

LEGISLATIVE BILL 175

Approved by the Governor May 27, 2015

Introduced by Schilz, 47.

A BILL FOR AN ACT relating to law; to amend sections 54-2801, 54-2802, 77-27,187.01, 77-27,188, 81-2,147.01, and 81-2,147.05, Reissue Revised Statutes of Nebraska, and section 77-27,187.02, Revised Statutes Cumulative Supplement, 2014; to name and adopt the Livestock Growth Act; to restate findings; to provide for grants; to create a fund; to change application procedures and credits allowed under the Nebraska Advantage Rural Development Act; to exempt seed libraries from certain provisions of the Nebraska Seed Law; to define and redefine terms; to adopt the Community Gardens Act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 54-2801, Reissue Revised Statutes of Nebraska, is amended to read:

54-2801 (1) Sections 54-2801 and 54-2802 and sections 3 to 5 of this act shall be known and may be cited as the Livestock Growth Act.

(2) The Legislature finds that livestock production has traditionally served a significant role in the economic vitality of rural areas of the state and in the state's overall economy and that the growth and vitality of the state's livestock sector are critical to the continued prosperity of the state and its citizens. The Legislature further finds that a public interest exists in assisting efforts of the livestock industry and rural communities to preserve and enhance livestock development as an essential element of economic development and that a need exists to provide aid, resources, and assistance to rural communities and counties seeking opportunities in the growth of livestock production trends in livestock production suggest a need to identify and address factors that affect the viability and expansion of livestock production. Those factors include the impact of livestock production on the state's economy and its communities, all applicable regulatory agencies, and the latest technology available to enhance the livestock industry. It is the intent of the Legislature to seek reasonable means to nurture and support the livestock sector of this state.

Sec. 2. Section 54-2802, Reissue Revised Statutes of Nebraska, is amended to read:

54-2802 (1) The Director of Agriculture shall establish a process, including criteria and standards, to recognize and assist efforts of counties to maintain or expand their livestock sector. A county that meets the criteria may apply to the director to be designated a livestock friendly county. A county may remove itself from the process at any time. Such criteria and standards may include, but are not limited to, the following factors: Consideration of the diversity of activities currently underway or being initiated by counties; a formal expression of interest by a county board, by a duly enacted resolution following a public hearing, in developing the livestock production and processing sectors of such county's economy; an assurance that such county intends to work with all other governmental jurisdictions within its boundaries in implementing livestock development within the county; flexible and individual treatment allowing each county to design its own development program according to its own timetable; and a commitment to compliance with the Livestock Waste Management Act.

(2) The designation of any county or counties as a livestock friendly county shall not be an indication nor shall it suggest that any county that does not seek or obtain such a designation is not friendly to livestock production.

(3) In order to assist any county with information and technology, the Department of Agriculture shall establish a resource data base to provide, upon written request of the county zoning authority or county board, information sources that may be useful to the county in evaluating and crafting livestock facility conditional use permits that meet the objectives of the county and the livestock producer applicant.

~~(4) The Department of Agriculture shall adopt and promulgate rules and regulations to carry out this section.~~

(4 5) Nothing in this section shall prohibit or prevent any county board from adopting a resolution that designates the county a livestock friendly county.

Sec. 3. (1) From funds available in the Livestock Growth Act Cash Fund, the Director of Agriculture may administer a grant program to assist counties designated by the director as livestock friendly counties pursuant to section 54-2802 in livestock development planning and associated public infrastructure improvements. The director shall receive applications submitted by county boards or county planning authorities for assistance under this section and award grants for any of the following eligible purposes:

(a) Strategic planning to accommodate and encourage investment in livestock production, including one or more of the following activities:

(i) Reviewing zoning and land-use regulations;
(ii) Evaluating workforce availability, educational, institutional, public infrastructure, marketing, transportation, commercial service, natural resource, and agricultural assets, and needs of the county and surrounding areas to support livestock development;

