

**2011-12**  
*Annual  
Report*

**N**EBRASKA  
**C**OOPERATIVE  
**C**OUNCIL



**NCC MISSION STATEMENT:**

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

# Chairman & President's Message



**Robert Andersen, NCC President, and Jim Chism, NCC Board Chairman**

We are pleased to provide you with this year's Annual Report of the Nebraska Cooperative Council. This past year can be described as a year of change and challenge, as well as a productive and successful year. Without question, this past year's achievements would not have been possible without the strong support of the agricultural cooperative membership statewide.

Regulatory compliance for agricultural cooperatives has become more and more of a challenge due to the issues presented at both the state and federal levels. This consumes both personnel time and funding but are deemed to be increasingly important to our members. This past year, the area of regulatory compliance was significantly elevated as reflected by the Council conducting a "Congressional Fly In" to Washington DC this past March to visit directly with our congressional delegation and federal regulators alike. The three primary issues of concern were: the MF Global Failure; OSHA's enforcement/compliance; and the importance of the Capper-Volstead Act upon Nebraska ag cooperatives.

In the case of the OSHA matter, Nebraska's farmer owned cooperatives embrace and strive to achieve

a culture of safety with the primary purpose of keeping their employees safe. Our intent was to address the manner in which OSHA is carrying out its mission and to seek assistance in creating a more equitable application on the Local Emphasis Program. Our discussions directly with top officials within the Department of Labor and OSHA were very productive. Incorporated within this Annual Report are more details about the Fly In.

Educationally, the Council's management team recognizes the importance of director education programming. In today's cooperative operations, cooperative boards and management are required to consider a greater number of factors and potential alternatives to minimize risk in an ever-changing and complex business climate.

You may recall that in 2011, the Council's Board and Excellence in Cooperative Education Committee (ECEC) spent a considerable amount of time evaluating the current educational programs coupled with the assessment of future educational programming and the delivery of same. After considerable study, the Board and ECEC concluded that the Council's educational programs would be best served by not renewing our Distinguished Professorship agreement with UNL. While this was a difficult decision, the driving force behind it was the rapidly changing environment that cooperative businesses operate in.

This past year of educational programming included the utilization of multiple "experts" from noted land grant universities (Iowa State, Michigan State, Kansas State) as well as Creighton University, nationally noted

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## Nebraska Cooperative Council

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speakers (Bill Helming, Mark Pearson), CoBank, and others.

The evaluations from the 377 board members and employees that attended the programs indicated that participants valued the opportunity to hear from nationally recognized experts.

The Council's legislative program continues to be a priority area. The Council's management team recognizes the importance of providing leadership in the development and support of legislative initiatives favorable to cooperatives. Your Council is recognized as an important and respected legislative leader for agricultural cooperatives by our elected state and federal legislators as well as the state and federal governmental departments. This is the result of the efforts and dedication of many within the cooperative system.

This past legislative session, your association was involved in or closely monitoring 65 legislative bills to various degrees. This consumes an inordinate amount of time and a day-to-day presence at the Capitol.

In July, the Council's Political Action Committee spent three days in Omaha and Lincoln interviewing 23 candidates for the Nebraska Legislature. As part of the interview, for those candidates not familiar with agricultural cooperatives, we conducted what we refer to as a "Co-op 101" session in which a producer director expounds upon what a cooperative is and its importance to his/her farming operations. This is and continues to be especially important for those candidates from Douglas, Sarpy, and Lancaster counties.

As you review this year's Annual Report, we believe it illustrates the Council is committed to its mission of doing all things necessary to defend, protect, and enhance the agricultural cooperative movement through pro-active programs in education, legislation, and regulations.

In closing, we want to extend our sincere appreciation for the members' participation and input this past year, along with the financial support to position the Council to properly address the challenges before us both now and in the future.

Your continued support is both valued and appreciated.

In the cooperative spirit, we remain...

  
Jim Chism

  
Robert Andersen

## 2011/12 Membership

### SUPPLY/MARKETING COOPERATIVES

Ainsworth - Farmers/Ranchers Co-op Assn  
Alliance - WESTCO  
Aurora Co-op Elevator Co  
Battle Creek Farmers Co-op N/S  
Beatrice - Southeast Nebraska Co-op Co  
Big Springs - Farmers Co-op Elevator Assn N/S  
Brainard - Frontier Co-op Co  
Bridgeport - Stateline Bean Producers Co-op  
Brule - Farmers Co-op Assn  
Cedar Bluffs - Farmers Union Co-op Assn  
Clarkson - Farmers Union Co-op Supply Co  
Columbus - Husker Co-op  
Dodge - Co-op Supply Inc N/S  
Dorchester - Farmers Cooperative  
Edison - Ag Valley Co-op, N/S  
Elmwood - Midwest Farmers Co-op  
Elsie - Hi-Line Co-op Inc  
Eustis - Farmers Co-op Assn  
Fairfield N/S Co-op Fertilizer Assn  
Friend - Farmers Union Co-op Co  
Gothenburg - All Points Co-op  
Hastings - Cooperative Producers Inc  
Hayes Center - Hayes County Farmers N/S Co-op  
Hemingford - Farmers Co-op Elevator Co  
Henderson Community Co-op Assn  
Holdrege - CHS Agri Service Center  
Imperial - Frenchman Valley Farmers Co-op  
Lindsay - Farmers Co-op Assn  
Merna - Farmers Co-op Grain Co  
O'Neill - Central Valley Ag Co-op N/S  
Pilger - Farmers Co-op  
Ravenna - Farmers Co-op Assn  
Schuyler Co-op Assn  
Scottsbluff - Panhandle Co-op Assn  
Sidney - Crossroads Co-op Assn  
Spalding - Country Partners Co-op  
Stapleton - Logan County Co-op Oil Assn  
Talmage - Farmers Co-op Co  
Wauneta Co-op Oil Co  
Waverly - Farmers Co-op Co  
York - United Farmers Co-op

### RURAL ELECTRIC COOPERATIVES

Alliance - Panhandle Rural Electric Membership Corp  
Grant - Midwest Electric Co-op Corp  
O'Neill - Niobrara Valley Electric Membership Corp

### TRANSPORT COOPERATIVES

Gothenburg - Co-op N/S Transport Co  
Grand Island - Central Co-op N/S Transport Co

