

## LEGISLATIVE BILL 90

Approved by the Governor May 26, 2005

Introduced by Wehrbein, 2; Connealy, 16; Cunningham, 40; Stuhr, 24 Fischer, 43

AN ACT relating to economic development; to amend sections 58-202, 58-242, and 66-1345.04, Reissue Revised Statutes of Nebraska, and section 66-1345.01, Revised Statutes Supplement, 2004; to adopt the Building Entrepreneurial Communities Act; to reenact the Agricultural Opportunities and Value-Added Partnerships Act; to provide termination dates; to modify provisions involving agricultural projects under the Nebraska Investment Finance Authority Act; to eliminate an obsolete provision; to change the tax rate on corn and grain sorghum and legislative intent regarding appropriations to the Ethanol Production Incentive Cash Fund; to repeal the original sections; to outright repeal sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004; and to declare an emergency.

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

Section 1. Sections 1 to 3 of this act shall be known and may be cited as the Building Entrepreneurial Communities Act. The act terminates on January 1, 2011.

Sec. 2. The purpose of the Building Entrepreneurial Communities Act is to support economically depressed rural areas of Nebraska in building entrepreneurial communities through grants that will create community capacity to build and sustain programs to generate and retain wealth in the community and region. Specifically, the act will:

- (1) Provide education and technical assistance to energize small business development and entrepreneurship;
- (2) Provide technical assistance to facilitate small business transfer;
- (3) Build community business capacity and leadership programs;
- (4) Generate opportunities that will attract and retain young people and families;
- (5) Provide education about philanthropy and intergenerational transfer of wealth; and
- (6) Build community endowments to support these activities.

Sec. 3. (1) The Department of Economic Development, with assistance provided by the Rural Development Commission, shall establish and administer a grant process to provide grants to two or more municipalities or counties that are collaborating on a project related to the purpose of the Building Entrepreneurial Communities Act with priority given to projects that best alleviate chronic economic distress. At least one of the collaborating municipalities or counties shall have chronic economic distress as indicated by:

- (a) An unemployment rate which exceeds the statewide average unemployment rate;
- (b) A per capita income below the statewide average per capita income; or
- (c) Severe historical population loss, which means a population loss of ten percent or more over a twenty-year period of time.

(2) Grants shall not exceed seventy-five thousand dollars per collaborative project. Grant recipients shall have two years to expend the grant funds. No municipality or county shall receive funding for more than one project. Grant recipients shall provide a dollar-for-dollar match in money for grant funds. Grants shall be awarded directly to one of the municipalities or counties representing the collaborative project. The department shall act as the fiduciary agent for the grants.

Sec. 4. Sections 4 to 15 of this act shall be known and may be cited as the Agricultural Opportunities and Value-Added Partnerships Act. The act terminates on January 1, 2011.

Sec. 5. (1) The Legislature finds that:

- (a) There is a serious economic crisis in the agricultural and rural sectors of Nebraska's economy;
- (b) There is a need in such sectors to develop strategies and programs to create genuine economic opportunities that enable people to improve their incomes, avoid poverty, build assets, and develop their capacity to contribute to the betterment of their communities;
- (c) Strong communities enable local residents to be more self-sufficient, which contributes to the overall strength and well-being of

Nebraska; and

(d) Adding value to agricultural products offers farmers and ranchers the potential to obtain a larger share of food dollars.

(2) The Legislature further finds that there is a need to:

(a) Support self-employment and small-scale entrepreneurship in both agricultural and nonagricultural activities;

(b) Enhance income and opportunities for farming and ranching operations to stem the decline in the number of such operations;

(c) Develop strategies and programs to increase the farming and ranching operations' share of the food-system profit;

(d) Build the capacity of farming and ranching operations and small rural businesses to benefit from the development of electronic commerce; and

(e) Strengthen value-added enterprises by promoting strategic partnerships and networks through multigroup cooperation.

