees and deem it all payable upon termination. While some employers may find this result acceptable, no doubt, others will want to avoid it by clarifying their paid leave policies and separating out their vacation leave. For those employers with Paid Time Off or Personal Leave Plans, it is advisable for them to consult their attorney for advice on whether and how to modify their policies.

For employers with separate vacation and sick leave plans, the law is now clear that unused vacation leave must be paid out at the termination, and unused sick leave does not have to be paid out at the time of termination.

One other item of interest with respect to LB 255 is that it changes the laws governing the payment of commissions to employees in Nebraska. LB 255 strikes the existing language in the Wage Act which provides that "Wages includes commissions on all orders delivered and all orders on file with the employer at the time of termination" and inserts the following language:

Unless the employer and employee have specifically agreed otherwise through a contract effective at the commencement of employment or at least ninety days prior to separation, whichever is later, wages includes commissions on all orders delivered and all orders on file with the employer at the time of separation....

An additional new provision to be part of the Wage Act as part of LB 255 reads as follows:

Whenever an employer separates an employee from the payroll, the unpaid wages constituting commissions shall become due on the next regular payday following the employer's receipt of payment for the goods and services from the customer from which the commission was generated. The employer shall provide an employee with a periodic accounting of outstanding commissions, until all commissions have been paid or the orders have been returned or canceled by the customer.

These additions regarding commissions allow employers more flexibility in structuring their commissions and how they will be paid. The first clause quote above will allow employers to provide that commissions will not be paid after termination, as long as the employment agreement specifies this at the time the employee is hired or the policy is effective at least ninety days prior to termination. The second clause quote above allows employers to postpone paying commissions on orders for which the employer has not yet received payment. These revisions are quite advantageous to employers.

Rocky Weber and I have enjoyed working with you on this issue and want to congratulate you on the success your extensive efforts on LB 255 have accomplished.

Sincerely,
Thomas E. Jeffers
CROSBY GUENZEL LLP

March 30, 2007

VIA HAND DELIVERY

Robert C. Andersen, President
Nebraska Cooperative Council
134 S. 13th St., Suite 505
Lincoln, NE 68508

Re: LB 255-The Nebraska Wage Payment and Collection Act

Dear Bob:

As you are aware, the Legislature passed LB 255 with a vote of 47-0. The law will go into effect the day following the Governor's signature. At this time, we fully anticipate that the Governor will sign LB 255.

As a result of the efforts of the Nebraska Cooperative Council and Senator Rogert, who introduced LB 255 at the request of the Council, Nebraska cooperatives will be relieved of significant potential financial liabilities that could have occurred if no legislation had been passed to address the sick leave issue created by the Nebraska Supreme Court in the *Roseland* decision. This is a major achievement by the Council and its membership in protecting the members from significant potential liabilities.

This new law significantly clarifies the law in the wake of the *Roseland* decision regarding whether employers must pay employees for accrued but unused paid leave upon termination, including but not limited to, unused sick leave.

As to paid leave fringe benefits, LB 255 adds new language to Nebraska's Wage Payment and Collection Act as follows:

Paid leave, other than earned but unused vacation leave, provided as a fringe benefit by the employer shall not be included in the wages due and payable at the time of separation, unless the employer and the employee or the employer and the collective-bargaining representative have specifically agreed otherwise.

This language clarifies that unused paid leave, other than vacation leave, will not be owed to employees at the time of their termination. Accrued but unused vacation leave will continue to be required to be paid upon termination. For the majority of Nebraska cooperatives and other employers, the new statutory language eliminates the confusion regarding unused sick leave recently created by the Nebraska Supreme Court in the *Roseland* case.

However, some employers may find it necessary to modify certain types of paid leave plans. Specifically, for employers offering Paid Time Off plans or Personal Leave Plans,

Legislative Session *(cont. from page 5)*

While LB 255 does not change the *Roseland* decision as to the requirement to pay unused vacation upon termination, LB 255 very clearly states that, unless otherwise agreed between the employer and employee, unused sick leave does not have to be paid to employees upon termination of their employment.

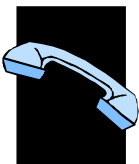
As a word of caution, the Council's attorneys have advised that employers which offer hybrid leave plans such as "paid time off" or "personal leave plans", which combine paid sick and vacation leave benefits, will want to consult their attorneys to determine whether and how to clarify their policies so as to avoid any risk that all unused time is treated as payable upon termination of employment.

LB 255 was a major piece of legislation for the Council to address in a very short period of time. Since the Council broke ranks with other groups in advocating LB 255, we bore a majority of the costs associated with the passage of LB 255. The legal costs, as well as time and effort put into resolving this issue were substantial; however the magnitude of this problem justified our involvement.

Priority Bill: Senator Rogert

Status: Became law April 2

LB 381 - FARM PRODUCT LIENS [Oppose]



LB 381 would have eliminated "oral requests" about Effective Financing Statements (EFS) from the Secretary of State or the county clerk. Thus, if adopted, a purchaser of farm products could no longer call or stop in at those respective offices to conduct an EFS search. All inquiries would have to be in writing. The hearing was conducted February 5th. During Council testimony, we indicated that although oral requests are not as common now as in the past due to electronic access, an oral inquiry is still the most expedient way to get information if electronic information is not available and time is of the essence thus protecting farmers from double jeopardy.

Status: Indefinitely postponed

LB 634 - FEEDLOT STATUTORY TRUST ACT [Oppose]

LB 634 addresses payment instruments (checks) that feedlot operators would submit to those they purchase feeder animals from. If the payment instrument (check) from the feedlot operator is not honored, the feedlot operator would be required to put all proceeds from the sale of said livestock into a trust for the benefit of the seller of the feedlot livestock. During the February 20th hearing before the Ag Committee, the Council testified in opposition to the bill; however, we offered the following compromise amendment during our

testimony which would alleviate our concerns:

"Sec 4(4). No trust interest created as a result of this Act shall have priority over a lien perfected by any person, firm, partnership, limited liability company, or corporation pursuant to Section 54-208."

