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Title 152 - ETHANOL AUTHORITY AND DEVELOPMENT ACT

Chapter 1 - DEFINITIONS

- 001 Act shall mean the Ethanol Authority and Development Act.
- 002 Administrator shall mean the administrator of the Nebraska Gasohol Committee.
- 003 Applicant shall mean any person applying to obtain an investment or financial assistance pursuant to the Act.
- 004 Board shall mean the Ethanol Authority and Development Board.
- 005 Evaluation Team shall mean a review committee which consists of a technical consultant, project manager, legal counsel, public accountant, and such other experts and professional consultants as needed.
- 006 Financial assistance shall mean any grant or loan received pursuant to sections 66-1317 through 66-1325.
- 007 Fund shall mean the Ethanol Authority and Development Cash Fund.
- 008 Investment shall mean purchase of stock or other investment pursuant to sections 66-1307.01 and 66-1307.02.
- 009 Project shall mean any ethanol or other agricultural byproduct production and distribution facility which uses corn, wheat, grain sorghum.
- 010 Project Manager shall mean the individual appointed by the board who shall be responsible for:

APPROVED
ROBERT M. ...
ATTORNEY GENERAL

APPROVED

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BY *[Signature]*
Assistant Attorney General
W. A. ORR, GOVERNOR

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- 010.01 Receiving and processing all applications:
- 010.02 Coordinating all activities of the evaluation team;
- 010.03 Issuing periodic reports to the board on project submissions;
- 010.04 Assisting applicants with requests for project financial assistance; and
- 010.05 Handling all other matters pertaining to the Act as directed by the board.

011 Following are qualified funding entities and board investment guidelines.

- Cities
- Counties
- Villages
- Post-Secondary Educational Institutions

- 66-1307 (g) The board may award up to \$3,000,000 in grants or loans for Research and Development projects.
- 66-1317 (1) Award grants or loans to construct, acquire or expand an agricultural production facility related to the processing, marketing or distribution of ethanol or byproducts of up to 10% of the total project cost or \$5,000,000, whichever is less.
- 66-1317 (2) Award grants or loans for the development or marketing of new non-food products from ethanol or grain.

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The fund may also be used to:

- 66-1307.02 Purchase shares of stock;
- 66-1307.01 (5) Invest up to 49% in the entity;
- 66-1307 (1,b) Secure bonds;
- 66-1307 (1,f) Provide equity financing;
- 66-1307.01 (1) Investment made is for capital investment purposes only;
- 66.1307.01 (5) No cap on amount of investment provided its less than 49%;
- 66-1307.01 (1) Funds may be invested for the construction, acquisition or expansion of an existing agricultural production facility.

Enabling Legislation: Neb. Rev. Stat. Sections 66-1301 through 66-1317, and 66-1319 through 66-1325.

Legal Citation: Title 152, Chapter 1, Ethanol Authority and Development Act.

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Title 152 - ETHANOL AUTHORITY AND DEVELOPMENT ACT

Chapter 2 - PRELIMINARY APPLICATION PROCEDURES AND REQUIREMENTS

001 Filing Fees. No filing fee is required to accompany any project proposal or any application for assistance under the Act.

001 Filing Location. All project proposals, formal application, resource statements, or other documents or instruments supplied by an applicant in connection with a request pursuant to the Act shall be filed with the board. The office of the board is located in Lincoln, Nebraska, and the mailing address of the board is: 1st Floor, Nebraska State Office Building, P.O. Box 94871, Lincoln, Nebraska, 68509-4871.

003 Application Procedure. Each formal application for investment or financial assistance from the fund shall be preceded by a consultation, Project Proposal, and preapplication conference.

004 Consultation. Each applicant shall consult with the Department of Water Resources, the Department of Environmental Control, and any other appropriate federal, state, or local department or agency regarding the permit requirements of the Nebraska Ground Water Management and Protection Act, and any other appropriate statutes prior to filing a Project Proposal.

