

COOPERATION IN NEBRASKA

OFFICIAL PUBLICATION OF THE NEBRASKA COOPERATIVE COUNCIL



ANNUAL REPORT

Volume 42, No. 3

September 2003

This issue of *Cooperation in Nebraska* is a special edition that combines the Annual Report with the September newsletter. This is the fifth year we have combined these two publications, which allows us to become more efficient as we work to maximize your dues dollars. You will also note that many of the articles in the Annual Report were discussed at the Subdistrict meetings held in August. The article on page 5 of this publication referring to the Fund For Excellence is very similar to what was presented at the Subdistrict meetings. Keep in mind that most other articles in this publication look at what happened in 2002/03 while most of what was discussed at the Subdistrict meetings focused on what will happen in 2003/04.

President's Message



As you review this year's Annual Report, it is truly the reflection and outgrowth of the efforts and dedication of many cooperators from across the state. One of the key purposes of this association is the fostering, improving, and promoting of a better understanding of the principles and practices of the cooperative movement and of the agricultural cooperative way of doing business. Additionally, the Council is charged with doing any and all things necessary to defend, protect, and enhance the agricultural cooperative movement.

As one looks at the cooperative system, we need to remind ourselves of the need for farmer cooperatives to position themselves to remain competitive now and in the future in a changing global economy. This is critical if Nebraska farmers, ranchers, and growers are to improve their income from the marketplace. As farmer cooperatives, our efforts should be focused to ensure that producers have access to quality products and marketing plus services at competitive prices via user-owned and controlled businesses.

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It's important to remember that today's farmer-owned cooperatives are not your father's or grandfather's cooperatives. Today's farmer-owned cooperatives have become sophisticated business organizations in order to serve the needs of their patron members.

In these times of economic stress within agriculture, producers and cooperatives alike are being challenged. As I look at the cooperative governance teams from across the state, there are many issues before you. Today's operations are more complex and demanding. This has created the

need for greater time and effort being required of directors and managers alike as you address those important issues of the day. At the same time, I recognize that there are many, many other demands on directors and managers. Because of those demands, it would be easy for one to elect not to commit to additional responsibilities.

While I understand that reluctance, from a holistic perspective, this is problematic and erosive to the immediate and long-term success of the cooperative. This is also applicable to your cooperative trade association.

I would submit that as the redeployment of cooperatives' assets continues, the Council's programs will become even more important. I envision a continued and active presence in both the governmental affairs and regulatory rulemaking areas. Secondly, an ongoing commitment to provide quality cooperative education programming for directors and managers is essential. It will require even more efforts in communications and working with other stakeholders and youth.

As I look to the future, whether it be your local cooperative or this trade association, it will require the continued dedication and commitment of directors, managers, and

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President's Message (cont. from page 1)

others to fulfill our respective missions. In fact, it may well require more time and energies from individuals statewide to develop and implement those necessary programs and functions. Only through the dedication and strength of Board members and managers will we be able to meet these ever-changing demands.

I fully recognize that Nebraska has been very fortunate to have so many dedicated and capable people within the various local cooperative management teams. So much has been done to date. Yet, there's so much more before us—opportunities and challenges—which will require all of us to go the extra mile. As producer directors and managers, I encourage you to reaffirm your efforts and service. The long-term survivability of cooperatives requires that we not be observers but active stakeholders. To quote Edward Everett Hale, "I am only one, but I am one. I can't do everything, but I can do something. What I can do, I ought to do. And what I ought to do, by the grace of God, I will do."

That quote is applicable to all of us, whether it be personally or professionally. In reality it serves to remind us that our inherent responsibility is ongoing. Cooperatives, as "difference makers," require our collective vision, commitment, and energy as we attempt to improve the economic well-being of our producer member-owners. The Council remains committed to complement the cooperative way of doing business and to help local cooperatives achieve success.

In closing, I want to thank everyone who has graciously given of their time in making this past year another successful one.

In the cooperative spirit, I remain....

Robert C. Andersen, President

NEBRASKA COOPERATIVE COUNCIL MISSION STATEMENT

"The mission statement of the Nebraska Cooperative Council is 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



Subdistrict Meetings



Council President Bob Andersen addresses the group at the Subdistrict Meeting in Lexington.

A total of 211 attended the Subdistrict meetings in Bridgeport, Lexington, and York. For the first time, this year the Subdistrict IIA and IIB meetings were combined and held in York. This appeared to be a very successful way of conducting the meetings.

The Subdistrict meetings provided members the opportunity to be updated on the activities of the Council and the plans of the Council

for the upcoming year.

Those attending heard reports from members of the Board, Political Action Committee, Fund For Excellence Committee, Ag Convergence Committee, and the NCC Education Foundation, in addition to the President's report by Bob Andersen.

