

LEGISLATIVE BILL 364

Approved by the Governor May 4, 1993

Introduced by Wehrbein, 2; McKenzie, 34

AN ACT relating to ethanol; to amend sections 66-820, 66-1315, 66-1316, 66-1321.01, and 66-1325, Reissue Revised Statutes of Nebraska, 1943, and sections 57-705, 58-239, 66-4,124, 66-4,134, 66-4,142, 66-1301, 66-1303, 66-1324, and 66-1326 to 66-1329, Revised Statutes Supplement, 1992; to rename the Ethanol Authority and Development Act; to rename and eliminate funds; to create and eliminate boards and committees; to transfer powers and duties and funds; to change provisions relating to a tax credit; to eliminate the authority to make certain investments; to eliminate provisions dealing with an excise tax, loans, high-protein food products, and the Nebraska Gasohol and Energy Development Act; to harmonize provisions; to provide an operative date; to repeal the original sections, and also sections 2-3816 to 2-3823, 66-801, 66-803 to 66-811, 66-814 to 66-816, 66-819, 66-1302, 66-1304, 66-1305, 66-1306, 66-1308 to 66-1314, 66-1317, 66-1319, 66-1321, 66-1322, and 66-1323, Reissue Revised Statutes of Nebraska, 1943, and sections 58-239.01, 66-4,133, 66-4,135 to 66-4,137, 66-802, 66-812, 66-813, 66-1307, 66-1307.01, 66-1307.02, and 66-1320, Revised Statutes Supplement, 1992; and to declare an emergency.

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

Section 1. That section 66-1301, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1301-~~ Sections ~~66-1301 to 66-1329~~ 1 to 19 of this act shall be known and may be cited as the Ethanol ~~Authority and~~ Development Act.

Sec. 2. The Legislature finds that Nebraska should continue its existing programs to encourage processing, market development, promotion, distribution, and research on products derived from grain, ethanol, or ethanol components, coproducts, or byproducts to provide for:

- (1) Expanded use of Nebraska agricultural products;
- (2) Efficient and less-polluting energy sources and reserves which will make Nebraska less energy dependent, reduce atmospheric carbon monoxide levels, and retain Nebraska dollars in the Nebraska economy to achieve a multiplier effect thereby generating additional jobs and tax income to the state rather than the export of Nebraska dollars;
- (3) Development of protein which will be more efficiently

stored and marketed to foreign nations rather than the present method of simple export of unprocessed grain products;

(4) Alternative local outlets for Nebraska agricultural products which can be particularly utilized in times of depressed grain prices so as to give Nebraskans greater control of their crop marketing procedures rather than have crop marketing procedures too dependent upon federal agencies, major grain exporters, and foreign purchasers. Local outlets may include ethanol plants, agricultural production facilities, or facilities related to the processing, marketing, or distribution of ethanol or products derived from ethanol or ethanol components, coproducts, or byproducts;

(5) Cooperation with private industry to establish ethanol-related production facilities in Nebraska to create demand for agricultural products;

(6) Promotion and market development, in cooperation with private industry, of ethanol or products derived from ethanol or ethanol components, coproducts, or byproducts; and

(7) Sponsorship of research and development of industrial and commercial uses for agricultural ethanol and for byproducts resulting from the manufacturing of agricultural ethanol in order to enhance economic feasibility and marketing potential of such products and processes.

Sec. 3. It is hereby declared to be the public policy of the state that, in order to safeguard life, health, property, and public welfare of its citizens, the production, sale, and use of motor fuel and the pollution caused by certain components of motor fuel are matters affecting the public interest and that a statewide emphasis on the production and use of motor fuel containing agricultural ethyl alcohol as a substitute for polluting components is necessary for the reduction of pollution and will further serve as an incentive for the agricultural economy in this state. The Legislature further recognizes that a fuel crisis is pending in the nation and that the development of an additional source of fuel will provide an energy and environmental benefit to the citizens of this state and to the future economic growth of Nebraska.

