

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB544

Hearing Date: Tuesday February 24, 2015
Committee On: Agriculture
Introducer: Harr
One Liner: Adopt the Community Gardens Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Bloomfield, Chambers, Harr, Johnson, Kolterman, Larson, Riepe, Schilz

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator Burke Harr
Jessica Kolterman
Elizabeth Goodman
David Mixdorf
Ingrid Kirst
Gus Von Roenn
Tim Rinne
Chris Foster
Laureen Riedesel
Michael Shambaugh-Miller, PhD
Kenneth Winston
Robert Bernt
John Hansen
Bill Hawkins

Representing:

Introducer
Nebraska Farm Bureau
Common Soil Seed Library
South Sioux City Public Library
Community Crops
Douglas County Nebraska Farmers Union
Nebraskans for Peace
Gifford Park Neighborhood Association
Beatrice Public Library
Society of St. Andrew
Nebraska Chapter of the Sierra Club
Self
Nebraska Farmers Union
Self

Opponents:

Mary Jane Truemper

Representing:

Self

Neutral:

Representing:

Summary of purpose and/or changes:

LB544 contains two distinct substantive elements. First, the bill seeks to exclude certain cooperative activities that facilitate seed saving and sharing, popularly referred to as seed libraries, from packaging and labeling regulations under the Commercial Seed Law. Secondly, the bill establishes the Community Gardens Act with the purpose of promoting the availability and utilization of idle public and private properties as gardening spaces available to the public and to study additional means to facilitate community gardens. Specifically, LB544 effects the following:

Section 1 of the bill inserts revisions to Sections 81-2,147.01 which defines terms utilized throughout the act. The

defined term sale is revised to confine the acts of barter and exchange encompassed within the term to include only barter and exchange in the ordinary course of business, and to expressly exclude various acts of seed transfer or distribution that are not commercial in nature. Section 1 also inserts a new defined term for seed library to mean a non-profit governmental or cooperative organization that facilitates donations of seeds for purpose of seed saving, education and free access to seeds.

Section 2 of the bill amends Sec 81-2,147.05. This section enumerates exclusions to the packaging and labeling standards that apply to commercial seeds as provided elsewhere in the Act. LB544 adds seed libraries as an additional exclusion.

Sections 3 through 7 of LB544 establish the Community Gardens Act as a named act with the following elements by section:

Section 4 articulates legislative intent and findings, generally describing societal benefits in community gardens and declaring legislative policy and intent to facilitate proliferation of community gardening projects.

Section 5 defines terms utilized throughout the act.

Section 6 authorizes state agencies or municipalities to permit use of vacant public properties for use as community gardens by community organizations. Agencies and municipalities are expressly authorized to condition utilization of public properties for that purpose upon the organizations accepting liability, to exercise rule making authority to define application procedures and requirements, to allow use of hydrants to supply water and to provide water service at reduced rates. Agencies or entities would have 60 days to respond to applications received and 120 days from receipt of application to make a final determination.

Section 7 assigns a duty to the Director of Agriculture to establish a community gardens task force on or before August 1, 2015 to develop additional means to expand community garden establishment, to encourage coordination with community food assistance programs, and to enhance the community benefits of community gardens. In the process of reaching recommendations in these areas, the task force is expressly authorized to consider recommendations relating to governmental interventions including conservation easements in public lands, acquisition of development rights, zoning and other land use planning, and other activities. A preliminary task force report would be provided no later than December 15, 2015 and a final report no later than December 15, 2016.

Explanation of amendments:

The committee amendment retains the purpose of LB544 to exempt seeds exchanged through seed library activities from labeling and content/quality verification provisions of Sections 81-2,147.02 and 81-2,147.03 of the Nebraska Seed Law but in a slightly different manner. The amendment would not alter the existing definition of sale but adds new text expressly providing that the term does not include exchanges of seeds within a seed library. The amendment further replaces the definition of seed library with a revised version that limits the term to mean an organization or activity providing for exchange of seeds of open pollinated, public domain plant varieties where seed possession, use, donation or exchange of seed is free of any charge or consideration.

Finally, the amendment strikes transfer of development rights as an element of recommendations that the task force is authorized to consider under Section 7.

Jerry Johnson, Chairperson