Sec. 6. For purposes of the Agricultural Opportunities and Value-Added Partnerships Act:

(1) Farming or ranching operation means the active use, management, and operation of real and personal property for the production of crops or raising of livestock;

(2) Project means any agricultural or value-added agricultural product activity in the areas specified in section 10 of this act designed to promote the purposes specified in section 7 of this act. Project does not mean, and grant funds shall not be used for, any activity primarily designed to contribute to a single business, enterprise, or individual or designed to subsidize an existing farming or ranching operation; and

(3) Value-added means increasing the net worth of food or nonfood agricultural products by processing, alternative production and handling methods, collective marketing, or other innovative practices.

Sec. 7. The purposes of the Agricultural Opportunities and Value-Added Partnerships Act are to:

(1) Support small enterprise formation in the agricultural sector of Nebraska's rural economy, including innovative cooperative efforts for value-added enterprises;

(2) Support the development of agricultural communities and economic opportunity through innovative partnerships among farming and ranching operations, rural communities, and businesses for the development of value-added agricultural products;

(3) Encourage collaboration between farming and ranching operations and between farming and ranching operations and communities, government, and businesses as well as between communities and regions;

(4) Strengthen the value-added production industry by promoting strategic partnerships and networks through multigroup cooperation for the creation of employment opportunities in the value-added agriculture industry;

(5) Enhance the income and opportunity for farming and ranching operations in Nebraska in order to stem the decline in their numbers;

(6) Increase the farming and ranching operations' share of the food-system profit; and

(7) Enhance opportunities for farming and ranching operations to participate in electronic commerce and new and emerging markets that strengthen rural economic opportunities.

Sec. 8. (1) The Department of Agriculture and the Department of Economic Development shall establish a competitive grant process to provide grants for projects under the Agricultural Opportunities and Value-Added Partnerships Act to eligible entities. The Department of Economic Development shall administer the act. Grants may be made for up to seventy-five thousand dollars annually to eligible entities under section 9 of this act that directly address one or more of the purposes specified in section 7 of this act in the areas specified in section 10 of this act and which meet the requirements of this section and section 11 of this act.

(2) Priority for the awarding of grants within the parameters of this section shall be given to projects that make the greatest contribution in increasing the number and quality of self-employment opportunities for farming or ranching operations. Grants shall also be awarded to pilot cooperative efforts for the promotion of value-added products. Projects may be recommended for recognition by the Governor.

(3) A recipient of a grant shall not receive more than one grant in any one calendar year for the same project.

(4) Grants shall be awarded on a one-year basis but may be renewed on an annual basis for no more than three years. The Department of Agriculture and the Department of Economic Development shall develop an annual performance review process and a program for grant renewal of approved projects determined to have continued necessary statewide application and

success.

(5) Grant funds shall not be used to replace other funding for the administrative support of the recipient or the administrative support of the project or for administrative costs relating to the planning of the project or for any activity primarily designed to contribute to a single business, enterprise, or individual.

Sec. 9. Eligible entities for grants under the Agricultural Opportunities and Value-Added Partnerships Act include communities, counties, agencies, educational institutions, economic development providers, nonprofit corporations, agricultural cooperatives, agricultural associations, agricultural marketing associations or entities, resource conservation organizations, development districts, and farming or ranching operations in collaborative arrangements with other operations, entities, or organizations that meet the purposes specified in section 7 of this act.

Sec. 10. (1) Grants under the Agricultural Opportunities and Value-Added Partnerships Act shall be used to support projects in the following areas:

- (a) Research;
- (b) Education and training;
- (c) Market development;
- (d) Nonadministrative business planning assistance, feasibility and market studies, capitalization plans, and technical assistance;
- (e) Development of cooperatives;
- (f) Community and multicomunity initiatives;
- (g) Creation, retention, and transfer of value-added agricultural business initiatives in rural communities;
- (h) Efforts to obtain startup or working capital or other capital expenditures necessary for the development of the project;
- (i) Community-based, farmer-owned, or rancher-owned value-added initiatives; and
- (j) Other activities that are deemed necessary to fulfill the purposes specified in section 7 of this act.

(2) Such projects shall demonstrate the ability to provide private new enterprise formation or expanded incomes and economic opportunities for existing enterprises.