### TELEPHONE COOPERATIVES

Blue Hill - Glenwood Telephone Membership Corp

### OUT-OF-STATE SUPPLY/MARKETING COOPERATIVES

Hiawatha KS - AgPartners Co-op, Inc  
Moundridge KS - Mid Kansas Co-op Assn

### LIVESTOCK MARKETING AGENCY

Producers Livestock Marketing

### PARTICIPATING MEMBERS

Ag Processing Inc  
Associated Milk Producers Inc  
Austin Mutual Agribusiness  
CHS Inc  
CoBank  
Dairy Farmers of America, Inc  
Farm Credit Services of America, Inc  
Four Points Federal Credit Union  
GROWMARK, Inc  
Land O'Lakes, Inc  
United Suppliers, Inc

### SUPPORTING MEMBERS

ADM (Archer-Daniels-Midland)  
Ag States Group, LLC  
Associated Benefits Corporation  
Berkley Agribusiness Risk Specialists  
Capital Recovery, Inc  
CFO Systems, LLC  
Eastern NE Grain, LLC  
EBM Construction, Inc  
Frisbie Construction Co, Inc  
Gardiner Thomsen CPAs  
Inspiro Inc  
INTL FCStone, LLC  
KFSA  
Lincoln Inspection Service  
McPherson Concrete Storage Systems, Inc  
Mid States Millwright & Builders, Inc.  
Milliman, Inc  
Monsanto  
Nationwide Agribusiness Insurance Co  
Nebraska Corn Board  
Nebraska Ethanol Board  
Nebraska Rural Radio Assn (KRVN, KNEB, KTIC)  
Pawling, Finn & Torell, CPAs LLC  
Stevenson & Associates, CPAs  
Summit Point Consulting  
Triangle Insurance  
VistaComm

# 2011/12 Council Leadership

## Board of Directors



**David Briggs (Vice Chair)**  
WESTCO  
Alliance



**Jim Chism (Bd Chair)**  
Frenchman Valley Farmers Co-op  
Imperial



**Jerrell Dolesh**  
Battle Creek Farmers Co-op  
Battle Creek



**Bruce Favinger (Secretary)**  
Cooperative Producers Inc  
Hastings



**Ron Heerten**  
Farmers/Ranchers Co-op  
Ainsworth



**John Oehlerking**  
Midwest Farmers Co-op  
Elmwood



**Randy Robeson**  
Frontier Co-op Co  
Brainard



**Dave Schneider**  
Farmers Co-op Co  
Waverly



**Mike Hechtner**  
CoBank  
Omaha

## Committees

### Legislative Advisory Committee

Robert Andersen..... Nebraska Cooperative Council (*Co-chair*)  
David Briggs ..... WESTCO, Alliance (*Co-chair*)  
Don Anthony..... CHS Inc, Lexington  
Tom Connelly..... Country Partners Co-op, Spalding  
Jerrell Dolesh ..... Battle Creek Farmers Co-op  
Duane Keller ..... Aurora Co-op Elevator Co  
Mike Maranell ..... Ag Processing Inc, Omaha  
John Oehlerking ..... Midwest Farmers Co-op, Elmwood  
Randy Robeson ..... Frontier Co-op Co, Brainard  
Jim Chism ..... Frenchman Valley Farmers Co-op, Imperial (*ex-officio*)

### NCC-Political Action Committee

David Briggs ..... WESTCO, Alliance (*Chair*)  
Doug Derscheid ..... Central Valley Ag Co-op, O'Neill  
Bob Fifield..... Cooperative Producers Inc, Hastings  
Ed Foster ..... All Points Co-op, Gothenburg  
Ron Hunter ..... Ag Valley Co-op, Edison  
Mary Kay Lyon ..... CHS Agri Service Center, Holdrege  
John Moore..... United Farmers Co-op, York  
Greg Sabata..... Frontier Co-op Co, Brainard  
Bill Schuster ..... Aurora Co-op Elevator Co  
Ron Velder ..... Farmers Cooperative, Dorchester  
Jim Chism ..... Frenchman Valley Farmers Co-op, Imperial (*ex-officio*)

### Excellence in Cooperative Education Committee

Bruce Favinger ..... Cooperative Producers Inc, Hastings (*Chair*)  
Dave Beckman ..... Central Valley Ag Co-op, O'Neill  
Deb Brauer..... Crossroads Co-op Assn, Sidney  
Jay Geu..... Frenchman Valley Farmers Co-op, Imperial  
Ron Heerten..... Farmers/Ranchers Co-op, Ainsworth  
Tom Houser..... CoBank, Omaha  
Merle Lyons..... Land O'Lakes, Sergeant Bluff IA  
Dave Schneider ..... Farmers Co-op Co, Waverly  
Dean Thernes ..... Battle Creek Farms Co-op  
Jim Chism ..... Frenchman Valley Farmers Co-op, Imperial (*ex-officio*)  
Dr. Larry Van Tassell .... University of Nebraska-Lincoln (*ex-officio*)  
Ed Woeppel ..... Nebraska Cooperative Council

### Hall of Fame Committee

Tom Osborn ..... Battle Creek (*Chair*)  
Stan Hillius ..... Kearney (*Vice Chair*)  
Bob Brass ..... Lexington  
Daryl Erickson ..... Greenwood  
Bill Henry ..... North Platte  
Jim Chism ..... Frenchman Valley Farmers Co-op, Imperial (*ex-officio*)  
Robert Andersen..... Nebraska Cooperative Council (*ex-officio*)

## Staff

Robert Andersen..... President  
Ed Woeppel ..... Education & Program Director  
Glenda Gaston..... Office Manager/Admin Assistant  
Deb Mazour ..... Program Coordinator/Admin Assistant

This year the Council's educational programs experienced a major shift in emphasis. Under a plan adopted by the Council's Excellence in Cooperative Education Committee and the Board of Directors, more emphasis was placed on providing nationally recognized speakers/facilitators for the various programs. This year participants heard from five nationally recognized University professors as well as three other nationally known agricultural experts.

While this was a major change for the Council, the program evaluations indicated that participants embraced the change. Three hundred seventy-seven (377) board members and cooperative employees from 30 cooperatives attended this year's educational programs.

Listed below is a summary of the programs.

## Director/Manager Workshop

*"What Goes Up, Must Come Down"* was the title of this year's program. Economist Bill Helming from Overland Park, Kansas, provided a macro view of the economy. During the presentation, Mr. Helming provided an in-depth look at a number of issues that could impact our economy in the next few years. Mr. Helming provided significant "food for thought" for all who attended.

The afternoon session of the workshop focused on the impact Mr. Helming's predications would have on cooperatives. Don Wiseman, Tom Houser, and Ed Woepfel facilitated this discussion that was designed to help cooperative directors as they plan for the future.