Sec. 4. That section 66-1303, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1303.~~ For purposes of the Ethanol Authority and Development Act, unless the context otherwise requires:

(1) Agricultural production facility or ethanol facility shall mean a plant or facility related to the processing, marketing, or distribution of any products derived from grain components, coproducts, or byproducts;

(2) Board shall mean the Nebraska Ethanol Authority and Development Board;

~~(3) Capital cost shall mean expenditures which include, but are not limited to, expenditures incurred for design and engineering, for land acquisition and related costs, financing fees, plant construction, and such other appropriate costs incurred prior to the commencement of the~~

~~operation of an ethanol or agricultural production facility or a facility related to the processing, marketing, or distribution of ethanol or any products derived from ethanol components, coproducts, or byproducts;~~

~~(4) Electric supplier shall mean any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;~~

(3) (5) Grain shall mean wheat, corn, and grain sorghum; and

(4) (6) Name plate design capacity shall mean the original designed capacity of ~~a~~ an agricultural production facility. Capacity may be specified as bushels of grain ground or gallons of ethanol produced per year.

Sec. 5. (1) The Agricultural Alcohol Fuel Tax Fund is hereby created. No part of the funds collected under section 66-4,134 or of federal funds or other funds solicited in conjunction with research or demonstration programs shall lapse to the General Fund. In addition to such unexpended balance appropriation, there is hereby appropriated such amounts as are deposited in the Agricultural Alcohol Fuel Tax Fund pursuant to such section in each year. The fund shall be administered by the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(2) The fund shall be used for the following purposes:

(a) Establishment, with cooperation of private industry, of procedures and processes necessary to the manufacture and marketing of fuel containing agricultural ethyl alcohol;

(b) Establishment of procedures for entering blended fuel into the marketplace by private enterprise;

(c) Analysis of the marketing process and testing of marketing procedures to assure acceptance in the private marketplace of blended fuel and byproducts resulting from the manufacturing process;

(d) Cooperation with private industry to establish privately owned agricultural ethyl alcohol manufacturing plants in Nebraska to supply demand for blended fuel;

(e) Sponsoring research and development of industrial and commercial uses for agricultural ethyl alcohol and for byproducts resulting from the manufacturing process;

(f) Promotion of state and national air quality improvement programs and influencing federal legislation that requires or encourages the use of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives;

(g) Promotion of the use of renewable agricultural ethyl alcohol as a partial replacement for imported oil and for the energy and economic security of the nation;

(h) Participation in development and passage of national legislation dealing with research, development, and promotion of United States production of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives, access to potential markets, tax incentives,

imports of foreign-produced fuel, and related concerns that may develop in the future; and

(i) As the board may otherwise direct to fulfill the goals set forth under the Ethanol Development Act, including monitoring contracts for existing ethanol program commitments consummated pursuant to the law in existence prior to the operative date of this act and solicitation of federal funds.

Sec. 6. (1) The Nebraska Ethanol Board is hereby established. The board shall consist of seven members to be appointed by the Governor with the approval of a majority of the Legislature. The Governor shall make the initial appointments within thirty days after the operative date of this act. Four members shall be actually engaged in farming in this state, one in general farming and one each in the production of corn, wheat, and sorghum. One member shall be actively engaged in business in this state. One member shall represent labor interests in this state. One member shall represent Nebraska petroleum marketers in this state.

(2) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the member representing labor interests and the member engaged in general farming shall expire on August 31, 1994, the terms of the member engaged in sorghum production and the member engaged in wheat production shall expire on August 31, 1995, the term of the member representing petroleum marketers shall expire on August 31, 1996, and the terms of the member engaged in business and the member engaged in corn production shall expire on August 31, 1997. A member shall serve until a successor is appointed and qualified. Not more than four members shall be members of the same political party.

(3) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(4) The board shall meet at least once annually.

(5) The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The members shall receive twenty-five dollars for each day while engaged in the performance of board duties.