(iii) Identifying livestock development goals and opportunities for the county;

(iv) Identifying and evaluating a location or locations suitable for placement of livestock production facilities; and

(v) Developing a marketing strategy to promote and attract investment in new or expanded livestock production and related livestock service and marketing businesses within the county; and

(b) Improvements to public infrastructure to accommodate one or more livestock development projects, including modifications to roads and bridges, drainage, and sewer and water systems. An application for a grant under this subdivision shall identify specific infrastructure improvements relating to a project for the establishment, expansion, or relocation of livestock production to which the grant funds would be applied and shall include a copy of the county conditional use permit issued for the livestock operation if required by county zoning regulations.

(2) A grant award under subdivision (1)(a) of this section shall not exceed fifteen thousand dollars. A grant award under subdivision (1)(b) of this section shall not exceed one-half of the unobligated balance of the Livestock Growth Act Cash Fund or two hundred thousand dollars, whichever is less.

Sec. 4. The Livestock Growth Act Cash Fund is created. The fund may be used to carry out the Livestock Growth Act. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants or other private or public funds obtained for the purposes of the act. 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.

Sec. 5. The Department of Agriculture may adopt and promulgate rules and regulations to carry out the Livestock Growth Act.

Sec. 6. Section 77-27,187.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,187.01 For purposes of the Nebraska Advantage Rural Development Act, unless the context otherwise requires:

(1) Any term has the same meaning as used in the Nebraska Revenue Act of 1967;

(2) Equivalent employees means the number of employees computed by dividing the total hours paid in a year to employees by the product of forty times the number of weeks in a year;

(3) Livestock means all animals, including cattle, horses, sheep, goats, hogs, dairy animals, chickens, turkeys, and other species of game birds and animals raised and produced subject to permit and regulation by the Game and Parks Commission or the Department of Agriculture;

(4) Livestock modernization or expansion means the construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management. Livestock modernization or expansion does not include any improvements made to correct a violation of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, a rule or regulation adopted and promulgated pursuant to such acts, or any order of the Department of Environmental Quality undertaken within five years after a complaint issued from the Director of Environmental Quality under section 81-1507;

(5) Livestock production means the active use, management, and operation of real and personal property (a) for the commercial production of livestock, (b) for the commercial breeding, training, showing, or racing of horses, or for the use of horses in a recreational or tourism enterprise, and (c) for the commercial production of dairy and eggs. The activity will be considered commercial if the gross income derived from an activity for two or more of the taxable years in the period of seven consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity or, if the operation has been in existence for less than seven years, if the activity is engaged in for the purpose of generating a profit;

(6) Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee;

(7) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

(8) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or a partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a

member of the same unitary group if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are, subject to or exempt from such taxes, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture when the partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are subject to or exempt from such taxes; and

(9) Year means the taxable year of the taxpayer.

Sec. 7. Section 77-27,187.02, Revised Statutes Cumulative Supplement, 2014, is amended to read:

77-27,187.02 (1) To earn the incentives set forth in the Nebraska Advantage Rural Development Act, the taxpayer shall file an application for an agreement with the Tax Commissioner.

(2) The application shall contain:

(a) A written statement describing the full expected employment or type of livestock production and the investment amount for a qualified business, as described in section 77-27,189, in this state;

(b) Sufficient documents, plans, and specifications as required by the Tax Commissioner to support the plan and to define a project; and

(c) An application fee of five hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund. The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, and the amounts of increased employment or investment.

(3)(a) The Tax Commissioner shall approve the application and authorize the total amount of credits expected to be earned as a result of the project if he or she is satisfied that the plan in the application defines a project that (i) meets the requirements established in section 77-27,188 and such requirements will be reached within the required time period and (ii) for projects other than livestock modernization or expansion projects, is located in an eligible county, city, or village.

