

ENGROSSED LEGISLATIVE BILL 948

Introduced by Agriculture Committee: DeKay, 40, Chairperson; Hansen, 16; Holdcroft, 36; Kauth, 31; McKeon, 41; Storm, 23.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-1091, 2-1091.02, 2-1095, 2-10,117, 2-2634, 2-3401, 2-4323, 2-4324, 49-1499.02, 81-201, 81-2,162.01, 81-2,162.02, 81-2,162.03, 81-2,162.04, 81-2,162.05, 81-2,162.06, 81-2,162.07, 81-2,162.11, 81-2,162.12, 81-2,162.13, 81-2,162.14, 81-2,162.15, 81-2,162.16, 81-2,162.17, 81-2,162.18, 81-2,162.20, 81-2,162.21, 81-2,162.22, 81-2,162.23, 81-2,162.25, 81-2,162.26, 81-2,162.27, and 81-2,162.28, Reissue Revised Statutes of Nebraska, and section 2-958, Revised Statutes Cumulative Supplement, 2024; to change provisions and fees under the Plant Protection and Plant Pest Act; to provide for the transfer of funds from the Nebraska Potato Development Fund; to change fees under the Pesticide Act; to change powers of the Department of Agriculture relating to the Weeds of the Great Plains book; to provide for the transfer of funds and the elimination of the Weed Book Cash Fund; to terminate the Nebraska Poultry and Egg Resources Act; to change the Nebraska Commercial Fertilizer and Soil Conditioner Act to the Nebraska Commercial Fertilizer and Beneficial Substances Act; to define and redefine terms; to provide for the use of beneficial substances; to change and provide provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act relating to registration of products, package labeling, fees, distribution, and manufacturing; to change the Fertilizers and Soil Conditioners Administrative Fund to the Fertilizers and Beneficial Substances Administrative Fund and change provisions relating to such fund; to eliminate references to soil conditioners; to eliminate provisions relating to certain agricultural associations or societies, certain qualifying organizations, the Nebraska Dairymen's Association, the State Horticultural Society, the Nebraska Livestock Feeders and Breeders Association, the Nebraska Home Economics

Association of Organized Agriculture, the Western Nebraska Organized Agriculture Association, the Nebraska Poultry Improvement Association, the Nebraska Potato Council, and certain appropriations authorization; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal sections 2-2801, 2-2802, 2-2803, 2-2804, 2-2805, 2-2806, 2-2807, 2-2809, 2-2810, 2-2811, 2-2812, and 81-201.05, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 2-958, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-958 (1) A noxious weed control fund may be established for each control authority, which fund shall be available for expenses authorized to be paid from such fund, including necessary expenses of the control authority in carrying out its duties and responsibilities under the Noxious Weed Control Act. The weed control superintendent within the county shall (a) ascertain and tabulate each year the approximate amount of land infested with noxious weeds and its location in the county, (b) ascertain and prepare all information required by the county board in the preparation of the county budget, including actual and expected revenue from all sources, cash balances, expenditures, amounts proposed to be expended during the year, and working capital, and (c) transmit such information tabulated by the control authority to the county board not later than June 1 of each year.

(2) The Noxious Weed Cash Fund is created. The fund shall consist of proceeds raised from fees imposed for the registration of pesticides and earmarked for the fund pursuant to section 2-2634, funds credited or transferred pursuant to sections 2-509, 2-518, and 81-201, any gifts, grants, or donations from any source, and any reimbursement funds for control work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount from the General Fund may be appropriated annually for the Noxious Weed Control Act. The fund shall be administered and used by the director to maintain the noxious weed

control program and for expenses directly related to the program.

