

By Sen. Mark Christensen

44th District Senator

The end of the 60-day, short session is here. The 60th legislative day took place Wednesday, April 18.

The Legislature was scheduled to address the governor vetoes of LB 806, historic horse-racing machines bill, and potentially several other bills.

This week, in my letter, I would like to cover my bill LB 1125.

LB1125 passed this last week on a 49-0 vote. The purpose of the bill was to provide the ability for a Natural Resources District (NRD) to refund farmers the occupation on irrigated acres in certain situations.

Currently, the law allows for a farmer to go to his local NRD to opt acres out of the occupation tax before March 1 of any given year, if the farmer is not irrigating those acres.

This is because the occupation tax is levied on the activity of irrigating agricultural land.

In LB 862 in 2010, the Legislature changed the requirements for a NRD to levy an occupation tax, requiring the NRDs Integrated Management Plans (IMPs) to have specific language in them before they could have the authority to levy such a tax.

After this change, the Lower Republican NRD could not continue to levy an occupation tax without first changing their IMP. The LRNRD did not change their IMP until September, 2011 and then proceeded to levy an occupation tax for the 2011 tax year.

This didn't provide proper notice for a farmer to opt out of the occupation tax before March 1, 2011 according to the law because on March 1 the lower did not yet have the authority to levy an occupation tax.

To remedy this situation, LB 1125 allows farmers 12 months from the time the tax was levied to opt out non-irrigated acres. It also provides authority for NRDs to refund the tax to such farmers, if they can provide evidence that they did not irrigate in that tax year.

To do this, two things must exist. First, the NRD did not levy the occupation tax the year prior to the levy; and second, the NRD had not adopted an IMP allowing them to levy an occupation tax until after the March 1 opt-out deadline.

The Legislature thought this was only fair to ensure those who did not irrigate have a chance to opt out according to the current law.

Two other provisions were added in the committee process to bring clarification and efficiency.

One provision made it clear that a NRD can opt out acres currently enrolled in temporary local, state, or federal conservation programs that prohibit irrigating such acres because the NRD already has record of those acres.

The second provision clarifies that a farmer cannot maintain their irrigation status and opt out of the tax or receive a refund.

A group of constituents felt an NRD should be able to exempt surface water irrigation from the occupation tax and wanted the second provision removed from the bill.

I offered an amendment to remove the second provision to see which policy the Legislature thought was best. The amendment was defeated by a 7 to 18 vote.

Questions or Comments? Contact myself or my staff at the information below.

Senator MARK CHRISTENSEN's address is c/o State Capitol, P.O. Box 94604, Rm. 1000, Lincoln, NE 68509, Phone 402-471-2805, email: mchristensen@leg.ne.gov.