~~(b) The Tax Commissioner shall not approve further applications once the expected credits from the approved projects total two million five hundred thousand dollars in each of fiscal years 2004-05 and 2005-06, three million dollars in each of fiscal years 2006-07 through 2008-09, and four million dollars in fiscal year 2009-10. For applications filed in calendar years 2010 and 2011, the Tax Commissioner shall not approve further applications once the expected credits from the approved projects total four million dollars. For applications filed in calendar year 2012 and each year thereafter, the Tax Commissioner shall not approve further applications once the expected credits from the approved projects total one million dollars. For applications filed in calendar year 2016 and each year thereafter, the Tax Commissioner shall not approve further applications from applicants described in subsection (1) of section 77-27,188 once the expected credits from approved projects from this category total one million dollars. For applications filed in calendar year 2016 and each year thereafter, the Tax Commissioner shall not approve further applications from applicants described in subsection (2) of section 77-27,188 once the expected credits from approved projects in this category total: For calendar year 2016, five hundred thousand dollars; for calendar years 2017 and 2018, seven hundred fifty thousand dollars; and for calendar year 2019 and each calendar year thereafter, one million dollars. Four hundred dollars of the application fee shall be refunded to the applicant if the application is not approved because the expected credits from approved projects exceed such amounts. It is the intent of the Legislature that all tax credits deemed unallocated for this section for calendar year 2011 shall be used for purposes of the Angel Investment Tax Credit Act.~~

~~(c) Applications for benefits shall be considered separately and in the order in which they are received for the categories represented by subsections (1) and (2) of section 77-27,188.~~

~~(d)(i) For applications filed in calendar year 2011, applications shall be filed by July 1 and shall be complete by August 1 of the calendar year. Any application that is filed after July 1 or that is not complete on August 1 shall be considered to be filed during the following calendar year.~~

~~(d) Applications (ii) For applications filed in calendar year 2012 and each year thereafter, applications shall be filed by November 1 and shall be complete by December 1 of each calendar year. Any application that is filed after November 1 or that is not complete on December 1 shall be considered to be filed during the following calendar year.~~

(4) After approval, the taxpayer and the Tax Commissioner shall enter into a written agreement. The taxpayer shall agree to complete the project, and the Tax Commissioner, on behalf of the State of Nebraska, shall designate the approved plans of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Nebraska Advantage Rural Development Act up to the total amount that were authorized by the Tax Commissioner at the time of approval. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The levels of employment and investment required by the act for the project;

(b) The time period under the act in which the required level must be met;

(c) The documentation the taxpayer will need to supply when claiming an

incentive under the act;

- (d) The date the application was filed; and
- (e) The maximum amount of credits authorized.

Sec. 8. Section 77-27,188, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,188 (1) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an approved application pursuant to the Nebraska Advantage Rural Development Act, who is engaged in a qualified qualifying business as described in section 77-27,189, and who after January 1, 2006:

(a)(i) Increases employment by two new equivalent employees and makes an increased investment of at least one hundred twenty-five thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in (A) any county in this state with a population of fewer than fifteen thousand inhabitants, according to the most recent federal decennial census, (B) any village in this state, or (C) any area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts; or

(ii) Increases employment by five new equivalent employees and makes an increased investment of at least two hundred fifty thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in any county in this state with a population of less than twenty-five thousand inhabitants, according to the most recent federal decennial census, or any city of the second class; and

(b) Pays a minimum qualifying wage of eight dollars and twenty-five cents per hour to the new equivalent employees for which tax credits are sought under the Nebraska Advantage Rural Development Act. The Department of Revenue shall adjust the minimum qualifying wages required for applications filed after January 1, 2004, and each January 1 thereafter, as follows: The current rural Nebraska average weekly wage shall be divided by the rural Nebraska average weekly wage for 2003; and the result shall be multiplied by the eight dollars and twenty-five cents minimum qualifying wage for 2003 and rounded to the nearest one cent. The amount of increase or decrease in the minimum qualifying wages for any year shall be the cumulative change in the rural Nebraska average weekly wage since 2003. For purposes of this subsection, rural Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties with a population of less than twenty-five thousand inhabitants as reported by October 1 by the Department of Labor.