(3) 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. 2. Section 2-1091, Reissue Revised Statutes of Nebraska, is amended to read:

2-1091 For the purpose of implementation or enforcement of the Plant Protection and Plant Pest Act or any rule or regulation, the department may:

(1) Enter at reasonable times and in a reasonable manner without being subject to any action for trespass or damages, if reasonable care is exercised, all property where plants are grown, packed, held prior to distribution, or distributed for the purpose of inspecting all plants, structures, vehicles, equipment, packing materials, containers, records, and labels on such property or otherwise implementing or enforcing the act. The department may inspect and examine all records and property relating to compliance with the act. Such records and property shall be made available to the department for review at all reasonable times;

(2) In a reasonable manner, hold for inspection and take samples of any plants and associated materials which may not be in compliance with the act;

(3) Inspect or reinspect at any time or place any plants that are in the state or being shipped into or through the state and treat, seize, destroy, require treatment or destruction of, or return to the state of origin any plants in order to inhibit or prevent the movement of plant pests throughout the state;

(4) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 from a court of record if any person refuses to allow the department to inspect pursuant to this section;

(5) Issue a written or printed withdrawal-from-distribution order and post signs to delineate sections not marked pursuant to subsection (3) of section 2-1095 or sections of distribution locations and to notify persons of any withdrawal-from-distribution order when the department has reasonable cause to

believe any lot of nursery stock is being distributed in violation of the act or any rule or regulation;

(6) Apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond;

(7) Issue a quarantine or establish a quarantine area;

(8) Cooperate and enter into agreements, including harmonization plans, with any person in order to carry out the purpose of the act;

(9) Establish a restricted plant pest list to prohibit the movement into the state of plant pests not known to occur in Nebraska and to prohibit the movement of those plant pests present in the state but known to be destructive to the plant industry;

(10) Issue European corn borer quarantine certificates, phytosanitary certificates, and export certificates on plants for individual shipment to other states or foreign countries if those plants comply with the requirements or regulations of such state or foreign country or issue quarantine compliance agreements or European corn borer quarantine certification licenses;

(11) Inspect plants that any person desires to ship into another state or country when such person has made an application to the department for such inspection. The inspection shall determine the presence of plant pests to determine the acceptance of the plants into other states or countries. The department may accept the inspections of laboratories authorized by the department or field inspectors of the department;

(12) Certify plants or property to meet the requirements of specific quarantines imposed on Nebraska or Nebraska plants. The quarantine certification requirements shall be set forth in the rules and regulations;

(13) Assess and collect fees set forth in section 2-1091.02 for inspections, services, or work performed in carrying out subdivisions (8) and

(10) through (12) of this section. Inspection time shall be determined based on any portion of a whole hour and shall include the driving to and from the location of the inspection in addition to the time spent conducting the inspection, and the mileage charge shall be for the purpose of inspection. Any fee charged to the department relating to such subdivisions shall be paid by the person requesting the inspection, services, or work. The department may, for purposes of administering such subdivisions, establish in rules and regulations inspection requirements, standards, and issuance, renewal, or revocation of licenses, certificates, or agreements necessitated by such subdivisions;

(14) Conduct continuing survey and detection programs on plant pests to monitor the population or spread of plant pests;

(15) Implement programs or plans to eradicate, manage, treat, or control plant pests;

(16) Issue, place on probation, suspend, or revoke licenses issued or agreements entered into pursuant to the act or deny applications for such licenses or agreements pursuant to the act; and

(17) Issue orders imposing administrative fines or cease and desist orders pursuant to the act.

Sec. 3. Section 2-1091.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-1091.02 (1) Fees under the Plant Protection and Plant Pest Act that are due on January 1, 2027, shall be the amount in column A of subsection (3) of this section.

(2) The license fees due January 1, 2028, and each January 1 thereafter shall be set by the director on or before July 1 of each year. The director may raise or lower such fees each year to meet the criteria in this subsection, but the fee shall not be greater than the amount in column B of subsection (3) of this section. The same percentage shall be applied to each category for all fee increases or decreases. The director shall use the fees in column A of subsection (3) of this section as a base for future fee increases or decreases.

The director shall determine the fees based on estimated annual revenue and fiscal year-end cash fund balances as follows:

(a) The estimated annual revenue shall not be greater than one hundred seven percent of program cash fund appropriations allocated for the Plant Protection and Plant Pest Act; and

(b) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of program cash fund appropriations allocated for the act.

