

Grape and Winery Board

Annual Report 2006

For information contact:

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Statutes

Nebraska Grape and Winery Act 26-28

Related Statutes

Farm Wineries Act 30-31

**BOARD
of
DIRECTORS**

Nebraska Grape and Winery Board of Directors

Bob Curttright.....Winery/Vineyard Owner
P.O. Box 102
Nemaha, NE 68414-0102
(402) 883-2168

Jim Jeffers.....Winery/Vineyard Owner
1505 West Raymond Road
Raymond, NE 68428
(402) 783-5253

Justin MoodyWinery/Vineyard Owner
126 Moody Drive
P.O. Box 435
Crawford, NE 69339
(308) 665-1692

Eric Nelson.....Vineyard Owner
P.O. Box 312
Raymond, NE 68428
(402) 580-7320

Terry RyanVineyard Owner
321 West 5th Street
Minden, NE 68959
(308) 832-2055

Ex-Officio Members

Casey Foster, Nebraska Department of Agriculture
P.O. Box 94947, Lincoln, NE 68509-4947
(402) 471-4876

Dr. Gary Cunningham
207 Ag Hall, University of Nebraska-Lincoln, Lincoln, NE 68583-0704
(402) 472-2045

OVERVIEW of ACTIVITIES

BOARD PARTICIPATION

The Board of Directors met twice this year. Emphasis was placed on establishing marketing and promotional activities and conducting research to assist in the betterment and development of Nebraska's grape and wine industry. The Nebraska Grape and Winery Board approved \$4,309 from the winery and grape producers' promotional fund to pay for the Nebraska Winery and Grape Growers' Association's (NWGGA) marketing and promotional activities conducted this year. This money was used to pay for the production cost of developing the Nebraska Wine Trail Map brochure. The brochure is a marketing piece to promote Nebraska's vineyards and to guide visitors to our state's wineries.

The Board also approved the allocation of \$1,547 to the University of Nebraska–Lincoln Viticulture Program to partially pay for two projects. The first was to begin an interdisciplinary project to monitor vineyards in several parts of the state for environmental and pest parameters, with a goal of garnering information that will enable the Viticulture Program to provide assistance to Nebraska's grape growers and ultimately help the wineries as they pursue identification of terroirs and possible establishment of American Viticulture Areas in Nebraska. The second was to begin conducting an experiment to compare the performance of important Nebraska-grown grape cultivars on different trellis systems.

In March, the Board decided to allocate an additional \$300 to UNL's Viticulture Program to be spent during the 2005-06 fiscal year. However, by the time an amendment to the original agreement was signed by all parties involved, UNL's fiscal year had already closed and the money could not be transferred. The funds will carry over into the next fiscal year. The Board will have the discretion to spend the funds how they please, but will consider allocating this amount to the UNL Viticulture Program for FY 2006-07.

Promotion of Nebraska's grape and winery industry is a primary goal of the Board. The Board helps the grape and wine industry become a strong and important part of Nebraska's thriving economy. They stay abreast of recent legislation affecting Nebraska's grape and wine industry, support NWGGA activities, and work closely with the University of Nebraska to receive guidance and education regarding research in this industry.

The Board approved a budget. The Treasurer's report indicated an ending cash balance of \$1,401.54 as of June 30, 2006.

The minutes from the meetings, this year's contracts, the budget, by-laws, and statutes can be found on the following pages.

**Grape and Winery Board Meeting
November 5, 2005
UNL East Campus Union
3rd Floor-Prairie Suite Room**

MINUTES

Board Members present:	Eric Nelson Jim Jeffers Terry Ryan
Board Members absent:	Bob Curtright Justin Moody
Ex-officio Members present:	Casey Foster, Nebraska Department of Agriculture
Ex-officio Members absent:	Dr. Z. B. Mayo, UNL
Guests present:	Steve Gamet, UNL Max McFarland, President, NWGGA Dave Hanna, President-Elect, NWGGA John Fischbach

President Nelson opened the meeting at 7:40 a.m. Jeffers moved and Ryan seconded that the agenda be approved as presented. The motion carried unanimously. Jeffers moved and Ryan seconded that the minutes of the March 4th meeting be approved. The motion carried unanimously.