For purposes of this section, a teleworker working in Nebraska from his or her residence for a taxpayer shall be considered an employee of the taxpayer, and property of the taxpayer provided to the teleworker working in Nebraska from his or her residence shall be considered an investment. Teleworker includes an individual working on a per-item basis and an independent contractor working for the taxpayer so long as the taxpayer withholds Nebraska income tax from wages or other payments made to such teleworker. For purposes of calculating the number of new equivalent employees when the teleworkers are paid on a per-item basis or are independent contractors, the total wages or payments made to all such new employees during the year shall be divided by the qualifying wage as determined in subdivision (b) of this subsection, with the result divided by two thousand eighty hours.

(2) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a) has an approved application pursuant to the Nebraska Advantage Rural Development Act, (b) is engaged in livestock production, and (c) after January 1, 2007, invests at least fifty thousand dollars for livestock modernization or expansion.

(3) The amount of the credit allowed under subsection (1) of this section shall be three thousand dollars for each new equivalent employee and two thousand seven hundred fifty dollars for each fifty thousand dollars of increased investment. For applications filed before January 1, 2016, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of thirty thousand dollars. For applications filed on or after January 1, 2016, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of one hundred fifty thousand dollars per application. For each application, a taxpayer engaged in livestock production may qualify for a credit under either subsection (1) or (2) of this section, but cannot qualify for more than one credit per application.

(4) An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of this section if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue access to the records of employees leased to the client-lessee.

(5) The credit shall not exceed the amounts set out in the application and approved by the Tax Commissioner.

(6)(a) If a taxpayer who receives tax credits creates fewer jobs or less investment than required in the project agreement, the taxpayer shall repay the tax credits as provided in this subsection.

(b) If less than seventy-five percent of the required jobs in the project agreement are created, one hundred percent of the job creation tax credits shall be repaid. If seventy-five percent or more of the required jobs in the project agreement are created, no repayment of the job creation tax credits is

necessary.

(c) If less than seventy-five percent of the required investment in the project agreement is created, one hundred percent of the investment tax credits shall be repaid. If seventy-five percent or more of the required investment in the project agreement is created, no repayment of the investment tax credits is necessary.

(7) For taxpayers who submitted applications for benefits under the Nebraska Advantage Rural Development Act before January 1, 2006, subsection (1) of this section, as such subsection existed immediately prior to such date, shall continue to apply to such taxpayers. The changes made by Laws 2005, LB 312, shall not preclude a taxpayer from receiving the tax incentives earned prior to January 1, 2006.

Sec. 9. Section 81-2,147.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,147.01 As used in the Nebraska Seed Law:

(1) Advertisement means all representations, other than those on the label, disseminated in any manner or by any means relating to seed, including farm grain represented as suitable for sowing, within the scope of the Nebraska Seed Law;

(2) Agricultural seed includes the seeds of grass, forage, cereal, oil and fiber crops, and lawn and mixtures of such seeds and any other kinds of seed commonly recognized within this state as agricultural seeds and may include the seed of any plant that is being used as an agricultural crop when the Director of Agriculture establishes in rules and regulations that such seed is being used as agricultural seed;

(3) Blend means seeds consisting of more than one variety of a kind, each in excess of five percent by weight of the whole;

(4) Brand means a word, name, symbol, number, or design to identify seed of one person to distinguish it from seed of another person;

(5) Certifying agency means (a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure genetic purity and identity of the seed certified or (b) an agency of a foreign country which is determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by certifying agencies under subdivision (a) of this subdivision;

(6) Conditioning means drying, cleaning, scarifying, or other operations which could change the purity or germination of the seed and require the seed lot or any definite amount of seed to be retested to determine the label information;

(7) Director means the Director of Agriculture or his or her designated employee or representative or authorized agent;

