

## LEGISLATIVE BILL 905

Approved by the Governor April 10, 2012

Introduced by Carlson, 38; Larson, 40; Schilz, 47.

FOR AN ACT relating to agriculture; to amend sections 2-2301, 2-2302, 2-2303, 2-2306, 2-2310, 2-2311, 2-2313, 2-2317, 2-2318, and 2-2319, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to an excise tax and a fund under the Nebraska Wheat Resources Act; to change powers and duties of the Nebraska Wheat Development, Utilization, and Marketing Board; to eliminate obsolete language; to harmonize provisions; to provide operative dates; and to repeal the original sections.

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

Section 1. Section 2-2301, Reissue Revised Statutes of Nebraska, is amended to read:

2-2301 Sections 2-2301 to ~~2-2319~~ 2-2321 shall be known and may be cited as the Nebraska Wheat Resources Act.

Sec. 2. Section 2-2302, Reissue Revised Statutes of Nebraska, is amended to read:

2-2302 There is hereby established the Nebraska Wheat Development, Utilization, and Marketing Board. ~~The present members of the Nebraska Wheat Development, Utilization, and Marketing Committee shall serve as members of such board until the expiration of their respective terms, after which time members~~ Members shall be appointed by the Governor to the board pursuant to section 2-2305.

Sec. 3. Section 2-2303, Reissue Revised Statutes of Nebraska, is amended to read:

2-2303 For purposes of the Nebraska Wheat Resources Act, unless the context otherwise requires:

(1) Board ~~shall mean~~ means the Nebraska Wheat Development, Utilization, and Marketing Board;

(2) Commercial channels means the sale of wheat for any use when sold to any commercial buyer, dealer, processor, cooperative, or any person, public or private, who resells any wheat or product produced from wheat;

(3) First purchaser means any person, public or private corporation, association, partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property in or to wheat from a grower and includes a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower when the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

~~(2)~~ (4) Grower shall mean means any landowner personally engaged in growing wheat, a tenant of the landowner personally engaged in growing wheat, and both the owner and the tenant jointly and ~~shall include~~ includes a person, partnership, limited liability company, association, corporation, cooperative, trust, sharecropper, and other business units, devices, and arrangements;

~~(3)~~ First purchaser shall mean any person, public or private corporation, association, partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property in or to wheat from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower when the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

~~(4)~~ Commercial channels shall mean the sale of wheat for any use when sold to any commercial buyer, dealer, processor, cooperative, or any person, public or private, who resells any wheat or product produced from wheat; and

(5) Net market price means the sales price, or other value, per volumetric unit received by a producer for wheat after adjustment for any premium or discount;

(6) Net market value means the value found by multiplying the net market price by the appropriate quantity of the volumetric units or the minimum value in a production contract received by a producer for wheat after adjustments for any premium or discount. For wheat pledged as collateral for a loan issued under any Commodity Credit Corporation price support loan program, net market value means the principal amount of the loan; and

~~(5)~~ (7) Sale shall also include includes any pledge or mortgage of wheat after harvest to any person, public or private.

Sec. 4. Section 2-2306, Reissue Revised Statutes of Nebraska, is

amended to read:

2-2306 All voting members of the board shall be entitled to actual and necessary expenses, as provided for in sections 81-1174 to 81-1177, ~~for state employees,~~ while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

Sec. 5. Section 2-2310, Reissue Revised Statutes of Nebraska, is amended to read:

2-2310 The board may establish an administrative office in the State of Nebraska at such place as may be suitable for the furtherance of ~~sections 2-2301 to 2-2319,~~ the Nebraska Wheat Resources Act. The board shall not purchase, construct, or otherwise obtain title to its own administrative office, but shall be limited to leasing state or commercial office space.