Old Business:

Casey Foster updated us on the current budget (attached). Estimates of “crush fees” to be collected in January from the wineries are about the same as last year. We intend on allocating available funds in about the same manner as in the past. The annual report is due to be published at the end of the year, so if there are any additional items we would like in it, we should get it to Casey soon.

Steve Gamet gave the UNL report for Dr. Paul Read, who is doing research in Australia. The interdisciplinary study involving 13 cooperating vineyards throughout the state is showing some interesting results. Some Asian lady beetles appeared again this year in some vineyards, but generally after the fruit was harvested. Data shows there is a 2 to 3 degree difference in temperature from the ground up to the canopy at 36”. UNL’s research vineyards produced good tonnage this harvest, except for Lacrosse and DeChaunac, and pH and total acid levels were also good. Disease pressures were light in those locations also. The 9th Annual Nebraska Winery and Grape Growers Forum and Trade show scheduled for March 3 and 4, 2006, is in development. Kathryn Mansfield, Terry Bates, and Kris Sperry are the scheduled speakers. At least one “round table” discussion is planned. Jeffers questioned whether the \$1,000 per speaker cost to

bring them here, was worth it. He indicated that local or regional speakers may be more helpful. He also questioned whether the weather station data that UNL was gathering was of any use to other growers. It isn't to his operation. Nelson indicated that the conferences will be changing based on our input, and that from the NWGGA. Max and Dave stated the mechanisms are now in place within NWGGA to make sure that ideas and needs from its members are sent to UNL.

New Business:

Jeffers updated the information that he brought to us a year ago comparing the Nebraska industry to Missouri's. Discussion was held as to whether an update of the growers' survey that we and the Nebraska Department of Agriculture (NDA) did in early 2005, was needed. Max indicated that as fast as the industry was growing, it probably should be an annual survey, at least for now. Casey will check to see if NDA has the funds to pay for it again. Ryan moved and Jeffers seconded that we conduct the survey again, and work out the details of any changes by e-mail before the next meeting. The motion carried unanimously. We hope to have the forms available at the spring conference to reduce mailing costs, and increase participation.

Nelson reminded us that we had previously discussed instituting a Quality Assurance Program, had earmarked \$1,000 to help start it, and felt the newly established Winery Council within the NWGGA would be the entity to do it. Max said that it is looking into how to do it and that it is a priority for the Winery Council. Jim pointed out that Missouri has a good program in place now that may be helpful.

Nelson updated us on the Nebraska Liquor Control requests for 75/25 waivers. Soaring Wings and Meyers Winery had both asked for and have been granted waivers for actual losses from frost damage. The Commission found there was no legal way to require a winery to pay the "price differential" that we discussed with them in September 2004. They are concerned that Meyers apparently brought in out-of-state concentrate instead of juice and will follow-up on that item.

Casey was asked to check and see how replacements for ex-officio members of the Board are to be chosen. Darrel Nelson from UNL has recently retired.

Other Business:

The next meeting is scheduled for 7:30 a.m., Friday, March 3, 2006, at the Kearney Holiday Inn, in conjunction with the Spring Forum and Trade Show.

The meeting was adjourned at 8:50 a.m.

Submitted,
Terry Ryan, Secretary

**WINE & GRAPE PRODUCTION PROMOTION BOARD
JULY 1, 2005 - JUNE 30, 2006**

DESCRIPTION	FY2004-05 BUDGET	OCTOBER 2005	FY2005-05 YR-TO-DATE	YTD AS % OF BUDGET
BEGINNING CASH BALANCE	\$ 261	\$ 279.81	261.11	
REVENUE:				
Crushed Grape Fees	5,300		0.00	
Investment Interest	95	0.91	19.61	
Total Revenue	\$ 5,395	\$ 0.91	19.61	0.36%
TOTAL AVAILABLE CASH	\$ 5,656	\$ 280.72	280.72	
EXPENDITURES:				
Printing	\$	\$	0.00	
Room Rental			0.00	
Miscellaneous Operating			0.00	
Promotion			0.00	
Contractual				
NWGGA	3,609		0.00	
Quality Wine Assurance Prog	0		0.00	
UNL - Viticulture Dept	1,547		0.00	
Board Expense			0.00	
Total Expenditures	\$ 5,156	\$ 0.00	0.00	0.00%
Adjustment to Fund Balance	0			
ENDING CASH BALANCE	\$ 500	\$ 280.72	280.72	

