

## LEGISLATIVE BILL 279

Approved by the Governor May 29, 1987

Introduced by Schmit, 23

AN ACT relating to energy; to amend sections 66-1301, 66-1302, 66-1307, 66-1317, 66-1319, and 66-1322 to 66-1325, Reissue Revised Statutes of Nebraska, 1943; to provide additional uses of certain ethanol funds; to provide for procedures; to provide for facilities for agricultural byproducts as prescribed; to authorize loans of ethanol funds; to state intent; to define a term; to provide for a study of the effects of motor vehicle exhaust emissions as prescribed; to require a report; to eliminate provisions relating to ethanol grants; to harmonize provisions; to provide severability; to repeal the original sections, and also section 66-1318, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 66-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1301. Sections 66-1301 to 66-1325 and sections 4 and 5 of this act shall be known and may be cited as the Ethanol Authority and Development Act.

Sec. 2. That section 66-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1302. The Legislature finds that Nebraska should immediately develop an ethanol development program to provide for:

(1) Expanded use of Nebraska agricultural products;

(2) Efficient and less-polluting energy sources and reserves which will make Nebraska more independent energy-wise and which will retain Nebraska dollars in the Nebraska economy to achieve a pyramid 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; and

(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 and ~~fructose~~ other agricultural byproduct production and distribution plants and facilities.

Sec. 3. That section 66-1307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1307. There is hereby created the Ethanol Authority and Development Cash Fund which shall be used by the board to carry out its responsibilities under the Ethanol Authority and Development Act. The fund may be used to defray the expenses of the board, to secure bonds, to purchase shares of stock or otherwise make an investment in an ethanol or other agricultural byproduct production facility pursuant to sections 4 and 5 of this act. to make grants or loans pursuant to sections 66-1317 to 66-1325, to provide equity financing for construction of ethanol production and distribution facilities pursuant to Chapter 70, and as the board may otherwise direct, including the construction or acquisition of ethanol or ~~fructose~~ other agricultural byproduct production facilities. When determining whether to recommend construction of a project for the production and distribution of ethanol or ~~fructose~~ other agricultural byproducts or how funds should be distributed pursuant to the Ethanol Authority and Development Act and sections 70-301, 70-601, 70-601.01, 70-604, 70-604.02, 70-626, 70-628.01 to 70-628.04, 70-631, 70-632, 70-636, 70-637, 70-646, 70-655, 70-657, 70-667, 70-802, 70-1402 to 70-1404, 70-1409, 70-1413, 70-1416, and 70-1417, the board's considerations shall include, but not be limited to, job creation, economic return to the state, size of the plant, byproducts or coproducts, if any, date construction would be commenced and completed, the financial stability of the applicant, and the amount of funds needed to commence construction of the plant or facility. The State Treasurer shall credit to the fund such money as shall be (1) appropriated to the fund by the Legislature, (2) received from the tax levied pursuant to section 66-1308, (3) donated as gifts, bequests, grants, or other contributions to the fund from public or private

sources, and (4) received repaid by cities, counties, or villages pursuant to section 66-1324, and (5) received as a return on investment pursuant to sections 4 and 5 of this act. Funds made available by any department or agency of the United States may also be credited to the fund if so directed 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 72-1269.

Sec. 4. (1) The board may use the fund to purchase shares of stock or otherwise make an investment in an ethanol or other agricultural byproduct production and distribution facility. The board shall establish the necessary criteria or guidelines for determining when the fund will be invested in such a facility. Application for such an investment shall be made pursuant to procedures publicly announced by the board. The board shall establish application review procedures which utilize resource statements similar in content to those filed under section 66-1321 and which recognize priority considerations similar to those enumerated in section 66-1323.

(2) The board shall adopt procedures to carry out subsection (1) of this section and shall provide necessary assistance to applicants to properly and rapidly process investment requests.