A special thanks goes out to Terry Bentley and the FCE Credit Union for providing support for the refreshments during the registration period at each of the Subdistrict meetings.

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BOARD OFFICERS

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 Vice Chairperson Ed Foster, Gothenburg - District I
 Secretary Bill Schuster, Aurora - District II

BOARD DIRECTORS

Jim Chism, Imperial District I
 Jerrell Dolesh, Battle Creek District II
 Steve Erdman, Scottsbluff District I
 Tom Hansen, Edison District I
 Ron Velder, Dorchester District II
 Virgil Harms, Omaha Participating Member

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2002/2003 Board of Directors

DISTRICT I



Jim Chism
Frenchman Valley
Farmers Co-op
Imperial



Steve Erdman
Panhandle Co-op Assn.
Scottsbluff



Ed Foster, Vice Chair
Farmland Service Co-op
Gothenburg



Tom Hansen
Ag Valley Co-op
Edison

DISTRICT II



Jerrell Dolesh
BattleCreekFarmersCo-op
Battle Creek



Dale Piper, Chair
Midwest Farmers Co-op
Elmwood



Bill Schuster, Secretary
Aurora Co-op Elevator Co.
Aurora



Ron Velder
Farmers Co-op
Dorchester

PARTICIPATING MEMBER



Virgil Harms
CoBank
Omaha



Dale Johnson
Agland Co-op
Oakland



Mike Pollnow
Farmers Elevator Co.
Chappell

Dale Johnson and Mike Pollnow resigned their positions on the Board in June 2003 due to career changes. We thank them for their contributions to the Council over the years.

2002/2003 Council Committees

LEGISLATIVE ADVISORY COMMITTEE

Robert Andersen Nebraska Cooperative Council (*Co-chair*)
Ed Foster Farmland Service Co-op, Gothenburg (*Co-chair*)
Jim Chism Frenchman Valley Farmers Co-op, Imperial
Tom Hansen Ag Valley Co-op, Edison

Dennis McGee All Points Co-op, Lexington
Mike Maranell Ag Processing Inc., Omaha
Rich Richey Husker Co-op, Columbus
Bill Schuster Aurora Co-op Elevator Co.

Bruce Younglove CHS Cooperatives, Lincoln
Dale Piper Midwest Farmers Co-op, Elmwood (*ex-officio*)

EDUCATIONAL ADVISORY COMMITTEE

Steve Erdman Panhandle Co-op Assn., Scottsbluff (*Chair*)
Tod Clark CHS-LOL, Scottsbluff
Tom Houser CoBank, Omaha
Ron Hunter Ag Valley Co-op, Edison

Eric Johnson Tri Valley Co-op, St. Edward
Monty Johnson Southeast Nebraska Co-op, Co., Beatrice
Stan Mitchell Farmers Co-op Elevator Co., Hemingford
Ron Velder Farmers Co-op, Dorchester

Steve Wright United Farmers Co-op, Shelby
Darrell Mark University of Nebraska-Lincoln (*ex-officio*)
Dale Piper Midwest Farmers Co-op, Elmwood (*ex-officio*)

POLITICAL ACTION COMMITTEE

Ed Foster Farmland Service Co-op, Gothenburg (*Chair*)
David Briggs WESTCO, Alliance
Jim Chism Frenchman Valley Farmers Co-op, Imperial
Doug Derscheid Central Farmers Co-op, O'Neill

Bruce Favinger Heartland Co-op, Hastings
Jerry Johnson United Farmers Co-op, Shelby
Mike Meier Agri Co-op, Holdrege
Greg Sabata Frontier Co-op Co., Brainard

Ron Velder Farmers Co-op, Dorchester
Brian Williams Farmers/Ranchers Co-op, Ainsworth
Dale Piper Midwest Farmers Co-op, Elmwood (*ex-officio*)

FUND FOR EXCELLENCE COMMITTEE

Steve Erdman Panhandle Co-op Assn., Scottsbluff (*Chair*)
Tom Connelly Country Partners Co-op, Spalding
Jerrell Dolesh Battle Creek Farmers Co-op
Darwin Franzen Cooperative Supply Inc., Dodge

Larry Landstrom Midland Co-op, Funk
Marlin Luebbe Farmers Co-op, Dorchester
Wade Mulari Co-op Mutual Insurance Co., Omaha
Dale Piper Midwest Farmers Co-op, Elmwood (*ex-officio*)

HALL OF FAME COMMITTEE

Jerome Gabriel, Shelby (*Chair*)
Ken Regier, Aurora (*Vice Chair*)
Ron Hunt, Hildreth
Jim Miller, Hardy
Mike Turner, Lincoln
Dale Piper, Elmwood (*ex-officio*)

Nebraska Cooperative Council Cooperative Hall of Fame Induction Ceremony

The Nebraska Cooperative Council Cooperative Hall of Fame welcomed four new members this year. On November 25, 2002, **Martin Leibbrandt** of Imperial, **Eugene Stara** of Fremont, **Winton W. Wright** of Benedict, and **Willard J. "Buck" Grant** of Omaha were inducted into the Hall. Buck Grant was honored posthumously.