Status: In Committee

LB 346 - UNIQUE IDENTIFICATION NUMBER [Support]

LB 346 addresses the issue of potential identity theft from those who have liens filed on the Central Filing System. Currently, liens filed by ag producers on the Central Filing System must contain either a social security number or tax identification number. This bill was introduced as a result of an interim rule published in the September 27, 2006, Federal Register which would allow states with a certified Central Filing System (for EFS filings) to use an alternative number in lieu of a social security or federal taxpayer identification number.

The bill is the first step of the process and would simply enable the Nebraska Secretary of State to select the method by which the "unique approved identifier" would be determined. If passed, both the Nebraska Bankers Association and the Council are key stakeholders, and we plan to work together in developing the unique identification number system.

The Council testified in support of LB 346 at the February 5th hearing before the Banking, Commerce & Insurance Committee. The Committee advanced LB 346 to General File on February 15th with a committee amendment which broadened the definition of "farm product".

Status: General File

LB 111 - NEBRASKA MILK ACT [Support]

LB 111 adopts federal milk standards and raises fees for state inspections. All standards and procedures of the Grade A Pasteurization Milk Ordinance, 2005 Revision relating to somatic cells would apply to milk for manufacturing. The inspection fees would affect everyone except the producers. LB 111 was introduced on behalf of the Department of Agriculture's Nebraska Dairy Industry Board of which AMPI and Dairy Farmers of America are members. The Council testified in support of LB 111 at the January 23rd hearing before the Ag Committee.



Status: Became law on February 14th; provisions become effective August 1st

LB 140 - DEQ COMPLAINTS [Support]

LB 140 would require the Department of Environmental Quality, upon request, to provide a copy of a complaint either received or initiated by the DEQ to the person against whom the complaint is made under the Environmental Protection Act,

the Integrated Solid Waste Act, and the Livestock Waste Management Act. As cooperatives can sometimes be the subject of complaints under the aforementioned Acts, it would be helpful to acquire a copy of any complaint filed. The public hearing was conducted on January 18th by the Natural Resources Committee.

Status: In Committee

LB 175 - REASON FOR EMPLOYEE TERMINATION [Oppose]

LB 175 would require employers to give a specific reason for termination of any "non-exempt" employee (as defined by the Fair Labor Standards Act) and also allow the employee a "meaningful" opportunity to present the employee's position before the termination would be effective. This appears to be an effort to require non-governmental employers to provide due process of law to employees and would effectively be a limitation on the "at will" employment doctrine in Nebraska. This would create many opportunities for litigation including challenges by exempt employees that the law does not offer equal protection and challenges by terminated employees that they did not get a "meaningful" opportunity to respond due to time constraints, the bias of those involved, etc. The hearing was March 5th before the Business & Labor Committee.

Status: In Committee

LB 274 - LIQUEFIED PETROLEUM GAS [Support]

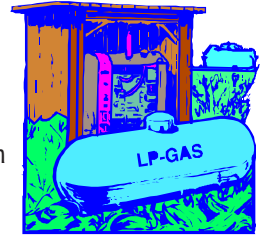
LB 274 is a different approach to providing liability protection for propane providers. It would require that a leak check be conducted by a qualified service technician following an interruption of service of a liquefied petroleum gas (LPG) system. The bill would also require the LPG provider to affix a warning label with specific warning language near the tank shutoff. If the warning label is affixed near the tank shutoff and the LPG system is turned on prior to a leak check by the provider, the provider will not be held liable for any damage resulting from failure to have a leak check performed. The Council provided a letter in support of LB 274 at the February 7th hearing before the Judiciary Committee.

Status: General File

LB 593 - PETROLEUM RELEASE REMEDIAL ACTION [Support]

LB 593 would repeal a portion of the Petroleum Release Remedial Action Act which required that beginning July 1, 2009, the owner of any new tank at a site where the tanks have not been previously located shall be fully insured through private insurance to cover the costs of any remedial action to such tank or the site on which such tank is located after such

date. Under LB 593, the primary insurance requirement for new tanks is eliminated which should be a cost saving measure that would benefit cooperatives. The Council testified in support of LB 593 during the February 2nd hearing before the Natural Resources Committee.



Status: In Committee

LB 516 - CORPORATE FARMING POLICY ADVISORY ACT [Support]

Introduced by the Ag Committee, LB 516 would create the Corporate Farming Policy Advisory (CFPA) Council. This Council is being proposed to address what action the state may need to take in light of court decisions declaring Initiative 300 unconstitutional. The CFPA Council would be charged as follows:

1. To preserve ownership of ag land and other productive ag assets by family farmers
2. To maintain farming and ranching in dispersed patterns of ownership and production; and
3. To carry out ag production in a manner consistent with responsible stewardship of natural resources and preservation of environmental quality.

The CFPA Council of up to 18 individuals would represent a diverse background. Half of the individuals would be appointed by the Governor and the other half appointed by the Chair of the Ag Committee. Those appointed would be (a) ag crop and livestock producers; (b) handlers, marketers, and processors of ag commodities; (c) ag economists; (d) environmental policy advocates; (e) ag credit lenders; (f) **ag producers' cooperative directors or managers**; and (g) attorneys practicing in the field of corporations or other types of limited liability business entities, ag real estate planning, and intergenerational transfer of ag assets.

During the February 6th hearing before the Ag Committee, we provided testimony in support of LB 516 along with the following agricultural groups: NE Cattlemen, NE Farm Bureau, NE Pork Producers, and NE Poultry Industries.

Status: In Committee

LB 343 - INVESTMENT TAX CREDIT FOR BIODIESEL FACILITIES [Monitor]

Introduced by Senator Chris Langemeier of Schuyler, LB 343 provides income tax credits for taxpayers who invest in biodiesel facilities. Taxpayers would be eligible for a credit of 30% of their investment, and the credit can be carried forward for up to 15 years. The maximum credit for any taxpayer is \$250,000. The credit is only allowed if the facility produces

(continued on page 8)

Legislative Session *(cont. from page 7)*

B100, all the processing takes place at a biodiesel facility in Nebraska, and at least 51% of the ownership interest of the biodiesel facility is held by Nebraska individuals or entities. LB 343 provides no check-off or other mechanism for paying for these credits. The hearing was conducted February 8th before the Revenue Committee.