005 Information Required in Project Proposal. After complying with the consultation requirements of Section 2-004, each applicant shall submit an original Project Proposal, and fifteen copies of all materials submitted. Should copies not be submitted, a charge of \$1 per page for each page of documentation submitted will be assessed. Charges will be billed to the applicant, due and payable fifteen days from the billing date. The Project Proposal shall include the following information:

- 005.01 Name and address of applicant;
- 005.02 Applicant's authorized representative and his or her name and address;
- 005.03 Management names and titles;

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- 005.04 Resume for each party listed;
- 005.05 Location of the project;
- 005.06 Type of project;
- 005.07 Grain to be processed:
 - 005.07A Corn
 - 005.07B Sorghum
 - 005.07C Wheat
- 005.08 Description of the proposed project;
- 005.09 Primary purpose of the proposed project;
- 005.10 The estimated costs of the proposed project;
- 005.11 The expected benefits from the proposed project;
- 005.12 Number and description of jobs to be created;
- 005.13 Estimated total cost of project;
- 005.14 Source and application of funds;
- 005.15 The type and approximate amount of state investment or assistance to be requested;
- 005.16 The estimated schedule of project construction and development; and
- 005.17 A discussion of probable environmental effects which shall include a certification that the applicant has consulted with the appropriate state agencies.

006 Receipt by Project Manager. Upon receipt of a properly completed Project Proposal and fifteen copies, the Project Manager shall: (1) Submit a copy to the Evaluation Team for its review; and (2) Prepare a notice that a Project Proposal has been filed.

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007 Notice. The notice that a Project Proposal has been filed shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area wherein the proposed project is located and also in a newspaper of statewide circulation. The notice shall include a description of the proposed project and a statement that anyone may file comments or objections relative to such proposal with the board within ten days after the date of the last publication of notice. Any objections filed shall be specific as to the reasons for objection.

008 Referral to Evaluation Team. The evaluation Team shall review the information submitted with the Project Proposal, any public comments or objections, and any other relevant data. The Project Manager may request that the board hold a public hearing for the purpose of receiving additional public testimony on such proposed project.

009 Preapplication Conference. Within forty days after the Project Proposal is filed with the board, the applicant shall attend a preapplication conference with such team. At such conference the permits requirement under the Ground Water Management and Protection Act, the Industrial Ground Water Regulatory Act, the Environmental Protection Act, and any other applicable statutory requirements shall be considered as well as the scope of information filed with the Project Proposal.

010 Recommendation of Evaluation Team. After the evaluation team has conducted the preapplication conference, it shall forthwith file a written evaluation and report with the board and recommend to the board: (1) That, the proposed applicant be authorized to proceed with the preparation of a Formal Application and Resource Statement; or (2) That, based upon the Project Proposal and preapplication conference, the evaluation team does not recommend the proposed applicant prepare a Formal Application and Resource Statement. The reasons for any negative recommendation shall be stated. The Project Manager may make any additional recommendations regarding the contents of the Project Proposal he or she deems appropriate. Upon receipt of the Evaluation team's recommendations, the board shall make its finds, render its decision, and advise the proposed applicant; (1) That it is authorized to proceed with preparation of a Formal Application and Resource Statement or (2) That it is not recommended that a Formal Application and Resource Statement be prepared and the reasons for such recommendation.

011 Pre-Application Form. See Pages 7, 8 and 9.

PRE-APPLICATION QUESTIONNAIRE

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Applicant Name: _____

Mailing Address: _____

Street Address: _____

City/State/Zip: _____

Telephone No.: (____) _____ FAX No.: (____) _____

Authorized Representative: _____

Principals: Individual. If partnership, list partners. If corporation, list officers.

Management: _____ Title: _____

_____ Title: _____

_____ Title: _____

_____ Title: _____

Exhibit A: Attach a resume for each person listed.

Location of Project: _____

Type of Project: _____ New Construction _____ Expansion to Existing Facility

_____ Acquisition _____ Equipment Acquisition

_____ Research _____ Other: _____

Grain to be Processed: _____ Corn _____ Wheat _____ Grain Sorghum

Complete the following questions. If additional space is needed, attach a separate sheet clearly stating the question number.