The four have had a profound impact on cooperatives in Nebraska, and each spent their entire career providing leadership to the cooperative movement.

Martin Leibbrandt spent his career managing local cooperatives in Oberlin, Kansas, and at Imperial. Martin also served as Chair of the Board of Directors of the Nebraska Cooperative Council for 12 years.

Eugene Stara spent his entire career working for and managing the cooperative in Brainard. During his tenure, the cooperative experienced tremendous growth in its size and service to members.

Winton Wright was involved in farming for his entire career. During that time he served on the Board of his local cooperative, Farmland Industries, and Perennial Public Power District. All totaled, Winton has served 55 years on various cooperative boards.

Buck Grant was a legend in the dairy industry and provided the leadership to help members understand the importance of speaking with one voice for the dairy industry.

The four individuals continue to add to the prestige of the Hall of Fame which was implemented to recognize individuals who have been unwavering in their support of cooperatives. It is reserved for only those whose leadership is recognized as outstanding by their peers. Certainly these four meet that criteria and add to the prestige of the Hall of Fame.

Council Board Chairman Dale Johnson presented each of the inductees or their families with a framed certificate commemorating

their induction into the Hall of Fame. In addition, a plaque is permanently displayed at the Council's office in Lincoln.



William J. "Buck" Grant*
Omaha



Martin Leibbrandt
Imperial



Eugene Stara
Fremont



Winton W. Wright
Benedict

*Honored posthumously



Visit our website at
www.nebr.coop

NCC - Political Action Committee

The Council's Political Action Committee (PAC) was organized to enhance access to our elected senators from both rural and urban areas of the state. The committee charged with studying the formation of a PAC expressed a concern about declining rural representation in the Legislature, due to redistricting which occurs every 10 years. Because of that decline in rural representation, the study group realized the need to develop and enhance communications with urban legislators, especially those from Lancaster, Sarpy, and Douglas counties.

Since elections for the Legislature are on a 2-year cycle, the activity of the PAC follows that cycle. Half of the state legislators are up for election in each 2-year cycle. The next Primary Election will be held in May 2004 followed by the General Election in November 2004.

In the past, the Council PAC has interviewed candidates in each legislative race. While the interviews require significant dedication on the part of PAC committee members, the process is a valuable opportunity for the committee to get acquainted with the candidates. At the same time, the committee has been able to inform the candidates about issues affecting cooperatives. Many of these interviews have been held in cooperatives, which also helps the candidates better understand cooperatives.

As the 2004 elections approach, the PAC Committee will once again become very active. Its role in the interview process is very instrumental in providing the Council with access to legislative members.

Fund For Excellence

The Nebraska Cooperative Council Fund For Excellence (FFE) has completed its first year of funding educational projects. You'll recall that the FFE was initiated in an effort to ensure that local cooperatives in Nebraska would continue to have access to an independent, third-party cooperative faculty member with expertise and extension responsibilities with agricultural cooperatives at the University of Nebraska Institute of Agriculture and Natural Resources (IANR).

Funds donated to the FFE have been placed in a "restricted" account controlled by the Council rather than the University. Our intent is to utilize "only interest income." In addition, we are able to utilize any college (i.e., Iowa State University, Kansas State University, or others) if it better enhances and fulfills cooperative educational needs. Our current agreement with UNL calls for five annual payments of \$12,500 from the FFE.

FFE FUNDING FOR 2002/03

In 2002/03 we have seen positive results of establishing the Fund For Excellence. Two projects were funded and both were very successful and will have a positive impact on cooperatives in the state. Last year, FFE funds were responsible for the following:

1. **Agricultural Cooperative Equity Management Conference.** Darrell Mark organized this meeting that was held in Lincoln on February 14, 2003. A number of national cooperative equity experts presented sessions discussing equity management. This was a very successful event drawing over 120 cooperative leaders from across the state. The materials and discussion provided at this conference are extremely valuable to local cooperatives as we wrestle with equity management issues. The Council invested \$5,500 in this project.

2. **Calculation of Value Created by Local Nebraska Farm Supply and Grain Marketing Cooperatives.** This project is designed to create a method to determine the value that is created by local cooperatives. This is a topic that many cooperatives are addressing right now, and this research will help local cooperatives determine the value that they bring to an enterprise. The other thing that this calculation will allow is the comparison of cooperatives within the state. Once you know the value that you are creating, you will be able to see how you compare to the statewide average and to cooperatives of like size. The Council invested \$3,500 in this project.