Sec. 6. Section 2-2311, Reissue Revised Statutes of Nebraska, is amended to read:

2-2311 (1) ~~Commencing July 1, 1988,~~ there is hereby levied an excise tax of one cent per bushel upon all wheat sold through commercial channels in the State of Nebraska. ~~Commencing July 1, 1989,~~ the board may levy an excise tax of not to exceed one and one-fourth cents per bushel upon all wheat sold through commercial channels in the State of Nebraska. ~~Commencing July 1, 1990,~~ the board may levy an excise tax of not to exceed one and one-half cents per bushel upon all wheat sold through commercial channels in the State of Nebraska. Commencing on the operative date of this section, there is hereby levied an excise tax of four-tenths percent of the net market value of wheat sold through commercial channels in the State of Nebraska. The tax shall be levied and imposed on the grower at the time of sale or delivery and shall be collected by the first purchaser. Under the Nebraska Wheat Resources Act, no wheat shall be subject to the tax more than once.

(2) ~~The board shall have the power to reduce the excise tax for such period as it shall deem justified, but not less than one year, whenever it shall determine that the excise tax provided by this section is yielding more than is required to carry out the intent and purposes of the Nebraska Wheat Resources Act. If the board, after reducing such excise tax, finds that sufficient revenue is not being produced by such excise tax, it may restore in full or in part such excise tax not to exceed the amount per bushel authorized in subsection (1) of this section.~~

(2) After October 1, 2014, the board may, whenever it determines that the excise tax levied by this section is yielding more or less than is required to carry out the intent and purposes of the Nebraska Wheat Resources Act, reduce or increase such levy for such period as it deems justifiable, but not less than one year, and such levy shall not exceed five-tenths percent of the net market value. Any adjustment to the levy shall be by rule and regulation adopted and promulgated by the board in accordance with the Administrative Procedure Act.

Sec. 7. Section 2-2313, Reissue Revised Statutes of Nebraska, is amended to read:

2-2313 The tax, provided for by the provisions of section 2-2311, shall be deducted, as provided by ~~sections 2-2301 to 2-2319,~~ the Nebraska Wheat Resources Act, whether such wheat is stored in this or any other state.

Sec. 8. Section 2-2317, Reissue Revised Statutes of Nebraska, is amended to read:

2-2317 ~~The State Treasurer is hereby directed to establish and set up in the treasury of the State of Nebraska a fund to be known as the Nebraska Wheat Development, Utilization, and Marketing Fund, to which fund shall be credited, for the uses and purposes of the Nebraska Wheat Resources Act and its enforcement, all taxes collected by the board pursuant to the act. After appropriation, the Director of Administrative Services shall, upon receipt of proper vouchers approved by an officer of the board, issue his or her warrants on such fund and the State Treasurer shall pay the same out of the money credited to such fund. The Nebraska Wheat Development, Utilization, and Marketing Fund is created. All taxes collected by the board pursuant to the Nebraska Wheat Resources Act and any repayments relating to the fund, including license fees or royalties, shall be remitted to the State Treasurer for credit to the fund. The fund shall be used to carry out the act. The board shall at each regular meeting review and approve all expenditures made since its last regular meeting. 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. 9. Section 2-2318, Reissue Revised Statutes of Nebraska, is amended to read:

2-2318 The Nebraska Wheat Development, Utilization, and Marketing Board shall not be authorized to set up research or development units or agencies of its own, but shall limit its activity to cooperation and

contracts, ~~not exceeding one year in duration,~~ with the Department of Agriculture, University of Nebraska Institute of Agriculture and Natural Resources, or other proper local, state, or national organizations, public or private, in carrying out the ~~purposes of sections 2-2301 to 2-2319.~~ Nebraska Wheat Resources Act.

Sec. 10. Section 2-2319, Reissue Revised Statutes of Nebraska, is amended to read:

2-2319 Any person violating ~~any of the provisions of sections 2-2301 to 2-2319~~ the Nebraska Wheat Resources Act shall be guilty of a Class III misdemeanor.

Sec. 11. Sections 6 and 12 of this act become operative on October 1, 2012. The other sections of this act become operative on their effective date.

Sec. 12. Original section 2-2311, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 13. Original sections 2-2301, 2-2302, 2-2303, 2-2306, 2-2310, 2-2313, 2-2317, 2-2318, and 2-2319, Reissue Revised Statutes of Nebraska, are repealed.