Sec. 5. Notwithstanding the investment standards and fiduciary obligations of the state prescribed in sections 72-1246 and 72-1247, the state investment officer shall purchase shares of stock or otherwise make an investment in a corporation utilizing the fund when so directed by the board. The board shall not direct the state investment officer to purchase shares of stock or otherwise make an investment which utilizes all or part of the fund unless there exists a reasonable expectation that any amounts of the fund so utilized will provide a reasonable return on investment to the state. All management, custodial, and service costs, as defined in section 72-1249.02, incurred by the state investment officer in purchasing shares of stock or otherwise making an investment pursuant to section 4 of this act shall be charged to the fund. Such costs shall be approved by the Nebraska Investment Council. Any return on investment received pursuant to sections 4 and 5 of this act shall be remitted to the State Treasurer and shall be placed in the fund.

Sec. 6. That section 66-1317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1317. Any city, county, or village may apply for a grant or loan from the board to facilitate the construction or acquisition of an ethanol plant or a facility related to the processing or storage of ethanol or any coproducts or byproducts from an ethanol plant. The grant or loan shall be in an amount up to but not more than five million dollars or ten per cent of the total capital cost of the plant or facility, whichever is less.

Sec. 7. That section 66-1319, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1319. The board shall establish the criteria or guidelines for the applications to be submitted for the grants or loans available under ~~sections 66-1317 to 66-1325 within thirty days after August 1, 1986 the Ethanol Authority and Development Act.~~ Applications for such grants or loans may be submitted after the criteria or guidelines have been publicly announced.

Sec. 8. That section 66-1322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1322. In determining which applicants shall receive grants or loans, the board shall examine the proposed plans for the plant or a facility related to the processing or storage of ethanol or any coproduct or byproduct. The plans shall show an ability to complete construction and be in operation within twenty-four months from the date of approval.

Sec. 9. That section 66-1323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1323. Within sixty days of the Upon receipt of an application, the board shall determine whether a city, county, or village shall receive a grant or loan. If there are more qualified applicants than grants or loans available, priority shall be given to those applicants which the board deems to be most qualified. When determining qualified applicants, the board's considerations shall include, but not be limited to, job creation, economic return to the state, size of the plant, byproducts or coproducts, if any, dates construction would be commenced and completed, financial stability of the applicant, and size of the grant or loan needed to commence construction of the plant or facility. For purposes of sections 66-1317 to 66-1325 preference shall be given to those applicants which show the ability to repay all or any portion of such grant a

loan.

Sec. 10. That section 66-1324, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1324. Any repayment of a loan or grant made pursuant to the Ethanol Authority and Development Act by the owner or operator of an ethanol plant or facility, upon receipt by a city, county, or village, shall be remitted to the State Treasurer and shall be placed in the Ethanol Authority and Development Cash Fund fund.

Sec. 11. 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 sections 66-1317 to 66-1325 the Ethanol Authority and Development Act and shall provide necessary assistance to applicants to properly and rapidly process grants or loans.

Sec. 12. The Legislature hereby finds and declares that carbon monoxide levels in certain cities of Nebraska exceed allowable standards of the federal Environmental Protection Agency. The Legislature also finds that air quality is of vital concern to the citizens of the State of Nebraska because of its effects on health and quality of life. Since exhaust emissions from motor vehicles, especially carbon monoxide, directly impact the irreplaceable resource of clean air, it is the intent of the Legislature to study, develop, and promote the utilization of motor vehicle fuels, such as oxygenated fuels, which have been shown to effectively lower carbon monoxide exhaust emissions.

As used in this section and section 13 of this act, oxygenated fuels shall mean gasolines blended with a component or components containing oxygen.

Sec. 13. (1) The Legislature hereby directs the Department of Environmental Control to study the effects of motor vehicle exhaust emissions on the quality of air in selected areas of Nebraska and to determine the effectiveness of the utilization of oxygenated fuels on reducing harmful motor vehicle exhaust emissions such as carbon monoxide.

(2) The department may cooperate with other federal, state, and local entities, both public and private, in conducting the study required by this section and section 12 of this act.

(3) The department shall report its findings to the Legislature no later than December 31, 1987.

Sec. 14. If any section in this act or any

part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 15. That original sections 66-1301, 66-1302, 66-1307, 66-1317, 66-1319, and 66-1322 to 66-1325, Reissue Revised Statutes of Nebraska, 1943, and also section 66-1318, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 16. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.