The Revenue Committee attached amendment AM661 to LB 343. Part of this amendment contained language which allows investments by a cooperative to be eligible for the credit. The Council worked closely with Senator Langemeier and the Revenue Committee to incorporate this language.

Status: Select File

LB 626 - BIODIESEL FUEL [Monitor]

LB 626 creates a production incentive for biodiesel production. Under the bill, beginning January 1, 2008, Nebraska biodiesel producers would receive a production incentive of 30¢ for each gallon of biodiesel sold by the producer. The bill provides no mechanism to fund the incentives. The hearing was conducted February 27th before the Ag Committee.

Status: In Committee

LB 534 - URBAN STORM WATER DRAINAGE

[Monitor]

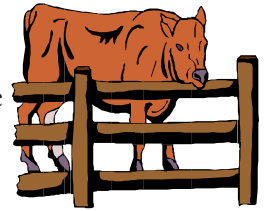
Introduced by Senator DiAnna Schimek of Lincoln, LB 534 revises provisions for storm water drainage and gives cities, villages and counties the same statutory authority for the financing and assessing of use charges for storm sewer systems that currently exist for sewage systems. The bill would allow cities and villages to charge property owners based on their proportionate share of runoff. Exemptions can be granted for governmental subdivisions (schools, etc.). If counties are required to have a storm water management program, the county can create storm water management areas and create a set of charges that will be collected in the same manner as ad valorem taxes. Counties would also assess charges on a proportionate basis and can allow exemptions for governmental subdivisions. While the legislation provides the statutory authority for such programs and establishment of use charges for storm water systems, it would be up to each entity to determine those charges.

Given that most cooperatives have property that may be impervious to water, they could be affected if their local entities choose to or are required to establish these programs and corresponding use charges. The hearing was conducted February 8th before the Natural Resources Committee.

Status: In Committee

LB 110 - THE BOVINE TUBERCULOSIS ACT

LB 110 is designed to maintain Nebraska's status as a tuberculosis accredited free state. It adopts the Code of Federal Regulations and Bovine Tuberculosis Eradication Uniform methods and rules in order to maintain that status. The bill contained the emergency clause.



Status: Became law February 14th; provisions became effective February 15th

Woepfel Receives FFA Distinguished Service Award



Council Education & Program Director Ed Woepfel (above) received the FFA Distinguished Service Award on March 29th during the evening awards ceremony of the State FFA Convention. This honor is awarded annually to an individual who has lived by his gold standard of service to Nebraska agricultural education and the FFA.

Prior to joining the Council, Ed served as the ag education instructor and FFA Advisor at Battle Creek High School; as a consultant in the NE Department of Education; and as the Executive Director for NE Young Farmers/Ranchers Education Association for 12 years. His leadership and dedication has made a lasting impact on many State FFA and Young Farmer officer teams as well as on Nebraska Agricultural Education. In 1990, it was with his vision and coordination that the Nebraska FFA Foundation was established. For the past 17 years, Ed has been an active part of the Foundation.

2007 State FFA Speaking Contest Results

For the 56th straight year, the Nebraska Cooperative Council has provided support for the educational mission of the Nebraska FFA Association by sponsoring the FFA Cooperative Speaking Contest. The Council partnered with the CHS Foundation to provide this support. The Council is very proud of the fact that we are the longest continuous sponsor of FFA in the history of the State Association.

This contest is designed to encourage students to research and prepare a speech addressing a cooperative issue. The intent being to encourage FFA students statewide to learn more about the cooperative system.

This year, 55 schools statewide had participants in the district contests. From these, 17 students moved on to the state competition that was held in conjunction with the State FFA Convention on March 29-30 in Lincoln.

Reed Janousek, a member of the Leigh-Clarkson FFA Chapter took top honors in the 2007 competition. Second place went to Blake Becker of the Alliance FFA Chapter. Placing third was Nora Spath of the North Bend FFA Chapter.

Others receiving medals in the competition and the FFA chapters they represent were (in alphabetical order):

Gold - Rebecca Friesen, Heartland; Danielle Kenning, Fairbury; and Morgan Shuck, Sandy Creek

Silver - Andy Hohwieler, Aurora; Ashley Hostert, West Boyd; Emily Ibach, SEM; Jessica Jorgensen, Medicine Valley; and Megan Olson, Stuart

Bronze - Robby Loftis, Tekamah-Herman; McKenzie Minert, Pender; Micheala Olsen, Hampton; Reed Strizek, Central; Sonya Sukup, Verdigre; and Chrissy Tremain, Lewiston.

The Hidden Success of Cooperatives

by Reed Janousek – Leigh-Clarkson FFA Chapter

The Pilgrims, Ben Franklin, and Sunkist all have something in common. They have all experienced the advantages of being a part of a cooperative. The Pilgrims at Plymouth Rock developed one by jointly clearing, working, and planting the fertile ground. Benjamin Franklin helped to start the Philadelphia Contributionship for the Insurance of Houses from Loss of Fire in 1752, a cooperative that is still around today! We have all heard of cooperatives, but what is a cooperative? Cooperative is derived from the word cooperate which means, "working or acting together for a common purpose." Now that we have uncovered what cooperative means, let's work together and look into a cooperative and understand its structure and what its purpose is. Next, we will unite efforts and observe the advantages and disadvantages of co-ops. And finally we will join forces and look into specific types of cooperatives and their success.