*The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year Elapsed: 33%

FY04-05 Revenue to Date: \$40.61

FY04-05 Expenditures to Date: \$3,954.50

Grape & Winery Board Meeting
March 3, 2006
Holiday Inn – Kearney
Room 101

MINUTES

Board Members present:	Eric Nelson Jim Jeffers Terry Ryan Justin Moody (via telephone)
Board Members absent:	Bob Curttright
Ex-officio Members present:	Casey Foster
Ex-officio Members absent:	Dr. Gary Cunningham, UNL
Guests present:	Dave Hanna, President-Elect NWGGA Dr. Paul Read, UNL Trish Lengle

President Nelson opened the meeting at 7:05 a.m. After adding the NWGGA report to the agenda under New Business, Moody moved and Ryan seconded that the agenda be approved as amended. The motion carried unanimously. Moody moved and Ryan seconded that the minutes from the November 5, 2005, meeting be approved. The motion carried unanimously. Moody moved and Ryan seconded that the current officers (Nelson - President; Jeffers - Vice-President; Ryan - Secretary;) be re-elected for another one-year term. The motion carried unanimously.

Old Business:

Casey Foster updated us on this year's budget (attached). There has been \$1,547 allocated to the UNL Viticulture Department, and \$3,609 to the NWGGA, leaving \$1,617 left to allocate. Ryan moved and Moody seconded that we allocate \$600 for a new grower's survey, \$300 to the UNL Viticulture Program, and \$700 to the NWGGA for promotion expenses. The motion carried unanimously.

During the discussion of our 2006-2007 budget, it was felt a Quality Assurance Program should be funded. Ryan moved and Moody seconded that we budget \$500 for administrative expenses, \$600 for a third grower's survey, and \$1,000 to the NWGGA-Winery Council to develop a Quality Assurance Program. Of the remaining funds, 30% be allocated to UNL Viticulture Program for continued research and 70% to the NWGGA for promotion of the industry. The motion carried with three votes for and one vote against.

New Business:

Dave Hanna, NWGGA President - Elect, gave us an update of NWGGA activities. He made it clear that a proposal in the Legislature (LB 964) would have changed the make up of the Grape and Winery Board and was not initiated by, nor supported by the NWGGA, even though a member of the organization gave that impression at the Agriculture Committee's public hearing. Dave also indicated they were working closer with the Nebraska Liquor Control Commission to improve communication, and the organization would do whatever it could to help us accomplish our goals. Nelson reminded Dave that if they needed our help, we, too, would do whatever we could to help the industry.

It was decided to send the 2005 growers survey, an updated version of the 2004 survey, in cooperation with the UNL Viticulture Department, out by April 1st, and include a cover letter and postage paid return envelope, or "fold-over form." A pared down version of the Vine Lines mailing list will be used. Jeffers will develop a *draft* version, and send it to us for final approval before mailing them. In the discussions, Dr. Read reminded us again that the University's role is research and providing information to growers/potential growers, and not promoting growing grapes.

Discussion of the effectiveness of the Board centered on our statutory limitations. President Nelson was directed to write a letter to the Nebraska Liquor Control Commission asking that they keep us more informed of issues directly related to our industry, especially requests for waiver of the 75/25 rule.

Trish Lenge updated us on the status of several Legislative Bills (LB 811, 1004, 562, 1008, 1053, 964, 785) in the Legislature that affect our industry. She also emphasized that it is important to be consistent in providing information about the industry to the Legislature. The confusion surrounding LB 964 did not help. She also reminded us that partially because of term limits, the next Legislature may need additional help in learning how important the industry is to the state.

Paul Read highlighted the UNL Viticulture Department's activities including plans for 2006.

The next meeting will be scheduled in conjunction with UNL's fall workshop in early November.

Jeffers moved and Ryan seconded to adjourn at 8:30 a.m. The motion carried unanimously.

