

AMENDMENTS TO LB 354

Introduced by Agriculture

1 1. Strike original sections 1 to 19 and 23 and insert the
2 following new sections:

3 Section 1. Sections 1 to 19 of this act shall be known
4 and may be cited as the Nebraska Corn Promotion Act.

5 Sec. 2. For purposes of the Nebraska Corn Promotion Act:

6 (1) Board means the Nebraska Corn Promotion Board;

7 (2) Corn means and includes all varieties of corn
8 marketed or sold as corn by a grower but does not include
9 sweet corn or popcorn;

10 (3) Delivered or delivery means receiving corn for
11 any use, except for storage, and includes receiving corn for
12 consumption, for utilization, or as a result of sale in this
13 state. For corn pledged as security for a federal price support
14 loan, actual delivery occurs when the corn is pledged or otherwise
15 encumbered to secure the loan and the purchase price is the
16 principal amount of the loan extended;

17 (4) First purchaser means an individual, a public or
18 private corporation, an association, a partnership, or a limited
19 liability company buying, accepting for shipment, or otherwise
20 acquiring a property right in or to corn from a grower and shall
21 include a mortgagee, pledgee, lienor, or other person, public
22 or private, having a claim against the grower when actual or
23 constructive possession of such corn is taken as part payment or in

1 satisfaction of such mortgage, pledge, lien, or claim;

2 (5) Grower means:

3 (a) For purposes of eligibility to vote in the election
4 of grower members of the board and in special referendums conducted
5 pursuant to section 6 or 14 of this act, an individual who is a
6 citizen of this state, is at least eighteen years of age, has been
7 personally engaged in growing corn in this state for at least five
8 years, and derives a substantial portion of his or her income from
9 growing corn; and

10 (b) For all other purposes, any landowner personally
11 engaged in growing corn, a tenant of the landowner personally
12 engaged in growing corn, and both the owner and tenant jointly
13 and shall include an individual, a partnership, a limited liability
14 company, an association, a corporation, a cooperative, a trust, a
15 sharecropper, and any other business unit, device, or arrangement;

16 (6) Marketed in this state means a sale of corn to a
17 first purchaser who is a resident of or doing business in this
18 state when actual delivery of the corn occurs in this state or any
19 pledge, mortgage, or other encumbrance of corn as security for a
20 federal price support loan program entered into in this state;

21 (7) Qualified financial institution means a bank,
22 capital stock financial institution, or qualifying mutual
23 financial institution meeting the qualifications and obligations of
24 authorized depositories regarding security of deposits pursuant to
25 the Public Funds Deposit Security Act; and

26 (8) State assessment means a state excise tax on each
27 bushel of corn marketed in this state.

1 Sec. 3. It is the public policy of the State of Nebraska
2 to protect and foster the health, prosperity, and general welfare
3 of its people by protecting and stabilizing the corn industry
4 and the economy of the areas producing corn. For such purpose,
5 the Corn Development, Utilization, and Marketing Board created
6 pursuant to the Nebraska Corn Resources Act, as such act existed
7 immediately prior to the operative date of this act, is hereby
8 designated a body politic and corporate and shall be an independent
9 instrumentality exercising essential public functions to be known
10 as the Nebraska Corn Promotion Board. The board shall not be
11 considered a state agency. The board shall have the powers and
12 duties as set forth in the Nebraska Corn Promotion Act.

13 Sec. 4. (1) The board shall be composed of nine grower
14 members. To qualify as a grower member, an individual shall (a)
15 be a citizen of Nebraska, (b) be at least eighteen years of age,
16 (c) have been actually engaged in growing corn in this state for
17 a period of at least five years, and (d) derive a substantial
18 portion of his or her income from growing corn. In addition
19 to the grower members, the Director of Agriculture, the Vice
20 Chancellor of the University of Nebraska Institute of Agriculture
21 and Natural Resources, and the president of the Nebraska Corn
22 Growers Association shall be ex officio members of the board with
23 no voting privileges.