Let's work together and discover what co-ops are. Cooperatives perform three main functions. These include marketing products, purchasing supplies, and providing services. The main purpose behind all cooperatives though, is to help their operations move forward economically. Co-ops are designed to help members achieve maximum income for their products, assure members of year round service, and provide crucial information to members regarding what consumers demand. Many cooperatives are quite large and in order to run efficiently, people must be put in charge. A cooperative begins at the base level of members. They are the foundation, and with their investments, keeps it advancing economically. The next link are the directors. Directors are users of the co-op and representatives of other members who depend on the services. They have

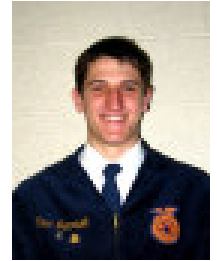
several responsibilities. They must hire a respectable manager and outline their duties and salary. They must create or adopt policies and review topics from members. Directors form long-term business strategies, write monthly financial reports, and create and manage a profitable budget. Directors are elected to manage business activities, protect the assets of the member, and hire a manager.

A successful co-op utilizes a strong connection between the manager and all other groups and members of the co-op. The board of directors decides what a cooperative will do, and the manager decides how it can best be done. The manager also has several other important duties to fill. These include management of people, capital, and resources, hiring, training, and supervising employees, and overseeing operations of the co-op. The manager must also represent the cooperative in a positive manner to its members and community.

Another crucial part of a co-op are the employees. Employees work in a similar way as in any business firm. They must fulfill their roles, engage in customer satisfaction, and represent the cooperative. Now that we know what the role and structure of a cooperative is, we can unite forces and look into the advantages and disadvantages of being a part of a cooperative.

There are several benefits to joining a cooperative and this is one of the main reasons they are so popular. According to Co-ops 101 An Introduction to Cooperatives, there are five major benefits of cooperatives. The first is the

(continued on page 16)



Farm Credit Announces HORIZONS Project

The Farm Credit Council has undertaken a long range, comprehensive, nationwide research study to determine the financial needs of farmers, ranchers, and rural entrepreneurs in the coming years. The initiative, called Farm Credit HORIZONS, is designed to help determine how rural residents can capitalize on growth opportunities in a rapidly changing global marketplace.

The report from this study titled "21st Century Rural America: New Horizons for U.S. Agriculture" (HORIZONS) identifies multiple key findings about the future of agriculture and rural America. It describes how these findings need to drive policy solutions that will help farmers, rural businesses and rural communities succeed in the emerging marketplace. The project has helped identify how incremental changes to the Farm Credit System can provide agriculture and rural America greater access to additional capital that can be used to expand agriculture's contribution to rural prosperity. The Farm Credit System's congressionally mandated mission is to make credit available for farmers and ranchers, their cooperatives, rural residences, and to businesses on which farming operations are dependent.

The HORIZONS report contains the following key findings:

There is tremendous diversity in size, annual revenue, ownership structure and marketing approaches, as well as in the age, ethnicity and gender of the owners and operators of today's farms.

- Farmers are diversifying their business interests both within and outside agriculture. The overwhelming majority of all farmers, but especially small-sized operations, rely on off-farm employment to stay in agriculture.

- Farmers depend on a wide range of businesses that may or may not be owned by farmers, and they may or may not be located in a rural community, but

all are essential to the economic viability and quality of life for farmers.

- While the number of farmers, the jobs in agriculture and agriculturally related industries, and the number of counties and communities that rely on agriculture for their economic well being have all declined, the future of U.S. agriculture remains bright. Future possibilities are expanding not contracting.

- It is becoming increasingly difficult to define a "rural" community solely by population or traditional qualities.

- Regional collaboration, public-private partnerships and coalitions of investors are key to the future of many rural communities. To create jobs, attract new business and foster an environment for future economic development, agriculture and rural

Farm Credit System HORIZONS Legislative Proposals

Farm- and Fishing-Related Business Financing

The proposal increases the credit availability for farm- and commercial fishing-related businesses by relaxing restrictions on the types of these businesses that can borrow from Farm Credit System lenders. The proposed legislation would allow the businesses that farmers and aquatic harvesters depend on to directly support their farming or aquatic operations to be eligible for Farm Credit System financing. Under the proposal:

- Businesses that are "primarily engaged" in supporting a producers' farm operation would be eligible to borrow from Farm Credit.
- Similarly, businesses that are "primarily engaged" in supporting an aquatic harvester's fishing operation would be eligible to borrow from Farm Credit.
- Large, diversified manufacturers and retail operations would not be made eligible for Farm Credit financing.

The types of businesses that would be made eligible under the proposal are those that provide needed inputs to producers (local farm equipment dealers, feed and seed dealers, commercial fishing vessel support and supply services, etc.) or that purchase or handle farm products directly from producers (local grain elevators, dairies, etc.)

Rural Home Mortgage Financing

The proposal would increase credit availability for homebuyers in rural communities. Under current law the Farm Credit System can finance the purchase of a

moderately priced, single-family, owner-occupied, rural home located in a community whose population is 2,500 or less. This population limit was established in 1971. The proposal would adjust the population limit to 50,000, consistent with the USDA definitions of rural area.

Modernizing FCS Stock Ownership Requirements

The proposed legislation would make two minor changes to rules governing ownership of Farm Credit System stock. Existing law requires that borrowers purchase a minimum amount of stock equal to either 2% of the amount of the loan or \$1,000, whichever is less, regardless of the amount of capital the FCS institution has.

Under the proposal, Farm Credit borrowers would continue to be required to own stock in their local Farm Credit lender. The minimum level of stock purchase required, however, would be left to the discretion of the local Farm Credit lender's board of directors.

The second proposal would authorize more of CoBank's customers to hold voting stock in CoBank. Under current law, only cooperatives and Farm Credit System associations are authorized to hold voting stock in CoBank. Under the proposal, CoBank's board would be permitted to issue voting stock to other kinds of CoBank customers, such as certain rural communications companies that have acquired bank stock but are not currently eligible to vote for directors.

America will need to find new ways to reinvest farm real estate equity.