Submitted:
Terry Ryan, Secretary

WINE & GRAPE PRODUCTION PROMOTION BOARD
JULY 1, 2005 - JUNE 30, 2006

DESCRIPTION	FY2004-05 BUDGET	FEBRUARY 2006	FY2005-05 YR-TO-DATE	YTD AS % OF BUDGET
BEGINNING CASH BALANCE	\$ 261	\$ 7,261.74	261.11	
REVENUE:				
Crushed Grape Fees	5,300		6,978.13	
Investment Interest	95	12.11	34.61	
Total Revenue	\$ 5,395	\$ 12.11	7,012.74	129.99%
TOTAL AVAILABLE CASH	\$ 5,656	\$ 7,273.85	7,273.85	
EXPENDITURES:				
Printing	\$	\$	0.00	
Room Rental			0.00	
Miscellaneous Operating			0.00	
Promotion			0.00	
Contractual				
NWGGA	3,609		3,954.50	
Quality Wine Assurance Prog	0		0.00	
UNL - Viticulture Dept	1,547	1,547.00	1,547.00	
Board Expense			0.00	
Total Expenditures	\$ 5,156	\$ 1,547.00	1,547.00	30.00%
Adjustment to Fund Balance	0			
ENDING CASH BALANCE	\$ 500	\$ 5,726.85	5,726.85	

*The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year Elapsed: 67%

FY04-05 Revenue to Date: \$5,065.33 FY04-05 Expenditures to Date: \$3,954.50

**WINE & GRAPE PRODUCTION PROMOTION BOARD
JULY 1, 2005 - JUNE 30, 2006**

DESCRIPTION	FY2004-05 BUDGET	JUNE 2006	FY2005-05 YR-TO-DATE	YTD AS % OF BUDGET
BEGINNING CASH BALANCE	\$ 261	\$ 5,689.58	261.11	
REVENUE:				
Crushed Grape Fees	6,978		6,978.13	
Investment Interest	95	20.96	119.96	
Total Revenue	\$ 7,073	\$ 20.96	7,098.09	100.35%
TOTAL AVAILABLE CASH	\$ 7,334	\$ 5,710.54	7,359.20	
EXPENDITURES:				
Printing	\$	\$	101.66	
Room Rental			0.00	
Miscellaneous Operating			0.00	
Promotion			0.00	
Contractual				
NWGGA	4,309	4,309.00	4,309.00	
Quality Wine Assurance Prog	0		0.00	
UNL - Viticulture Dept	1,847		1,547.00	
Board Expense			0.00	
Total Expenditures	\$ 6,756	\$ 4,309.00	5,957.66	88.18%
Adjustment to Fund Balance	0			
ENDING CASH BALANCE	\$ 578	\$ 1,401.54	1,401.54	

*The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year Elapsed: 100%

FY04-05 Revenue to Date: \$5,156.33 FY04-05 Expenditures to Date: \$10,855.00

AGREEMENT #18-13-049

between

UNIVERSITY OF NEBRASKA – LINCOLN VITICULTURE PROGRAM

and

NEBRASKA DEPARTMENT OF AGRICULTURE

This Agreement entered into by and between the University of Nebraska – Lincoln Viticulture Program hereinafter called the “Viticulture Program,” and the Nebraska Department of Agriculture, hereinafter called the “Department,” provides for the funding from the Nebraska Grape and Winery Board funds toward Viticulture Program research activities to assist in the betterment of Nebraska’s grape industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to the Viticulture Program;

WHEREAS, the research activities conducted by the Viticulture Program will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska’s grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approve one thousand five hundred forty-seven dollars (\$1,547) from the Winery and Grape Producers Promotional Fund to pay for the Viticulture Program activities, which are to be used for two projects.
 - a. The first is an interdisciplinary project to monitor vineyards in several parts of the state for environmental and pest parameters, with a goal of garnering information that will enable the Viticulture Program to provide assistance to Nebraska’s grape growers and ultimately help the wineries as they pursue identification of terroirs and possible establishment of American Viticultural Areas in Nebraska.
 - b. The second is to conduct an experiment to compare the performance of important Nebraska-grown grape cultivars on different trellis systems.

One thousand five hundred forty-seven dollars (\$1,547) will partially pay for viticulture technologist salary, travel costs to visit sites, installation of monitoring devices, evaluation of trellis systems, material costs for installation of monitoring devices and trellis systems, and data acquisition and communication costs.