(3) Fees.

Fees	A	B
Nursery stock distributor license as set forth in section 2-1091.01 for the first acre	\$140	\$180
Fee for additional acres	\$39 per acre	\$50 per acre
Inspection fees due under section 2-1091 or 2-1095	\$39 per hour \$0.70 per mile	\$50 per hour \$1.00 per mile
Phytosanitary or export certificates set forth in section 2-1091	\$60 per certificate	\$106 per certificate
European corn borer quarantine certification license set forth in section 2-1091	\$65 per license, annually	\$80 per license, annually
European corn borer certificate	\$25 for packet of 25	\$35 for packet of 25
Quarantine compliance agreements as set	\$65 per agreement,	\$80 per agreement,

forth in section 2-1091	annually	annually
-------------------------	----------	----------

(4) A person that is distributing without first obtaining a nursery stock distributor license shall pay an additional fee of twenty-five percent of the license fee that is due for each month that such person failed to obtain such license.

(5) Any fee remaining unpaid for more than one month shall be considered delinquent and the person owing the fee shall pay an additional administrative fee of twenty-five percent of the delinquent amount for each month it remains unpaid, not to exceed one hundred percent of the original amount due. The department may waive the additional administrative fee based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fee. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees, and all money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Plant Protection and Plant Pest Cash Fund.

Sec. 4. Section 2-1095, Reissue Revised Statutes of Nebraska, is amended to read:

2-1095 (1) All nursery stock distributors that distribute any nursery stock that they grow shall apply for a certification inspection of the Nebraska-grown nursery stock as provided in this section. The nursery stock distributor shall receive such certification inspection of the Nebraska-grown nursery stock as part of the nursery stock distributor license described in section 2-1091.01.

(2)(a) Applications for certification inspection of Nebraska-grown nursery stock that are due on January 1 pursuant to section 2-1091.01 and are not received prior to February 1 and initial applications not received prior to beginning of distribution shall be considered delinquent. Such applications shall be accompanied with the inspection fee that is set forth in section 2-1091.02.

(b) Inspection time shall be determined based on any portion of a whole hour and shall include the driving time to and from the location of the

inspection in addition to the time spent conducting the inspection, and the mileage charge shall be for the purpose of inspection.

(3) Each nursery stock distributor shall post signs delineating sections of all growing areas. A section shall be not larger than five acres.

(4) All growing areas within the state shall be inspected by the department at least once per year for certification and compliance with the Plant Protection and Plant Pest Act.

(5) Following the certification inspection of Nebraska-grown nursery stock, the department shall provide a copy of the plant inspection report to the nursery stock distributor specifying any area of the nursery from which nursery stock cannot be distributed or any plants which may not be distributed as nursery stock. When deemed necessary to maintain compliance with the purposes of the Plant Protection and Plant Pest Act, the department shall require the nursery stock distributor to withdraw from distribution any variety or amount of nursery stock. A reinspection may be conducted by the department at the nursery stock distributor's request and cost. The department may also reinspect to determine compliance with the act. To determine the cost of any reinspection, the department shall use fees as outlined in subsection (2) of this section. The nursery stock distributor shall comply with the recommendations of the department as to the treatment or destruction of nursery stock.

(6) The department may require the treatment or destruction of any nursery stock that is infested or infected with plant pests, nonviable, damaged, or desiccated to the point of not being reasonably capable of growth.

(7) Any nursery stock on which a withdrawal-from-distribution order has been issued shall be released for distribution only by authorized department employees or after written permission has been obtained from the department. Each nursery stock distributor shall promptly report to the department, in writing, the amount and type of plants treated or destroyed under requirements on withdrawal-from-distribution orders. The department may withhold a license or certification of Nebraska-grown nursery stock until conditions have been met

by the nursery stock distributor as specified in the plant inspection report or any other order issued by the department. A certification of Nebraska-grown stock may be issued covering portions of the nursery which are not infested or infected if the nursery stock distributor agrees to treat, destroy, or remove as specified by the department those plants found to be infested or infected.