These two projects will become "stepping stones," if you will, to future educational programs. The 2003 Director/Manager Workshops will build on the Equity Management Conference utilizing some of the data gathered by the value creation study.

FFE FUNDING FOR 2003/04

We received two proposals for the 2003/04 funding cycle. These proposals were reviewed by the entire FFE Committee. The Coordinating Committee took action to provide the following funding:

1. **Agricultural Cooperative Finance Model for Projecting Patron Cash Flow From Qualified and Non-Qualified Allocations** as submitted by Dr. Jeff Royer and Dr. Darrell Mark from UNL. This proposal is designed to develop and implement a computer model to project the impact of qualified vs. non-qualified allocations. This will allow cooperatives to project impact of allocation plans into the future. (\$10,000)

2. **Equity Management Strategies Used by Central Great Plains Farm Supply and Grain Marketing Cooperatives** was submitted by Dr. David Barton and Dr. Michael Boland, Kansas State University; Dr. Roger Ginder, Iowa State University; Dr. Sue Hine, Colorado State University; and Dr. Darrell Mark, University of Nebraska-Lincoln. This proposal would survey central Great Plains states--including 400 cooperatives in Nebraska, Iowa, Kansas, and Colorado--to determine equity management strategies being used. This was last done by USDA in 1991. (\$2,000)

FFA Cooperative Speaking Competition

The Nebraska Cooperative Council once again sponsored the State FFA Cooperative Speaking event. This event was held in conjunction with the 75th Annual State FFA Convention in Lincoln on April 3-4. A total of 57 students participated in the event statewide. Of these 57, 15 students were selected at district contests across Nebraska to compete in the state competition this year.

Contestants in the Cooperative Speaking Competition were judged on a six- to eight-minute prepared speech on a topic of their choice dealing with cooperatives and their benefits to the state and national economy. The speaking contest encourages young people to gain an understanding of cooperatives and to develop speaking and communication skills.

Judges for the semifinals were Lefty Gabriel, Shelby, and Gail Hall, Lexington. Judges for the finals were Mike Turner and Darrell Mark, both of Lincoln.

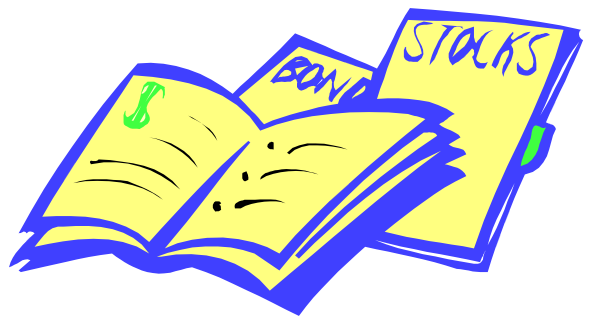
Krista Rasmussen from the Logan View FFA Chapter took top honors in the 2003 competition and received a trophy, first place medal, and a check for \$100 from the Nebraska Cooperative Council. Second place went to **Grant Janousek** of the Leigh-Clarkson FFA Chapter along with a medal and a check for \$50. Third place went to **Sarah Elger** of the Stuart FFA Chapter who received a medal and a check for \$25.

Others receiving medals and the FFA Chapters they represent were: **Gold:** Amber Koch, Hartington; Neeley Remmers, Freeman; **Silver:** Brooke Bredenkamp, Centennial; Laurice Hansen, Hampton; Helen Hecox, Gothenburg; Alyssa Smela, East Butler; Sarah Strohl, Loup County; **Bronze:** Sonja Duffield, Chappell; Brynn Husk, Blair; Brady Koch, Laurel-Concord; Jackie Pickhinke, Howells; Brian Rempe, Superior.

Nebraska Cooperative Council Financial Statements

The financial statements presented herein were excerpted from the complete Audited Financial Statements provided to the Council's Board of Directors.

Financial statements are available for members by contacting the Council office at 402/475-6555.



2002/2003 Educational Offerings

The Nebraska Cooperative Council has always held education as a high priority. It is very apparent that local cooperatives are also committed to the educational process. Attendance at this year's programs verify that commitment to education.

A total of 565 directors, managers, and employees of local cooperatives have been a part of the Council's educational programs for 2002/03. Programs included in the Council's offerings were the Director/Manager Workshop, the Director Certification Program, Graduate Director Seminar 3, Board Officer Training, and on-site programs for co-op employees.

Forty-two (42) of our local cooperatives sent representatives to at least one of our educational programs. This means that 58% of our cooperative members took the opportunity to become involved in continuing education to strengthen their local cooperative.