1. Describe the nature of the proposed project: _____

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2. Primary purpose of project: _____

3. Expected benefits: _____

4. Number and description of jobs to be created: _____

5. Estimated total cost of project: \$ _____
6. Primary sources and application of funds: _____

7. Type of investment request of the EADB: _____

8. Amount of investment requested: \$ _____
9. Estimated schedule of development and construction: _____

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10. Describe briefly the nature of environmental effects expected. Attach documentation of contact with Department of Water Resources, Department of Environmental Control, contact with other applicable agencies, copies of permits obtained.
-
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Following is a list of exhibits to be included with the filing of this pre-application.

Upon receipt of this information the proposal will be forwarded for consideration. Failure to complete all sections and include the required attachments will result in ineligibility.

- EXHIBIT A: Resume of each management member of applicant.
- EXHIBIT B: Historical financial statements for each of the last three years.
- EXHIBIT C: Projected balance sheets and statement of operations for each of the next three years.
- EXHIBIT D: Project cash flow analysis for each of the next three years.
- EXHIBIT E: Listing of assumptions utilized in compiling Exhibits B, C and D.
- EXHIBIT F: Description of reports utilized to monitor operations.
- EXHIBIT G: Proposed products and marketing plan for each product listed.
- EXHIBIT H: Department of Water Resources, Department of Environmental Control and permit documentation.

SUBMITTED BY: _____ TITLE: _____

DATE: _____

When application is considered for evaluation and review, items to be considered include, but are not limited to Title 152, Rules and Regulations Pertaining to the Ethanol Authority & Development Act, LB 587 enacted in April, 1989, and other such factors which may be unique to a project.

Chapter 3 - FORMAL APPLICATION PROCEDURES AND REQUIREMENTS

001 Time to Complete a Formal Application. Upon notice by the board of its findings on the Project Proposal, the applicant shall complete a Formal Application and Resource Statement as set forth in these rules and regulations. The Project Manager shall assist the applicant regarding the data and information required in the Formal Application and Resource Statement.

002 Contents of Formal Application. Except to the extent that such information has previously been indicated through submission of a Project Proposal, the Formal Application shall include the following information:

- 002.01 A cover letter from the applicant submitting the Resource Statement, the contents of which are specified by Section 3-003;
- 002.02 An outline of the initial development and background of the project;
- 002.03 A description of the project goals and purposes;
- 002.04 A showing that the applicant holds or can acquire the necessary land rights, if applicable; and
- 002.05 A showing that the applicant possesses all other necessary authorities to undertake or to participate in the proposed project.

003 Contents of Resource Statement.

- 003.01 The Resource Statement shall include the following information:
 - 003.01A Plans, working drawings, and specifications prepared for the construction and equipping of the project;
 - 003.01B Total project cost;

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- 003.01C The amount and source of local funds;
- 003.01D The ability to repay any debts incurred in the construction of the project;
- 003.01E Projections of costs and profits;
- 003.01F The manner in which the project will be accomplished; and
- 003.01G A proposed marketing program for the finished product.

003.02 Contents of the Resource Statement are to be of sufficient detail to demonstrate the technical, economic, and financial feasibility as well as the legal soundness and marketability of the proposed project. Additionally, the expected positive and adverse environmental consequences of the project shall be therein demonstrated. Detail of the Resource Statement will depend upon the type, purpose, and complexity of the project.

003.03 The board shall, to the extent deemed necessary, advise the applicant as to the criteria utilized to evaluate the technical, economic, financial, legal, environmental, and market aspects of the project and the informational detail to be contained in the Resource Statement.

004 Economic Feasibility.

004.01 A project is economically feasible if primary tangible benefits exceed project costs.

004.02 Project costs shall include, but not be limited to, the engineering and inspecting costs, capital construction costs, and annual operation and maintenance costs.

004.03 Cost information shall include the estimated construction and development period as well as the estimated project life.

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004.04 All costs and benefit data reported by the applicant shall be based upon current data and sources of all data must be documented.

005 Technical Feasibility.

005.01 A project shall be considered technically feasible when it can be designed, constructed, and operated to accomplish the purpose for which it was planned utilizing accepted engineering and other technical principles and concepts.

005.02 Technical data and information to be provided in the Resource Statement shall contain sufficient information and analysis of the plan of development so that a determination may be made as to the suitability of the site, technical feasibility of achieving the levels of income and/or production projected in the financial statements, and accuracy of estimates and assumptions utilized in predicting project operating and development costs.

