

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 354

Introduced by Larson, 40.

Read first time January 18, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 49-1499.02 and
2 66-1333, Reissue Revised Statutes of Nebraska, and
3 section 66-1345.01, Revised Statutes Cumulative
4 Supplement, 2012; to adopt the Nebraska Corn Promotion
5 Act and repeal the Nebraska Corn Resources Act; to create
6 a board; to create and eliminate funds; to provide a
7 penalty; to harmonize provisions; to provide an operative
8 date; to repeal the original sections; and to outright
9 repeal sections 2-3601, 2-3602, 2-3603, 2-3604, 2-3605,
10 2-3606, 2-3607, 2-3608, 2-3609, 2-3610, 2-3611, 2-3612,
11 2-3614, 2-3615, 2-3616, 2-3617, 2-3618, 2-3619, 2-3620,
12 2-3621, 2-3622, 2-3623, 2-3627, 2-3628, 2-3629, 2-3630,
13 2-3631, 2-3632, 2-3633, 2-3634, and 2-3635, Reissue
14 Revised Statutes of Nebraska.

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

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

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

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

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

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

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

23 (5) Grower means any landowner personally engaged in
24 growing corn, a tenant of the landowner personally engaged in growing
25 corn, and both the owner and tenant jointly and shall include an

1 individual, a partnership, a limited liability company, an
2 association, a corporation, a cooperative, a trust, a sharecropper,
3 and any other business unit, device, or arrangement;

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

9 (7) Qualified financial institution means an organization
10 authorized to do business under state or federal law relating to
11 financial institutions and includes a bank, trust company, savings
12 bank, building and loan association, savings and loan company or
13 association, or credit union; and

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

16 Sec. 3. It is the public policy of the State of Nebraska
17 to protect and foster the health, prosperity, and general welfare of
18 its people by protecting and stabilizing the corn industry and the
19 economy of the areas producing corn. For such purpose, the Corn
20 Development, Utilization, and Marketing Board created pursuant to the
21 Nebraska Corn Resources Act, as such act existed immediately prior to
22 the operative date of this act, is hereby designated a body politic
23 and corporate and shall be an independent instrumentality exercising
24 essential public functions to be known as the Nebraska Corn Promotion
25 Board. The board shall not be considered a state agency. The board

1 shall have the powers and duties as set forth in the Nebraska Corn
2 Promotion Act.

3 Sec. 4. (1) The board shall be composed of nine grower
4 members. To qualify as a grower member, an individual shall (a) be a
5 citizen of Nebraska, (b) be at least eighteen years of age, (c) have
6 been actually engaged in growing corn in this state for a period of
7 at least five years, and (d) derive a substantial portion of his or
8 her income from growing corn. In addition to the grower members, the
9 Director of Agriculture, the Vice Chancellor of the University of
10 Nebraska Institute of Agriculture and Natural Resources, and the
11 president of the Nebraska Corn Growers Association shall be ex
12 officio members of the board with no voting privileges.

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

16 (a) District 1. The counties of Butler, Saunders,
17 Douglas, Sarpy, Seward, Lancaster, Cass, Otoe, Saline, Jefferson,
18 Gage, Johnson, Nemaha, Pawnee, and Richardson;

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

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

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

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

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

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

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

12 (3) One grower member shall represent the state at large
13 and shall be elected by the eight members elected by district from
14 among candidates qualified for membership as provided in this
15 section.

16 (4) Members of the Corn Development, Utilization, and
17 Marketing Board duly appointed and serving pursuant to the Nebraska
18 Corn Resources Act, as such act existed immediately prior to the
19 operative date of this act, shall serve as members of the Nebraska
20 Corn Promotion Board until the expiration of their respective terms
21 after which their successors and all subsequent members of the board
22 shall be elected to the board pursuant to the Nebraska Corn Promotion
23 Act. All members shall serve until their successors are elected and
24 qualified.

25 (5) The composition of the board as described in

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

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

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

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

18 Sec. 6. (1) Election of grower members shall be conducted
19 under administrative procedures prescribed by the board. Notice of
20 election of a member of the board shall be given by the board by
21 publication in a newspaper of general circulation in the district the
22 grower member will represent and in any other reasonable manner as
23 determined by the board. The board shall prescribe the period of time
24 for voting, voting places, and other procedures the board deems
25 necessary. Notice shall include the qualifications for board

1 membership as provided in section 4 of this act and information
2 regarding the procedures by which individuals may place their names
3 in candidacy for election to the board. Such notice shall occur at
4 least ninety days prior to the expiration of the term for which the
5 election is held, and the election shall be completed by a date no
6 later than thirty days prior to the expiration of such term.