In addition to utilizing new facilitators for the workshop, we also altered the number of locations for the program. For a number of years we had



**Participants at the Director/Manager Workshop in York on December 14th.**

offered the workshop in three locations; however, this year we moved to two sites—Ogallala on December 13 and York on December 14. This efficiency measure seemed to be well accepted by members.

## Director Certification Program

DCP was held in Kearney on January 3-4. DCP is designed to accelerate the process by which newly elected directors can become active, effective board members.

A total of 79 phases were completed with 17 directors graduating from the program.

Facilitators for the program were Dr. Roger Ginder, retired ag economist from Iowa State University; Tom Houser, CoBank; Rocky Weber, Crosby Guenzel LLP law firm; Don Wiseman, retired co-op manager from Fairbury; and Ed Woepfel, Council staff.

## Board Officer Seminar

BOS was held in Lincoln on January 30. This session is designed to provide board leaders with additional training to help them carry out their role as leaders of the board.

Don Wiseman, retired cooperative manager from Fairbury, facilitated the morning session that addressed the issues surrounding board evaluations. The afternoon session was conducted by Rocky Weber. As usual, Rocky addressed many issues cooperatives are facing today.

## Cooperative Issues Symposium and Cooperatives For Tomorrow

CIS and CFT were held on February 9 & 10 respectively in Lincoln. Holding these programs on consecutive days allowed directors to attend two programs in one trip, thereby reducing travel time for them.

CIS is a new program that is designed to address a specific cooperative issue in depth. This year we addressed the issue of cooperative finance.

Dr. Chris Peterson from Michigan State University provided an in-depth look at financing, all the way from very basic financing to the more complex financing that is more common place today. Brian Klatt from CoBank's Denver office then provided a very informative session regarding the syndication of loans. Mr. Klatt also

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## Education

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described CoBank's role in the syndication process.

Bruce Krehbiel, CEO, and Brad Riley, CFO, of Kanza Cooperative in Iuka, Kansas, then provided an overview of the financial strategies they have implemented.

Closing the program were Rocky Weber and Bill Kutilek of the Crosby Guenzel LLP law firm. They addressed the "rights of lenders" and the impact that sophisticated financing could have on local cooperatives.

The evaluations of this program indicated that participants welcomed this addition to the Council's educational offerings.

The CFT seminar once again

proved to be a very popular program. This program is designed to provide local directors with the opportunity to hear from speakers that they may not normally have the chance to hear from.

This year's presenters were Mark Pearson, host of "Market to Market;" Brian Briggeman, director of the Arthur Capper Cooperative Center at Kansas State University (KSU); Barry Flinchbaugh, retired ag economist from KSU; and Ernie Goss, economist from Creighton University.

The evaluations showed that this program was highly rated by participants and one that provided quality information for those attending.

### Education for Co-op Employees

The Council continues to provide employee workshops for local coopera-

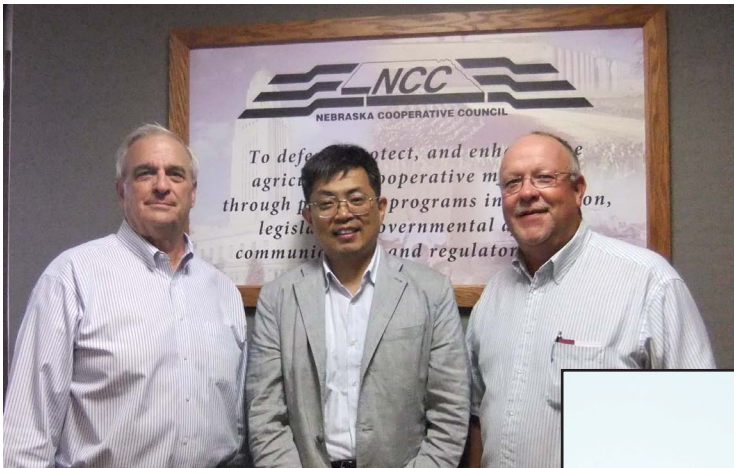
tives. This past year, the Council provided *Co-ops 101* for two cooperatives:

- Austin Mutual Agribusiness... presented to 15 employees on January 10, 2012
- Crossroads Cooperative - Sidney... presented to 36 employees on January 16, 2012

This program was originally developed in late 2009 upon receipt of grant funding from the CHS Foundation. A PowerPoint presentation and handouts were developed for a basic presentation by Ed Woepfel with the Council staff.

In addition to *Co-ops 101*, the following employee programs are also available: *Customer Service or Else!*; *Maximizing Employee Productivity*; and *StrengthsFinder*<sup>®</sup> training for local boards, senior management teams, or supervisory personnel.

If your cooperative is interested in hosting any of the customized employee workshops, please contact Ed Woepfel at the Council office.



**In late August, the Council helped arrange a study/tour for a visiting Japanese professor. Dr. Hiroshi Isoda, an Ag Economist from Kyushu University in Fukuoku, Japan, spent 16 days traveling Nebraska and learning about the grain trade and how cooperatives fit into the grain trade. He visited with numerous organizations including AGP, Farmers Cooperative-Dorchester, All Points Co-op-Gothenburg, and Stateline Bean Co-op-Bridgeport.**

**Dr. Isoda is pictured above with Bob Andersen and Ed Woepfel at the Council office and at right with AGP board member Steve Longval.**



# State Legislation - 2012 Session



After completing its 60-day session, the 102nd Legislature adjourned on April 18th. All bills that remained pending at the close of the session were killed and must be reintroduced and start the process anew in a future session.

Over 1,175 legislative bills, appropriation bills, resolutions, and constitutional amendments were considered during the 2012 session. Ultimately 245 bills became law (either with or without the Governor's approval) and 4 constitutional amendments were passed and delivered to the Secretary of State.

Listed below are issues that the Council was involved in this session.

## SIGNED INTO LAW

### **LB 459 - Ownership of Animals (monitor)**

LB 459 was signed by the Governor on March 7 and became effective July 19. It was introduced by Senator Schilz of Ogallala and co-sponsored by Senators Bloomfield of Hoskins, Brasch of Bancroft, Larson of O'Neill, and Wallman of Cortland. The bill, as amended, accurately clarifies and codifies the legal status of animals as personal property. Personal property does not enjoy the legal rights of persons. The bill makes it clear that local governments cannot elevate the legal status of animals above that of personal

property. This bill is aimed at preventing city or town boards from enacting laws which give animals legal rights or protected legal status.