Director/Manager Workshop

The Council's Director/Manager Workshops were created to address timely issues of importance to Nebraska cooperatives.



Darrell Mark (front left) and Tom Houser (front right) leading discussion at the Director/Manager Workshop in Columbus.

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 Cooperatives, Farmland Industries, and Land O'Lakes.

The theme of the workshop was "The Value That Local Cooperatives Provide." The focal areas of the workshop were:

1. The value local cooperatives create and provide to members and the community.
2. Understanding future needs of members.
3. Making the choice to concentrate on value.
4. Communicating the value of the cooperative to members and the community.

Facilitators for the day-long program were Dr. Darrell Mark, UNL, and Tom Houser, CoBank.

Director Certification Program

The Director Certification Program (DCP) was introduced in 1978 and covers all aspects of the roles and responsibilities of directors and how these differ from the manager. This year's 32 graduates increased the total number of graduates to 1,371. This program is arguably the most important program that we offer to cooperatives.

CoBank and the UNL IANR are co-sponsors of the program with the Council.

The 2003 DCP was held January 7-8 at North Platte and January 28-29 at York.

Instructors for the program included: Dr. Darrell Mark, UNL, Phases 1 and 4; Council Attorney Rocky Weber, Crosby Guenzel LLP, Phase 1; Dr. Roger Ginder, Iowa State University and Tom Houser, CoBank, Phases 2 and 3; and Byron Ulery, retired co-op manager from Beloit, KS, Phase 4.

Per agreements with their respective state councils, cooperatives in northeast Colorado and southern South Dakota received information on the program and were offered member registration rates. Two cooperatives from northeast Colorado sent board members to the North Platte program this year, and we now have 41 Colorado directors who have participated in DCP.

Graduate Director Seminar 3

GDS builds on materials covered in the DCP and helps directors evaluate and enhance the skills they acquire through their experiences.

Co-sponsors of GDS include the Council, CoBank, and the UNL IANR.

The GDS3 on "Establishing the Value of Your Cooperative" was offered this year in North Platte on January 9 and in York on January 30. GDS3 addresses the various methods of placing values on assets for the benefit of buyers, sellers, and all entities involved. Discussion 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. Facilitators were Dr. Roger Ginder, Iowa State University, and Dr. Darrell Mark, UNL.

Board Officer Training

The Board Officer Training program was offered on February 19 in Grand Island. The morning session of this popular program was devoted to an open forum for discussion of topics that were raised by participants. Council Attorney Rocky Weber and Dr. Darrell Mark, UNL, moderated this session.

A wide number of topics were covered during the lively debate. The unique part of this presentation is that the topics come from the individuals in attendance.

The afternoon session was presented by John Campbell from Innovative Solutions Group Inc. in Overland Park, KS. The session focused on developing talent within an organization. John discussed this from an employee level and a Board level as well.

On-Site Training

This year, for the first time, we have offered on-site programs to help local cooperatives meet their employee development needs. These programs are designed to meet the specific needs of local cooperatives.

This year we conducted programs for the Chappell cooperative as well as a joint program for the Alliance and Hemingford cooperatives. Both of these programs focused on customer service and featured a half-day workshop for all the employees in the cooperatives.

Don Warrington, former Director of Human Resources for Farm Credit Services of America in Omaha, facilitated both of these on-site workshops.

Legislative/Regulatory Issues

This past year has not been any different than other years when addressing legislative and regulatory issues. Experience will tell you that we normally monitor 75-100 bills/issues that are before the Legislature or regulatory agencies each year. Many times bills or regulations appear, on the surface, to have little to do with cooperatives. However, they can impact us in varying ways. Below is a summary of major legislative issues and regulatory issues that we have monitored this past year.

LB 70 was introduced by Senators Kremer, Aguilar, and Erdman at the request of the Council to rectify contradictory provisions found in Neb. Rev. Stat §52-1603 relating to when a buyer of farm products is liable to a statutory lien holder. The intent of LB 70, per Neb. Rev. Stat §52-1603(1) provides that a buyer of farm products takes the farm product free of any lien created under Chapter 52, Article 2, 5, 9, 11, 12, or 14, if the lien was not on the most recent master lien list that the buyer subscribes to and receives from the office of the Secretary of State on a quarterly basis.

The old language within the statute contradicted itself and rendered the Central Filing System and master lien list useless if not corrected. Adoption of LB 70 and repeal of the old language resolved this contradiction and once again supported the purpose and usefulness of the Central Filing System and master lien list.

LB 70 was passed by the Legislature on January 30 and signed by the Governor on February 3. Because the bill contained the emergency clause, provisions of the bill became effective February 4.