Sec. 5. Section 2-10,117, Reissue Revised Statutes of Nebraska, is amended to read:

2-10,117 All money received from any source pursuant to the Plant Protection and Plant Pest Act shall be remitted by the department to the State Treasurer and by the State Treasurer credited to the Plant Protection and Plant Pest Cash Fund which is hereby created. The fund shall be used by the department to aid in defraying the expenses of administering 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. The State Treasurer shall transfer any money in the Nebraska Potato Development Fund upon the termination of such fund to the Plant Protection and Plant Pest Cash Fund.

Sec. 6. Section 2-2634, Reissue Revised Statutes of Nebraska, is amended to read:

2-2634 (1) As a condition to registration or renewal of registration as required by sections 2-2628 to 2-2633, an applicant shall pay to the department a fee of two hundred dollars for each pesticide to be registered, except that the fee may be increased or decreased by rules and regulations adopted and promulgated pursuant to the Pesticide Act. In no event shall such fee exceed two hundred fifty dollars for each pesticide to be registered.

(2) All fees collected under subsection (1) of this section shall be remitted to the State Treasurer for credit as follows:

(a) Fifty dollars of such fee to the Noxious Weed Cash Fund as provided in section 2-958;

(b) Fifty dollars of such fee to the Buffer Strip Incentive Fund as provided in section 2-5106;

(c) Fifty-five dollars of such fee to the Natural Resources Water Quality Fund; and

(d) The remainder of such fee to the Pesticide Administrative Cash Fund.

(3) If a person fails to apply for renewal of registration before January 1 of any year, such person, as a condition to renewal, shall pay a late registration fee equal to twenty-five percent of the fee due and owing per month, not to exceed one hundred percent, for each product to be renewed in addition to the renewal fee. The purpose of the late registration fee is to cover the administrative costs associated with collecting fees, and all money collected as a late registration fee shall be remitted to the State Treasurer for credit to the Pesticide Administrative Cash Fund.

Sec. 7. Section 2-3401, Reissue Revised Statutes of Nebraska, is amended to read:

2-3401 Sections 2-3401 to 2-3416 shall be known and may be cited as the Nebraska Poultry and Egg Resources Act. The Nebraska Poultry and Egg Resources Act terminates on December 31, 2027.

Sec. 8. Section 2-4323, Reissue Revised Statutes of Nebraska, is amended to read:

2-4323 (1) Every retailer licensee shall file, not later than the last day of January and July of each year, a semiannual tonnage report on forms provided by the department, setting forth the number of net tons of each agricultural liming material sold in Nebraska during the preceding six-month period, which report shall cover the periods from July 1 to December 31 and January 1 to June 30, and such other information as the director shall deem necessary. All persons required to be licensed pursuant to the Agricultural Liming Materials Act shall file such report regardless of whether any inspection fee is due. Upon filing the report, such person shall pay the inspection fee at the rate prescribed pursuant to this section. The inspection fee shall be at the rate fixed by the director but not exceeding ten cents per ton. The fee shall be set at an amount to cover the expenses of the inspection provided in section 2-4325 and the costs of administering this section. The minimum inspection fee

required pursuant to this section shall be five dollars, and no inspection fee shall be paid more than once for any one product. In the case of agricultural lime slurry, the fee shall be paid on the base lime material only.

(2) If a person fails to report and pay the fee required by subsection (1) of this section by January 31 and July 31, the fee shall be considered delinquent and the person owing the fee shall pay an additional administrative fee of twenty-five percent of the delinquent amount for each month it remains unpaid, not to exceed one hundred percent of the original amount due. The department may waive the additional administrative fee based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fee. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees, and all money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Fertilizers and Beneficial Substances Administrative Fund. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this subsection shall constitute sufficient cause for the cancellation of all product registrations or licenses on file for such person.

(3) The director shall annually make information available in such form as he or she may deem proper concerning the tons of agricultural liming material sold in this state. Such report shall in no way divulge the operation of any registrant or licensee.