- As skilled, experienced and innovative business owners, today's rural entrepreneurs, including farmers, ranchers and producers alike, will continue to need access to capital, essential infrastructure, and business support services for that entrepreneurial engine to continue to spur rural economic growth.

- The diverse farmers, rural businesses and rural communities of the 21st Century need ongoing access to dependable, flexible and competitive financial products and services to compete and thrive in this global and rapidly changing environment.

Copies of the HORIZONS Final Report may be downloaded from www.fchorizons.com along with testimonials from individuals describing agriculture and rural America's needs for reliable, flexible financial products and services to meet the growing requirements of rural entrepreneurs and to fuel economic growth in rural communities. To request a print copy, contact the Farm Credit Council by mail at 50 F Street, NW, Washington DC 20001.

The report was released in January of 2006 and made available to the various stakeholders across the country. The Farm Credit Council allowed a significant time period for discussion on the HORIZONS report in an effort to allow all stakeholders to fully understand the recommendations contained in the report. In that time period, the Farm Credit System reached consensus on legislative proposals to be presented in connection with the 2007 Farm Bill.

The "HORIZONS Legislative Proposals" described the modest and incremental changes that Farm Credit is seeking to its lending authority.

The legislative changes being advocated will not alter the core mission of the Farm Credit System or CoBank. CoBank's focus will continue to be agriculture and rural infrastructure. The System's overall goal is to increase the availability of credit to farm- and commercial fishing-related businesses, and to home buyers in rural communities. The proposal does not seek to change the definition of a cooperative or make large, diversified manufacturers or retail operations eligible for Farm Credit System financing.

As a result of the positive feedback, the Farm Credit Council will be submitting a letter to Congress listing organizations that support regulatory and legislative changes to allow the cooperative-owned Farm Credit System to continue to meet the financial needs of modern agriculture and rural America.

On March 21, 2007, the NCC Board of Directors went on record in support of the recommendations resulting from the HORIZONS report. The Board also authorized the inclusion of the Council's name as a supporter of the HORIZONS project in communication to Congress.

This stance clearly shows our commitment to the entire cooperative system. It also clearly outlines our stance that cooperatives serve a vital role in the economic well being of rural Nebraska, and that it is imperative to allow the Farm Credit System to change to meet the needs of modern agriculture.

Sales Tax Collections on Mineral Oil

Last fall the Council learned that the Nebraska Department of Revenue (DOR) had taken the position that sales of mineral oil to grain handlers for dust suppression is subject to the Nebraska Sales and Use Tax.

The DOR had advised a local cooperative during their tax audit that the sales of mineral oil to cooperatives and other grain handlers for dust suppression was subject to the Nebraska Sales and Use Tax. It should be noted this was a verbal indicator and not an official notification. We are aware of one other cooperative which has also been advised of same. At the same time, we are aware that other cooperatives in previous years have been told that the mineral oil is not taxable.

This becomes a bit of a contradictory issue based on other DOR rulings. For example, a cooperative can purchase an Air Pollution Control facility, for the express purpose of controlling dust, and after this has been installed and the sales and use tax paid on same, you can apply for a refund on the sales and use tax provided that the facility has been approved by the DEQ. Yet, the mineral oil which is used by this dust control facility is viewed as a taxable event by the same Department which allows for a refund on the sales and use tax of the pollution control facility.

It should be noted that the use of mineral oil is predicated upon:

- Safety for workforce and surrounding community (dust explosions)
- To satisfy environmental concerns with surrounding businesses and residences
- To aid in maintaining the weight, grade and integrity during storage and movement of the grain
- To comply with clean air standards

(continued on page 14)

***As the evolutionist Charles Darwin discovered,
"Those who survive have one thing in common--
they are the ones most responsive to change."***

Education Programs *(cont. from page 3)*

Program facilitators were Tom Houser, Vice President, Commercial Agribusiness Banking Group of CoBank, and Dr. Dennis Conley, NCC Distinguished Professor in Ag Economics at UNL.

Attendance at the 3 workshops in Sidney, Kearney, and York totaled 138

participants which was 35% higher than last year's workshops and the highest attendance we've had for the DMW since December 2001. Overall, participants rated the program 8.20 on a scale of 1 to 10 with 10 being the highest.



Dennis Conley leading the Kearney Director/Manager Workshop.

Thanks

The partnerships we have with other cooperative stakeholders allows for much of the success of our education programs. A special thanks to the **UNL Institute of Agriculture & Natural Resources, CoBank - Omaha, and Iowa State University** for their support.

Thanks too to the following organizations for their support of the Director/Manager Workshop: **AGP, CHS Inc., and Land O'Lakes.**

And, finally, to all our program facilitators. Thanks to the following individuals who gave of their time and talents to contribute to the success of our programs:

Dr. Lowell Catlett, New Mexico State University (CFT)

Dr. Dennis Conley, UNL (DMW, DCP, GDS3)

Robert Engel, CoBank (CFT)

Dr. Roger Ginder, Iowa State University (DCP, GDS3, CFT)

Dr. Ernie Goss, Creighton University (CFT)

Tom Houser, CoBank (DMW)

Deino Sather, CoBank (DCP)

Mike Turner, UNL-retired (NDCDC)

Byron Ulery, Beloit KS (DCP)

Don Warrington, Omaha (CES)

Rocky Weber, Crosby Guenzel LLP (DCP)

DIRECTOR CERTIFICATION PROGRAM (DCP)

DCP was introduced as a three-phase program in 1978 and expanded to four phases in 1985 covering all aspects of the roles and responsibilities of directors and how these differ from the manager. More than 7,400 phases have been completed. This year's 20 graduates increased the total number of graduates to 1,446. CoBank and the UNL IANR are co-sponsors of the program with the Council.

DCP is conducted annually to help directors deal with the challenges they face as decision makers. DCP is designed to accelerate the process by which directors become active, effective board members.

DCP was conducted January 3-4 at the Kearney Holiday Inn. Due to the continuing mergers of cooperatives and the increasing number of directors who have completed DCP, this was the second year that only one location was utilized.