### **LB 770 - Nebraska Seed Law (neutral)**

LB 770 was signed by the Governor on March 7 and became effective July 19. It was introduced by Senator Carlson of Holdrege and changes provisions to the Nebraska Seed Law by eliminating the listing of specific noxious weeds in the seed law and rather references the Noxious Weed Act. The Nebraska Department of Ag hopes this will eliminate the possibility of conflicting language in various statutes/regulations.

### **LB 853 - Uniform Commercial Code (monitor)**

LB 853 was signed by the Governor on March 7 and became effective July 19. It was introduced by Senator McCoy of Omaha and changes provisions relating to filing information under the Uniform Commercial Code. Under the bill, personal information of debtors (i.e., social security number or federal tax identification, telephone number) is no longer required as necessary information to file financing statements and/or liens. The purpose of the bill is to reduce public access to personally identifying information that can be used in identity thefts. While legal counsel does not see this bill as having a negative consequence on cooperatives, the change will make it even more important that the secured party have the correct legal names of those against whom it is filing financing statements and liens.

### **LB 873 - Petroleum Release Remedial Action Fund (support)**

LB 873 was signed by the Governor on March 7 and because it included the emergency clause, provisions became

effective March 8. Introduced by Senator Schilz of Ogallala, it extends the operation of the Petroleum Release Remedial Action Cash Fund until June 30, 2016. This has been a very successful program to clean up petroleum releases that have occurred. The Council has been very involved in this

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While we work on many industry issues, our number one priority is "cooperative specific" issues. Some of the basic issues that we continually monitor are:

◆ **Mandatory Equity Redemption...** to advocate that equity redemption should be determined by the cooperative's Board of Directors and not statutorily mandated.

◆ **Securities...** to ensure that cooperative equities are not classified as securities and subject to full registration with the Securities & Exchange Commission or Nebraska Department of Banking and Finance.

◆ **Patronage Dividends...** to oppose any effort to subject cooperative patronage dividends/per unit retains to "double taxation" at the producer and local levels for the purpose of computing state income taxes.

◆ **Interest on Members' Equity...** to oppose legislation mandating cooperatives to pay annual interest to member stockholders on their members' equity.

◆ **Cooperative Quorum and Voting Requirements...** to oppose any efforts to make the transacting of business more difficult for cooperatives.

◆ **Capper-Volstead Act...** to oppose any efforts to repeal the limited anti-trust exemption given to farmers and farmer owned cooperatives by the Capper-Volstead Act.

## State Legislation

(continued from page 7)

issue over the years and has supported the concept of using this program to address petroleum contamination.

The program is funded by a fee imposed on the sale of motor vehicle fuel (9/10¢/gal) and indelibly dyed diesel (3/10¢/gal). Under current law, operations are eligible for cleanup funds of up to \$975,000/occurrence. If they sell no less than 2,000 gallons and no more than \$250,000, operations would be eligible for \$985,000/occurrence.

The Fund currently has a balance of \$4.3 million; however, there are 1,061 backlogged sites.

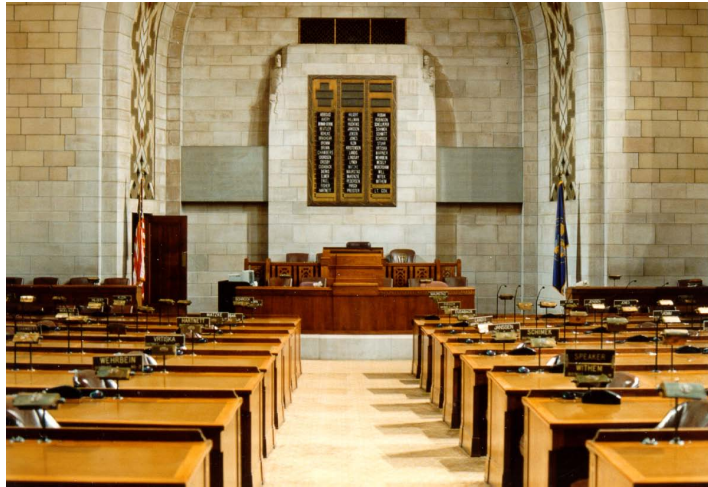
### LB 905 - Nebraska Wheat Resources Act (neutral)

LB 905 was signed by the Governor on April 10. Introduced by Senators Carlson of Holdrege, Larson of O'Neill, and Schilz of Ogallala, the bill increases the wheat checkoff rate from .0125¢/bu to 4/10 of 1% of the net market value of wheat sold through commercial channels of the state effective October 1, 2012. The Wheat Board has the authority to increase the excise tax to a maximum of 1/2 of 1% of the net market value.

### LB 1018 - Mergers, Consolidations & Conversations of Business Entities (monitor)

LB 1018 was signed by the Governor on April 2 and became effective on July 19. Introduced by Senator Conrad of Lincoln, it changes the Business Corporation Act and the Limited Partnership Act to bring these two acts in line with adoption of the Nebraska Uniform Limited Liability Company Act (LB 888-2011).

As passed, it provides that a domestic business corporation, when converting to a limited liability company, shall file a certificate of merger in the office of the register of deeds in each county in which the converting corporation



George W. Norris legislative chamber

owns real property. In addition, it provides that in provisions regarding approval of mergers, consolidations, or conversions of limited partnerships, references to limited partners who own more than a 50% interest in the profits mean partners who own "in the aggregate" more than a 50% interest in the profits.

The Council closely monitored LB 1018 for any amendments which would have negatively impacted cooperatives.

### LB 1031 - Uniform Commercial Code / Secured Transactions (monitor)

LB 1031 was signed by the Governor on March 14 and provisions become effective July 1, 2013. Introduced by Senator Burke Harr of Omaha, the bill amends the Uniform Commercial Code (UCC) relating to secured transactions by amending "this state" references to mean the "Department of Motor Vehicles" and by adding reference to "state identification card" in addition to a driver's license. LB 1031 is a cleanup bill following the adoption of LB 90 during the 2011 legislative session that updated several provisions of Article 9 of the Nebraska UCC as they relate to secured transactions.

LB 1031 is very limited in scope and only relates to the accuracy of the name of the debtor as used on a financ-

ing statement. Current law allows the use of the name as it appears on a driver's license issued by the state. LB 1031 as passed allows the use of the name from a driver's license issued by the Department of Motor Vehicles or a state identification card that has not expired. If more than one such piece of identification has been issued for an individual, it is the most recent one that applies.

### LB 1057 - Nebraska Corn Resources Act (neutral)

LB 1057 was signed by the Governor on April 10. It raises the current corn checkoff rate from 4/10¢ to 1/2¢/bu effective October 1, 2012.