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

16 (3) Voting shall be on ballots prescribed by the board
17 which may be distributed by the board to facilitate the availability
18 of ballots to growers. The board may cooperate and contract with any
19 other local, state, or federal agency for purposes of distributing,
20 collecting, and tabulating ballots or for the verification of the
21 qualifications of persons voting in an election of a grower member to
22 the board.

23 (4) Only a person who is a grower is eligible to vote in
24 an election of a grower member to the board and a grower shall only
25 be eligible to vote for a grower member of the district in which the

1 grower resides. A grower shall sign an affidavit furnished by the
2 secretary of the board at the time of voting certifying the grower's
3 eligibility to vote. Each grower shall be entitled to one vote.

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

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

14 (a) Provide for market development;

15 (b) Provide for research and education programs directed
16 toward better and more efficient production, marketing, and
17 utilization of corn and corn products;

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

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

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

1 (f) Promote the production and marketing of value-added
2 corn products;

3 (g) Support education and training programs which improve
4 the production and utilization of corn and corn products while
5 improving environmental stewardship practices; and

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

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

11 Sec. 9. The board may:

12 (1) Employ and discharge management, staff, and
13 professional counsel as necessary, prescribe their duties and powers,
14 and fix their compensation;

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

17 (3) Incur expenses and enter into any contracts or
18 agreements necessary to carry out the purposes of the act;

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

21 (5) Enter into a contract with the Department of
22 Agriculture for the collection of the state assessment on corn
23 marketed in this state;

24 (6) Establish a means whereby any grower has the
25 opportunity, at least annually, to offer his or her ideas and

1 suggestions relating to board policy for the upcoming year;

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

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

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

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

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

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

1 following information:

2 (a) Name and address of the grower and seller;

3 (b) The date of the purchase;

4 (c) The number of bushels of corn sold; and

5 (d) The amount of state assessment collected on each
6 purchase.

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

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

18 Sec. 11. In the case of a pledge or mortgage of corn as
19 security for a loan under a federal price support program or other
20 government agricultural loan program, the state assessment shall be
21 deducted from the proceeds of the loan at the time the loan is made.
22 If, within the life of the loan plus thirty days after the collection
23 of a state assessment for corn that is mortgaged as security for a
24 loan under a federal price support program or other government
25 agricultural loan program, the grower decides to purchase the corn

1 and use it as feed, the grower shall be entitled to a refund of the
2 state assessment previously paid. The refund shall be payable by the
3 board upon the grower's written application to the board for a refund
4 of the amount deducted. Each application for a refund by a grower
5 shall have attached to the application proof of the state assessment
6 deducted.

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

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

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

25 (2) Upon a motion of the board approved by seven or more

1 of the grower members of the board, the board shall call a special
2 referendum of growers upon the question of whether to authorize the
3 increase in the rate of the state assessment.

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

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

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

20 Sec. 15. A grower who has sold corn and had a state
21 assessment deducted from the sale price may, by application in
22 writing to the board, secure a refund of the amount deducted. The
23 refund shall be payable only when the application is made to the
24 board within sixty days after the deduction. Application forms shall
25 be given by the board to each first purchaser when requested and the

1 first purchaser may make the applications available to any grower.
2 Each application for refund by a grower shall have attached to the
3 application proof of the corn assessment deduction. The proof of the
4 corn assessment shall be in the form of a duplicate of the document
5 showing the deduction of the corn assessment by the first purchaser.
6 The board shall have thirty days after the date the application for
7 refund is received by the board to remit the refund to the grower. No
8 refunds of less than ten dollars shall be made. The board may provide
9 for refunds of a federal assessment as provided by federal law.

10 Sec. 16. (1) The state assessment collected from corn
11 marketed in this state shall be remitted to the State Treasurer for
12 credit to the Nebraska Corn Promotion Fund, which is hereby created.
13 The State Treasurer shall also credit to the fund any other funds
14 acquired for purposes of the Nebraska Corn Promotion Act as gifts,
15 grants, bequests, or other contributions from public or private
16 entities, and any repayments relating to the fund including any
17 license fees or royalties. Any money in the fund available for
18 investment shall be invested by the state investment officer pursuant
19 to the Nebraska Capital Expansion Act and the Nebraska State Funds
20 Investment Act. Funds remitted and credited to the Nebraska Corn
21 Promotion Fund and the private accounts of the board out of which the
22 state assessment is expended shall be subject to audit by the Auditor
23 of Public Accounts. The Auditor of Public Accounts may seek
24 reimbursement for the cost of the audit from the fund as provided in
25 this section.