Sec. 11. To be eligible for a grant under the Agricultural Opportunities and Value-Added Partnerships Act, an applicant shall:

- (1) Document a matching amount in money or in-kind contributions or a combination of both equal to twenty-five percent of the grant funds requested;
- (2) Specify measurable goals and expected outcomes for the project for which the grant funds are requested; and
- (3) Specify an evaluation and impact assessment process or procedure for the project for which the grant funds are requested.

Sec. 12. If the Department of Economic Development determines the recipient of a grant has failed to fulfill the requirements of the grant, has used fraud to obtain or use the grant funds, or has in any other way failed to comply with the Agricultural Opportunities and Value-Added Partnerships Act or the rules and regulations adopted and promulgated pursuant to the act, the recipient shall repay a portion or all of the grant funds awarded. A recipient of grant funds shall not utilize or divert grant funds to any purpose or expenditure not specified or contemplated in the application or terms of the award of the grant without the prior approval of the department. The department may use any appropriate civil and criminal remedies available to enforce this section.

Sec. 13. The Department of Economic Development shall submit an annual report to the Governor and the Legislature on or before January 1 listing the recipients and grant amounts for grants made under the Agricultural Opportunities and Value-Added Partnerships Act in the previous year, the documented and measurable impacts of the grants, and an evaluation of the performance of the grant program based on the measurable goals and expected outcomes of the recipients of such grants. Copies of the program performance evaluation shall be made available through print and electronic media.

Sec. 14. The Department of Agriculture and the Department of Economic Development shall form a committee made up of staff from each agency to adopt and promulgate rules and regulations to carry out the Agricultural Opportunities and Value-Added Partnerships Act. Projects funded by grants under the act shall be coordinated with other organizations or institutions working on similar projects in the state. The Department of Economic Development shall be the agency responsible for carrying out the act.

Sec. 15. The Agricultural Opportunities and Value-Added

Partnerships Cash Fund is created. The fund shall be used by the Department of Economic Development for grants awarded pursuant to the Agricultural Opportunities and Value-Added Partnerships Act. Money credited to the fund shall include any monetary gifts, grants, donations, proceeds from contracts for services, and reimbursement of expenses. The department shall seek money from sources such as, but not limited to, federal funds, commodity checkoff funds, private donations, and private grants. All such funds shall be credited to the Agricultural Opportunities and Value-Added Partnerships Cash Fund. No funds shall be received or accepted for the Agricultural Opportunities and Value-Added Partnerships Cash Fund that are designated for the purpose or the benefit of a single business, enterprise, or individual. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 16. Section 58-202, Reissue Revised Statutes of Nebraska, is amended to read:

58-202. (1) The Legislature hereby finds and declares that:

(a) The high cost of agricultural loans and the general unavailability of such loans at favorable rates and terms for farmers, particularly beginning farmers, and other agricultural enterprises have resulted in decreased crop, livestock, and business productivity and prevented farmers and other agricultural enterprises from acquiring modern agricultural equipment and processes. These problems have made it difficult for farmers and other agricultural enterprises to maintain or increase their present number of employees and have decreased the supply of agricultural commodities available to fulfill the needs of the citizens of this state; and

(b) There exists in this state an inadequate supply of and a pressing need for farm credit and agricultural loan financing at interest rates and terms which are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(2) The Legislature hereby finds and declares that:

(a) From time to time the high rates of interest charged by mortgage lenders seriously restrict existing housing transfers and new housing starts and the resultant reduction in residential construction starts causes a condition of substantial unemployment and underemployment in the construction industry;

(b) Such conditions generally result in and contribute to the creation of slums and blighted areas in the urban and rural areas of this state and a deterioration of the quality of living conditions within this state and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities; and

(c) There exists in the urban and rural areas of this state an inadequate supply of and a pressing need for sanitary, safe, and uncrowded housing at prices at which low-income and moderate-income persons, particularly first-time homebuyers, can afford to purchase, construct, or rent and as a result such persons are forced to occupy unsanitary, unsafe, and overcrowded housing.