## KILLED

The following bills were killed upon legislative adjournment:

### LB 789 - Electrical Inspections for Grain Handling and Irrigation Equipment (monitor)

LB 789 was introduced by Senator Ken Haar of Malcolm at the request of the Director of the State Electrical Division. The bill would have amended state statutes to specifically make electrical installations for grain handling and irrigation equipment, regardless of location, subject to the inspection and enforcement provisions of the State



Electrical Act. The bill did not adversely affect cooperatives since they are already required to submit applications for inspections under the commercial/ industrial requirements of the statute. Per Senator Haar, the intent of LB 789 was for inspection of on-farm storage and pivots due to accidents/deaths that have occurred over the past few years on farms.

### **LB 866 - Nebraska Fair Employment Opportunity Act (oppose)**

LB 866 was introduced by Senators Ken Haar of Malcolm, Avery of Lincoln, Cook of Omaha, Council of Omaha, Dubas of Fullerton, Burke Harr of Omaha, Howard of Omaha, Krist of Omaha, McGill of Lincoln, Mello of Omaha, and Nordquist of Omaha. It would have adopted the Nebraska Fair Employment Opportunity Act which would have made it unlawful for an employer: (1) to refuse to consider for employment or refuse to offer employment to an individual because of the individual's status as unemployed; (2) to publish in print, on the internet, or in any other medium an advertisement or announcement for any job that includes that an individual's status as unemployed disqualifies them as a candidate.

The Council's opposition was predicated upon the bill not being well reasoned and that it sought to cure an injustice that has not been widely recognized. Further, it would have been another trap for employers in the hiring process.

### **LB 915 - Cruelty to Animals (monitor)**

LB 915 was introduced by Senators Larson of O'Neill, Lautenbaugh of Omaha, and Schilz of Ogallala. It would have changed provisions related to the reporting of cruelty to animals by reducing the time frame in which reports would have needed to be made. It would also have required all original documentation including video, photo,

or audio which is evidence of cruelty. In addition anyone who obtained employment at an animal facility with the intent to disrupt normal operating of the facility would have been guilty of a Class IV felony.

The intent of this bill was to prohibit someone from infiltrating a facility and staging an animal cruelty event for the purpose of taping the event for use by an animal rights group. Due to the sensitivities of this issue, many of the farm groups were cautious in their approach to LB 915. Recent involvement in Nebraska by organizations such as the Humane Society of the United States led to the concern that this bill could allow animal rights organizations the opportunity to exploit an issue.

A number of the ag groups, including the Council, submitted a letter to the Ag Committee requesting continued study of the issue.

### **LB 922 - Rules of the Road / Load Content and Spillage (neutral)**

LB 922 was introduced by Senator Mello of Omaha, it would have provided that no person could operate a vehicle on state highways that contained livestock or the manure or urine of livestock unless all doors, seals, and gaskets (including any manure trap, drains, or washout openings) were closed. It would have been a violation whether or not any manure or urine had spilled or escaped from the vehicle. In addition no person operating a vehicle containing livestock or the manure or urine of livestock could allow manure or urine to escape from the vehicle. Violations would be a Class IV misdemeanor with

a minimum fine of \$250.

This has been a significant problem in south Omaha. The challenge for ag groups is finding a compromise that solves the south Omaha problem while not impeding the movement of livestock statewide.

Shortly before the bill's public hearing convened, Senator Mello agreed to work on the bill to exclude manure and urine escape language. Several ag groups, including the Council, then testified in a "neutral position" predicated upon the removal of the language regarding any escape of manure or urine from a vehicle statewide.

The amendment drafted by Senator Mello would also have applied the provisions to only metropolitan class cities (population of 300,000 or more). As such, the bill, if passed, would have only affected Omaha.

### **LB 971 - Merge the Dept. of Labor into the Dept. of Economic Development (monitor)**

LB 971 was introduced by Senators Harms of Scottsbluff, Carlson of Holdrege, Lambert of Plattsmouth, Lathrop of Omaha, McCoy of Omaha, Mello of Omaha, Pahls of Boys Town, and Schilz of Ogallala at the request of the Governor. In addition to merging the Department of Labor into the Department of Economic Developments, it would also have moved the administration and enforcement of the Boiler Inspection Act, the Conveyance Safety Act, and the Nebraska Amusement Ride Act from the Department of Labor to the Nebraska State Fire Marshall effective July 1, 2013.

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***"The most important political office is that of the private citizen."***

***- Louis D. Brandels***

***"Voters don't decide the issues, they decide who will decide issues."***

***- George Will***

# NCC Political Action Committee

The NCC-PAC was fully engaged this year due to the state senatorial election cycles. This summer, the PAC conducted 23 interviews with state senator candidates. These interviews were held in Omaha on July 17-18 and in Lincoln on July 19.

The PAC, which was established in 1999, was created to help us gain access with legislators, both rural and urban. Of course, with the continuing growth in population in the Omaha and Lincoln areas, more legislative seats will ultimately shift to urban senators, similar to District 49 in last year's legislative redistricting. The PAC allows us to educate these senators/candidates and to develop relations that will be beneficial during the legislative session.

The interviews are designed not only to allow for the committee to hear from candidates, but at the same time to provide committee members with the opportunity to inform candidates about cooperatives. We shared with the candidates the size and scope of cooperatives and how cooperatives differ from other business models. Many of the candidates were surprised to learn of the size and scale of today's cooperatives.



**In July, the NCC-PAC interviewed 23 legislative candidates for state senator. The interviews provided an opportunity for the Council to hear from the candidates as well as for the Council to educate them about Nebraska cooperatives and the impact they have on the state's economy.**

**Thanks to the following members who provided contributions to the NCC-PAC for the 2011/12 fiscal year:**



Ainsworth	Dorchester	Henderson	Ag Processing Inc
Alliance	Edison	Holdrege	Austin Mutual Agribusiness
Alliance REA	Elmwood	Imperial	Capital Recovery
Aurora	Elsie	Lindsay	Eastern Nebraska Grain
Battle Creek	Eustis	O'Neill	EBM Construction
Beatrice SE	Fairfield	Ravenna	Integris USA, LLC
Big Springs	Friend	Scottsbluff	KRVN
Brainard	Gothenburg	Sidney	Land O'Lakes
Cedar Bluffs	Gothenburg Trans.	Spalding	Milliman Inc.
Clarkson	Grant REA	Stapleton	Stevenson & Assoc.
Columbus	Hastings	Waverly	Triangle Insurance
Dodge	Hemingford	York	

## State Legislation

(continued from page 9)

The Boiler Act primarily affects feed mills with boilers, and the Conveyance Safety Act could affect grain facilities' personal elevators (man lifts), although the Department of Labor exempted grain handling facility man lifts from periodic inspections.