006 Market Feasibility. A project is feasible if the sales organization and management plan, nature and extent of market and market area, marketing plans for sale of projected product including byproduct, indicate that the product will be acceptable in the marketplace and will provide a reasonable return to the project.

007 Environmental Feasibility. A project is considered to be environmentally feasible when it is shown that the project is in compliance with applicable permit requirements.

008 Omissions in Application. If a Formal Application submitted to the Project Manager is not complete or if additional information is required, the Project Manager will notify the applicant in what respect the application is incomplete. The Project Manager will return the application to the applicant without making any findings on the application and without prejudice to the applicant.

009 Review and Report by the Project Manager. On receipt of a completed Formal Application and Resource Statement required by these rules and regulations, the Project Manager shall review the application and resource statement and shall within sixty days of

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receipt prepare a report containing his or her findings and recommendations with respect to the application and will file such report with the board. The Project Manager's report shall include, but not be limited to, the following items:

009.01 A recommendation of approval or rejection of the project for funding eligibility;

009.02 If approval is recommended, a recommendation that the allocation be made in the form of a grant, loan, or investment;

009.03 If a project is recommended for loan assistance, a recommendation of the appropriate repayment period and rate of interest; and

009.04 If approval is recommended, the amount of the grant, loan, or investment and the terms of such investment or financial assistance.

010 Evaluation Team Findings. To assist the Project Manager in making his or her review and report, the Project Manager may refer the Formal Application and Resource Statement, or any parts thereof, to the Evaluation Team.

011 Required Findings of Fact. Prior to making any report to the board recommending approval of a project for funding eligibility, the Project Manager shall make the following findings of fact:

011.01 That the applicant warrants that the project does not conflict with any existing Nebraska laws:

011.02 The proposed project is technically, economically, financially, and environmentally feasible based upon standards contained within these rules and regulations or otherwise adopted and supplied to the applicant by the board;

011.03 The plan for development of the proposed project is satisfactory;

011.04 The plan of development minimizes any adverse impact on the environment;

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011.05 The applicant is qualified, responsible, and legally capable of carrying out the project;

011.06 In the case of a loan, the applicant has demonstrated the ability to repay the loan, and there is assurance of adequate operation, maintenance, and replacement during the repayment life of the project;

011.07 In the case of an investment, there is assurance of adequate operation and maintenance such as to provide a reasonable expectation of return on the investment; and

011.08 The applicant shows the ability to complete construction and be in operation within twenty-four months from the date of approval.

012 Action on the Report of the Project Manager. Unless the board requests additional information from the applicant, it shall forthwith act to approve or reject the findings of fact and recommendation made by the Project Manager. If the board determines, following review of the Formal Application, Resource Statement, and the Project Manager's report, that the proposed project is eligible for an investment or financial assistance from the fund, the board shall approve the Formal Application and determine and authorize the dollar figure of the investment or other financial assistance to be provided from the fund. If the board determines that a proposed project is not eligible for an investment or financial assistance from the fund, the board shall inform the applicant of such denial and the reasons for such determination.

013 Formal Application Form. See Pages 15 and 16.

ETHANOL AUTHORITY & DEVELOPMENT BOARD
FORMAL APPLICATION

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REQUIREMENTS: PART A

By means of cover letter addressed to the Ethanol Board, P.O. Box 94871, Lincoln, NE 68509-4871, submit contents of the resource statement as outlined in Title 152 and specified under Part B of this application.

Outline the initial development of the project. Include a business plan which contains background information and description of the applicant and its management, products and marketing plan.

Describe project goals and purposes. Include a statement of the amount, timing and projected use of the capital required.

Submit a statement of the potential economic impact including the number, location and type of jobs expected to be created.

Confirmation that you hold or can acquire the necessary land rights.

REQUIREMENT: PART B

RESOURCE STATEMENT REQUIREMENTS

1. Total Project Cost: \$ _____
2. Amount and source of funds: \$ _____
\$ _____
\$ _____
\$ _____
\$ _____

Exhibit A: Attach plans, working drawings and specifications prepared for the construction and equipping of the project.

Exhibit B: Attach repayment schedule of any debts incurred in the construction of the project.