(8) Dormant seed means viable seeds, other than hard seeds, which fail to germinate when provided the specified germination conditions for the kind of seed in question;

(9) Flower seed includes seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower or wildflower seeds in this state;

(10) Germination means the emergence and development from the seed embryo of those essential structures which for the kind of seed in question are indicative of the ability to produce a normal plant under favorable conditions;

(11) Hard seed means seeds which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat;

(12) Hybrid means the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines, (b) one inbred or a single cross with an open-pollinated variety, or (c) two varieties or species except open-pollinated varieties of corn (*Zea mays*). The second generation and subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names;

(13) Inert matter means all matter not seed which includes broken seeds, sterile florets, chaff, fungus bodies, and stones as established by rules and regulations;

(14) Kind means one or more related species or subspecies which singly or collectively are known by one common name, such as corn, oats, alfalfa, and timothy;

(15) Labeling includes all labels and other written, printed, stamped, or graphic representations, in any form whatsoever, accompanying or pertaining to any seed, whether in bulk or in containers, and includes representations on invoices;

(16) Lot means a definite quantity of seed in containers or bulk identified by a lot number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling;

(17) Mixture, mix, or mixed means seeds consisting of more than one kind, each present in excess of five percent by weight of the whole;

(18) Mulch means a protective covering of any suitable material placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth and aids in preventing the evaporation of soil moisture, controlling weeds, and preventing erosion;

(19) Origin means a foreign country or designated portion thereof, a state, the District of Columbia, Puerto Rico, or a possession of the United States, where the seed was grown;

(20) Other crop seed means seed of plants grown as crops, other than the kind or variety included in the pure seed, as established by rules and regulations;

(21) Person includes any corporation, company, society, association, body politic and corporate, community, individual, partnership, limited liability company, or joint-stock company or the public generally;

(22) Primary noxious weed seeds means the seeds of any plant designated by the director as a noxious weed pursuant to the Noxious Weed Control Act. Pursuant to subdivision (1)(c) of section 81-2,147.06, the director may add to or subtract from this primary noxious weed seeds list;

(23) Prohibited noxious weed seeds means the seeds of plants which are highly destructive and difficult to control in this state by ordinary good cultural practice, the use of herbicides, or both and includes field bindweed (*Convolvulus arvensis*), hoary cress (*Cardaria draba*), Russian knapweed (*Centaurea repens*), johnsongrass (*Sorghum halepense*), Scotch thistle (*Onopordum acanthium*), morning glory (*Ipomoea purpurea*) when found in field crop seeds, skeletonleaf bursage (*Ambrosia discolor*), woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock (*Nassella trichotoma*), and puncturevine (*Tribulus terrestris*). Pursuant to subdivision (1)(c) of section 81-2,147.06, the director may add to or subtract from this prohibited noxious weed seeds list;

(24) Pure live seed means the product of the percent of germination plus percent of hard or dormant seed multiplied by the percent of pure seed divided by one hundred. The result shall be expressed as a whole number;

(25) Pure seed means seed exclusive of inert matter and all other seeds not of the seed being considered as established by rules and regulations;

(26) Record means any and all information which relates to the origin, treatment, germination, purity, kind, and variety of each lot or definite amount of seed handled in this state. Such information includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations;

(27) Restricted noxious weed seeds means the seeds of plants which are objectionable in fields, lawns, and gardens of this state but can be controlled by ordinary good cultural practice, the use of herbicides, or both and includes dodder (*Cuscuta* spp.), wild mustard (*Brassica* spp.), dock (*Rumex* spp.), quackgrass (*Elytrigia repens*), pennycress (*Thlaspi arvense*), purple loosetrife (*Lythrum salicaria*), and horsenettle (*Solanum carolinense*). Pursuant to subdivision (1)(c) of section 81-2,147.06, the director may add to or subtract from this restricted noxious weed seeds list;