### LB 1108 - Sales Tax Exemption on Manufacturing Machinery and Equipment (support)

LB 1108 was introduced by Senator Pirsch of Omaha.

Currently sales and use tax is not imposed on (1) the sale, lease or rental and on the storage, use or other consumption in this state of manufacturing machinery and equipment; and (2) the sale of installation, repair, and maintenance service performed on or with respect to manufacturing machinery and equipment. LB 1108 would have added language to the aforementioned that it is "without regard to the percentage of income a company derives from the use of such machinery and equipment."



## Energy Source Exemption

In the fall of 2008, the Nebraska Department of Revenue (DOR) audited a Nebraska cooperative and assessed sales and use taxes because, according to the DOR, electricity used for drying grain was not exempt under the energy exemption due to the time of year the energy was utilized. At that time, the DOR indicated that the exemption could only be claimed for energy used in October, November or December, arbitrarily ignoring the fact that crops such as wheat are harvested in the summer. The Council communicated its resistance to this arbitrary interpretation to the DOR. The DOR refused to alter its position which threatened to eviscerate the exemption which had for years been utilized for grain drying.

Since 2009, the Council and its legal counsel have met and communicated with the DOR numerous times to attempt to resolve this issue. Throughout this time frame, we have not been able to reach any agreement with DOR regarding its interpretation of the energy exemption and the arbitrary change we believe it made sometime in or around 2008.

In the fall of 2010, the Council created a "restricted" fund for the purpose of challenging the DOR ruling. Council members impacted by this ruling provided voluntary contributions to the fund. At the time this fund was created, we alerted our members that

resolving the matter through litigation could be a three- to four-year process.

In October and November 2010, approximately 11 refund claims relating to gas used for drying grain and approximately 15 refund claims relating to electricity used for drying grain were filed with the DOR. The DOR has approved all of the refund claims relating to gas used for drying corn, and the refund checks were issued. As to the electric refund claims, the DOR has not yet taken the position that it will challenge or deny them. The DOR has raised numerous questions regarding these refund claims, often asking the same questions over and over and some of which we believe are asking for immaterial information.

In October 2011, a motion was filed with the DOR requesting that a hearing officer be appointed, that a formal hearing be scheduled, and that a progression schedule be set. To date, the DOR has taken no action on the motion and it remains pending. Recently, the refund claims were reassigned to another attorney and we have been in contact with them.

The latest attorney assigned to these claims appears to understand that the pending refund claims are part of a broader effort to obtain certainty regarding the application of the energy use tax exemption. A meeting was held recently wherein legal counsel, along with policy personnel from the department as well as the expert energy auditor utilized in preparing the refund claims, discussed in detail the various issues surrounding the applicable

exemption. The meeting is reported to have been productive, and the parties are continuing discussions in an attempt to find a satisfactory resolution. As the discussion evolves over the next several weeks we anticipate that we will either reach an acceptable resolution or we will move the matter to a formal hearing where a judicial determination can be made.

While we have seen success regarding the gas refunds it remains to be seen how the electrical claims will be resolved. Our hope is to resolve this informally through the refund process; however, litigation may still be necessary to solve the entire issue.

## PSC Schedule A & E Rates

The Nebraska Public Service Commission (PSC), conducted a public hearing on the Schedule A and E rates on May 9, 2012. These schedules govern the maximum rates for state licensed grain warehouses for receiving and handling grain, as well as storage and insuring.

Prior to the hearing, the Council's Grain Ad-hoc Advisory Committee reviewed the existing PSC rules, rates, and notes. The committee recommended to the Council's Board of Directors that no changes be made to Schedule A or E.

The PSC commissioners met on May 16 and voted to maintain the current A&E schedules.

# Federal Regulations



## LightSquared's FCC proposal

On February 14, 2012, the Federal Communications Commission (FCC) issued a press release indicating the FCC will block LightSquared's proposed nationwide wireless network. While LightSquared's proposal to provide ground based mobile service offered the potential to unleash a new spectrum for mobile broadband and enhance competition, there were issues with the technology.

Of particular concern for cooperatives and agriculture was the harmful interference to global positioning systems (GPS). This interference would have caused problems with GPS technology and caused GPS devices to become overloaded or jammed. This would have caused the need for millions of GPS users to upgrade or replace their current devices.

Last fall the Council along with many other organizations, including Nebraska cooperatives, submitted comments to the FCC outlining these concerns.

## Washington DC Fly In

Eight members of the Nebraska Cooperative Council participated in meetings with our congressional delegation and officials from the Department of Labor - Occupational Safety & Health Administration (DOL-OSHA) on

March 7-8, 2012. Participating were:

Managers: Jim Chism, Imperial; Bob Fifield, Hastings; Ron Hunter, Edison; and Ron Velder, Dorchester

Producers (Board Chairs): Dave Beckman, O'Neill; Doug Nuttelman, York; John Oehlerking, Elmwood; and Greg Sabata, Brainard

Others: Attorney Rocky Weber and Robert Andersen

In order to maximize the efficiency of this trip, Council representatives addressed three main issues while in Washington DC:

1. OSHA enforcement
2. The impact of the MF Global failure
3. The importance of the Capper-Volstead Act

## Department of Labor / OSHA

The purpose of the meeting with DOL/OSHA was to discuss concerns that Nebraska cooperatives have raised over the OSHA inspection process in the last year. In preparation for this meeting, Attorney Rocky Weber conducted a survey among cooperatives to ascertain the recent experiences coopera-

tives have encountered with OSHA operations and enforcement activities, fines, and penalties. The key information was utilized in developing an "Issue White Paper" which was submitted to OSHA and the entire Congressional Delegation.

Our meeting with OSHA officials on March 7 was very productive and constructive. We shared our concerns which included:

a. Swarm inspections where OSHA has inspected one location of a cooperative and then within a few days inspected another location of the same cooperative.

b. Inspectors advising cooperative personnel, in more than one instance, that the fines for violations were about the employer's "ability to pay."

c. Course of conduct if, after a citation, the employer requests an informal conference where the area office offers to settle the citations for an amount less than originally charged. This appears to be more of an effort to collect fines than to fine for the purpose of encouraging a safe work environment for employees.