Exhibit C: Attach projections of costs and profits.

Exhibit D: Attach summary of manner in which the project will be accomplished.

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Exhibit E: Attach a proposed marketing program for each product, coproduct, or byproduct of manufacturing process.

Exhibit F: Description of positive and adverse environmental effects of project.

A project will be deemed eligible for consideration after receipt of all required information. Additional requirements and restrictions are outlined in Title 152; Rules and Regulations Pertaining to the Ethanol Authority & Development Act.

Applicant must prove to the satisfaction of project manager, investment committee and board that all conditions are met and the ability to complete construction and be in operation within twenty-four (24) months from the date of approval.

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Title 152 - ETHANOL AUTHORITY AND DEVELOPMENT ACT

Chapter 4 - DISBURSEMENT PROVISIONS

001 Priorities Among Projects. In the event that insufficient funds are available in any fiscal year to apportion funds to all approved projects, the board shall establish priorities among the projects and project components. To provide guidance to the board in the establishment of such priorities, consideration shall be given to the following criteria:

- 001.01 Job creation;
- 001.02 Economic return to state;
- 001.03 Size of project;
- 001.04 Byproducts or coproducts, if any;
- 001.05 Dates construction would be commenced and completed;
- 001.06 Financial stability of the applicant;
- 001.07 Size of needed investment or financial assistance;
and
- 001.08 Such other criteria as the board deems appropriate.

002 Review and Approval of Final Plans.

- 002.01 Prior to the actual investment or disbursement of any financial assistance for the project or for any portion thereof, the Project Manager shall review the final plans for the proposed project or the portion for which an investment or financial assistance is requested. The Project Manager shall immediately bring to the applicant's attention any variances enumerated in this subsection, if it appears during such review or during any prior or subsequent review or inspection of the project plans or construction, or during any review of project cost information that:

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002.01A The plans and specifications for the project are not being followed;

002.01B The plan for development or any work performed on the project are not based on sound technical principles or practices;

002.01C The project or any portion thereof no longer meets the criteria for investment or financial assistance eligibility contained in the act or the board's rules and regulations; or

002.01D There is or has been noncompliance with any of the terms which were the basis for the approval of the Formal Application by the board.

002.02 If the Project Manager finds any variances enumerated in subsection 002.01 of section 002, the Project Manager may refuse to disburse any funds for the project until such time as the variances are corrected and the project is brought into conformance with all appropriate standards.

003 Inspection During Construction. The board or a representative thereof shall have the privilege of inspecting the construction of any project at any time in order to insure that plans and specifications are being followed, and that the works are being constructed in accordance with sound engineering and technical principles and practices, but such inspection shall never subject the State of Nebraska to any action for damages. The Project Manager shall bring to the attention of the applicant and the project engineer any variances from the approved plans and specifications. The applicant and the project engineer or project director shall initiate necessary corrective action.

004 Changes in Scope or Costs of Approved Projects. The applicant shall promptly report all increases in the cost of a project, or any separable component of the project, and any proposed additions, deletions, or modifications of any separable component, or any change in the purpose or purposes of the project by submitting to

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the board an amendment to the Formal Application and Resource Statement. Board approval of any change in the scope, purpose, or plan for development of the project, and any increase in the tentative allocation for the project, or any separable component, shall be required. Any proposed change in the scope, purpose, or plan of development for the project, any request for an increase in the allocation for the project, or any cost increase, regardless of whether an increase in the tentative allocation for the project is requested, may at the discretion of the board be referred to the Project Manager for his or her review and recommendation regarding whether the project still meets the criteria for funding eligibility contained in the Act or the board's rules and regulations.

Annotation: Constitutionality of LB 279, as amended by Committee Amendment AM0510. Attorney General Opinion No. F7076, dated May 15, 1987.