LB 735 was introduced at the request of the Nebraska Public Service Commission (PSC) by Senators Kremer, Baker, Burling, and Schrock and provides that grain warehouse license holders shall submit an "audited fiscal year-end financial statement" to the PSC. Presently, grain warehousemen can submit either a review or an audited fiscal year-end financial statement; in essence, reviews would no longer be allowed from grain warehousemen under LB 735.

After a number of individuals expressed opposition to the audit requirement in LB 735, Senator Kremer, as the Ag Committee Chairperson, offered a draft compromise via

amendment AM0410 which provided that grain warehousemen could submit either a review or full-scope audit. Those electing to submit a review would also be required to provide the following:

- Additional financial security in an amount set by the PSC under the rules and regulations but not less than \$25,000 or more than \$500,000.
- A verified report of the grain inventory prepared in accordance with GAAP in the U.S. by a person or firm which holds a permit granted by the Nebraska State Board of Public Accountancy.

The Council's Legislative Advisory Committee (LAC) continues to support requiring grain warehousemen to submit full-scope audits. We have reservations as to whether AM0410 will truly serve as a preventative tool to avoid producer losses. For example, AM0410 purports that grain warehousemen who elect to submit a review would also be required to submit a verified report of grain inventory; however, per Council Attorney Weber, the language would not require that this be done annually.

LB 735, as amended by AM0410, was passed by the Legislature and signed by the Governor.

LB 736 was introduced by Senators Kremer, Baker, Bromm, Erdman, and Schrock, at the request of the Council. The intent of this legislation is to remove the present language which prohibits "exempt" cooperatives from being eligible participants under LB 775, the Employment and Investment Growth Act, as passed in 1987.

LB 736 should rectify what we believe is a serious interpretation flaw by the Department of Revenue.

This bill faced a tough challenge considering Nebraska's economic situation. There were approximately a dozen bills introduced regarding the

Cooperative Specific

The following areas directly affect and impact cooperatives; these issues are unique to cooperatives and require constant monitoring.

Securities...The Council continues to work to ensure that cooperative equities are not classified as securities and subject to full registration. The exemption from full registration of certificates of investment has been maintained, but the notice filing requirements continue.

Mandatory Equity Redemption...The Council's position has been that decisions regarding equity redemption should remain in the hands of the Cooperative's Board of Directors. In the past few years, there has been the advancement in several surrounding states to allow members or stockholders of a cooperative to demand immediate payment of equities, or to prohibit the practice of setting aside any such members' earnings to a surplus fund. The Council is opposed to both provisions.

Patronage Dividends...The Council will continue to oppose any efforts to

subject cooperative patronage dividends/per unit retainings to "double taxation" at both the producer and local levels for the purpose of computing state income taxes.

Interest on Members' Equity...The Council continues to oppose legislation mandating cooperatives to pay annual interest to member stockholders on their members' equity.

Transportation Cooperatives...The Council will continue to oppose efforts which would discriminate against cooperative transports.

Farm Credit System...The Council will continue to closely monitor legislation to ensure that commercial lending interests do not attach/amend legislation which would prohibit or restrict the ability of the Farm Credit System to adequately serve agriculture and cooperatives.

Telephone Cooperatives and Rural Electric Cooperatives...The Council will continue to closely monitor legislation to ensure that Telephone Cooperatives and Rural Electric Cooperatives are allowed the opportunity to adequately serve their members.

(cont. on page 10)

Employment and Investment Growth Act (LB 775).

The bill continues to be held by the Revenue Committee and will be carried over to the 2004 session.

LB 754 was introduced by Senators Bromm, Burling, Stuhr, and Wehrbein with the intent of encouraging livestock production in Nebraska. The bill would allow counties to be designated as "Livestock Friendly" by meeting criteria established by the Nebraska Department of Agriculture.

The final bill would require local zoning authorities to give producers specific criteria for obtaining building permits and to state their reasons, in writing, for granting or denying the permits.

LB 754 was very controversial as opponents saw it as weakening local zoning authority, while proponents saw it as a way of encouraging growth in the livestock industry.

The bill was passed by the Legislature and signed by the Governor.

LB 32 was introduced by Senator Schrock and addresses storm water runoff issues. It would authorize storm water management programs and improvements and storm water sewer systems. A county board or natural resources district that encompasses such areas may, by resolution, establish storm water management areas and implement management programs within the county or district.

The governing body may set rates or charges proportionate to the storm water contribution of the premises served and based upon sound engineering principles, including factors such as impervious land surfaces and land uses.

An exemption for "agricultural land" is included in the bill; however, we do not believe this would include cooperatives' real property; therefore, cooperatives would be subject to assessments. The Council opposed LB 32 and submitted a letter stating our position.

LB 32 was postponed until January 1, 2004.

