

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 802**

Introduced by Hughes, 44.

Read first time January 06, 2022

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Nebraska Wheat Resources Act; to amend  
2 sections 2-2303, 2-2309, 2-2311, 2-2312, 2-2315, and 2-2318, Reissue  
3 Revised Statutes of Nebraska; to redefine terms; to change powers of  
4 the Nebraska Wheat Development, Utilization, and Marketing Board; to  
5 change provisions relating to the excise tax collected on wheat; to  
6 change provisions relating to the cooperative authority of the  
7 board; to harmonize provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-2303, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 2-2303 For purposes of the Nebraska Wheat Resources Act, unless the  
4 context otherwise requires:

5 (1) Board means the Nebraska Wheat Development, Utilization, and  
6 Marketing Board;

7 (2) Commercial channels means the sale of wheat for any use when the  
8 buyer resells or intends to resell ~~sold to any commercial buyer, dealer,~~  
9 ~~processor, cooperative, or any person, public or private, who resells any~~  
10 such wheat or product produced from such wheat for a purpose other than  
11 for use as seed;

12 (3)(a) ~~(3)~~ First purchaser means any individual or person, public or  
13 private corporation, association, partnership, ~~or~~ limited liability  
14 company, or other business entity, if such individual or entity buys,  
15 accepts buying, ~~accepting~~ for shipment, or otherwise acquires ~~acquiring~~  
16 the property in or to wheat from a grower for a purpose other than for  
17 use as seed.

18 (b) First purchaser shall not include a public or private and  
19 ~~includes~~ a mortgagee, pledgee, lienor, or other person, ~~public or~~  
20 ~~private,~~ having a claim against the grower when the actual or  
21 constructive possession of such wheat is taken as part payment or in  
22 satisfaction of a such mortgage, pledge, lien, or claim;

23 (4) Grower means any landowner personally engaged in growing wheat,  
24 a tenant of the landowner personally engaged in growing wheat, and both  
25 the owner and the tenant jointly and includes an individual or a person,  
26 partnership, limited liability company, association, corporation,  
27 cooperative, trust, sharecropper, and other business units, devices, and  
28 arrangements;

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

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

8 (7) Sale does not include a ~~includes any~~ pledge or mortgage of wheat  
9 ~~after harvest~~ to any individual or person, public or private entity.

10 Sec. 2. Section 2-2309, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 2-2309 It is hereby declared to be the public policy of the State of  
13 Nebraska to protect and foster the health, prosperity, and general  
14 welfare of its people by protecting and stabilizing the wheat industry  
15 and the economy of the areas producing wheat. The Nebraska Wheat  
16 Development, Utilization, and Marketing Board shall be the agency of the  
17 State of Nebraska for such purpose. In connection with and in furtherance  
18 of such purpose, such board shall have the power to:

19 (1) Formulate the general policies and programs of the State of  
20 Nebraska relating to the wheat industry, including:

21 (a) The ~~respecting~~ the discovery, promotion, and development of  
22 markets and industries for the utilization of wheat grown within the  
23 State of Nebraska;

24 (b) The acquisition of ownership rights, including intellectual  
25 property rights, to any variety of wheat; and

26 (c) The development, production, marketing, and sale of seed for any  
27 wheat variety owned by the board;

28 (2) Adopt and devise a program of education and publicity;

29 (3) Cooperate with local, state, or national organizations, whether  
30 public or private, in carrying out the purposes of the Nebraska Wheat  
31 Resources Act and to enter into such contracts as may be necessary;

1 (4) Adopt and promulgate such rules and regulations as are necessary  
2 to promptly and effectively enforce the Nebraska Wheat Resources Act. The  
3 rules and regulations shall include provisions which prescribe the  
4 procedure for adjustment of the excise tax by the board pursuant to  
5 section 2-2311;

6 (5) Conduct, in addition to the things enumerated, any other program  
7 for the development, utilization, and marketing of wheat grown in the  
8 State of Nebraska. Such programs may provide for cooperation with, grants  
9 to, or contracts with individuals or entities in the private sector or  
10 public sector for the following purposes: ~~include a program to make~~  
11 ~~grants and enter into contracts for research, accumulation of data, and~~  
12 ~~construction of ethanol production facilities;~~

13 (a) Research;

14 (b) Accumulation of data;

15 (c) Development of new varieties of wheat;

16 (d) Securing plant variety protection under federal law when  
17 possible;

18 (e) Securing intellectual property rights relating to development of  
19 new varieties of wheat when possible;

20 (f) Producing wheat for seed and selling such seed; and

21 (g) Construction of ethanol production facilities;

22 (6) Make refunds for overpayments of the excise tax according to  
23 rules and regulations adopted and promulgated by the board; and

24 (7) Employ personnel and contract for services which are necessary  
25 for the proper operation of the program.