2. Duration of Agreement: This Agreement shall be in force and effective from November 1, 2005, to June 30, 2006.
3. The Department agrees to provide the funds as set out in paragraph 1, from the Winery and Grape Producers Promotional Fund.
4. Payment in the amount of one thousand five hundred forty-seven dollars (\$1,547) from the Winery and Grape Producers Promotional Fund to the Viticulture Program will be payable in full upon both parties signature to this Agreement, and Viticulture Program incurring an obligation. The Viticulture Program shall present an Interagency Billing Transaction (IBT) invoice to the Department to make payment from.
5. Funding for this project is subject to legislative appropriations and funding being available.
6. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
7. Viticulture Program shall utilize funds provided by the Department only for facilities, materials, and personnel to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
8. The parties mutually agree as follows:
 - a. The Viticulture Program shall:
 - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and
 - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if the Viticulture Program is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.
 - b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.

- c. The Viticulture Program agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the Viticulture Program workplace;
 - (2) The specific actions that will be taken against employees for violating the policy; and
 - (3) A requirement that each employee receives a copy of the policy.
- d. The Viticulture Program shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of the Viticulture Program to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of the Viticulture Program which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of the Viticulture Program.
- f. The Viticulture Program agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the Viticulture Program shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer needs to be retained.
- g. The Viticulture Program specifically agrees that funds given to the Viticulture Program shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to the Viticulture Program under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the winery and grape producers' promotional fund unless otherwise agreed. Furthermore, if the Viticulture Program fails to perform as outlined herein, the Viticulture Program shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.

- k. The relationship of the Department and the Viticulture Program under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the Viticulture Program that the Viticulture Program is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. The Viticulture Program guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF
AGRICULTURE

Date

Greg Ibach, Director

UNL VITICULTURE PROGRAM

Date

Dr. Mark Lagrimini, Head of Department of
Agronomy and Horticulture

Date

Norman O. Braaten, Board of Regents

unlviticulturecontract112105.doc

AGREEMENT

between

NEBRASKA WINERY AND GRAPE GROWERS' ASSOCIATION

and

NEBRASKA DEPARTMENT OF AGRICULTURE

#18-13-048

This Agreement entered into by and between the Nebraska Winery and Grape Growers' Association, hereinafter called the "NWGGA," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds to NWGGA toward marketing activities to assist in the betterment of Nebraska's grape and wine industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to NWGGA;

WHEREAS, the promotional activities conducted by NWGGA will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved four thousand three hundred nine dollars (\$4,309) from the Winery and Grape Producers Promotional Fund to pay for the development of a Nebraska Wine Trail map to provide promotion and education of the Nebraska grape and wine industry.

This map will include Nebraska wineries, vineyards, tasting room locations, educational information about growing conditions, wine knowledge, and information about the wine and grape industry within Nebraska. It will be used as a marketing piece to guide visitors to our state's wineries.

The amount of four thousand three hundred nine dollars (\$4,309) will be used to partially pay for the production cost of developing this map.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2005, to June 30, 2006.
3. The Department agrees to provide the funds as set out in paragraph 1, from the Winery and Grape Producers' Promotional Fund.
4. NWGGA agrees to provide a copy of the final map to the Department after the brochures have been printed and a report of printing costs.
5. Payment in the amount of four thousand three hundred nine dollars (\$4,309) from the Winery and Grape Producers' Promotional Fund to NWGGA will be payable in full upon both parties signature to this Agreement, and NWGGA incurring an obligation. NWGGA shall present an invoice to the Department to make payment from.
6. Funding for this project is subject to legislative appropriations and funding being available.
7. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
8. The parties mutually agree as follows:
 - a. NWGGA shall:
 - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
 - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if NWGGA is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
- c. NWGGA agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the NWGGA workplace;
 - (3) The specific actions that will be taken against employees for violating the policy; and
 - (4) A requirement that each employee receives a copy of the policy.
- d. NWGGA shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of NWGGA to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of NWGGA which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of NWGGA.
- f. NWGGA agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, NWGGA shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.
- g. NWGGA specifically agrees that funds given to NWGGA shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to NWGGA under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers' Promotional Fund unless otherwise agreed. Furthermore, if

NWGGA fails to perform as outlined herein, NWGGA shall be required to repay any unearned funds received under this Agreement.

- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and NWGGA under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and NWGGA that NWGGA is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. NWGGA guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF
AGRICULTURE

Date

Greg Ibach, Director

NEBRASKA WINERY AND GRAPE
GROWERS' ASSOCIATION

Date

Dave Hanna, President

nwgacontract052206.doc

BYLAWS

ARTICLE I. AUTHORITY

This organization, its purpose, procedures, and regulations are established pursuant to Neb. Rev. Stat. §§53-301 through 53-305.