(28) Sale in any of its variant forms means sale, to barter, exchange, offer for sale, expose for sale, move, or transport, in any of their variant forms, or otherwise supplying. Sale does not mean the donation, exchange, or other transfer of seeds to or from a seed library or among members of, or participants in, a seed library;

(29) Screenings means the results of the process which removes, in any way, weed seed, inert matter, and other materials from any agricultural, vegetable, or flower seed in any kind of cleaning process;

(30) Seed library means a nonprofit, governmental, or cooperative organization, association, or activity for the purpose of facilitating the donation, exchange, preservation, and dissemination of seeds of open pollinated, public domain plant varieties by or among its members or members of the public when the use, exchange, transfer, or possession of seeds acquired by or from the seed library is free of any charge or consideration;

~~(31)~~ (30) Seizure means a legal process carried out by court order against a definite amount or lot of seed;

~~(32)~~ (31) Stop-sale order means an administrative order provided by law restraining the sale, use, disposition, and movement of a definite amount or lot of seed;

~~(33)~~ (32) Tetrazolium (TZ) test means a type of test in which chemicals are used to produce differential staining of strong, weak, and dead tissues, which is indicative of the potential viability of seeds;

~~(34)~~ (33) Treated means that the seed has been given an application of a substance or subjected to a process or coating for which a claim is made or which is designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom;

~~(35)~~ (34) Variety means a subdivision of a kind which is distinct, uniform, and stable. For purposes of this subdivision: (a) Distinct means that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; (b) uniform means that variations in essential and distinctive characteristics are describable; and (c) stable means that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties;

~~(36)~~ (35) Vegetable seed includes the seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state; and

~~(37)~~ (36) Weed seed includes the seeds of any plant generally recognized as a weed within this state as established in rules and regulations and includes the primary noxious weed seeds, prohibited noxious weed seeds, and restricted noxious weed seeds.

Sec. 10. Section 81-2,147.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,147.05 (1) Sections 81-2,147.02 and 81-2,147.03 shall not apply:

(a) To seed or grain not intended for sowing purposes;
(b) To seed in storage in, or being transported or consigned to, a cleaning or conditioning establishment for cleaning or conditioning, except that the invoice or labeling accompanying any shipment of such seed shall bear the statement Seed for Conditioning, and any labeling or other representation which may be made with respect to the uncleaned unconditioned seed shall be subject to the Nebraska Seed Law; ~~or~~

(c) To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier if such carrier is not engaged in producing, conditioning, or marketing agricultural, vegetable, or flower seeds subject to the Nebraska Seed Law; or -

(d) To seed libraries.

(2) No person shall be subject to the penalties of the Nebraska Seed Law for having sold agricultural, vegetable, or flower seed which was incorrectly labeled or represented as to kind, variety, or origin, if required, which seeds cannot be identified by examination thereof, unless he or she has failed to obtain an invoice, genuine grower's declaration, or other labeling information and to take such other precautions as may be reasonable to insure the identity to be as stated.

Sec. 11. Sections 11 to 15 of this act shall be known and may be cited as the Community Gardens Act.

Sec. 12. (1) The Legislature finds and declares that:

(a) Community gardens provide significant health, educational, and social benefits to the general public, especially for those who reside in urban and suburban areas of this state;

(b) The community garden movement (i) continues to provide low-cost food that is fresh and nutritious for those who may be unable to readily afford fresh fruits and vegetables for themselves or their families, (ii) promotes public health and healthier individual lifestyles by encouraging better eating habits and increased physical activity by growing food, (iii) fosters the retention and expansion of open spaces, particularly in urban environments, (iv) enhances urban and suburban environmental quality and community beautification, (v) provides inexpensive community building activities, recreation, and physical exercise for all age groups, (vi) establishes a safe place for community involvement and helps to reduce the incidence of crime, (vii) engenders a closer relationship between urban residents, nature, and the local environment, and (viii) fosters green job training and ecological education at all levels; and

(c) It is the public policy of this state to promote and foster growth in the number of community gardens and the acreage of such gardens.