LB 479 was introduced by Senator Baker and would increase the excise tax on corn and grain sorghum from ½¢ to 1¢ per bushel or hundred-weight, respectively, from October 1, 2003, through October 1, 2011. The intent is to raise additional funding to meet the expected shortfall of tax credits for ethanol producers if the proposed number of ethanol facilities do materialize.

LB 479 was advanced to General File and will be held over until next year.

LB 259 was introduced to provide the Nebraska Railway Council (NRC) more flexibility in providing grants and loans. Provisions of the bill modify how the NRC can provide loans for light-density rail line acquisition or rehabilitation. Current provisions require the NRC to obtain a lien of 120% of the loan value. Under LB 259, this requirement is removed; instead, the NRC will determine the value of the lien while still protecting its interests.

The Council supported LB 259 which passed and was signed by the Governor.



LB 494 was introduced to amend the Uniform Commercial Code to provide that neither a financing statement nor an amendment to a financing statement may be filed when the same person is listed as both debtor and creditor. This bill adds to the integrity of the Central Filing System for lien priorities. Currently, a debtor, believing that a lien is about to be filed, could file a financing statement naming himself as the creditor and then try to claim a prior lien interest over the secured parties filing liens after his. Our legal counsel has indicated that while this lien would not withstand a legal challenge in court, it would still

require legal action to clear the lien from the record. **The Council supported LB 494 which passed and was signed by the Governor.**

PUBLIC SERVICE COMMISSION

One year ago the Public Service Commission (PSC) held a series of meetings with stakeholders to evaluate the rules and regulations that govern grain storage. This comprehensive study was undertaken in light of a recent warehouse closing that left grain producers and other grain owners at risk because the bond coverage was inadequate to satisfy claims.

The result of these meetings was a proposal from the PSC to change state legislation to provide adequate protection for producers and other grain owners. This proposal was introduced in the Legislature this year as LB 735. As indicated on page 6, LB 735 was amended to allow less than a full scope audit.

The Council still believes that requiring a "full-scope audit" would provide the most protection for producers. While these new requirements are an improvement, they are not as good as an audit.

The PSC is continuing to study this issue and is holding additional meetings this summer. In addition to the security issue for grain warehousemen, the Commission will also study the inclusion of other grain purchasers, such as feedlots and ethanol plants.

PESTICIDE SPRAY DRIFT

On August 22, 2001, the Federal Environmental Protection Agency (EPA) published in the Federal Register its "Draft Guidance for Pesticide Registrants on New Labeling Statements for Spray and Dust Drift Mitigation." The document establishes new rules for manufacturers in labeling their products and new rules for applicators and farmers in applying pesticides. The current language urges applicators to minimize drift. EPA has found this language to be mostly unenforceable in court and wants completely enforceable language on labels.

The regulations constitute a **zero tolerance** policy on spray drift. Despite the term “guidance,” the proposal mandates language for pesticide labels, and under FIFRA the “label is the law.”

The proposal would also prohibit application in winds 10 mph or over regardless of wind direction. This could mean that spraying will be unlawful for much of the spring application season in Midwest and Great Plains states.

The EPA document requires applicators to employ “all other measures necessary to control drift.” This vague language (What are these other measures? How can someone be sure that they have used them all?) could leave producers and applicators vulnerable to EPA enforcement actions and penalties. Any farmer, applicator, or home gardener who allows a parts per trillion amount of drift to land off target will be immediate violators of FIFRA and subject to fines and citizen lawsuits from complainants and environmental groups.

Currently, the EPA is reviewing comments which were received. The Council has submitted comments pointing out the negative impact this would have on agriculture in Nebraska. In addition, we have encouraged local cooperatives to submit comments as well.

HAZARDOUS MATERIALS SECURITY PLANS

New regulations from the U.S. Department of Transportation (DOT) regarding Hazardous Materials Security Plans have recently been announced. Due to the concern about Homeland Security, there is a heightened level of interest in requiring more security for hazardous materials (H-M). These regulations fit into three general areas which are as follows:

1. Transportation

By September 25, 2003, anyone who transports, or offers for shipment, placarded amounts of H-M must have in place a written “security plan,” which must be adhered to.

The written plan does not need to be submitted to DOT; however, it will be reviewed by inspectors during on-site compliance inspections.

2. Employee Training

Beginning with the first scheduled, recurrent training after March 25, 2003, but no later than March 24, 2006, each H-M employee must receive training on the awareness of security risks associated with H-M transportation and ways to enhance security.

