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Swine Contracting Producer Protections

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Market Report	Year Ago	4 Wks Ago	3/27/15
<u>Livestock and Products,</u>			
<u>Weekly Average</u>			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight.	153.81	157.00	165.72
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb.	223.70	278.35	280.75
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb.	182.59	211.66	220.64
Choice Boxed Beef, 600-750 lb. Carcass.	239.57	245.28	248.92
Western Corn Belt Base Hog Price Carcass, Negotiated.	129.57	66.06	55.83
Pork Carcass Cutout, 185 lb. Carcass 51-52% Lean.	130.49	69.47	66.49
Slaughter Lambs, woolled and shorn, 135-165 lb. National.	158.75	*	144.21
National Carcass Lamb Cutout FOB.	374.28	366.33	370.66
<u>Crops,</u>			
<u>Daily Spot Prices</u>			
Wheat, No. 1, H.W. Imperial, bu.	7.06	4.89	5.03
Corn, No. 2, Yellow Nebraska City, bu.	4.62	3.69	3.75
Soybeans, No. 1, Yellow Nebraska City, bu.	14.17	9.90	9.22
Grain Sorghum, No.2, Yellow Dorchester, cwt.	8.07	7.20	7.79
Oats, No. 2, Heavy Minneapolis, Mn, bu.	4.59	3.13	3.07
<u>Feed</u>			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton.	195.00	*	175.00
Alfalfa, Large Rounds, Good Platte Valley, ton.	127.50	77.50	77.50
Grass Hay, Large Rounds, Good Nebraska, ton.	107.50	95.00	105.00
Dried Distillers Grains, 10% Moisture Nebraska Average.	235.00	177.50	174.25
Wet Distillers Grains, 65-70% Moisture Nebraska Average.	69.00	53.54	57.00
* No Market			

Legislative Bill 176 would authorize custom feeding contracts between packers and Nebraska pork producers. Some producer protection provisions for these contracts are currently established under federal law and in several states but not yet in Nebraska. This newsletter discusses some of these issues.

Would LB176 authorize custom feeding contracts with packers? Yes, and these contracts are regulated federally and in several states to protect producers.

Why do producers need protections in these custom feeding contracts? Production contracts were first used in the poultry industry and much of what we are discussing here is in response to processor abuses that occurred in connection with poultry production contracts.

What are the federal producer protections? These are the somewhat controversial 2011 GIPSA (USDA Grain Inspection, Packers & Stockyards Administration) rules. The GIPSA rules deal primarily with (1) contract cancellation, (2) capital investment disclosure, and (3) dispute resolution.



What are the GIPSA contract cancellation provisions? They require that producers be able to cancel the contract within three days of signing it. Earlier poultry contracts did not allow this.

Is that enough producer protection? I don't think so. Several states have provisions prohibiting or limiting contract confidentiality requirements to allow producers to have the contract reviewed by family members, their attorney, their accountant and their lender. So the producer could find out whether the contract is a good deal or not and what changes might make it a more acceptable deal.

What about capital investment disclosure? The GIPSA rules require production contracts to clearly identify up front whether the contract will require the producer to make a capital investment of \$12,500 or more over the life of the contract.

Does that go far enough? Probably not. Several states require producers to be compensated if the packer cancels the contract before the loan for any required capital investment has been paid off. This reduces the chance of the producer taking a big loss if the contract is cancelled.

What about dispute resolution? These poultry contracts often have arbitration clauses, allowing the packer to pick the arbiter to resolve the dispute without the producer being able to appeal to court. The GIPSA rules allow the producer to refuse the arbitration clause.

Is that enough protection? Probably not. Some states require production contract disputes be resolved through mediation, which is a more neutral (and farmer friendly) process attempting to find a win-win outcome for both parties rather focusing on contract legal technicalities. Neither the producer nor the processor could bring an attorney to mediation proceedings which increases the chance of a real compromise being negotiated.

Do states go beyond the GIPSA rules in their laws? Yes. In addition to the state provisions already discussed, common state producer protection provisions include:

1. requiring simple contract language (avoiding legalese) and clearly disclosing up front any important financial risks to the producer;
2. giving producers a priority lien for payment (producers would be paid before the packer/processor's creditors);
3. prohibiting retaliatory contract termination where producers have made substantial capital investments; and
4. prohibiting packer/processor retaliation or discrimination against producers for exercising their legal rights, including joining a producer negotiating association.

What states have adopted these types of producer protections? Minnesota, Wisconsin, Kansas, Iowa, and Arkansas. Georgia has a statute that allows poultry contractors to organize as a group to collectively negotiate poultry production contracts with processors.

Do we need a law like this in Nebraska? If LB176 is enacted, I would recommend that the Unicameral enact legislation protecting producers from production contract abuses similar to the laws in some of our neighboring states. Enacting LB176 could lead to more swine production in Nebraska, but I think we need a more level playing field legally if we are going to make packer feeding work fairly for producers in our state.

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