(2) It is the intent of the Legislature and the purpose of the Community Gardens Act to foster growth in the number, size, and scope of community gardens in this state by encouraging state agencies, municipalities, and private parties in their efforts to promote community gardens.

Sec. 13. For purposes of the Community Gardens Act:

(1) Community garden means public or private land upon which individuals have the opportunity to raise a garden on land which they do not themselves own;

(2) Garden means a piece or parcel of land appropriate for cultivation of herbs, fruits, flowers, nuts, honey, poultry for egg production, maple syrup, ornamental or vegetable plants, nursery products, or vegetables;

(3) Municipality means any county, village, or city or any office or agency of a county, village, or city;

(4) State agency means any department or other agency of the State of Nebraska;

(5) Use means to avail oneself of or to employ without conveyance of title gardens on vacant public land by any individual or organization; and

(6) Vacant public land means any land owned by the state or another governmental subdivision, including a municipality, that is not in use for a public purpose, is otherwise unoccupied, idle, or not being actively utilized for a period of at least six months, and is suitable for garden use.

Sec. 14. (1) A state agency or municipality having title to vacant public land may permit community organizations to use such lands for community garden purposes. Such use of vacant public land may be conditioned on the community organization having liability insurance and accepting liability for injury or damage resulting from use of the vacant public land for community garden purposes. State agencies and municipalities may adopt and promulgate rules, regulations, ordinances, or resolutions to establish an application process for a community garden. The applicant may include a request for access to a fire hydrant or other source of water owned or operated by the state agency or municipality or by a utility district in order to provide water to the community garden. The state agency, municipality, or utility district shall consider whether to supply the water to the applicant at a reduced or fixed rate.

(2) A state agency or municipality which receives an application pursuant to this section shall respond to the applicant within sixty days from the date on which the application is received and shall make a final determination within one hundred eighty days from such date.

Sec. 15. (1) The Director of Agriculture shall establish a community gardens task force on or before August 1, 2015, to identify and develop ways to encourage state agencies, municipalities, and individuals to establish and expand community gardens. The director shall designate a chairperson of the task force. The members of the task force shall be appointed by the director

and shall include no more than nine members. At least three of the members shall be representatives of nonprofit organizations involved with community gardens. The remaining members may include representation from appropriate state agencies, existing community gardens, counties, cities, towns, villages, utility districts, and school districts.

(2) The director may request the assistance of other state agencies to carry out the work of the task force.

(3) The goals of the task force may include, but are not limited to, the study, evaluation, and development of recommendations (a) to encourage the establishment and expansion of community gardens by state agencies, municipalities, and individuals, (b) to encourage cooperation between the activities and operations of community gardens and the provision of donated food to local voluntary food assistance programs for the poor and disadvantaged, and (c) to increase the benefits that community gardens may provide to the community in which they are located.

(4) In carrying out its duties under subsection (3) of this section, the task force may consider recommendations that (a) encourage the execution of conservation easements by state agencies, municipalities, or individuals to establish or protect community gardens, (b) encourage the donation or lease of lands for community gardens, (c) encourage development of model zoning codes, local land-use laws, or other municipal policies that could encourage the establishment or retention of community gardens, and (d) provide for any other activity to achieve the goals deemed appropriate by the task force.

(5) The task force shall issue a preliminary report to the Department of Agriculture and electronically to the Legislature no later than December 15, 2015, and shall issue a final report to the Department of Agriculture and electronically to the Legislature no later than December 15, 2016.

Sec. 16. Original sections 54-2801, 54-2802, 77-27,187.01, 77-27,188, 81-2,147.01, and 81-2,147.05, Reissue Revised Statutes of Nebraska, and section 77-27,187.02, Revised Statutes Cumulative Supplement, 2014, are repealed.

Sec. 17. Since an emergency exists, this act takes effect when passed and approved according to law.