24 (2) Eight grower members of the board shall be elected by
25 district, with one member residing in and representing each of the
26 following districts:

27 (a) District 1. The counties of Butler, Saunders,

1 Douglas, Sarpy, Seward, Lancaster, Cass, Otoe, Saline, Jefferson,
2 Gage, Johnson, Nemaha, Pawnee, and Richardson;

3 (b) District 2. The counties of Adams, Clay, Fillmore,
4 Franklin, Webster, Nuckolls, and Thayer;

5 (c) District 3. The counties of Merrick, Polk, Hamilton,
6 and York;

7 (d) District 4. The counties of Knox, Cedar, Dixon,
8 Dakota, Pierce, Wayne, Thurston, Madison, Stanton, Cuming, Burt,
9 Colfax, Dodge, and Washington;

10 (e) District 5. The counties of Sherman, Howard, Dawson,
11 Buffalo, and Hall;

12 (f) District 6. The counties of Hayes, Frontier, Gosper,
13 Phelps, Kearney, Hitchcock, Red Willow, Furnas, and Harlan;

14 (g) District 7. The counties of Boyd, Holt, Antelope,
15 Garfield, Wheeler, Boone, Platte, Valley, Greeley, and Nance; and

16 (h) District 8. The counties of Sioux, Dawes, Box Butte,
17 Sheridan, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden,
18 Deuel, Cherry, Keya Paha, Brown, Rock, Grant, Hooker, Thomas,
19 Blaine, Loup, Arthur, McPherson, Logan, Custer, Keith, Lincoln,
20 Perkins, Chase, and Dundy.

21 (3) One grower member shall represent the state at large
22 and shall be elected by the eight members elected by district
23 from among candidates qualified for membership as provided in this
24 section.

25 (4) Members of the Corn Development, Utilization, and
26 Marketing Board duly appointed and serving pursuant to the Nebraska
27 Corn Resources Act, as such act existed immediately prior to the

1 operative date of this act, shall serve as members of the Nebraska
2 Corn Promotion Board until the expiration of their respective terms
3 after which their successors and all subsequent members of the
4 board shall be elected to the board pursuant to the Nebraska Corn
5 Promotion Act. All members shall serve until their successors are
6 elected and qualified.

7 (5) The composition of the board as described in
8 subsections (2) and (3) of this section shall continue until such
9 time as the board determines that the districts and at-large
10 membership so described are incompatible with an equitable
11 representation of growers due to changing geographic distribution
12 of corn production in the state, changing marketing patterns, or
13 availability of qualified individuals to serve as board members.
14 The board may redesignate districts and the number of at-large
15 members to provide for an equitable representation of growers.

16 (6) Terms of board members shall be for three years and
17 no member of the board shall serve for more than four complete
18 terms.

19 (7) The board shall elect from its membership a
20 chairperson and such other officers as may be necessary.

21 Sec. 5. The grower members of the board may be paid a
22 per diem, not to exceed one hundred dollars, while engaged in the
23 performance of their official duties. The grower members of the
24 board shall also receive reimbursement for actual and necessary
25 expenses in performing official board functions.

26 Sec. 6. (1) Election of grower members shall be conducted
27 under procedures prescribed by the board. Notice of election of a

1 member of the board shall be given by the board by publication in a
2 newspaper of general circulation in the district the grower member
3 will represent and in any other reasonable manner as determined by
4 the board. The board shall prescribe the period of time for voting,
5 voting places, and other procedures the board deems necessary.
6 Notice shall include the qualifications for board membership as
7 provided in section 4 of this act and information regarding the
8 procedures by which individuals may place their names in candidacy
9 for election to the board. Such notice shall occur at least ninety
10 days prior to the expiration of the term for which the election is
11 held, and the election shall be completed by a date no later than
12 thirty days prior to the expiration of such term.

13 (2) Candidates for election to the board may place their
14 names on a candidacy list for the respective district by filing
15 a petition signed by at least fifty growers who reside in such
16 district with the board by the date specified in the notice of
17 election. A candidate must reside within the district he or she
18 wants to represent to be eligible for nomination as candidate from
19 such district. Candidates for at-large election to the board may
20 place their names on a candidacy list by filing a petition with the
21 board signed by fifty growers who reside within the state.

22 (3) Voting shall be on ballots prescribed by the
23 board which may be distributed by the board to facilitate the
24 availability of ballots to growers. The board shall contract with
25 and pay the Department of Agriculture to oversee the election,
26 including the distribution, collection, and tabulation of ballots
27 or for the verification of the qualifications of persons voting in

1 an election of a grower member to the board.