ARTICLE II. NAME and LOCATION

The name of this organization shall be the Nebraska Grape and Wine Board, hereinafter referred to as the "Board." The principal business office of the Board shall be located at the Nebraska Department of Agriculture office, P.O. Box 94947, 501 Centennial Mall South, Lincoln, Nebraska 68509.

ARTICLE III. PURPOSE

The purpose of the Board shall be to further the growth and economic development of the grape-growing and wine-making industry in the state of Nebraska to a maximum level as supported by the favorable soil and climatic conditions existing in Nebraska; and to satisfy the market demand for grapes and wine inside and outside of Nebraska. The end objective being to create an economically viable alternative farm crop and wine industry in Nebraska that will enhance the economic condition of the farm industry, in specific, and the state of Nebraska in general.

ARTICLE IV. MEMBERSHIP

Section 1. The Board shall consist of:

- A. Five (5) members to be appointed by the Governor on a nonpartisan basis;
- B. Nebraska Department of Agriculture Director, or designee, who shall have rights of membership except the right to vote; and
- C. Vice Chancellor, University of Nebraska Institute of Agriculture and Natural Resources, or designee, who shall have rights of membership except the right to vote.

Section 2. Board members shall be:

- A. Citizens of Nebraska;
- B. Twenty-one (21) years of age or older; and
- C. Engaged in, or previously engaged in, wine or grape production or research in this field in Nebraska.

- Section 3. At least two (2) Board members shall be members of the Nebraska Winery and Grape Growers Association.
- Section 4. Board members shall serve a term of three (3) years or until their successor is appointed.
- Section 5. Vacancies in the Board resulting from resignation, nonperformance of duties, death, or other cause, shall be filled by appointment of the Governor

ARTICLE V. OFFICERS

- Section 1. The elected officers of the Board shall be:
- A. Chairman;
 - B. Vice-Chairman;
 - C. Secretary/Treasurer;
 - D. Other officers as the Board deems necessary to carry out the duties and responsibilities of the Board.
- Section 2. Officers shall be elected from the members of the Board annually, following the appointment of members to fill expired terms, at the first meeting of the calendar year.
- Section 3. The election of officers requires a majority vote of the Board.
- Section 4. The term of office shall be for one (1) year or until the election of their successor.
- Section 5. Any officer may be removed from office for due cause by a two-thirds (b) vote of the voting members of the Board.
- Section 6. Officer duties shall include:
- A. The Chairman shall:
 - 1. Preside at all meetings of the Board; and
 - 2. Perform all duties normally expected of this office and as may be assigned by the Board.
 - B. The Vice-Chairman shall:
 - 1. Assume full powers and authority as accorded the chairman in the absence of that officer; and
 - 2. Perform all duties normally expected of this office and as may be assigned by the Board or the Chairman.
 - C. The Secretary/Treasurer shall:
 - 1. Record the official minutes of all regular and special Board meetings;

2. Give public notice of all regular and special Board meetings in accordance with applicable state laws; and
3. Prepare and circulate the Board meeting agendas as established by the Chairman.
4. Serve as the primary liaison between the Board and the Department of Agriculture in all financial matters; and
5. Be responsible for preparing the Annual Financial Report for the approval of the Board.

ARTICLE VI. MEETINGS

- Section 1. Meetings of the Board shall be held at its principal office in Lincoln, Nebraska, but may be held elsewhere if the notice of the meeting, or the waiver of such notice, so provides.
- Section 2. Regular meetings of the Board shall be held on a biannual basis at such time and place as may be determined by the Board at its previous meeting.
- Section 3. Special meetings of the Board may be called at the request of the Chairman or by any three (3) Board members.
- A. Notice of special meetings shall state the purpose of the meeting.
 - B. Notice of special meetings shall be publicly advertised as required by state law.
- Section 4. A majority of the voting members of the Board shall constitute a quorum. In the absence of a quorum, those present may recess or adjourn to a later date, but may not transact any business for the Board.