During the Council's fly-in to Washington DC in March 2012, Council representatives talked with Nebraska's congressional delegation. Pictured above are (seated L to R) Ron Velder, Dorchester; U.S. Senator Ben Nelson; Jim Chism, Imperial. Standing L to R: Robert Andersen; John Oehlerking, Elmwood; Greg Sabata, Brainard; Bob Fifield, Hastings; Doug Nuttelman, York; Ron Hunter, Edison; Attorney Rocky Weber; and Dave Beckman, O'Neill.

d. Overly strict interpretation of applicable regulations that requires employers to contest citations and penalties.

e. Fines that bear no relationship to the severity of the offense (i.e., \$5,000 for an extension cord being improperly used even when no injury had resulted from its use).

We were promised that they would get back to us in two weeks, which they did. Assuming that the purported forthcoming actions are implemented by both Region VII and the Omaha Area Office, there will be a more equitable inspection of Nebraska cooperatives.

We will monitor this very closely and as we gain a better understanding of the current and future direction of OSHA, we'll keep you informed.

### Congressional Visits

During the congressional visits, members expressed concerns regarding OSHA enforcement actions and the negative impact this is having on cooperatives. Our members also addressed the issues that were raised in the meeting with DOL/OSHA officials.

In addition our members raised the following two issues:

**MF Global Failure...** Our members addressed the failure of MF Global and the impact this has on the ability of cooperatives to mitigate risk particularly in today's extremely volatile commodity markets. Specific topics addressed were:

- The use of commodity futures and options contracts in risk management
- The relationships of MFG, the SIPC, CFTC, and the CME Group
- Considerations for changes in the legal and regulatory structure governing handling of customer funds

**Capper-Volstead Act...** During the congressional visits, our members discussed the importance of the Capper-Volstead Act. They reiterated the importance of the Act for cooperatives and the importance of cooperatives to our economy.

## Cooperative Hall of Fame

Bob Elliott of Alliance (posthumously) and Larry Taylor of Columbus were inducted into the Hall of Fame during the luncheon at the Council's 2011 Annual Meeting.

Each will be permanently recognized with a plaque outlining their outstanding achievements which will be on display at the Council's office.

A summary of their accomplishments are:

**Robert "Bob" Elliott...** Bob served on the board of directors of Westco in Alliance for nine years with five of those years as board chair. While serving as chair of the Westco board, he also served on the board of the New Alliance Bean & Grain Company.



In 1996 Bob was elected to the board of directors of Cenex Inc. He was the first director elected to represent a region consisting of Nebraska, Kansas, Oklahoma, Colorado, Texas, and New Mexico. Bob continued his service on the board as Cenex Inc. merged with Harvest States to create CHS Inc. In 2004, Bob was elected as first vice chairman of the CHS

Inc. board, a position he held until his untimely death in 2006.

**Larry Taylor...** Larry began his 45-year career in 1958 as a night-time grain dryer operator at Farmers Cooperative in St. Edward. He was named general manager of Farmers Cooperative in Fullerton in 1980, and in 1986 he returned to St. Edward as general manager.



By the time Larry retired in 2004, the cooperative had merged with Fullerton, Genoa, Columbus, Platte Center, O'Neil and Oakland. When Larry began managing in 1980, he had 11 employees and sales of \$8 million. By the time of his final merger, his cooperative had 75 employees and sales of \$80 million.

In addition to his local cooperative, Larry also served on the board of Farmers Commodity Corporation, the forerunner to FC Stone. He also served on the Farmers Commodity Transportation Board from 2000-2006 and served as chair of the Northeast Nebraska Co-op Managers Association.

As you will recall, in 2010 the Council was actively involved in hearings held by the USDA and Department of Justice to address anti-trust issues. At that time Assistant Attorney General for Anti-trust Enforcement Christine Varney had made comments that it was time to address whether the Capper-Volstead Act should be repealed.

The Council and many other cooper-

ative organizations provided significant resources to inform key stakeholders about the consequences of any repeal effort of the Capper-Volstead Act.

During the congressional meeting in March, our members reminded the delegation of this issue in an effort to avert any future moves to repeal the Capper-Volstead Act.

# Youth Education

## State FFA Cooperative Speaking Contest

2012 marks the 61st consecutive year that the Nebraska Cooperative Council has provided sponsorship for the Nebraska FFA Association. This year the Council, with support from the CHS Foundation, sponsored the State FFA Cooperative Speaking Event.



The State FFA Cooperative Speaking Contest was held in conjunction with the State FFA Convention on March 28-30 in Lincoln. This year 3,560 students, parents, and guests attended the convention.

The Cooperative Speaking Contest provides students with the opportunity to research and develop a speech that focuses on any topic relating to cooperatives. Sixty-six students from across the state participated in the District contests. Of these 24 students qualified for the State contest with 22 actually participating.

The winner of the 2012 Cooperative Speaking Contest was Natasha Hongsermeier of the Aurora FFA Chapter. She received a trophy, first place medal, and a check for \$100 from the Nebraska Cooperative Council. Second place went to Morgan Tranmer of the Wilber-Clatonia FFA Chapter along with a medal and check for \$50. Third place went to Amber Burenheide of the Howells-Clarkson FFA Chapter who received a medal and check for \$25.

Other medal winners in alphabetical order were:

**Gold** - Grant Beckman, Elgin; Sam Herink, Leigh; Makenzi Kalkowski, Wisner-Pilger; Turner Moore, Syracuse; and Rachel Soresen, Plainview.

**Silver** - Natalie Becker, Creighton; AnnaLisa Glenn, Greeley-Wolbach; Jacob Goldfuss, O'Neill; Jordan Harms, Sandy Creek; Tim Harris, Lexington; Abbey Klein, Freeman; Erica Lewis, Wisner-Pilger; and Katie Stuhr, Centennial.

**Bronze** - Gavin Caldwell, Superior; Jordyn Knight, Ord; Kathrine MacIntosh, Garden County; Summer Mueller, Creek Valley; Christina Small, Fullerton; and Tayler Walter, Perkins County.

## Nebraska 4-H

The Council, with support from the CHS Foundation, provided sponsorship for 4-H participants at the State Fair. This past year, support was provided for Senior and Intermediate Showmanship in the areas of beef, breeding beef, swine and sheep. This sponsorship provides recognition for the skills developed by students in the four species listed above.

In addition to State Fair sponsorship, the Council also supports numerous other state 4-H activities throughout the year.