Instructors included Dr. Dennis Conley, UNL, Phases 1 and 4; Council Attorney Rocky Weber, Crosby Guenzel LLP, Phase 1; Dr. Roger Ginder, Iowa State University, and Deino Sather, CoBank, Phases 2 and 3; and Byron Ulery, retired cooperative manager from Beloit, KS, Phase 4.

CoBank and UNL supply personnel time for travel, instruction, and material development. CoBank also sponsors the "Analyzing A Cooperative Business" booklet utilized in Phase 3. Roger's services are obtained through a joint arrangement with Iowa State University by trading time with Dennis Conley who is utilized for DCP in Iowa.

Even with the severe ice storm affecting central Nebraska, attendance exceeded our expectations with 96 phases completed with 23 members participating. This represents a 9% increase over last year's attendance.

GRADUATE DIRECTOR SEMINAR 3 (GDS3)

A four-year rotation is utilized for the three existing GDS and the Special Director Seminars (SDS). These programs were created to meet the demand for continuing education as the number of directors completing DCP grew. GDS builds on materials covered in DCP and helps directors evaluate and enhance the skills they acquire through their experiences. SDS was implemented to meet specific needs of directors to enhance their leadership skills through effective interaction with others on the Board, members, and community leaders. Managers are encouraged to join directors providing them with an opportunity to further their cooperative training.

GDS/SDS co-sponsors include the

Council, CoBank, and the UNL IANR.

The GDS3, *Establishing the Value of Your Cooperative*, was conducted on January 5 at the Kearney Holiday Inn. Instructors were Dennis Conley and Roger Ginder.

GDS3 addresses the various methods of placing values on assets for the benefit of buyers, sellers, and all entities involved. Discussions focused on problematic conditions which may exist for cooperatives in a period of transition as they attempt to place value on their own or neighboring operations. A case study format was used to provide realistic working examples of establishing the value of a business and allow maximum participant involvement. Discussion provided a clear illustration of the various differences involved in asset valuation methods.

Due to the severe ice storm affecting central Nebraska, attendance was down. Overall, GDS3 attracted 10 participants from 6 member cooperatives.

COOPERATIVES FOR TOMORROW (CFT)

CFT was first held in 2005 and is designed for cooperatives that are seeking additional input to help determine the proper strategic position for the cooperative. Whether through rapid growth or evolving business practices,



Roger Ginder's research presentation at the CFT program.

cooperatives are being forced to change at a more rapid pace to be able to meet the needs of their members.

The 2007 CFT featured a variety of speakers and presenters that normally would not be available to local directors in Nebraska. We utilized nationally known speakers from both the academic and cooperative systems to provide local directors with the opportunity to obtain a different viewpoint in issues facing their cooperative.

The program was intended to be thought provoking and to challenge local directors to think in a broad sense when determining the correct strategic

position for the cooperative.

The program was held on February 7 at Embassy Suites in Lincoln with 79 cooperative leaders in attendance.

This year's program kicked off with an outstanding presentation by Dr. Lowell Catlett. Dr. Catlett is a nationally known Ag Economist who serves as Interim Dean of Agriculture at New Mexico State University. He addressed "Tomorrow's Agriculture: Six Trends You Can't Afford To Miss." In addition to his college duties, he also serves as a consultant to many Fortune 500 companies as well as to the U.S. Departments of Agriculture, the

(continued on page 15)



Dr. Lowell Catlett, keynote speaker at the CFT program.

CoBank Provides Contribution to FFE

During the Cooperatives For Tomorrow program, the Council along with those in attendance, learned of some very good news concerning the Fund For Excellence.

Bob Engel, CEO of CoBank in Denver, served as one of the presenters at the CFT program and at the end of his presentation, he announced that CoBank was providing a



\$5,000 donation to the FFE. This unsolicited contribution will be very helpful as the Council continues to strive to meet the educational needs of our members. We want to thank both Bob Engel and Mike Hechtner of the Omaha office for their contribution to the FFE and their continued support of the cooperative system in Nebraska.

Thanks

to the following 15 cooperatives who have provided a voluntary contribution (as of April 6) towards expenses for the court challenge on the DOR ruling:

Big Springs - Farmers Co-op Elevator

Brainard - Frontier Co-op Co

Dodge - Cooperative Supply Inc

Dorchester - Farmers Cooperative

Edison - Ag Valley Co-op

Elmwood - Midwest Farmers Co-op

Funk - Midland Co-op

Gothenburg - All Points Co-op

Hastings - Heartland Co-op

Holdrege - Agri Co-op

Imperial - Frenchman Valley Farmers Co-op

Lindsay - Farmers Co-op Assn

O'Neill - Central Valley Farmers Co-op

Shelby - United Farmers Co-op

Sidney - Crossroads Co-op Assn

Sales Tax on Mineral Oil *(cont. from page 11)*

In January, one of the previously mentioned cooperatives received a "Notice of Deficiency Declaration" (official notification) from the DOR that the cooperative was responsible for the sales and use tax on mineral oil. The cooperative filed a "petition for redetermination" but subsequently was turned down for any type of exemption.

This ruling will have a significant impact on grain handlers using mineral oil for dust suppression particularly since the DOR has the right to go back three years from the date of an audit to assess and collect the sales and use tax, and they can also levy penalties. Thus, there exists some significant tax exposure in this matter.

To determine estimates of the significance of this issue, we surveyed our membership to determine how much sales tax could be due based on total mineral oil usage. Forty-four percent (44%) of our members with grain responded, and we found that the estimated total expenditures for mineral oil were as follows:

2006	\$619,975
2005	\$571,049
2004	<u>\$517,185</u>
Total	\$1,708,209

At the 5.5% state sales tax rate, \$93,951.50 in state sales tax would be

due if all cooperatives were audited and forced to pay taxes for the last three years.

Also keep in mind that if you are in a community with a local sales tax, that would be in addition to the 5.5% tax rate.