Sec. 9. Section 2-4324, Reissue Revised Statutes of Nebraska, is amended to read:

2-4324 All fees paid to the department pursuant to the Agricultural Liming Materials Act shall be remitted to the State Treasurer for credit to the Fertilizers and Beneficial Substances Administrative Fund. All money credited to the fund shall be used by the department to aid in defraying expenses of administering the Agricultural Liming Materials Act and the Nebraska Commercial Fertilizer and Beneficial Substances Act.

Sec. 10. Section 49-1499.02, Reissue Revised Statutes of Nebraska, is

amended to read:

49-1499.02 (1) An official or employee of the executive branch of state government who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict; and

(b) Deliver a copy of the statement to the commission and to his or her immediate superior, if any, who shall assign the matter to another. If the immediate superior does not assign the matter to another or if there is no immediate superior, the official or employee shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.

(2) This section does not prevent such a person from (a) making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made or (b) making or participating in the making of a governmental decision if the potential conflict of interest is based upon a business association and the business association exists only as the result of his or her position on a commodity board. A person acting pursuant to subdivision (a) of this subsection shall report the occurrence to the commission.

(3) For purposes of this section, commodity board means only the following:

- (a) Corn Development, Utilization, and Marketing Board;
- (b) Nebraska Dairy Industry Development Board;
- (c) Grain Sorghum Development, Utilization, and Marketing Board;

- (d) Nebraska Wheat Development, Utilization, and Marketing Board;
- (e) Dry Bean Commission;
- (f) Nebraska Potato Development Committee;
- (g) Prior to January 1, 2028, Nebraska Poultry and Egg Development, Utilization, and Marketing Committee; and
- (h) Dry Pea and Lentil Commission.

Sec. 11. Section 81-201, Reissue Revised Statutes of Nebraska, is amended to read:

81-201 The Department of Agriculture may:

- (1) Encourage and promote, in every practicable manner, the interest of agriculture;
- (2) Promote methods of conducting the industry of agriculture with a view to increasing the production and facilitating the distribution thereof at the least cost;
- (3) Collect and publish statistics relating to the production and marketing of agricultural products, so far as such statistical information may be of value to the agricultural and allied interests of the state, and cooperate with the federal government in the matter of collecting and publishing such statistical information;
- (4) Distribute or dispose of any remaining Weeds of the Great Plains books and supplemental inserts thereto that are in the possession of the department. By January 1, 2027, the State Treasurer shall transfer all money in the Weed Book Cash Fund to the Noxious Weed Cash Fund. All money collected from the sale of the publications shall be remitted to the State Treasurer and credited to the Noxious Weed Cash Fund;
- (5) Inquire into the causes of contagious, infectious, and communicable diseases among domestic animals and the means for the prevention and cure of the same;
- (6) Execute and enforce all laws relating to matters within its jurisdiction and adopt necessary rules and regulations for the administration and enforcement of such laws;

(7) Employ special investigators who shall be appointed deputy state sheriffs by the Governor and who shall, upon qualifying for such office, possess all the powers which attach to such office, except that their powers and duties shall be restricted to the enforcement of the laws of the State of Nebraska within the jurisdiction of the Department of Agriculture;

(8) Perform laboratory testing services as provided in section 81-2,293;
and

(9) Enforce the Foreign-owned Real Estate National Security Act.

Sec. 12. Section 81-2,162.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.01 The Nebraska Commercial Fertilizer and Beneficial Substances Act shall be administered by the Director of Agriculture.