3. Site Security Plans

Site Security Plans (SSPs) are not presently included in the regulations; however, two bills are currently before the Senate that would require manufacturers and dealers to develop SSPs. S.157, “The Chemical Security Act of 2003” and S.994, “The Chemical Facilities Act of 2003” have been cited as being industry friendly; however, they include requirements such as buffer zones between the chemical source and surrounding populations, the installation and operation of an intrusion detection sensor, and other requirements that would be of significant cost to the industry. Neither of these bills provide any exemptions for storage of small quantities or locations in areas of sparse population.

As was indicated earlier, there is currently no requirement to develop SSPs, but many in the industry including the Agricultural Retailers Association are encouraging retailers to take a proactive stance and begin developing SSPs. The intent is to show that industry is taking steps to solve the problem and that government regulations are not needed.

FAIR LABOR STANDARDS ACT

During Department of Labor (DOL) audits of cooperatives in the last few years, the DOL has taken the position that incentive pay commonly provided for floater operators or tank wagon deliveries, must be included in the “base hourly rate” for the purpose of calculating overtime because the incentive is a previously agreed upon part of the employee’s compensation plan. The net effect of this has been to require the employer to recalculate all overtime for the period in which the bonus or commission was earned. When the DOL has taken this position, the employers have had to pay large amounts of additional compensa-

tion to the employees who received incentive pay.

This is becoming a burden to such a degree that many cooperatives are discontinuing incentive pay programs because of the “penalty” of paying affected employees compensation that was never intended. Removal of such incentives impedes the ability of cooperatives to attract and keep quality employees.

In order to resolve this issue, the Council has arranged meetings with our Congressional representatives and their staff. Through these discussions the representatives and their staff members have come to understand the problem that this presents to cooperatives.

Since the DOL audits were only affecting Nebraska at this point in time, the Congressional representatives felt passing legislation would be difficult, if not impossible, because any such legislation would be attacked viciously by the labor unions. With that in mind, they suggested meeting with DOL administrators to resolve the issue.

The Council worked with Congressmen Osborne and Bereuter’s offices to schedule a conference call with DOL officials. During this call, DOL officials had the opportunity to hear from cooperative managers and employees, as they shared their concerns about DOL audits. At the conclusion of the conference call, Ms. Tammy McCutchen, the Head of the Wage & Hour Division at DOL, suggested that we submit a proposal for resolving the issue.

Council Attorney Rocky Weber prepared a proposal that includes input from cooperatives affected by the FLSA and it has been forwarded to Ms. McCutchen for review.

On July 3 we were able to get an update on the status of our proposal from a staff member for Ms. McCutchen. Staff indicated that their division has been overwhelmed by the public controversy due to the newly proposed regulations to amend the “professional” exemption from overtime and minimum wage regulations.

Consequently, the release of the new regulations and the resulting controversy have taken priority in the

(cont. on page 12)

Department of Labor Wage & Hour Division.

WORKERS' COMPENSATION EQUITY

Changes in the laws in recent years, together with decisions interpreting existing laws, have drastically changed the Workers' Compensation climate in Nebraska. At one time, Nebraska was considered a neutral state with regard to Workers' Compensation. There are those who believe this is no longer the case.

One of the uncontrollable costs which employers, including cooperatives, face are the premiums for workers' compensation insurance. The greater the exposure to the payment of benefits, the higher the premiums are for workers' compensation insurance coverage.

A coalition of Nebraska employers has been formed as the Nebraskans for Workers' Compensation Equity (NWCE). Any changes that this group would suggest are all directed at leveling the playing field and ultimately decreasing the cost of Workers' Compensation in Nebraska while providing fair and reasonable coverage to employees injured on the job.

The Council's Board believes the interest of the Council's membership warrants the Council becoming an "association" member to the NWCE. Through our membership, individual members of the Council would not need to financially participate unless they desire to.

It should be noted that obtaining equity in compensation benefits will take time. It has been suggested that impacting change in this area could be a 5- to 10-year project.

The problem with advice is that the person who has the answer doesn't have the problem.

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CALENDAR OF UPCOMING EVENTS...

October 2003 - Co-op Month

- 10 *KRVN/KNEB/KTIC Radio Report
- 24 *KRVN/KNEB/KTIC Radio Report

November 2003

- 7 *KRVN/KNEB/KTIC Radio Report
- 17 Nebraska Rural Radio Assn. Annual Meeting - Lexington
- 21 *KRVN/KNEB/KTIC Radio Report
- 24 Nebraska Cooperative Council Annual Meeting - Kearney Holiday Inn

December 2003

- 4-5 CHS Cooperatives Annual Meeting
- 5 *KRVN/KNEB/KTIC Radio Report
- 12 Director/Manager Workshop - Lincoln
- 16 Director/Manager Workshop - Sidney
- 17 Director/Manager Workshop - Kearney
- 18 Director/Manager Workshop - Columbus
- 19 *KRVN/KNEB/KTIC Radio Report

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