## Co-ops 101 for College Students

This year, the Council developed a *Co-ops 101* presentation that is



**1st Place Winner of the 2012 State FFA Cooperative Speaking Contest - Natasha Hongsermeier of the Aurora FFA Chapter.**

designed for two-year and four-year post secondary ag students. The one-hour long presentation focused on the cooperative business model and provided an update on the current state of cooperatives in Nebraska. During the presentation, Ed Woeppel provided students with an in-depth look at how the cooperative business model functions. In addition, students heard from a local cooperative CEO who provided information regarding current cooperative issues as well as employment trends in agribusiness. With support from the CHS Foundation, we were able to provide presentations at Central Community College - Hastings; Northeast Community College - Norfolk; UNL Ag Economics Club - Lincoln; Central Community College - Columbus; and the Nebraska College of Technical Agriculture - Curtis.



**Ed Woeppel provided current information about cooperatives to students at NCC-Norfolk.**

# Council Annual Meeting

The Nebraska Cooperative Council hosted its 66th Annual Meeting at the Kearney Holiday Inn and Convention Center on November 18. A total of 201 people attended the meeting and Hall of Fame luncheon.

The Council hosted an evening reception on November 17 for all attendees of the Annual Meeting with the partners of the Crosby Guenzel LLP law firm providing the beverages for the event.

The Annual Meeting kicked off with an address from Jay Rempe, Director of “We Support Agriculture.”

During the business session, Council President Robert Andersen provided the Financial Report, and Council Board Chair Jim Chism provided the Chair’s Report. Bruce Favinger, Board member and Chair of the Council’s Excellence in Cooperative Education Committee, then addressed the importance of education and future programming. He addressed the discontinuance of the Nebraska Cooperative Council Distinguished Professorship in Agricultural Economics at the Institute of Agriculture and Natural Resources and the decision to seek to elevate the Council’s educational programming by using regionally or nationally recognized speakers based upon topics or issues. David Briggs, Board Vice Chair and Political Action Committee Chair, provided a PAC report and Robert Andersen finished up the business session with the President’s Report.

Following the business session, Eric Brown, Manager of the Nebraska Rural Radio Association (NRRA), provided an update of the NRRA and introduced Craig Larson and Dwight Lane who will be providing leadership for the network upon Brown’s retirement.

The Voting Delegate Caucus was then held with elections taking place for two NCC Board

**AT RIGHT: Jay Rempe (at podium), Director of “We Support Agriculture”, updated the membership about the group’s mission.**



**During the business session, David Briggs (at podium) provided a report on the activities of the Council’s Political Action Committee. Also pictured (L to R) are NCC President Bob Andersen, NCC Bd Chair Jim Chism, and NCC Bd Secretary Bruce Favinger.**

seats. Re-elected for four-year terms were producer John Oehlerking, Director from Midwest Farmers Co-op in Elmwood, and David Briggs, President at Westco in Alliance.

Following a short break, the Legal, Tax & Accounting Workshop was held with Rocky Weber, Bill Kutilek, and Tom Jeffers from Crosby Guenzel LLP presenting.

The membership luncheon followed. The guest speaker for the luncheon was Joel Sartore, Photographer for *National Geographic*, *Audubon Magazine*, *Time*, *Life*, *Newsweek* and *Sports Illustrated*.

The final portion of the luncheon was reserved for the Nebraska Cooperative Council Cooperative Hall of Fame where Bob Elliott of Alliance (posthumously) and Larry Taylor of Columbus were inducted.



**Annual Meeting participants enjoyed time for fellowship during the noon luncheon.**



**Craig Larson (at podium), the new Chief Operating Officer of the Nebraska Rural Radio Association, introduced himself to the membership.**

# 2011/12 Financial Statements

The financial statements below are excerpts from the complete Audited Financial Statements provided to the Council's Board of Directors and as such are deemed preliminary and subject to the Board's approval.

Financial statements will be provided to members at the Annual Meeting on November 16, 2012. They are also available for members by contacting the Council office at 402/475-6555.



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# International Year of Cooperatives

The United Nations General Assembly proclaimed 2012 as the International Year of Cooperatives. The UN resolution “Cooperatives in Social Development” recognizes the diversity of the cooperative movement around the world and the role of the cooperative business model in achieving economic viability while also contributing social and community benefits.

The UN resolution is consistent with the cooperative principles that were first laid out by the Rochdale Pioneers in England in 1844. Those principles that are still in use today are:

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

## United States

Cooperatives operate across all sectors of the U.S. economy and include agriculture, food distribution and retailing, childcare, credit unions, purchasing, worker-owned, housing, healthcare, energy and telecommunications cooperatives. These cooperatives play a huge role in our national economy.

◆ More than 29,000 cooperatives operate in every sector of the economy and in every congressional district; Americans hold over 350 million co-op memberships.

◆ U.S. cooperatives generate 2 million jobs and make a substantial contribution to the U.S. economy with annual sales of \$652 billion and possessing assets of \$3 trillion.

◆ The majority of our country’s 2 million farmers are members of the nearly 3,000 farmer-owned cooperatives. They provide over 250,000 jobs and annual wages of over \$8 billion.

◆ More than 7,500 credit unions provide financial services to 91 million U.S. consumers.

◆ More than 900 rural electric co-ops deliver electricity to more than 42 million people in 47 states. This makes up 42% of the nation’s electric distribution lines and covers 75% of our country’s land mass.

◆ Approximately 233 million people are served by insurance companies owned by or closely affiliated with co-ops.



## Nebraska

In Nebraska, cooperatives continue to provide value to their members and the communities they serve. Nebraska’s farmer owned cooperatives are essential to rural economic development by serving as an “extension” of the farming operation for their members. These cooperatives allow their members to move further up the market chain by pooling the resources of members to find new markets. The same concept holds true for the purchase of inputs. By pooling purchases, cooperatives are able to lower prices for their members.

Our research shows that over 61,375 Nebraskans are members of farmer owned supply/marketing cooperatives. These cooperatives maintain locations in 403 Nebraska communities providing employment and necessary services in these communities. Over the past year, cooperatives have provided over \$76.8 million in patronage refunds and over \$13.6 million in equity/estate redemption. These are funds that go directly to members to be reinvested in local communities. Additionally cooperatives have invested over \$146.2 million in new equipment and facilities over the past year while paying over \$10.7 million in property taxes to support local governmental agencies.

The rural electric cooperatives in Nebraska also contribute greatly to rural Nebraska. These cooperatives serve 15,500 customers while maintaining 8,200 miles of power lines and having plant investments of over \$63 million.

The telephone/communication cooperatives are also vital to rural areas of the state. They serve over 6,000 members, employ over 100 people, and maintain over 2,000 miles of fiber optic cable in rural Nebraska.

***Cooperatives are a great story to tell and now is certainly an appropriate time to celebrate the value of the cooperative business model.***