005 Approval Requirements

- 005.01 Approval of the investment by the board may be made after the board finds, based upon the application submitted by the applicant and such additional investigation as the staff of the board shall make and incorporate in its minutes, that:
- 005.01A The proceeds of the investment will be used only to facilitate the construction, acquisition, or expansion of the facilities of the applicant;
 - 005.01B The project has a reasonable chance of success;
 - 005.01C The board's participation is necessary to the success of the project or its retention in the state;
 - 005.01D The project has the reasonable potential to create employment within the state;
 - 005.01E The applicant has already made or is contractually committed to make a substantial initial investment;

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005.01F There is a reasonable possibility that the board will recoup at least its initial investment;

005.01G Binding commitments have been made to the board by the applicant for adequate reporting of financial data to the board which shall include a requirement for an annual report, or if required by the board, an annual audit of the financial and operational records, including the right of access to financial and other records relating to the project.

006 Investment Requirements

66-1307.01 (3) Before an investment is made, the applicant shall sign an agreement with the board stating that the funds invested are for capital investment purposes and not for operating expenses.

007 Annual Report to Legislature

On January 1, 1990 and each year thereafter, the board shall submit a report to the Legislature detailing investments made. The report shall include a statement of:

- A. Current amount invested in each company;
- B. Current market value of assets of company;
- C. Market value of the assets of company at time of initial investment.

007.01 The applicant understands and agrees to comply with annual reporting requirements as determined by the EADB from time to time.

007.02 The board has right of access to financial and other records which relate to the project being funded.

007.03 The annual report shall be received in the office of the Ethanol Authority & Development Board, 301 Centennial Mall South, P.O. Box 94871, Lincoln, NE 68509 on or before December 1 of each calendar year in which the board has a financial interest in the project.

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007.04 The applicant understands that the funds invested by the board are for capital investment purposes only and will not be used for operating expenses.

007.05 The applicant understands that violation of any part shall result in immediate repayment and termination of any future investment agreements.

007.06 The applicant will sign and submit a statement that all conditions are understood and agreed to.

007.07 Such statement is to be signed by authorized representative of applicant, and notarized.

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001 Administration of the Board

001.01 Officers. The officers of the board shall be: chairperson, vice-chairperson, and secretary/treasurer. Officers shall be elected annually at the first regular meeting after either July 1, or whenever a vacancy of two or more members occurs. The secretary/treasurer shall be bonded under the blanket surety bond required by Nebraska Rev. Statutes, Section 11-201 (Cum. Supp. 1980).

001.02 Term of Office. The term of office for members of the board beginning January 1, 1990 shall be as follows:

Wheat Grower Representative	2 years
Public Power Representative	2 years
Corn Grower Representative	4 years
Grain Sorghum Representative	4 years

Upon expiration of the two year term for the wheat grower representative and the public power representative, the appointments shall then be made for four year terms.

Seven other positions are filled and terms defined according to the Nebraska Gasohol Committee statute (Neb. Rev. Statute, Section 66-468).

001.03 Quorum. No action may be taken by the board unless a quorum is present. A quorum shall consist of six members. Six affirmative votes shall be necessary to adopt, amend or repeal any rule, regulation or policy of the board; to authorize the expenditure of funds, or to authorize contractual services, or on any other motion before the board.

001.04 Board Meetings. The board shall meet at the call of the chairperson in accordance with Neb. Rev. Statutes, Section 2-4010 (Supp. 1981). The Chairman shall cause due notice to be transmitted to each member not less than seven days prior to the meeting. The board shall be provided with copies of

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a tentative agenda and any other relevant material at the same time as the meeting notice. Notice and conduct of all meetings, and minutes thereof, shall be in accordance with the Nebraska Open Meetings Law, Neb. Rev. Statute, Section 4-1401-84-1414 (Reissue 1976). The board shall conduct its business in accordance with Roberts Rules of Order, Revised, insofar as they are consistent with this rule.

001.05 Public Participation. The chairperson may at his or her discretion allow persons who are not board members to speak to the extent that the chairperson determines such participation will not materially impede the progress of the meeting. Any person violating this subsection shall be declared out of order.

001.06 Fiscal Year. The fiscal year shall be July 1 to, and including June 30, of the succeeding year.

001.07 Budget. The board shall establish a budget consistent with receipts and the scope of the program. Such budget shall be available for inspection by the public.

001.08 Hearings

001.08A General Provision. The board may conduct public hearings for any purpose consistent with its responsibilities.