2 (4) Only a person who is a grower is eligible to vote in
3 an election of a grower member to the board and a grower shall only
4 be eligible to vote for a grower member of the district in which
5 the grower resides. A grower shall sign an affidavit furnished by
6 the secretary of the board at the time of voting certifying the
7 grower's eligibility to vote. Each grower shall be entitled to one
8 vote.

9 Sec. 7. Whenever a vacancy occurs on the board for any
10 reason, the board shall appoint a grower with the qualifications
11 required by section 4 of this act to fill such vacancy from the
12 district in which the vacancy exists. If the vacant position is
13 that of the at-large member, the appointment to fill such vacancy
14 shall be made at-large by the board. Any candidate wanting to be
15 considered to fill a vacancy will be required to submit a petition
16 with fifty signatures of growers residing within the district for a
17 district vacancy or within the state for an at-large vacancy.

18 Sec. 8. (1) The board shall:

19 (a) Provide for market development;

20 (b) Provide for research and education programs directed
21 toward better and more efficient production, marketing, and
22 utilization of corn and corn products;

23 (c) Provide methods and means, including, but not limited
24 to, public relations and other promotion techniques for the
25 maintenance of present markets for corn and corn products;

26 (d) Assist in the development of new or larger markets,
27 both domestic and foreign, for corn and corn products;

1 (e) Work for the prevention, modification, or elimination
2 of trade barriers which obstruct the free flow of corn and corn
3 products to market;

4 (f) Promote the production and marketing of value-added
5 corn products;

6 (g) Support education and training programs which improve
7 the production and utilization of corn and corn products while
8 improving environmental stewardship practices; and

9 (h) Consider academic scholarships to full-time graduate
10 and postgraduate students engaged in the study of subjects relating
11 to improving the production or utilization of corn.

12 (2) The board may carry out these purposes directly or by
13 contracts with recognized and qualified persons.

14 Sec. 9. The board may:

15 (1) Employ and discharge management, staff, and
16 professional counsel as necessary, prescribe their duties and
17 powers, and fix their compensation;

18 (2) Establish offices at such place or places within the
19 state as it may designate;

20 (3) Incur expenses and enter into any contracts or
21 agreements necessary to carry out the purposes of the Nebraska Corn
22 Promotion Act;

23 (4) Adopt, rescind, and amend all proper and necessary
24 rules for the exercise of its powers and duties;

25 (5) Enter into a contract with the Department of
26 Agriculture for the collection of the state assessment on corn
27 marketed in this state;

1 (6) Establish a means whereby any grower has the
2 opportunity, at least annually, to offer his or her ideas and
3 suggestions relating to board policy for the upcoming year;

4 (7) Authorize the expenditure of funds and contracting of
5 expenditures to conduct proper activities of the board;

6 (8) Receive and accept donations, gifts, grants,
7 bequests, or other contributions in money, services, materials, or
8 otherwise and use or expend such contributions to carry out the
9 purposes of the act;

10 (9) Bond the treasurer of the board and such other
11 persons necessary to insure adequate protection of board funds; and

12 (10) Keep minutes of its meetings and other books and
13 records which will clearly reflect all of the acts and transactions
14 of the board and keep these records open to examination by any
15 grower during normal business hours.

16 Sec. 10. (1) There is a state assessment of five-tenths
17 cent per bushel imposed upon all corn marketed in this state. The
18 state assessment shall be paid by the grower at the time of sale
19 or delivery and shall be collected by the first purchaser. No corn
20 shall be subject to the state assessment more than once. The state
21 assessment may be increased as provided in section 14 of this act.

22 (2) The first purchaser, at the time of settlement,
23 shall deduct the state assessment and maintain the necessary record
24 of the state assessment for each purchase of corn on the grain
25 settlement form or check stub showing payment to the grower for
26 each purchase. Such records maintained by the first purchaser shall
27 provide the following information:

- 1 (a) Name and address of the grower and seller;
2 (b) The date of the purchase;
3 (c) The number of bushels of corn sold; and
4 (d) The amount of state assessment collected on each
5 purchase.

6 Such records shall be open for inspection during normal
7 business hours observed by the first purchaser.

8 (3) The first purchaser shall render and have on file
9 with the Department of Agriculture by the last day of each January,
10 April, July, and October, on forms prescribed by the department, a
11 statement of the number of bushels of corn purchased in this state.
12 At the time the statement is filed, the first purchaser shall pay
13 and remit to the department the state assessment imposed by this
14 section. Money remitted pursuant to this section shall be in the
15 form of a negotiable instrument made payable to the Nebraska Corn
16 Promotion Fund.