1 (2) The board may expend out the funds in the Nebraska
2 Corn Promotion Fund to an account established by the board in a
3 qualified financial institution.

4 (3) From funds expended out of the Nebraska Corn
5 Promotion Fund to an account established by the board, the board
6 shall first pay all refunds, the direct and indirect costs of
7 elections, and other expenses incurred in the administration of the
8 Nebraska Corn Promotion Act before funds may be expended for carrying
9 out the purposes of the act as provided in sections 8 and 9 of this
10 act.

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

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

17 (2) Actions taken by the board on all contracts requiring
18 the expenditure of funds by the board and copies of all such
19 contracts;

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

25 (4) Names and addresses of each member of the board and a

1 copy of all rules adopted, rescinded, or amended by the board. Such
2 report shall be available to the public upon request.

3 Sec. 18. (1) The board shall prohibit any state
4 assessment funds administered by the board from being expended
5 directly or indirectly to promote or oppose any candidate for public
6 office or to influence Nebraska state legislation. The board shall
7 not expend more than twenty-five percent of its annual budget to
8 influence federal legislation.

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

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

17 Sec. 20. Section 49-1499.02, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 49-1499.02 (1) An official or employee of the executive
20 branch of state government who would be required to take any action
21 or make any decision in the discharge of his or her official duties
22 that may cause financial benefit or detriment to him or her, a member
23 of his or her immediate family, or a business with which he or she is
24 associated, which is distinguishable from the effects of such action
25 on the public generally or a broad segment of the public, shall take

1 the following actions as soon as he or she is aware of such potential
2 conflict or should reasonably be aware of such potential conflict,
3 whichever is sooner:

4 (a) Prepare a written statement describing the matter
5 requiring action or decision and the nature of the potential
6 conflict; and

7 (b) Deliver a copy of the statement to the commission and
8 to his or her immediate superior, if any, who shall assign the matter
9 to another. If the immediate superior does not assign the matter to
10 another or if there is no immediate superior, the official or
11 employee shall take such action as the commission shall advise or
12 prescribe to remove himself or herself from influence over the action
13 or decision on the matter.

14 (2) This section does not prevent such a person from (a)
15 making or participating in the making of a governmental decision to
16 the extent that the individual's participation is legally required
17 for the action or decision to be made or (b) making or participating
18 in the making of a governmental decision if the potential conflict of
19 interest is based upon a business association and the business
20 association exists only as the result of his or her position on a
21 commodity board. A person acting pursuant to subdivision (a) of this
22 subsection shall report the occurrence to the commission.

23 (3) For purposes of this section, commodity board means
24 only the following:

25 (a) ~~Corn Development, Utilization, and Marketing Nebraska~~

1 Corn Promotion Board;

2 (b) Nebraska Dairy Industry Development Board;

3 (c) Grain Sorghum Development, Utilization, and Marketing
4 Board;

5 (d) Nebraska Wheat Development, Utilization, and
6 Marketing Board;

7 (e) Dry Bean Commission;

8 (f) Nebraska Potato Development Committee; and

9 (g) Nebraska Poultry and Egg Development, Utilization,
10 and Marketing Committee.

11 Sec. 21. Section 66-1333, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 66-1333 For purposes of the Ethanol Development Act,
14 unless the context otherwise requires:

15 (1) Agricultural production facility or ethanol facility
16 means a plant or facility related to the processing, marketing, or
17 distribution of any products derived from grain components,
18 coproducts, or byproducts;

19 (2) Board means the Nebraska Ethanol Board;

20 (3) Commercial channels means the sale of corn or grain
21 sorghum for any use, to any commercial buyer, dealer, processor,
22 cooperative, or person, public or private, who resells any corn or
23 grain sorghum or product produced from corn or grain sorghum;

24 (4) Corn means corn as defined in section ~~2-3610~~ 2 of
25 this act;

1 (5) Delivered or delivery means receiving corn or grain
2 sorghum for any use other than storage;

3 (6) First purchaser means any person, public or private
4 corporation, association, partnership, or limited liability company
5 buying, accepting for shipment, or otherwise acquiring corn or grain
6 sorghum in Nebraska, and includes a mortgagee, pledgee, lienor, or
7 other person, public or private, having a claim against the grower,
8 when the actual or constructive possession of the corn or grain
9 sorghum is taken as part payment or in satisfaction of such mortgage,
10 pledge, lien, or claim;