Our survey also asked if cooperatives would be interested in participating in a court challenge to this DOR ruling – 15 of the respondents indicated they were interested. Based on this favorable interest, on February 15, 2007, the Council's Board of Directors decided to pursue litigation against the DOR. In addition, the Board is encouraging those grain cooperatives who use mineral oil as a dust suppressant to participate in a voluntary funding program to offset the legal costs involved. The Board is seeking a recommended contribution level of 2.5¢ per dollar of the member's 2006 mineral oil purchase dollars.

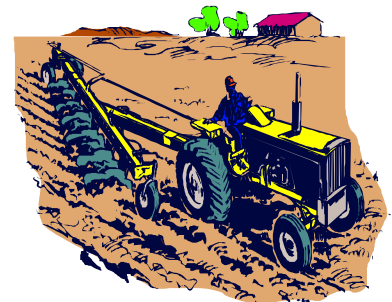
As with any trade association, there are certain groups of members within our membership that have common interests that are not necessarily shared by the entire membership. In these cases, we have sought specific funding from those directly affected. In the past, a couple of these issues have been the direct ship for storage grain programs (substitution grain) and the Fair Labor Standards Act. The Council Board

believes that this is the most equitable way to resolve unbudgeted issues that do not affect our entire membership.

The process for challenging the DOR involves petitioning the DOR for redetermination once it issues a "notice of deficiency" to the cooperative. The petition for redetermination must be filed within 30 days of the notice of deficiency. Thereafter, the taxpayer and the DOR will exchange additional evidence similar to the discovery phase commonly used in litigation. Once all such information is exchanged (which, depending on the issues, could take weeks or months), a formal hearing will be conducted at the DOR before one of its hearing officers. If the taxpayer wins, the matter is over. If the DOR wins, the taxpayer has 30 days in which to file an appeal with the District Court of Lancaster County. In District Court, the matter will proceed the same as other civil lawsuits. The decision of the District Court can be appealed by either party to the Nebraska Court of Appeals.

Assuming that we would have to prosecute appeals at all three levels (the DOR, the District Court, and the Appellate Court), the fees could be in the \$15,000-\$20,000 range. However, it certainly could be less, but a concerted effort should be done right.

Have a Safe Planting Season



Education Programs *(cont. from page 13)*

Interior, Defense, and Labor. Dr. Catlett is very well known nationally for presentations that help everyone peer into the future.

He certainly helped our group look into the future with many of the examples he provided of how technology will continue to change our world.

The group then heard from CoBank CEO Robert Engel. Mr. Engel provided a background on the role that CoBank will serve in the ever-changing world of cooperative finance. Mr. Engel also discussed the Horizons Project that the Farm Credit System is currently launching.

The final speaker in the morning was Dr. Ernie Goss. Dr. Goss is the Jack MacAllister Chair in Regional Economics at Creighton University in Omaha. Dr. Goss has published over 80 research studies focusing on economic forecasting and analysis of business and economic data. He is currently conducting a monthly "Mainstreet Economy" survey that groups the strengths of the rural economy in Colorado, Iowa, Kansas, Missouri, Nebraska, South Dakota, and Wyoming.

Dr. Goss challenged the group with his view on growing the economy of Nebraska through restraint in governmental spending. He also provided background on the Mainstreet Economy survey that he conducts monthly.

After lunch, the group heard from Dr. Roger Ginder. Dr. Ginder is an Ag Economist at Iowa State University. He has conducted research on Iowa cooperatives over the past several years to determine various efficiency factors for them. The past two years, he has incorporated Nebraska cooperatives into the study.

Dr. Ginder's presentation provided a look at the efficiencies that Nebraska cooperatives are achieving and provided a comparison to Iowa cooperatives. This is very interesting research that Dr. Ginder is conducting, and we will hear more about these efficiencies in future programs.

COOPERATIVE EMPLOYEE SEMINARS (CES)

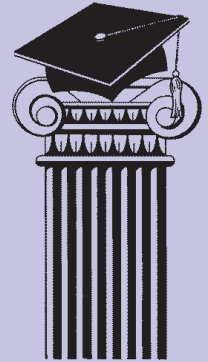
On-site, customized seminars are designed for employees to enhance their ability to handle the responsibilities of their

REMINDER Scholarship Application Deadline Approaches

NCC Education Foundation Scholarships for the 2007/08 academic year are being accepted.

Application forms and selection criteria are available on the Council's home page at www.nebr.coop.

Completed applications must be returned to the appropriate colleges by April 15, 2007.



current positions as well as preparing them to assume positions of increased responsibilities. This is the third year that the Council has offered customized programs for individual cooperatives. Three programs are currently offered--*Maximizing Employee Productivity*, *Customer Service or Else*, and *What Makes a Co-op Unique?*--with additional programs to be added in the future if interest warrants.

The *Maximizing Employee Productivity (MEP)* workshop was conducted on February 13 in Holdrege for Agri Co-op in Holdrege, Ag Valley Co-op in Edison, and All Points Co-op in Gothenburg.

Increasing employees' productivity is an effective business strategy which results in a corresponding increase in product and service sales, improved time lines and quality of service to customers, and, ultimately, overall profitability of the cooperative. Participants had the opportunity to improve their understanding of several key underlying principles and best practices *(continued on page 17)*

NEBRASKA COOPERATIVE COUNCIL MISSION STATEMENT

"To defend, protect and enhance the agricultural cooperative movement through pro-active programs in education, legislation, government affairs, communication, and regulatory issues."

