

LEGISLATIVE BILL 991

Approved by the Governor April 5, 1984

Introduced by Agriculture & Environment Committee,
Haberman, 44, Chairperson; Pappas, 42;
Eret, 32; R. Peterson, 21; Chronister, 18

AN ACT relating to poultry and egg resources; to amend sections 2-3403, 2-3408, and 2-3413, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to change provisions relating to a fee on commercial eggs; to authorize the acceptance of certain funds; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-3403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows: 2-3403. As used in sections 2-3401 to 2-3416, unless the context otherwise requires:

(1) Department shall mean the Department of Agriculture of the State of Nebraska;

(2) Director shall mean the Director of Agriculture of the State of Nebraska;

(3) Committee shall mean the advisory committee created by section 2-3404;

(4) Nebraska Poultry Industries, Inc. shall mean a body corporate formed under the provisions of the Nonprofit Corporation Act, the articles of incorporation of which were received by the Secretary of State and filed for record on January 13, 1970, and recorded as film roll number 35, Miscellaneous Incorporations at page 2206. Its purpose and objective is to promote, improve, and protect all branches of the poultry and egg industry and to coordinate all the activities of its member divisions of the poultry industry and to act as their agent in promoting such activities favorably to the poultry industry as a whole for the entire State of Nebraska;

(5) Person shall mean any individual, firm, group of individuals, partnership, corporation, unincorporated association, cooperative, or any other entity, public or private;

(6) Egg producer shall mean any person engaged in the production of commercial eggs who owns or contracts for the care of layer-type chickens;

(7) Turkey producer shall mean a person who owns or contracts for the care of turkeys sold through commercial channels;

(8) First purchaser shall mean any person who receives or otherwise acquires poultry or eggs from a

producer and processes, prepares for marketing, or markets, such poultry or eggs, including the poultry or eggs of his or her own production, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, when the actual or constructive possession of such poultry or eggs is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(9) Poultry shall mean domestic chickens and turkeys;

(10) Commercial eggs shall mean, in the case of eggs produced in this state, eggs from domesticated chickens that are sold for human consumption either in shell egg form or for further processing and, in the case of eggs produced outside of this state, graded eggs sold to retailers, wholesalers, distributors, or food purveyors;

(11) Egg products shall mean commercial products produced, in whole or in part, from shell eggs;

(12) Market development shall mean research and educational programs which are directed toward (a) better and more efficient production, marketing, and utilization of poultry, eggs, and the products thereof produced for resale, (b) better methods, to include, but not be limited to, public relations and other promotion techniques, for the maintenance of present markets and for the development of new or larger domestic or foreign markets and for the sale of poultry, eggs, and the products thereof, and (c) the prevention, modification, or elimination of trade barriers which obstruct the free flow of poultry, eggs, and the products thereof to market;

(13) Commercial channels shall mean the sale of poultry, eggs, or the products thereof for any use, when sold to any commercial buyer, dealer, processor, or cooperative, or to any person who resells any poultry, eggs, or the products thereof;

(14) Case shall mean a unit of thirty dozen eggs;

(15) Breaker shall mean a person engaged in the further processing of commercial eggs; and

(16) Sale shall include any pledge or mortgage of poultry, eggs, or the products thereof to any person;

(17) Retailer shall mean a person who sells eggs or offers eggs for sale directly to consumers;

(18) Wholesaler or distributor shall mean a person who sells eggs to retailers, food purveyors, other wholesalers, or other distributors; and

(19) Food purveyor shall mean a person who operates a restaurant, cafeteria, hotel, hospital, nursing home, boarding house, school, government institution, or any other place where eggs are served in the shell or broken out for immediate consumption.

Sec. 2. That section 2-3408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3408. (1) There shall be paid to the director

a fee of not to exceed five cents per case upon all commercial eggs produced in this state and sold through commercial channels to carry out the intent and purposes of sections 2-3401 to 2-3416, plus an additional sum not to exceed five cents per case which may be assessed for the National Egg Research and Consumer Information Act in accordance with cooperative agreements entered into pursuant to subdivision (3) of section 2-3407. The combined fee shall not exceed ten cents per case on all eggs produced. The fee for commercial eggs produced in this state shall be paid by the egg producer who owns the eggs and shall be collected and remitted to the director by the first purchaser. The fee for commercial eggs produced outside of this state and sold in this state to retailers, wholesalers, distributors, or food purveyors shall be paid to the director by the person importing such eggs into the state. Under the provisions of sections 2-3401 to 2-3416, no eggs shall be subject to the fee more than once.

(2) There shall be paid to the director a fee of not to exceed three cents per turkey grown in the State of Nebraska and sold through commercial channels. The fee shall be paid by the turkey producer and shall be collected by the first purchaser. Under the provisions of sections 2-3401 to 2-3416, no turkeys shall be subject to the fee more than once.

(3) The director may, subject to the approval of a majority of the members of the advisory committee, whenever he or she shall determine determines that the fees provided by this section are yielding more than is required to carry out the intent and purposes of sections 2-3401 to 2-3416, reduce such fees for such period as the director shall deem justified. In the event that the director, after reducing such fees, finds that sufficient revenue is not being produced by such reduced fees, he or she may restore in full or in part such fees to such rates as will, in his or her judgment, produce sufficient revenue to carry out the intent and purposes of sections 2-3401 to 2-3416.

Sec. 3. That section 2-3413, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3413. (1) The State Treasurer is hereby directed to establish in the treasury of the State of Nebraska a fund to be known as the Nebraska Poultry and Egg Development, Utilization, and Marketing Fund; to which fund shall be credited all fees collected by the department pursuant to sections 2-3401 to 2-3416. After appropriation, the Director of Administrative Services shall, upon receipt of proper vouchers approved by the director, issue his warrants on such fund, including refund payments authorized by section 2-3409, and the State Treasurer shall pay the warrants out of the money credited to such fund. Any money in the Nebraska Poultry and Egg Development, Utilization, and Marketing Fund available for investment shall be invested by the state

investment officer pursuant to the provisions of sections 72-1237 to ~~72-1259~~ 72-1269.

(2) The department may accept grants, contributions, or other funds from any private or federal, state, or other public source to be used to administer the Nebraska Poultry and Egg Resources Act and to conduct programs under such act.

Sec. 4. That original sections 2-3403, 2-3408, and 2-3413, Reissue Revised Statutes of Nebraska, 1943, are repealed.