Sec. 13. Section 81-2,162.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.02 For purposes of the Nebraska Commercial Fertilizer and Beneficial Substances Act, unless the context otherwise requires:

(1) Beneficial substance means any claimed or advertised substance that can be demonstrated by scientific research to be beneficial to soil, media, or at least one species of plant. Beneficial substance:

(a) Includes any plant biostimulant, soil amendment, chemical or biological substance that is beneficial to any plant and growing environment of such plant; and

(b) Does not include any primary or secondary nutrient for plants, plant micronutrient, pesticide, unmanipulated animal or plant manure, or commercial fertilizer;

(2) Bulk means nonpackaged;

(3) Commercial fertilizer means any formula or product distributed for further distribution or ultimate use as a plant nutrient, intended to promote plant growth, containing one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication. The term commercial fertilizer shall not be deemed to include

unmanipulated animal and vegetable manures but shall be deemed to include both finished products and fertilizer ingredients capable of being used in the formulation of a finished product;

(4) Custom-blended product means any individually compounded commercial fertilizer or beneficial substance that is mixed, blended, offered for sale, or sold in Nebraska to a person's specifications, when such person is the ultimate consumer, if the ingredients used in such product which are subject to the registration requirements of section 81-2,162.03 have been so registered;

(5) Department means the Department of Agriculture;

(6) Director means the Director of Agriculture or his or her duly authorized agent;

(7) Distribute means to offer for sale, sell, barter, or otherwise supply commercial fertilizers or beneficial substances;

(8) Fineness means the percentage of weight of the material which will pass United States standard sieves of specified sizes;

(9) Grade means the percentage of total nitrogen, available phosphate, and soluble potash;

(10) Label means a display of written, printed, or other graphic matter upon the container in which a commercial fertilizer or beneficial substance is distributed, or a statement accompanying such product;

(11) Labeling means the label and all other written, printed, or graphic matter accompanying the commercial fertilizer or beneficial substance at any time or to which reference is made on the label;

(12) Microorganism means any microbiological organism or mixture of microbiological organisms that is intended to produce any physical, chemical, biochemical, or biological change, or any other change, in soil and is recognized by the Association of American Plant Food Control Officials in its official publication;

(13) Official sample means any sample of commercial fertilizer or beneficial substance taken by the director;

(14) Percent or percentage means the percentage by weight;

(15) Person includes individual, cooperative, partnership, limited liability company, association, firm, and corporation;

(16) Product means both commercial fertilizers and beneficial substances;

(17) Sell or sale includes exchange;

(18) Soil conditioner means any formula or product distributed, except unmanipulated animal and vegetable manures, which, when added to the soil, is intended to (a) change the physical condition of the soil or (b) produce a favorable growth, yield, or quality of crops or other soil characteristics but shall not mean a commercial fertilizer, a pesticide as defined in the Pesticide Act, or an agricultural liming material as defined in the Agricultural Liming Materials Act;

(19) Specialty product means a product for nonfarm use; and

(20) Ton means a net weight of two thousand pounds avoirdupois.

Sec. 14. Section 81-2,162.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.03 (1) Prior to January 1, 2027, each soil conditioner shall be registered before being distributed in this state. Beginning on and after January 1, 2027, all products shall be registered before being distributed in this state. The distributor who first causes the distribution of the product into or within this state shall be responsible for compliance with the product registration requirements of this section. The application for registration shall be submitted to the director on forms prescribed by the director and shall be accompanied by one copy of the labeling for such product and a fee of fifty dollars per product. If the product is approved by the director, the department shall notify the applicant of such approval. All registrations shall expire on December 31 of each year. The application shall include the following information:

(a) The name and principal address of the person registering the product;

(b) The name and principal address of the person guaranteeing the product, if different than the registrant;

(c) The name and principal address of the person manufacturing the

product, if different than the registrant;

(d) The name and principal address of the person whose name appears on the label, if different than the registrant;

(e) The name of the product, including any term, design, trademark, or chemical designation used in connection with the product; and

(f)(i) For beneficial substances, the percentage of every ingredient present; and

(ii) For commercial fertilizers, the percentage of every nutrient guarantee.

(2) Custom-blended products shall be exempt from the requirements of this section, except that such products shall bear a tag or invoice stating the name and principal address of the manufacturer, the name and address of the purchaser, and the net weight or measure and the composition of the product by weight or percentage of ingredients used, and a duplicate copy of such information shall be kept by the manufacturer for use by the department for sampling and inspection purposes. All ingredients shall be subject to the inspection fee requirements of section 81-2,162.06 except those ingredients brought to the manufacturer by the ultimate user for custom blending.