THE COOPERATIVE PRINCIPLES:

- *Voluntary and Open Membership*
- *Democratic Member Control*
- *Member Economic Participation*
- *Autonomy and Independence*
- *Education, Training and Information*
- *Cooperation among Cooperatives*
- *Concern for Community*

The Hidden Success of Cooperatives *(cont. from page 9)*

access to quality supplies and services at a reasonable cost. This basically means by uniting together, members can buy and bargain large amounts of resources at lower costs. These lower prices can be attributed to buying in bulk and better negotiating with such a large group. The second benefit is increased clout in the marketplace. By working together to purchase supplies and services, members gain strength and power, but still can be independent. The third is share in the earnings. Most cooperatives generate earnings throughout the year, and then a portion of this income is returned to its members. These earnings are distributed by the amount of business done by an individual. Co-ops will use the profits they keep to maintain and update its equipment and other needed items. A major advantage hard to come across, as individuals, is political action. A cooperative gives people the ability to meet together and form strategies. They can send representatives to Congress and will usually be heard because they are speaking for large numbers of people, not individuals. The last major benefit is that the local economy is enhanced and protected. Also, taxes from co-ops help fund schools, hospitals, and other public facilities in a community. There are numerous advantages to cooperatives, but there are also some disadvantages.

One major disadvantage all cooperatives have is their slow ability to react to problems or needs. Instead of one person acting and making the decision, the Board must meet and agree on what action they should take, prolonging the problem. Another disadvantage to the cooperative is the high amount of capital they own. Most co-ops have numerous high maintenance machines that wear down over time. The cost to fix or replace these items can take away from the cash members would normally receive. Now that we know the structure of cooperatives and their advantages and disadvantages, let's join forces and take a look into specific types of co-ops.

There are three main cooperatives: consumer owned, producer owned, and worker owned. Consumer co-ops include credit unions and several other cooperatives such as

utility and electric, telephone, housing, food, health care, nursery schools and child-care. One of the most popular consumer co-ops in Nebraska is NPPD, or the Nebraska Public Power District. Today, over 100 million Americans use consumer co-ops to receive valuable services and save large sums of money while doing so.

The majority of producer cooperatives are farmers' co-ops. In producer owned co-ops, the producer sells his goods and can also receive goods and services in return at low costs. There are numerous farmers' cooperatives in Nebraska due to our focus on agriculture. Almost every rural community has ties to a producer co-op. Other well-known producer co-ops include Sunkist and Ocean Spray Cranberries.

The last type of cooperative is worker owned, which is controlled and owned by employees. Examples of worker owned co-ops are grocery stores, trucking businesses, and hardware wholesalers. Affiliated Foods Midwest is a worker owned co-op that serves over 850 retailers in a twelve state area including Nebraska. One of their main mottos is "We buy together to sell for less!," reflecting a cooperatives main goal.

We have worked together to thoroughly investigate the structure and purpose of cooperatives, united efforts to see its advantages and disadvantages, and joined forces to discover examples of the three main cooperatives. Today there are nearly 50,000 cooperatives that operate to serve its members. A cooperative is an old concept, yet continues to prosper today with great management. From the early days of the Pilgrims, to the insight of Ben Franklin, to the success of Sunkist, cooperatives have become and remain a crucial piece of our economy.



***Leadership and learning are
indispensable to each other.***

-- John F. Kennedy

(speech prepared for delivery in Dallas the day of his assassination - November 22, 1963.)

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Education Programs *(cont. from page 15)*

to maximize employee productivity.

Don Warrington, Retired Human Resources Director for Farm Credit Services of America in Omaha, served as the facilitator for the day-long program.

If your cooperative is interested in more information about offering a customized program for your employees, please contact Ed Woepfel at the Council office.

NEBRASKA COOPERATIVE DEVELOPMENT CENTER (NCDC) PROGRAMS

NCDC is a cooperative effort that was put together to address the issue of value-added opportunities for Nebraska's rural population. The group was originally funded by the State Department of Agriculture, the University of Nebraska, and the Department of Economic Development for the purpose of helping new value-added ventures get started. As budget constraints have occurred over time, the Center has relied more on grant funds to provide both staffing and operating funds. The University still provides staff time for the Director, but most other costs are funded through a grant from USDA.

The NCDC is working with start-up groups that have very little infrastructure in place and in many cases may not have

adequate resources to carry out their plans. Education is a great need amongst these groups and was identified by the NCDC as being a priority in the current grant with the USDA. In fact, the budget contains funding for educational programs.

At NCDC's request, in January 2005 the Council began offering education for NCDC's membership. It is designed to be similar to our DCP program but the information is customized to fit their needs—to date three phases have been developed. NCDC contracts with the Council for development of each phase as well as delivery of each phase.

Phase 3 was developed in September 2006 and delivered in December 2006. This phase, dealing with board/management relationships, is very similar to Phase 4 of our DCP. Mike Turner, Retired UNL Ag Economics Professor, facilitated the day-long program. Twelve directors from 6 different cooperatives attended the program.



Roger Ginder making a point at the DCP presentation.

CALENDAR OF UPCOMING EVENTS...

April 2007

20 *KRVN/KNEB/KTIC Radio Report

May 2007

4 *KRVN/KNEB/KTIC Radio Report

18 *KRVN/KNEB/KTIC Radio Report

24 NCC Board Conference Call

June 2007

1 *KRVN/KNEB/KTIC Radio Report

15 *KRVN/KNEB/KTIC Radio Report

29 *KRVN/KNEB/KTIC Radio Report

July 2007

11 NCC Board Meeting - Ogallala

13 *KRVN/KNEB/KTIC Radio Report

27 *KRVN/KNEB/KTIC Radio Report

August 2007

13 IA Subdistrict Meeting - Bridgeport

14 IB Subdistrict Meeting - Lexington

16 IIA&B Subdistrict Meeting - York

November 2007

15 NCC Board and Committee Meetings
- Kearney

16 NCC Annual Meeting - Kearney

December 2007

4 Member Input Meeting - York

5 Member Input Meeting - N Platte

11 D/M Workshop - Sidney

12 D/M Workshop - Kearney

14 D/M Workshop - York

January 2008

8 Director Certification Program,
Phases 1 & 3 - Kearney

9 Director Certification Program,
Phases 2 & 4 - Kearney

10 Special Director Seminar - Kearney

30 Board Officer Training - Grand Island

*Broadcast times are:
KRVN: 2:17 pm Central
KNEB: 1:15 pm Mountain
KTIC: 2:17 pm Central



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