001.08B Notice. Notice shall be given of all public hearings held by the board. The notice shall be published at least once either in a newspaper of general circulation in the area affected by the business of the hearing or in a newspaper of general circulation in the state. The publication shall be made at least thirty days prior to the date of the hearing. Such notice shall contain information as to the date, time, place and purpose of the hearing.

001.8C Procedure. The chairperson, vice-chairperson, or a designated member shall serve as hearing officer. The hearing officer may appoint a hearing examiner to assist in the conduct of the hearing. The hearing officer or examiner shall, among other things, open the proceedings, enter into

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the record the notice of hearing, take appearances, receive exhibits, answer questions or call upon other persons present to answer questions, and close the proceedings. No person shall be required to be sworn in prior to presenting any evidence, which may consist of oral or written comments and any documents. All persons presenting evidence shall state their name, address, and organization they represent, if any. All evidence is to be directed at the business of the hearing and may be excluded by the hearing officer or examiner if cumulative, repetitive, or irrelevant.

001.08D Record. A record shall be made of the hearing with the evidence presented being a part thereof. It may consist of written statements and any other documents, along with tape recordings of oral evidence. The record may be held open for a designated period of time at the discretion of the hearing officer for submission of any evidence not available at the time of hearing.

002 Appointment to the Board

002.01 General Provisions. All candidates for appointment to the board may place their names on a candidacy list for the respective commodity by filing a petition signed by at least fifty resident growers of the respective commodity with the existing board. Qualified candidates shall be those meeting the requirements of Neb. Rev. Statutes, Section 66-1304 (Rev. Stat. 1989).

002.02 Candidacy Petitions

002.02A Notice of Opening; Publication by Board. Not less than sixty days prior to the expiration of the term of board members, notice shall be placed by the board in at least one newspaper of general circulation in the state. Such notice shall advise prospective candidates of:

- 002.02A1 The board openings;
- 002.02A2 Where petitions may be obtained; and
- 002.02A3 The deadline for submitting petitions.

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002.02B Obtaining Petitions. Candidacy petitions may be obtained from the board office.

002.02C Petition Requirements. Only candidacy petitions meeting the following requirements shall be deemed to be in compliance with the Ethanol Authority and Development Act and the board shall reject any petition not meeting those requirements. Candidates whose petitions are rejected shall be notified of such action.

002.02C1. Petitions must be in the form prescribed by Title 152, NAC, 5-004.

002.02C. Petitions must be received by the board not later than thirty days prior to the expiration date of the terms of the particular board members.

002.02C3. Petitions must be signed by at least fifty growers of the respective commodity of which the candidates applying under.

002.02C4. Petitions must be accurate and fully executed. Only the original petition will be accepted.

002.02C5. No petition submitted by any candidate for appointment to a prior board shall be used to fulfill the requirements of this subsection.

002.03 Candidacy List. The board shall prepare a candidacy list for submission to the Governor. Such list shall include the names of all candidates who have filed candidacy petitions with the board, which petitions have been found by the board to meet the requirements of the Ethanol Authority and Development Act and this rule. The board shall submit the candidacy list to the Governor on or before the termination date of the terms of the particular board members.

003 Effective Date. This rule shall become effective five days after it has been filed with the Revisor of Regulations as provided by the Administrative Procedures Act.

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004 Form. See following pages.

005 Annotation. Neb. Rev. Stat. Sections 66-1301 through 66-1325 (Rev. Stat. 1989) and Section 84-1408 through 84-1414 (Reissue 1976).

APPROVED
ROBERT M. SPIE
ATTORNEY GENERAL

DEC 21 1989
[Signature]
Assistant Attorney General

APPROVED

DEC 20 1989
[Signature]
AYA ORR, GOVERNOR

krh/0165.BF

CANDIDACY PETITION
For Appointment to
THE ETHANOL AUTHORITY & DEVELOPMENT BOARD

DEC 21 1988

I, _____, a resident grower of corn
in _____ County, Nebraska, hereby seek to have
my name placed on the candidacy list as a candidate for appointment
to the Nebraska Ethanol Authority & Development Board.

I meet all of the qualifications for appointment to said board
in that I am a citizen of Nebraska, I am at least twenty-one (21)
years of age, I have been actually engaged in growing corn in
Nebraska for a period of at least five (5) years, and I derive a
substantial portion of my income from growing corn.