26 Sec. 3. Section 2-2311, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 2-2311 (1) Commencing July 1, 1990, the board may levy on growers of  
29 wheat an excise tax of not to exceed one and one-half cents per bushel  
30 upon all wheat sold through commercial channels in the State of Nebraska.  
31 Commencing on October 1, 2012, there is hereby levied an excise tax of

1 four-tenths percent of the net market value of wheat sold through  
2 commercial channels in the State of Nebraska. The first purchaser of such  
3 wheat shall levy, impose, and collect the tax at the time of settlement  
4 for the wheat tax shall be levied and imposed on the grower at the time  
5 of sale or delivery and shall be collected by the first purchaser. Under  
6 the Nebraska Wheat Resources Act, no wheat is shall be subject to the tax  
7 more than once.

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

16 Sec. 4. Section 2-2312, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 2-2312 In the case of a pledge or mortgage of wheat as security for  
19 a loan under the federal price support program, no excise the tax shall  
20 be deducted from the proceeds of such loan at the time the loan is made.

21 Sec. 5. Section 2-2315, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 2-2315 (1) The first purchaser, at the time of settlement with a  
24 grower therefor, shall deduct the wheat excise tax as provided in section  
25 2-2311 and shall maintain a ~~the necessary~~ record of the excise tax for  
26 each purchase of wheat on the grain settlement form or check stub showing  
27 payment to the grower for each purchase.

28 (2) The first purchaser shall also maintain a record of all  
29 settlements in which an excise tax was not deducted from the payment to  
30 the grower.

31 (3) Such records maintained by the first purchaser shall provide the

1 following information: (a) Name and address of the grower and seller; (b)  
2 the date of the purchase; (c) the number of bushels of wheat sold; (d)  
3 the net market value of the wheat sold; and (e) and ~~(d)~~ the amount of  
4 wheat excise tax collected on each purchase. Such records shall be open  
5 for inspection and audit by authorized representatives of the board  
6 during normal business hours observed by the purchaser.

7 (4) ~~(2)~~ The first purchaser shall ~~render and have on~~ file with the  
8 board by the last day of each January, April, July, and October on forms  
9 prescribed by the board, a statement of the number of bushels of wheat  
10 purchased in Nebraska. Such statement shall include the number of bushels  
11 of wheat for which the first purchaser collected the excise tax. At the  
12 time the statement is filed, the purchaser shall pay and remit to the  
13 board the tax as provided for in section 2-2311.

14 Sec. 6. Section 2-2318, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 2-2318 (1) The Nebraska Wheat Development, Utilization, and  
17 Marketing Board shall not ~~be authorized to set up research or development~~  
18 units or agencies of its own. The board may cooperate with, provide  
19 grants to, or contract with any of the following for the purposes  
20 described in subdivisions (1) and (5) of section 2-2309, with preference  
21 given to private-sector individuals or entities:

22 (a) A business entity formed by one or more growers;

23 (b) The  ~~, but shall limit its activity to cooperation and contracts~~  
24 with the Department of Agriculture;  ~~,~~

25 (c) The University of Nebraska Institute of Agriculture and Natural  
26 Resources;  ~~,~~ or

27 (d) Any other public or private proper local, state, or national  
28 organization organizations, public or private, in carrying out the  
29 Nebraska Wheat Resources Act.

30 (2) This section shall not be construed to prohibit the board from  
31 exercising its powers under subdivisions (1)(b) and (c) of section

1 2-2309, including its ability to produce and sell wheat for use as seed  
2 without cooperating with, providing grants to, or contracting with any of  
3 the individuals or entities described in subsection (1) of this section.

4       Sec. 7. Original sections 2-2303, 2-2309, 2-2311, 2-2312, 2-2315,  
5 and 2-2318, Reissue Revised Statutes of Nebraska, are repealed.