17 Sec. 11. In the case of a pledge or mortgage of corn as
18 security for a loan under a federal price support program or other
19 government agricultural loan program, the state assessment shall
20 be deducted from the proceeds of the loan at the time the loan
21 is made. If, within the life of the loan plus thirty days after
22 the collection of a state assessment for corn that is mortgaged
23 as security for a loan under a federal price support program or
24 other government agricultural loan program, the grower decides to
25 purchase the corn and use it as feed, the grower shall be entitled
26 to a refund of the state assessment previously paid. The refund
27 shall be payable by the board upon the grower's written application

1 to the board for a refund of the amount deducted. Each application
2 for a refund by a grower shall have attached to the application
3 proof of the state assessment deducted.

4 Sec. 12. The state assessment imposed by section 10 of
5 this act shall be deducted by the first purchaser as provided in
6 sections 10 and 11 of this act whether such corn is stored in this
7 state or any other state.

8 Sec. 13. The state assessment imposed by section 10 of
9 this act shall not apply to the sale of corn to the federal
10 government for the ultimate use or consumption by the people of
11 the United States when the State of Nebraska is prohibited from
12 imposing such fee by the Constitution of the United States and laws
13 enacted pursuant thereto.

14 Sec. 14. (1) Any increase in the state assessment imposed
15 by section 10 of this act must be approved by a majority of growers
16 voting in a special referendum conducted pursuant to this section.
17 The rate of the state assessment shall not exceed one cent per
18 bushel. A special referendum proposing an increase in the state
19 assessment cannot be called until three years after the operative
20 date of this act or until two years after a subsequent special
21 referendum for such purpose.

22 (2) The Director of Agriculture shall call a special
23 referendum upon receipt of (a) a petition from the board approved
24 by seven or more grower members of the board or (b) a petition
25 signed by two percent of the growers in the state. Such petitions
26 shall include the amount of the increase proposed and the rate of
27 the state assessment if the proposed increase is adopted.

1 (3) The special referendum shall be conducted under
2 procedures prescribed by the Director of Agriculture. Notice of the
3 special referendum shall be made by publication in newspapers of
4 general circulation and in grower trade association publications,
5 and by other reasonable manner as determined by the director. Such
6 notice shall state the period of time for voting, voting places,
7 and other information the director deems necessary.

8 (4) Voting shall be on ballots prescribed by the Director
9 of Agriculture which may be distributed by the director to
10 facilitate the availability of ballots to growers. The director
11 may cooperate and contract with any other state, local, or federal
12 agency for purposes of distributing, collecting, and tabulating
13 ballots, for the verification of the qualifications of growers
14 voting in the special referendum, and for certification of the
15 results of the special referendum.

16 (5) A grower shall sign an affidavit, furnished by the
17 Director of Agriculture, at the time of voting certifying the
18 grower's eligibility to vote. Each grower shall be entitled to one
19 vote.

20 (6) If upon counting and tabulation of ballots cast
21 during the referendum period, the Director of Agriculture
22 determines that a majority of voting producers favor an increase in
23 the rate of the state assessment, the state assessment shall be
24 collected at the rate specified in the special referendum beginning
25 thirty days following the date of certification of the results of
26 the special referendum by the director.

27 (7) All costs incurred by the Director of Agriculture for

1 conducting a special referendum as provided in this section shall
2 be reimbursed by the board.

3 Sec. 15. A grower who has sold corn and had a state
4 assessment deducted from the sale price may, by application in
5 writing to the board, secure a refund of the amount deducted. The
6 refund shall be payable only when the application is made to the
7 board within ninety days after the deduction. Application forms
8 shall be given by the board to each first purchaser when requested
9 and the first purchaser may make the applications available to any
10 grower. Each application for refund by a grower shall have attached
11 to the application proof of the corn assessment deduction. The
12 proof of the corn assessment shall be in the form of a duplicate
13 of the document showing the deduction of the corn assessment by
14 the first purchaser. The board shall have thirty days after the
15 date the application for refund is received by the board to remit
16 the refund to the grower. The board may provide for refunds of a
17 federal assessment as provided by federal law.