The Petitioners whose signatures are affixed hereto are
resident corn growers within the state. After having been fully
advised that the effect of their signatures is to approve of my
appointment to the aforementioned board, said petitioners signed
this candidacy petition freely and voluntarily.

Dated at _____, Nebraska, this _____ day of
_____, 19____.

Signature of Candidate

Mailing Address of Candidate

City, State, Zip Code

(_____) _____
Area Code/Phone Number

State of Nebraska)
County of _____)

ss. Affidavit of Candidate

I, _____, being duly sworn, depose and say
that the information contained in this candidacy petition is true
and accurate to the best of my knowledge.

Signature of Candidate

Subscribed and sworn to before me this _____ day of _____,
19____.

Notary Public

My Commission Expires: _____.

27

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CANDIDACY PETITION
For Appointment to
THE ETHANOL AUTHORITY & DEVELOPMENT BOARD

I, _____, a resident grower of
wheat in _____ County, Nebraska, hereby seek
to have my name placed on the candidacy list as a candidate for
appointment to the Nebraska Ethanol Authority & Development Board.

I meet all of the qualifications for appointment to said board
in that I am a citizen of Nebraska, I am at least twenty-one (21)
years of age, I have been actually engaged in growing wheat in
Nebraska for a period of at least five (5) years, and I derive a
substantial portion of my income from growing wheat.

The Petitioners whose signatures are affixed hereto are
resident wheat growers within the state. After having been fully
advised that the effect of their signatures is to approve of my
appointment to the aforementioned board, said petitioners signed
this candidacy petition freely and voluntarily.

Dated at _____, Nebraska, this _____ day of
_____, 19_____.

Signature of Candidate

Mailing Address of Candidate

City, State, Zip Code

(_____)_____
Area Code/Phone Number

State of Nebraska)

County of _____)

) ss. Affidavit of Candidate

I, _____, being duly sworn, depose and say
that the information contained in this candidacy petition is true
and accurate to the best of my knowledge.

Signature of Candidate

Subscribed and sworn to before me this _____ day of _____,
19_____.

Notary Public

My Commission Expires: _____.

28

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CANDIDACY PETITION
For Appointment to
THE ETHANOL AUTHORITY & DEVELOPMENT BOARD

I, _____, a resident grower of sorghum in _____ County, Nebraska, hereby seek to have my name placed on the candidacy list as a candidate for appointment to the Nebraska Ethanol Authority & Development Board.

I meet all of the qualifications for appointment to said board in that I am a citizen of Nebraska, I am at least twenty-one (21) years of age, I have been actually engaged in growing sorghum in Nebraska for a period of at least five (5) years, and I derive a substantial portion of my income from growing sorghum.

The Petitioners whose signatures are affixed hereto are resident sorghum growers within the state. After having been fully advised that the effect of their signatures is to approve of my appointment to the aforementioned board, said petitioners signed this candidacy petition freely and voluntarily.

Dated at _____, Nebraska, this _____ day of _____, 19____.

Signature of Candidate

Mailing Address of Candidate

City, State, Zip Code

(_____)_____
Area Code/Phone Number

State of Nebraska)
County of _____)

) ss. Affidavit of Candidate

I, _____, being duly sworn, depose and say that the information contained in this candidacy petition is true and accurate to the best of my knowledge.

Signature of Candidate

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

My Commission Expires: _____.

PETITIONERS

<u>NAME (Please Print)</u>	<u>COUNTY OF RESIDENCE</u>	<u>SIGNATURE</u>	<u>DATE</u>
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DEC 1 1989

PETITIONERS

NAME (Please Print)	COUNTY OF RESIDENCE	SIGNATURE	DATE
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PETITIONERS

DEC 1 1989

NAME (Please Print)	COUNTY OF RESIDENCE	SIGNATURE	DATE
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To be eligible for consideration, all petitions must be received in the office of the Board by 5:00 p.m., December 1, _____.

Return this petition to: Ethanol Authority & Development Board
301 Centennial Mall South, 1st Floor
P.O. Box 94871
Lincoln, NE 68509-4871

Each application will be verified for compliance. Any applicant failing to meet the requirements will be notified in writing of the reason for ineligibility.

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