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LB176 Packer Feeding Bill Enacted

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AGRICULTURAL ECONOMICS
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Cornhusker Economics

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Market Report	Year Ago	4 Wks Ago	4-8-16
Livestock and Products, Weekly Average			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight.	*	132.00	135.51
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb.	288.14	198.24	185.48
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb.	228.03	165.76	158.53
Choice Boxed Beef, 600-750 lb. Carcass.	259.02	226.24	221.51
Western Corn Belt Base Hog Price Carcass, Negotiated.	62.57	51.55	63.18
Pork Carcass Cutout, 185 lb. Carcass 51-52% Lean.	65.94	69.65	77.29
Slaughter Lambs, wooled and shorn, 135-165 lb. National.	137.18	143.71	132.20
National Carcass Lamb Cutout FOB.	369.07	359.79	342.10
Crops, Daily Spot Prices			
Wheat, No. 1, H.W. Imperial, bu.	4.59	3.93	3.73
Corn, No. 2, Yellow Nebraska City, bu.	3.66	3.33	3.53
Soybeans, No. 1, Yellow Nebraska City, bu.	9.44	8.21	8.91
Grain Sorghum, No.2, Yellow Dorchester, cwt.	7.59	5.48	5.51
Oats, No. 2, Heavy Minneapolis, Mn, bu.	2.97	2.66	2.46
Feed			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton.	202.50	250.00	*
Alfalfa, Large Rounds, Good Platte Valley, ton.	77.50	82.50	80.00
Grass Hay, Large Rounds, Good Nebraska, ton.	115.00	85.00	85.00
Dried Distillers Grains, 10% Moisture Nebraska Average.	176.50	134.50	125.00
Wet Distillers Grains, 65-70% Moisture Nebraska Average.	59.50	51.50	48.00

* No Market

Legislative Bill 176 authorizes custom feeding contracts between packers and Nebraska pork producers. This newsletter discusses the background of packer feeding in Nebraska as well as the LB176 amendments increasing contract producer protections.

LB176 authorizes custom feeding contracts with packers. This reverses a legal prohibition that goes back over 30 years to Initiative 300, adopted in November 1982. The Legislative packer feeding prohibitions repealed by LB176 date back to 1999 and survived the judicial termination of Initiative 300 in 2007.

Why was LB176 controversial? Some groups and producers believe that authorizing packers to contract with producers for swine production would give packers too much power over swine prices similar to what has occurred in the poultry sector. Opponents also fear that contract producers would be disadvantaged by unfair swine production contracts. Supporters argued that because Nebraska was the only state that banned packer feeding, ending that ban would make it more likely that existing swine processing facilities would not leave Nebraska when the time came to upgrade or rebuild the facilities. In addition, swine production contracts may be a way for new producers to get a start in production agriculture.

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Why did LB176 pass in 2016 when it was narrowly defeated in 2015? It is impossible to say without interviewing the senators who switched their votes between 2015 and 2016. However, LB176 was significantly amended in 2016 to include contract protections for producers signing swine production contracts.

What contract protections were adopted? The contract protection amendments deal with (1) contract cancellation, (2) capital investment disclosure statement, (3) arbitration, (4) confidentiality, (5) state enforcement and (6) state contract regulation.

- **Contract cancellation**: producers have the option to cancel a swine production contract that they have signed within three business days after contract signing, or any longer period specified in the contract itself. This gives the producer a limited opportunity to withdraw from the contract if they change their mind (the "three-day cooling off" period).
- **Capital investment disclosure**: the first page of the swine production contract must include a statement identified as the "Additional Capital Investments Disclosure Statement," conspicuously stating that additional large capital investments may be required of the contract grower during the term of the production contract. This is to alert the contract producer that the production contract may require the producer to make expensive investments to upgrade his/her facilities to meet contract requirements.
- **Arbitration**: production contracts may include arbitration clauses requiring any contract dispute to be resolved through arbitration rather than court litigation. Such production contracts must contain provisions allowing producers to opt out of arbitration before the contract is signed. If the producer has opted out, the producer and packer may later agree to arbitrate contract disputes. Arbitration typically takes much less time than litigation, but an arbitration decision is typically binding–and cannot be appealed in court.
- **Confidentiality**: the swine contract may be shared by the producer with anyone, including business associates, employees, financial and legal advisors, and family members. This allows the producer to obtain professional advice on whether or not to sign the production contract, which any interested producer would be foolish not to do.
- **State enforcement**: the Nebraska Attorney General can sue to enforce any provisions of LB176. So wronged producers don't necessarily have to go to court themselves.
- **State regulation of production contracts**: The Department of Agriculture is authorized by LB176 to adopt regulations for swine production contracts to protect contract growers from unfair business practices and coercion. This means that the Department of Agriculture could go beyond the contract protections established in LB176 if the Department felt such additional contract regulations were needed to protect contract swine producers.

LB176 is a significant change in Nebraska livestock development policy. Only time will tell how it works out. As a minimum it gives swine processors and potential contract producers options they did not have before. In addition, it should mean that when Nebraska swine processing facilities need to be replaced, we will be on a more equal footing with Iowa regarding packer feeding options, and that replacement swine processing facilities are to that extent as likely to be developed in Nebraska rather than in Iowa.

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