ARTICLE VII. POWERS AND RESPONSIBILITIES OF THE BOARD

- Section 1. The Board shall:
- A. Function in an advisory capacity to the Nebraska Department of Agriculture and the Nebraska Liquor Control Commission.
 - B. Elect officers and keep minutes of meetings and other books and records which will clearly reflect all of the acts and transactions of the board, and to make these records available for examination upon request to members of the public.
 - C. Authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to Neb. Rev. Stat. §53-304 (LB 477).
 - D. Promulgate and adopt rules and regulations to carry out Neb. Rev. Stat. §§53-301 to 53-305, LB 477.

- E. Make and publish an annual report on, or before, January 1 of each year. The annual report shall set forth, in detail, those requisites required in LB 477, Neb. Rev. Stat. §53-305.
- F. Establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss the Board's policies and procedures at a Board meeting.
- G. Participate in regional, state, national, and international activities with organizations which have, as their objective, developing new and better grape varieties suitable for growing in Nebraska.
- H. Provide current research data conducted by, or for, the Board to grape growers and vintners in Nebraska and to persons considering entering into grape-growing within the state.
- I. Participate in the development of research projects to improve wine making methods utilizing new and old grape varieties grown in Nebraska.
- J. Develop and participate in studies, programs, research, and the dissemination of information and data pertaining to sales, promotion, and the effective distribution of Nebraska wines.
- K. Serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry.

Section 7. Members of the Board shall serve without compensation except that voting Board members shall be reimbursed for their actual and necessary expenses as provided for in Neb. Rev. Stat. §§81-1174 to 81-1177.

- A. Reimbursement, as allowed, shall include attendance at meetings of the Board;
- B. Reimbursement, as allowed, shall include the expense of engaging in the performance of official responsibilities as determined by the Board; and
- C. All expenses shall be approved by a majority of the members of the Board.

Section 8. The Board shall not be responsible, collectively or individually, in any manner whatsoever, to any person or persons for errors in judgment, mistake, or other acts of commission or omission except for their own individual and personal acts of dishonesty or other acts of a criminal nature.

- No member shall be held responsible, individually or collectively, for the criminal act or default of any other Board member.
- Any liability of an individual Board member shall be separate and not joint.

ARTICLE VIII: COMMITTEES

The Chairman of the Board shall establish committees and designate committee members contingent upon approval by the Board.

ARTICLE IX: PARLIAMENTARY AUTHORITY

All meetings shall be conducted within the general rules set forth in the current edition of *Roberts Rules of Order, Newly Revised*.

ARTICLE X: AMENDMENT

The Board may repeal or amend these Bylaws, or any part thereof, by a two-thirds (b) vote of the Board in presence of a quorum, after ten (10) days written notice of the proposed changes in the Bylaws. In the alternative, such amendments may be requested by mail ballot and will become effective if two-thirds (b) return an affirmative vote on the proposed bylaws changes.

ADOPTED: November 2, 2001

Grapebylaws062001

STATUTES

NEBRASKA GRAPE AND WINERY BOARD

- Administration:** These statutes create the Nebraska Grape and Winery Board. That Board is given certain duties under these statutes. For administrative purposes, a fund is located in the Nebraska Department of Agriculture. The revenue from Nebraska wineries is to be used by the Nebraska Department of Agriculture to develop programs that promote the wine industry in Nebraska.
- Adoption:** The provisions of these statutes were last revised during the 2003 session of the Nebraska Legislature. This reproduction was prepared following that session.
- Rules:** The Board is given authority to adopt and promulgate regulations; however, none have yet been developed.

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<u>Section</u>	<u>Subject</u>
53-301	Nebraska Grape and Winery Board; created.
53-302	Board; officers; terms; expenses.
53-303	Board; powers and duties.
53-304	Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.
53-305	Board; annual report.

53-301. Nebraska Grape and Winery Board; created. (1) The Nebraska Grape and Winery Board is created. The board shall consist of five members to be appointed by the Governor on a nonpartisan basis. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in wine or grape production or research in this state. At least two board members shall be members of the Nebraska Winery and Grape Growers Association. In addition, the Director of Agriculture and the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources or their designees shall be ex officio members of the board but shall have no vote in board matters.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

53-302. Board; officers; terms; expenses. (1) Within thirty days after the appointment of the initial members of the Nebraska Grape and Winery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each board member shall serve for a term of three years, upon completion of which he or she may, at the Governor's discretion, be reappointed.