(3) The Legislature hereby finds and declares that:

(a) Adequate and reliable energy supplies are a basic necessity of life and sufficient energy supplies are essential to supplying adequate food and shelter;

(b) The cost and availability of energy supplies has been and will continue to be a matter of state and national concern;

(c) The increasing cost and decreasing availability of energy supplies for purposes of residential heating will limit the ability of many of Nebraska's citizens to provide the basic necessities of life and will result in a deterioration in living conditions and a threat to the health and welfare of the citizens of this state;

(d) Energy conservation through building modifications including, but not limited to, insulation, weatherization, and the installation of alternative energy devices has been shown to be a prudent means of reducing energy consumption costs and the need for additional costly facilities to produce and supply energy;

(e) Because of the high cost of available capital, the purchase of energy conservation devices is not possible for many Nebraskans. The prohibitively high interest rates for private capital create a situation in which the necessary capital cannot be obtained solely from private enterprise sources and there is a need for the stimulation of investment of private capital, thereby encouraging the purchase of energy conservation devices and energy conserving building modifications;

(f) The increased cost per capita of supplying adequate

life-sustaining energy needs has reduced the amount of funds, both public and private, available for providing other necessities of life, including food, health care, and safe, sanitary housing; and

(g) The continuing purchase of energy supplies results in the transfer of ever-increasing amounts of capital to out-of-state energy suppliers.

(4) The Legislature hereby finds and declares that:

(a) There exist within this state unemployment and underemployment especially in areas of basic economic activity, caused by economic decline and need for diversification of the economic base, needlessly increasing public expenditures for unemployment compensation and welfare, decreasing the tax base, reducing tax revenue, and resulting in economic and social liabilities to the entire state;

(b) Such unemployment and underemployment cause areas of the state to deteriorate and become substandard and blighted and such conditions result in making such areas economic or social liabilities harmful to the economic and social well-being of the entire state and the communities in which they exist, needlessly increasing public expenditures, imposing onerous state and municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of the state and the municipalities, depreciating general state and community-wide values, and contributing to the spread of disease and crime which necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(c) There exist within this state conditions resulting from the concentration of population of various counties, cities, and villages which require the construction, maintenance, and operation of adequate hospital and nursing facilities for the care of the public health. Since these conditions cannot be remedied by the ordinary operations of private enterprises and since provision of adequate hospital, nursing, and medical care is a public use, it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the public health and welfare;

(d) Creation of basic economic jobs in the private sector and the promotion of health and welfare by the means provided under the Nebraska Investment Finance Authority Act and the resulting reduction of needless public expenditures, expansion of the tax base, provision of hospitals and health care and related facilities, and increase of tax revenue are needed within this state; and

(e) Stimulation of economic development throughout the state and the provision of health care at affordable prices are matters of state policy, public interest, and statewide concern and within the powers and authority inherent in and reserved to the state in order that the state and its municipalities shall not continue to be endangered by areas which consume an excessive proportion of their revenue, in order that the economic base of the state may be broadened and stabilized thereby providing jobs and necessary tax base, and in order that adequate health care services be provided to all residents of this state.

(5) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist municipalities, as defined in section 81-15,149, in providing wastewater treatment facilities and safe drinking water facilities. The federal funding provided for wastewater treatment facilities is extremely limited while the need to provide and improve wastewater treatment facilities and safe drinking water facilities is great;

(b) The construction, development, rehabilitation, and improvement of modern and efficient sewer systems and wastewater treatment facilities are essential to protecting and improving the state's water quality, the provision of adequate wastewater treatment facilities and safe drinking water facilities is essential to economic growth and development, and new sources of financing for such projects are needed;