Sec. 7. The board shall retain the services of a full-time administrator to be appointed by the board. The administrator shall hold office at the pleasure of the board. The administrator shall compile a biennial report to be submitted to the board and the Clerk of the Legislature. The report shall set forth the activities, contracts, and projects of the board for the previous biennium and the amount of funds expended. Each member of the Legislature shall receive a copy of such report by making a request for it to the board.

Sec. 8. The board may rent office space and employ such personnel as may be necessary for the performance of its duties. The board may employ the services of experts and consultants and expend funds necessary to acquire title to commodities pursuant to section 11 of this act, to promote air quality improvement programs, or to otherwise carry out the board's duties under the Ethanol Development Act. The board shall have an advisory committee of four persons, one representing each of the following: The Department of Economic Development, the University of Nebraska, the Department of Agriculture, and the State Energy Office.

Sec. 9. That section 66-820, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-820: The committee shall~~ board may appropriate funds and become a member of any national gasohol ethanol promotion group. ~~There is hereby appropriated thirty thousand dollars to the Nebraska Gasohol Committee Membership Fund which is hereby created for purposes of membership in any national gasohol promotion group.~~

Sec. 10. That section 66-1315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-1315: The board is encouraged to solicit and authorized to expend any federally distributed funds from the Energy Settlement Fund, account number 6071, or any other federal funds which may become available to the board for ethanol development. Funds collected pursuant to this section shall be remitted to the State Treasurer for credit to the Agricultural Alcohol Fuel Tax Fund. Not more than twenty five percent of the amount of any such federal funds available to the board shall be used to fund ethanol research and development programs, and the remaining amount, if any, shall be used as provided in section 66-1307.~~

Sec. 11. That section 66-1316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-1316: The board may accept gifts, donations, money, and services, including in-kind resources such as grain owned by the Commodity Credit Corporation and the United States Department of Agriculture. The board may take title to the Commodity Credit Corporation's inventories and use such commodities to carry out the provisions of the Ethanol Authority and Development Act. The board may accept commodities in connection with section 1024 of the Food Security Act of 1985 or in connection with any other section of state or federal law.~~

Sec. 12. That section 66-1321.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-1321.01: Trade secrets, academic and scientific research work, and other proprietary or commercial information which may be filed with an application for a grant or loan or other financial assistance shall not be considered to be public records as defined in section 84-712.01 if the release of such trade secrets, work, or information~~

would give advantage to business competitors and serve no public purpose. Any person seeking release of the trade secrets, work, or information as a public record shall demonstrate to the satisfaction of the board that the release would not violate this section.

Sec. 13. That section 66-1324, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1324.~~ Any repayment of a loan made pursuant to the Ethanol Authority and Development Act as it existed prior to the operative date of this act shall be remitted to the State Treasurer and shall be credited to the Ethanol Production Incentive Cash Fund. Any return on investment and any money available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, pursuant to prior law, shall be remitted to the State Treasurer and shall be credited to the fund.

Sec. 14. That section 66-1325, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-1325.~~ The board shall adopt and promulgate rules and regulations to carry out the Ethanol Authority and Development Act, ~~and shall provide necessary assistance to applicants to properly and rapidly process grants or loans.~~

Sec. 15. That section 66-1326, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1326.~~ (1) Each producer of ethanol shall receive a credit pursuant to this section of twenty cents per gallon of ethanol produced in Nebraska, which credit shall be in the form of a transferable motor fuel tax credit certificate. After July 1, 1994, no such credit shall be given for ethanol produced at an ethanol facility which was in production on or before January 1, 1992, unless on or before July 1, 1994, the name plate design capacity for the production of ethanol, before denaturing, at the facility has been expanded to equal at least two times the name plate design capacity for production of ethanol, before denaturing, existing at the facility as of January 1, 1992.