18 Sec. 16. (1) The state assessment collected from corn
19 marketed in this state shall be remitted to the State Treasurer
20 for credit to the Nebraska Corn Promotion Fund, which is hereby
21 created. For administrative purposes, the fund shall be located in
22 the Department of Agriculture. On January 1, 2014, or on the first
23 business day after January 1, 2014, the Department of Agriculture
24 shall notify the State Treasurer to transfer an amount from the
25 Nebraska Corn Development, Utilization, and Marketing Fund to the
26 Nebraska Corn Promotion Fund that is equal to the balance of the
27 Nebraska Corn Development, Utilization, and Marketing Fund less one

1 million dollars. The State Treasurer shall make the transfer on
2 the same business day as the notification is received. No later
3 than April 15, 2014, the Department of Agriculture shall notify
4 the State Treasurer that all financial obligations of the Corn
5 Development, Utilization, and Marketing Board have been satisfied
6 and upon such notification, the State Treasurer shall transfer any
7 funds remaining in or subsequently accruing to the Nebraska Corn
8 Development, Utilization, and Marketing Fund to the Nebraska Corn
9 Promotion Fund. The fund may also include any other funds acquired
10 for purposes of the Nebraska Corn Promotion Act as gifts, grants,
11 rents, bequests, or other contributions from public or private
12 entities, and any repayments to the fund including any license
13 fees and royalties. The balance of the fund shall be expended by
14 the Department of Agriculture every two weeks to the board for
15 the administration of and for purposes authorized by the act. Such
16 funds shall be expended to the board for the administration of
17 and for purposes authorized by the Nebraska Corn Promotion Act.
18 All funds expended to the board shall be deposited in an account
19 established by the board in a qualified financial institution and
20 maintained exclusively for the receipt and expenditure of funds
21 expended to the board under this section. Any money in the Nebraska
22 Corn Promotion Fund available for investment shall be invested
23 by the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act.

25 (2) From funds expended to the board, the board shall
26 first pay all refunds, the direct and indirect costs of elections
27 and referendums conducted under the act, and all costs for the

1 collection of assessments and administration of the act before
2 funds may be expended for carrying out the powers and duties in
3 sections 8 and 9 of this act.

4 (3) All funds remitted and credited to the Nebraska Corn
5 Promotion Fund and funds expended to and by the board shall be
6 subject to audit by the Auditor of Public Accounts. The fees
7 charged by the auditor for conducting audits shall be on a
8 contractual basis and shall be in an amount sufficient to pay the
9 cost of the audit. The Auditor of Public Accounts shall have access
10 to all records of the Nebraska Corn Promotion Board, in whatever
11 form or mode the records may be, unless the auditor's access to the
12 records is specifically prohibited or limited by federal or state
13 law.

14 Sec. 17. The board shall produce an annual report on or
15 before January 1 of each year which shall set forth in detail the
16 income received from state assessments for the previous year and
17 shall include:

18 (1) Expenditures made by the board during the previous
19 year under the Nebraska Corn Promotion Act;

20 (2) Actions taken by the board on all contracts requiring
21 the expenditure of funds by the board and copies of all such
22 contracts;

23 (3) Detailed explanations of all programs relating to the
24 discovery, promotion, and development of markets and industries for
25 the utilization of corn and corn products, the direct expenses
26 associated with each program, and copies of such programs, if in
27 writing; and

1 (4) Names and addresses of each member of the board and a
2 copy of all rules adopted, rescinded, or amended by the board. Such
3 report shall be available to the public upon request.

4 Sec. 18. (1) The board shall prohibit any state
5 assessment funds administered by the board from being expended
6 directly or indirectly to promote or oppose any candidate for
7 public office or to influence Nebraska state legislation.

8 (2) The board shall not set up research or development
9 units or agencies of its own, but shall limit its activity in
10 carrying out the purposes of the Nebraska Corn Promotion Act to
11 cooperation and contracts with the University of Nebraska Institute
12 of Agriculture and Natural Resources and other related local,
13 state, or national organizations, public or private.

14 Sec. 19. Any person violating the Nebraska Corn Promotion
15 Act shall be guilty of a Class III misdemeanor.

16 Sec. 23. Section 25 of this act becomes operative April
17 16, 2014. The other sections of this act become operative on
18 January 1, 2014.

19 Sec. 25. The following section is outright repealed:
20 Section 2-3633, Reissue Revised Statutes of Nebraska.

21 2. On page 22, line 13, strike "2-3633,".

22 3. Renumber the remaining sections accordingly.