11 (7) Grain means wheat, corn, and grain sorghum;

12 (8) Grower means any landowner personally engaged in
13 growing corn or grain sorghum, a tenant of the landowner personally
14 engaged in growing corn or grain sorghum, and both the owner and
15 tenant jointly and includes a person, partnership, limited liability
16 company, association, corporation, cooperative, trust, sharecropper,
17 and other business unit, device, and arrangement;

18 (9) Name plate design capacity means the original
19 designed capacity of an agricultural production facility. Capacity
20 may be specified as bushels of grain ground or gallons of ethanol
21 produced per year;

22 (10) Related parties means any two or more individuals,
23 firms, partnerships, limited liability companies, companies,
24 agencies, associations, or corporations which are members of the same
25 unitary group or are any persons who are considered to be related

1 persons under the Internal Revenue Code; and

2 (11) Sale includes any pledge or mortgage of corn or
3 grain sorghum after harvest to any person, public or private.

4 Sec. 22. Section 66-1345.01, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 66-1345.01 An excise tax is levied upon all corn and
7 grain sorghum sold through commercial channels in Nebraska or
8 delivered in Nebraska. For any sale or delivery of corn or grain
9 sorghum occurring on or after July 1, 1995, and before January 1,
10 2000, the tax is three-fourths cent per bushel for corn and three-
11 fourths cent per hundredweight for grain sorghum. For any sale or
12 delivery of corn or grain sorghum occurring on or after January 1,
13 2000, and before January 1, 2001, the tax is one-half cent per bushel
14 for corn and one-half cent per hundredweight for grain sorghum. For
15 any sale or delivery of corn or grain sorghum occurring on or after
16 October 1, 2001, and before October 1, 2004, the tax is one-half cent
17 per bushel for corn and one-half cent per hundredweight for grain
18 sorghum. For any sale or delivery of corn or grain sorghum occurring
19 on or after October 1, 2004, and before October 1, 2005, the tax is
20 three-fourths cent per bushel for corn and three-fourths cent per
21 hundredweight for grain sorghum. For any sale or delivery of corn or
22 grain sorghum occurring on or after October 1, 2005, and before
23 October 1, 2012, the tax is seven-eighths cent per bushel for corn
24 and seven-eighths cent per hundredweight for grain sorghum. The tax
25 shall be in addition to any fee imposed pursuant to ~~sections 2-3623~~

1 ~~and section 2-4012 or state assessment imposed pursuant to section 10~~
2 ~~of this act.~~

3 The excise tax shall be imposed at the time of sale or
4 delivery and shall be collected by the first purchaser. The tax shall
5 be collected, administered, and enforced in conjunction with the fees
6 ~~fee imposed pursuant to sections 2-3623 and section 2-4012 and the~~
7 ~~state assessment imposed pursuant to section 10 of this act.~~ The tax
8 shall be collected, administered, and enforced by the Department of
9 Agriculture. No corn or grain sorghum shall be subject to the tax
10 imposed by this section more than once.

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

23 The excise tax shall be deducted whether the corn or
24 grain sorghum is stored in this or any other state. The excise tax
25 shall not apply to the sale of corn or grain sorghum to the federal

1 government for ultimate use or consumption by the people of the
2 United States when the State of Nebraska is prohibited from imposing
3 such tax by the Constitution of the United States and laws enacted
4 pursuant thereto.

5 Sec. 23. This act becomes operative on January 1, 2014.

6 Sec. 24. Original sections 49-1499.02 and 66-1333,
7 Reissue Revised Statutes of Nebraska, and section 66-1345.01, Revised
8 Statutes Cumulative Supplement, 2012, are repealed.

9 Sec. 25. The following sections are outright repealed:
10 Sections 2-3601, 2-3602, 2-3603, 2-3604, 2-3605, 2-3606, 2-3607,
11 2-3608, 2-3609, 2-3610, 2-3611, 2-3612, 2-3614, 2-3615, 2-3616,
12 2-3617, 2-3618, 2-3619, 2-3620, 2-3621, 2-3622, 2-3623, 2-3627,
13 2-3628, 2-3629, 2-3630, 2-3631, 2-3632, 2-3633, 2-3634, and 2-3635,
14 Reissue Revised Statutes of Nebraska.