(2) Any ethanol facility which is in production at the rate of at least twenty-five percent of its name plate design capacity for the production of ethanol, before denaturing, on or before December 31, 1992, shall receive a credit of twenty cents per gallon of ethanol produced beginning with the first month for which it is eligible to receive such credit and ending not later than December 31, 1997.

(3) Any ethanol facility which is not in production on or before December 31, 1992, but which is in production at the rate of at least twenty-five percent of its name plate design capacity for the production of ethanol, before denaturing, on or before December 31, 1995, shall receive a credit of twenty cents per gallon of ethanol produced for sixty months beginning with the first month for which it is eligible to receive such credit and ending not later than December 31, 2000.

(4) Any ethanol facility eligible for a credit under subsection (1), (2), or (3) of this section shall also receive a credit of twenty cents per gallon of ethanol produced in excess of the original name plate

design capacity which results from expansion of the facility completed on or before December 31, 1995. Such credit shall be for sixty months beginning with the first month for which production from the expanded facility is eligible to receive such credit and ending not later than December 31, 2000.

(5) The credit shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. Not less than two million gallons and not more than twenty-five million gallons of ethanol produced annually at an ethanol facility shall be eligible for the credit, and the credit may only be claimed by a producer for the period specified in subsection (2), (3), or (4) of this section.

(6) The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.

Sec. 16. That section 66-1327, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1327.~~ (1) There is hereby created the Ethanol Production Incentive Cash Fund which shall be used by the board to pay the credits created in section ~~66-1326~~ 15 of this act to the extent provided in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. On or before ~~April 30, 1992~~ the operative date of this act, the State Treasurer shall transfer to the Ethanol Production Incentive Cash Fund the ~~sum of eleven million dollars from entire balance of the Ethanol Authority and Development Cash Fund~~ and thereafter shall transfer such additional money as shall be (a) appropriated to the Ethanol Production Incentive Cash Fund by the Legislature, (b) given as gifts, bequests, grants, or other contributions to the Ethanol Production Incentive Cash Fund from public or private sources, (c) made available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, (d) received as return on investment of the Ethanol Authority and Development Cash Fund, and (e) otherwise credited to the ~~fund~~ Ethanol Production Incentive Cash Fund from sources deemed appropriate by the Legislature.

(2) Commencing January 1, 1993, the Department of Revenue shall, at the end of each calendar quarter, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credits provided in section ~~66-1326~~ 15 of this act. The State Treasurer shall transfer from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund an amount equal to such credits less the following amounts:

(a) For 1993, 1994, and 1995, the amount generated during the calendar quarter by a one-cent tax on motor fuel pursuant to sections 66-489 and 66-605.07;

(b) For 1996, the amount generated during the calendar quarter by a three-quarters-cent tax on motor fuel pursuant to such sections;

(c) For 1997, the amount generated during the calendar quarter by a one-half-cent tax on motor fuel pursuant to such sections; and

(d) For 1998, 1999, and 2000, no reduction.

The amounts shall be transferred through December 31, 2000. For 1993 through 1997, if the amount generated pursuant to subdivisions (a), (b), and (c) of this subsection and the amount transferred pursuant to subsection (1) of this section are not sufficient to fund the credits provided in section ~~66-1326~~ 15 of this act, then the credits shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund. For 1998, 1999, and 2000, the credits provided in such section ~~66-1326~~ shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund.

(3) On February 15, 2001, the State Treasurer shall transfer any unexpended and unobligated funds from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund.