(3) All voting board members shall be reimbursed for their actual and necessary expenses, as provided for in sections 81-1174 to 81-1177, while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

(4) A board member shall be removable by the Governor for cause. The board member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. In addition to all other causes, the failure of a board member to continue to meet any of the requirements for eligibility set out in section 53-301 shall be deemed sufficient cause for removal from office.

53-303. Board; powers and duties. The duties and responsibilities of the Nebraska Grape and Winery Board include, but are not limited to, the following:

(1) To establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss with the board its policy and procedures;

(2) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) To authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to section 53-304;

(4) To serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry; and

(5) To adopt and promulgate rules and regulations to carry out sections 53-301 to 53-305.

53-304. Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment. Each Nebraska winery shall pay to the Nebraska Liquor Control Commission twenty dollars for every one hundred sixty gallons of juice produced or received by its facility.

Gifts, grants, or bequests may be received for the support of the Nebraska Grape and Winery Board. Funds paid pursuant to the charge imposed by this section and funds received from gifts, grants, or bequests shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund which is hereby created. For administrative purposes, the fund shall be located in the Department of Agriculture. All revenue credited to the fund shall be used by the department, at the direction of and in cooperation with the board, to develop and maintain programs for the research and advancement of the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the fields of viticulture and enology, as deemed necessary by the board, and programs aimed at improving the promotion of all varieties of wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Funds credited to the fund shall be used for no other purposes than those stated in this section. Any funds not expended during a fiscal year may be maintained in the fund for distribution or expenditure during subsequent fiscal years. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

53-305. Board; annual report. The Nebraska Grape and Winery Board shall make and publish an annual report on or before January 1 of each year, which report shall set forth in detail the following:

(1) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(2) A detailed explanation of all programs for which the board approved funding that fiscal year, pursuant to section 53-304, for the research, discovery, promotion, and development of programs for the growing, production, and marketing of Nebraska wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Each annual report shall be presented to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

RELATED STATUTES

Related Statutes: Farm Wineries Act

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<u>Section</u>	<u>Subject</u>
53-123.10	Farm winery license; when issued.
53-123.11	Farm winery license; rights of licensee.
53-123.12	Farm winery license; application requirements; fees.
53-123.13	Farm winery; waiver of requirement; when.

53-123.10 Farm winery license; when issued.

A license to operate a farm winery may be issued by the commission upon an applicant's compliance with section 53-123.12 and such other requirements as the commission adopts and promulgates by rule and regulation to administer sections 53-101.02 and 53-123.10 to 53-123.13.

Source: Laws 1985, LB 279, §4.

53-123.11 Farm winery license; rights of licensee.

Farm winery license; rights of licensee.

- (1) A farm winery license shall entitle the holder to:
 - (a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;
 - (b) Sell wines produced at the farm winery at retail for consumption on the premises;
 - (c) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section; and
 - (d) Allow sampling of the wine at the farm winery and at one branch outlet in the state in reasonable amounts.

- (2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

Source: Laws 1985, LB 279, §5; Laws 1991, LB 344, §23; Laws 1997, LB 479, §1.
53-123.12 Farm winery license; application requirements; fees. Any person desiring to obtain a new license to operate a farm winery shall:

- (1) File an application with the commission in triplicate original upon such forms as the commission from time to time prescribes;
- (2) Pay the license fee to the commission under subdivision (2) of section 53-124, which fee shall be returned to the applicant if the application is denied; and
- (3) Pay the state registration fee to the commission in the sum of forty-five dollars.

License fees and registration fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees. The commission shall then notify, by registered or certified mail marked return receipt requested with postage prepaid, the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall enclose with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of mailing of such application by the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

Source: Laws 1985, LB 279 §7; Laws 1988, LB 1089, §10; Laws 1991, LB 202, §2; Laws 2000, LB 973, §3. Operative date August 1, 2000.

53-123.13 Farm winery; waiver of requirement; when.

- (1) In the event the operator of a farm winery is unable to produce or purchase seventy-five percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the seventy-five-percent requirement prescribed in subdivision (32) of section 53-103 for one year.
- (2) It shall be within the discretion of the commission to waive the seventy-five percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

Source: Laws 1985, LB 279, §6; Laws 1986, LB 871, §2; Laws 1989, LB 441, §5; Laws 1991, LB 344, §24; Laws 1994, LB 859, §5.