(c) The federal government has acted to end the system of federal construction grants for clean water projects and has instead provided for capitalization grants to capitalize state revolving funds for wastewater treatment projects and will soon expand that to include safe drinking water facilities, and the state has created or is expected to create appropriate funds or accounts for such purpose. The state is required or expected to be required to provide matching funds for deposit into such funds or accounts, and there is a need for financing in excess of the amount which can be

provided by the federal money and the state match; and

(d) Additional assistance can be provided to municipalities as defined in section 81-15,149 to alleviate the problems of water pollution or the provision of safe drinking water by providing for the issuance of revenue bonds, the proceeds of which shall be deposited into the Wastewater Treatment Facilities Construction Loan Fund or the comparable state fund to finance safe drinking water facilities. Nothing in this section shall prohibit the provision of loans, including loans made pursuant to the Conservation Corporation Act, to a municipality as defined in section 81-15,149 for the construction, development, rehabilitation, operation, maintenance, and improvement of wastewater treatment facilities or safe drinking water facilities.

(6) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist public school boards and school districts and private for-profit or not-for-profit schools in connection with removal of materials determined to be hazardous to the health and well-being of the residents of the state and the reduction or elimination of accessibility barriers and that the federal funding provided for such projects is extremely limited and the need and requirement to remove such materials and to reduce or eliminate accessibility barriers from school buildings is great;

(b) The financing of the removal of such environmental hazards and the reduction or elimination of accessibility barriers is essential to protecting and improving the facilities in the state which provide educational benefits and services;

(c) The federal government has directed schools to remove such hazardous materials and to reduce or eliminate accessibility barriers; and

(d) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and assist in the financing of the removal of environmental hazards and the reduction or elimination of accessibility barriers in educational facilities in this state in order to provide for a clean, safe, and accessible environment to protect the health and welfare of the citizens and residents of this state.

(7) The Legislature hereby finds and declares that:

(a) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(b) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(c) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination have caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost;

(d) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(e) There is a need within this state for financing to assist counties, cities, villages, entities created under the Interlocal Cooperation Act and the Joint Public Agency Act, and private persons with the construction and operation of new solid waste disposal areas or facilities and with the closure, monitoring, and remediation of existing solid waste disposal areas and facilities;

(f) Financing the construction and operation of new solid waste disposal areas and facilities and financing the closure, monitoring, and remediation of existing and former solid waste disposal areas and facilities in the state is essential to protect the environment and the public health and welfare;

(g) The federal government has directed that effective October 1, 1993, all solid waste disposal areas and facilities shall be upgraded to meet stringent siting, design, construction, operation, closure, monitoring, and remediation requirements; and

(h) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the

investment of private capital and to assist in the financing of solid waste disposal areas and facilities and in the removal of environmental hazards in solid waste disposal areas and facilities in this state in order to provide for a clean environment to protect the health and welfare of the citizens and residents of this state.

(8) The Legislature hereby finds and declares that:

(a) During emergencies the resources of political subdivisions must be effectively directed and coordinated to public safety agencies to save lives, to protect property, and to meet the needs of citizens;

(b) There exists a need for public safety communication systems for use by Nebraska's public safety agencies as defined in the Nebraska Public Safety Wireless Communication System Act;

(c) Investment in the public safety communication infrastructure is required to ensure the effectiveness of such public safety agencies. Since the maintenance of public safety is a paramount concern but the cost of purchasing and operating multiple communication infrastructures is prohibitive, it is imperative that political subdivisions cooperate in their efforts to obtain real and personal property to establish, operate, maintain, and manage public safety communication systems; and

(d) There is a need within this state for financing to assist political subdivisions and any entities created under the Interlocal Cooperation Act and the Joint Public Agency Act with the acquisition, construction, and operation of real and personal property of public safety communication systems.

(9) The Legislature hereby finds and declares that, as of the effective date of this act and in connection with the financing of agricultural projects, there is a need to increase both the limit on individual net worth and the limit on the aggregate loan amount that may be provided by the authority. Such adjustments are necessary to address the inadequate supply of and pressing need for farm credit and agricultural loan financing at interest rates and terms that are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

Sec. 17. Section 58-242, Reissue Revised Statutes of Nebraska, is amended to read:

58-242. Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than ~~three~~ five hundred thousand dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership, limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred thousand dollars, ~~except that the aggregate amount of the loan received by the borrower from the proceeds of any bonds issued on or after March 28, 1991, shall not exceed two hundred fifty thousand dollars.~~ In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Sec. 18. Section 66-1345.01, Revised Statutes Supplement, 2004, is amended to read:

66-1345.01. An excise tax is levied upon all corn and grain sorghum sold through commercial channels in Nebraska or delivered in Nebraska. For any sale or delivery of corn or grain sorghum occurring on or after July 1, 1995, and before January 1, 2000, the tax is three-fourths cent per bushel for

corn and three-fourths cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after January 1, 2000, and before January 1, 2001, the tax is one-half cent per bushel for corn and one-half cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2001, and before October 1, 2004, the tax is one-half cent per bushel for corn and one-half cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2004, and ~~on or~~ before October 1, ~~2010~~ 2005, the tax is three-fourths cent per bushel for corn and three-fourths cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2005, and before October 1, 2010, the tax is seven-eighths cent per bushel for corn and seven-eighths cent per hundredweight for grain sorghum. The tax shall be in addition to any fee imposed pursuant to sections 2-3623 and 2-4012.

The excise tax shall be imposed at the time of sale or delivery and shall be collected by the first purchaser. The tax shall be collected, administered, and enforced in conjunction with the fees imposed pursuant to sections 2-3623 and 2-4012. The tax shall be collected, administered, and enforced by the Department of Agriculture. No corn or grain sorghum shall be subject to the tax imposed by this section more than once.

In the case of a pledge or mortgage of corn or grain sorghum as security for a loan under the federal price support program, the excise tax shall be deducted from the proceeds of such loan at the time the loan is made. If, within the life of the loan plus thirty days after the collection of the excise tax for corn or grain sorghum that is mortgaged as security for a loan under the federal price support program, the grower of the corn or grain sorghum so mortgaged decides to purchase the corn or grain sorghum and use it as feed, the grower shall be entitled to a refund of the excise tax previously paid. The refund shall be payable by the department upon the grower's written application for a refund. The application shall have attached proof of the tax deducted.

The excise tax shall be deducted whether the corn or grain sorghum is stored in this or any other state. The excise tax shall not apply to the sale of corn or grain sorghum to the federal government for ultimate use or consumption by the people of the United States when the State of Nebraska is prohibited from imposing such tax by the Constitution of the United States and laws enacted pursuant thereto.

Sec. 19. Section 66-1345.04, Reissue Revised Statutes of Nebraska, is amended to read:

66-1345.04. (1) The State Treasurer shall transfer from the General Fund to the Ethanol Production Incentive Cash Fund, on or before the end of each of fiscal years 1995-96 and 1996-97, \$8,000,000 per fiscal year.

(2) It is the intent of the Legislature that the following General Fund amounts be appropriated to the Ethanol Production Incentive Cash Fund in each of the following years:

(a) For each of fiscal years 1997-98 and 1998-99, \$7,000,000 per fiscal year;

(b) For fiscal year 1999-2000, \$6,000,000;

(c) For fiscal year 2000-01, \$5,000,000; and

(d) For fiscal year 2001-02 and for each of fiscal years 2003-04 through ~~2007-08~~ 2006-07, \$1,500,000;

(e) For each of fiscal years 2005-06 and 2006-07, \$2,500,000 in addition to the amount in subdivision (2)(d) of this section;

(f) For fiscal year 2007-08, \$5,500,000; and

(g) For each of fiscal years 2008-09 through 2011-12, \$2,500,000.

~~It is further the intent of the Legislature that the \$1,500,000 General Fund appropriation that was not made in fiscal year 2002-03 as a result of changes made by Laws 2002, LB 17, Ninety-seventh Legislature, Second Special Session, be reimbursed to the Ethanol Production Incentive Cash Fund by June 30, 2008.~~

Sec. 20. Original sections 58-202, 58-242, and 66-1345.04, Reissue Revised Statutes of Nebraska, and section 66-1345.01, Revised Statutes Supplement, 2004, are repealed.

Sec. 21. The following sections are outright repealed: Sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004.

Sec. 22. Since an emergency exists, this act takes effect when passed and approved according to law.