Sec. 17. That section 66-1328, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1328:~~ Through December 31, 2000, each producer of Nebraska-produced ethyl tertiary butyl ether shall receive a nonrefundable credit of fifty cents per gallon of each gallon of Nebraska-produced ethyl tertiary butyl ether sold for delivery outside the State of Nebraska, which credit shall be in the form of a transferable income tax credit certificate which may be applied only to the income tax liability of the producer, its parent, or a subsidiary thereof. A credit certificate may not be applied to income tax liability incurred prior to the year the credit certificate was earned. Not more than two and one-half million gallons of ethyl tertiary butyl ether produced annually at a plant shall be eligible for such credit. The credit shall be given only for ethyl tertiary butyl ether produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. The credit shall be reduced by the amount of any producer's credit earned pursuant to section ~~66-1326~~ 15 of this act by the producer of the ethyl tertiary butyl ether on ethanol used to produce ethyl tertiary butyl ether and shall be claimed no later than the due date, including extensions, of the tax return filed for the taxable year of the claimant ending not more than thirty-six months after the taxable year of the claimant in which the certificate is issued. The Department of Revenue shall prescribe an application form and procedures for claiming the credit and shall adopt and promulgate rules and regulations to carry out this section.

Sec. 18. That section 66-1329, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-1329:~~ The Tax Commissioner and the producer eligible to receive credit under section ~~66-1326~~ 15 of this act shall enter into a written agreement. The producer shall agree to produce ethanol at the designated facility and any expansion thereof. The Tax

Commissioner, on behalf of the State of Nebraska, shall agree to furnish the producer the tax credits as provided by and limited in such section ~~66-1326~~ in effect on the date of the agreement. The agreement to produce ethanol in return for the credit shall be sufficient consideration, and the agreement shall be binding upon the state. No credit shall be given to any producer of ethanol which fails to produce ethanol in Nebraska in compliance with the agreement. The agreement shall include:

- (1) The name of the producer;
- (2) The address of the ethanol facility;
- (3) The date of the initial eligibility of the ethanol facility to receive such credits;
- (4) The name plate design capacity of the ethanol facility as of the date of its initial eligibility to receive such credits; and
- (5) The name plate design capacity which the facility is intended to have after the completion of any proposed expansion. If no expansion is contemplated at the time of the initial agreement, the agreement may be amended to include any proposed expansion.

Sec. 19. Nothing in the Ethanol Development Act shall be construed to extend or affect the terms of any investment agreement entered into by the Ethanol Authority and Development Board prior to April 30, 1992.

Sec. 20. That section 57-705, Revised Statutes Supplement, 1992, be amended to read as follows:

57-705. (1) All taxes levied by Chapter 57, article 7, shall be paid to the Tax Commissioner. He or she shall pay to the State Treasurer all money so received. All such sums of money received by the State Treasurer shall be placed by him or her in a fund to be known as the Severance Tax Fund. An amount equal to one percent of the gross severance tax receipts, excluding those receipts from tax derived from oil and natural gas severed from school lands, so placed in such fund shall be credited by the State Treasurer, upon the first day of each month, and shall inure to the Severance Tax Administration Fund to be used for the expenses of administering Chapter 57, article 7. The balance of the Severance Tax Fund received from school lands shall be credited by the State Treasurer, upon the first day of each month, and shall inure to the permanent school fund as established in Article VII, section 7, of the Constitution of Nebraska.

(2) Of the balance of the Severance Tax Fund received from other than school lands prior to July 1, 1990, (a) five hundred thousand dollars annually shall be allocated to the Nebraska Energy Resource Fund, which fund is hereby created, and (b) the remainder shall be allocated to the School Weatherization Fund, which fund is hereby created. For fiscal years 1984-85, 1985-86, 1986-87, 1987-88, 1988-89, and 1989-90, the Legislature may appropriate for each year from the Nebraska Energy Resource Fund two hundred thousand dollars to the State Energy Office for the purpose of carrying out sections 66-1029 to 66-1055 and for energy conservation purposes and providing technical assistance in developing alternate sources of energy, one hundred

thousand dollars to the ~~Nebraska Gasohol Committee~~ Nebraska Ethanol Board, and two hundred thousand dollars to the Department of Revenue to assist in the administration of sections 66-1029 to 66-1055 and Chapter 57, article 7, except that money in the Nebraska Energy Resource Fund may be transferred to the General Fund at the direction of the Legislature.

(3) Of the balance of the Severance Tax Fund received from other than school lands on and after July 1, 1990, (a) the Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to two hundred fifty thousand dollars for each year to the State Energy Office Cash Fund, (b) the Legislature may transfer an amount to be determined by the Legislature through the appropriations process up to thirty thousand dollars for each year to the Governor's Policy Research Office for administration of the Municipal Natural Gas Regulation Revolving Loan Fund, and (c) the remainder shall be credited and inure to the permanent school fund.

Sec. 21. That section 58-239, Revised Statutes Supplement, 1992, be amended to read as follows:

58-239. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes including:

(1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(2) To adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with the Nebraska Investment Finance Authority Act, to regulate its affairs, to carry into effect the powers and purposes of the authority, and to conduct its business;

(3) To sue and be sued in its own name;

(4) To have an official seal and alter it at will;

(5) To maintain an office at such place or places within the state as it may designate;

(6) To make and execute contracts and all other instruments as necessary or convenient for the performance of its duties and the exercise of its powers and functions under the act;

(7) To employ architects, engineers, attorneys, inspectors, accountants, building contractors, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation;

(8) To obtain insurance against any loss in connection with its bonds, property, and other assets in such amounts and from such insurers as it deems advisable;

(9) To borrow money and issue bonds as provided by the act;

(10) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the act subject to the conditions upon which the grants or contributions are made including gifts

or grants from any department, agency, or instrumentality of the United States for any purpose consistent with the act;

(11) To enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders for the purpose of carrying out projects authorized under the act;

(12) To enter into contracts or agreements with lenders for the servicing and processing of mortgages or loans pursuant to the act;

(13) To provide technical assistance to local public bodies and to for-profit and nonprofit entities in the areas of housing for low-income and moderate-income persons, agricultural enterprises, and community or economic development, to distribute data and information concerning the needs of the state in these areas, and, at the discretion of the authority, to charge reasonable fees for such assistance;

(14) To the extent permitted under its contract with the holders of bonds of the authority, to consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, loan, loan note, loan note commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or agreement of any kind to which the authority is a party;

(15) To the extent permitted under its contract with the holders of bonds of the authority, to enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of the state, the reduction can be made without jeopardizing the economic stability of the project being financed;

(16) To acquire by construction, purchase, devise, gift, or lease or any one or more of such methods one or more projects located within this state, except that the authority shall not acquire any projects or parts of such projects by condemnation;

(17) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the act;

(18) To issue bonds for the purpose of paying the cost of financing any project or projects and to secure the payment of such bonds as provided in the act;

~~(19) To issue bonds for the purpose of financing the costs of construction of ethanol production facilities;~~

~~(19)~~ ~~(20)~~ To sell and convey any real or personal property and make such order respecting the same as it deems conducive to the best interest of the authority;

~~(20)~~ ~~(21)~~ To make and undertake commitments to make loans to lenders under the terms and conditions requiring the proceeds of the loans to be used by such lenders to make loans for projects. Loan commitments or actual loans shall be originated through and serviced by any bank, trust company, savings and loan association, mortgage banker, or other financial institution authorized to transact business in the state;

(21) ~~(22)~~ To invest in, purchase, make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made by lenders for the construction, rehabilitation, or purchase of projects. No loan shall be eligible for investment in, purchase, or assignment by the authority if the loan was made more than one year prior to the date of investment, purchase, or assignment by the authority;

(22) ~~(23)~~ To enter into financing agreements with others with respect to projects to provide financing for such projects upon such terms and conditions as the authority deems advisable to effectuate the public purposes of the act, which projects shall be located within the state. The authority shall not operate any project referred to in this section as a business or in any manner except as the lessor or seller of such project; and

(23) ~~(24)~~ To enter into financing agreements with any corporation, partnership, or individual or with any county, city, village, or joint entity created pursuant to the Interlocal Cooperation Act for purposes of financing any solid waste disposal project.

Sec. 22. That section 66-4,124, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,124. Every recipient of a permit described in section 66-4,122 shall be regarded as a purchaser and claimant if he or she has at least one supply tank with a capacity of forty gallons or more and has paid for any one purchase the excise tax to a seller upon forty or more gallons of gasoline or motor vehicle fuel, which gasoline or motor vehicle fuel was or is to be used solely and exclusively by such person for propelling or operating a stationary gas engine, tractor, combine, or machinery used solely for agricultural, quarrying, or industrial purposes in the state or for some purpose not involving the use of any highways in this state. As such purchaser and claimant he or she shall be entitled to a credit against the purchaser's Nebraska income tax liability for the amount of tax so paid during the taxable year of purchase of the fuel by the taxpayer less ~~one and three-fourths~~ two and one-quarter cents per gallon of the tax paid upon compliance with sections 66-4,118 to 66-4,132 and not otherwise. Each purchaser and claimant shall be entitled to a credit against the purchaser's Nebraska income tax liability for the amount of the taxes imposed by sections 66-4,140, 66-4,145, and 66-4,146 on motor vehicle fuel purchased during the taxable year, which tax credit shall be established by the department. No credit shall be made to anyone other than the actual purchaser of such tax credit gasoline or motor vehicle fuel.

Sec. 23. That section 66-4,134, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,134. The department shall transmit monthly to the State Treasurer a report of the number of gallons of tax credit gasoline or motor vehicle fuel for which credits have been approved, and the State Treasurer shall thereupon transfer from the General Fund to the Agricultural Alcohol Fuel Tax Fund ~~three-fourths of one cent~~ one and

one-quarter cents per gallon approved for credit.

Sec. 24. That section 66-4,142, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,142. The department shall at the end of each calendar quarter determine (1)(a) through December 31, 1992, one-half of and after such date the total amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credit provided in section ~~66-1326~~ 15 of this act plus (b) the total amount of motor fuel tax that was not collected in the preceding calendar quarter due to the exemption provided in sections 66-489 and 66-4,105, (2) the amount of motor fuel tax that would not have been collected in the preceding calendar quarter if the exemption provided in sections 66-489 and 66-4,105 were in the amount of three cents per gallon effective through December 31, 1992, and (3) the amount by which the amount determined in subdivision (1) of this section exceeds the amount determined in subdivision (2) of this section. If the amount determined in subdivision (3) of this section is at least equal to the amount of revenue raised in the same period by one-tenth of one cent of the fuel tax imposed by sections 66-489, 66-4,105, and 66-605, the department shall for the next succeeding calendar quarter adjust the rate of the fuel tax imposed by such sections in an amount which the department estimates, based on the estimates provided to the State Board of Equalization and Assessment pursuant to section 66-4,144, will raise sufficient revenue to meet and not exceed the amount determined in subdivision (3) of this section, except that all such adjustments shall be in increments of one-tenth of one cent per gallon.

Sec. 25. This act shall become operative on September 1, 1993.

Sec. 26. That original sections 66-820, 66-1315, 66-1316, 66-1321.01, and 66-1325, Reissue Revised Statutes of Nebraska, 1943, and sections 57-705, 58-239, 66-4,124, 66-4,134, 66-4,142, 66-1301, 66-1303, 66-1324, and 66-1326 to 66-1329, Revised Statutes Supplement, 1992, and also sections 2-3816 to 2-3823, 66-801, 66-803 to 66-811, 66-814 to 66-816, 66-819, 66-1302, 66-1304, 66-1305, 66-1306, 66-1308 to 66-1314, 66-1317, 66-1319, 66-1321, 66-1322, and 66-1323, Reissue Revised Statutes of Nebraska, 1943, and sections 58-239.01, 66-4,133, 66-4,135 to 66-4,137, 66-802, 66-812, 66-813, 66-1307, 66-1307.01, 66-1307.02, and 66-1320, Revised Statutes Supplement, 1992, are repealed.

Sec. 27. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.