(3) A product shall not be required to be registered under this section when the director knows, or has reason to know, that such product is currently registered pursuant to this section. The director shall consider two or more products to be the same product only if the characteristics of the products described under subdivisions (b) through (f) of subsection (1) of this section are the same.

Sec. 15. Section 81-2,162.04, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.04 (1) Beginning on and after January 1, 2027, any packaged beneficial substance distributed in this state, except custom-blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously (a) the net weight or measure of the product, (b) the information required by subdivisions (1)(c) and (d) of section 81-2,162.03, (c) the total

percentage of all active ingredients in the beneficial substance, (d) the identification and percentage of each individual active ingredient, (e) the total percentage of the inactive ingredients, (f) the identification and percentage of each individual inactive ingredient which comprises more than two percent of the entire beneficial substance, (g) under a category entitled other inactive ingredients, the total percentage of the remaining inactive ingredients which individually do not comprise two percent or more of the beneficial substance, and (h) for any product that claims to contain any microorganism, the expiration date for use of the product and any required storage conditions for the product.

(2) If any beneficial substance is distributed in bulk, a written or printed statement of the weight and the information required by subdivisions (1)(c) and (d) of section 81-2,162.03 and by subdivisions (1)(c) through (h) of this section shall accompany delivery and be supplied to the purchaser.

(3) Whenever a beneficial substance is so comprised as to be recognized by a name commonly understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Notwithstanding any other provision of the Nebraska Commercial Fertilizer and Beneficial Substances Act, any beneficial substance that is also a pesticide, labeled in conformance with the Pesticide Act, shall be deemed to be labeled in conformance with the Nebraska Commercial Fertilizer and Beneficial Substances Act.

Sec. 16. Section 81-2,162.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.05 (1) Any packaged commercial fertilizer distributed in this state, except custom-blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously:

- (a) The net weight or measure of the product;
- (b) The name and principal address of the manufacturer or distributor;
- (c) The name of the product, including any term, design, trademark, or chemical designation used in connection with the product;

(d) The guaranteed analysis showing the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen.....percent
Ammoniacal Nitrogen
(Specialty products only).....percent
Nitrate Nitrogen
(Specialty products only).....percent
Water Insoluble Nitrogen
(Specialty products only).....percent
Available Phosphate (P205).....percent
Soluble Potash (K20).....percent

Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total available phosphate and the degree of fineness. Plant nutrients, other than nitrogen, phosphorus, and potassium, shall be guaranteed when present in significant quantities as determined by the director. Such guarantees shall be expressed in elemental form. The director may also request that the sources of such nutrients be included on the label;

(e) The sources from which the nitrogen, available phosphate (P205), and potash (K20) are derived; and

(f) The grade stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis, except as follows:

(i) Specialty products may be guaranteed in fractional units of less than one percent of the total nitrogen, available phosphate, and soluble potash; and

(ii) The director may allow types of fertilizer materials, bone meal, or manures to be guaranteed in fractional units.

(2) If distributed in bulk, a written or printed statement of the information required by subdivisions (a), (b), (c), and (d) of subsection (1) of this section shall accompany delivery and be supplied to the purchaser.

(3) Whenever a commercial fertilizer is so comprised as to be recognized by a name commonly understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Custom-blended products shall bear a tag or invoice stating the name and principal address of the manufacturer, the name and address of the purchaser, and the net weight or measure and the composition of the product by weight or percentage of ingredients used. A duplicate copy of such information shall be kept by the manufacturer for use by the department for sampling and inspection purposes.

Sec. 17. Section 81-2,162.06, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.06 (1)(a) An inspection fee shall be paid to the director at the rate fixed by the director but not exceeding fifteen cents per ton for:

(i) Prior to January 1, 2027, commercial fertilizers and soil conditioners; and

(ii) Beginning on and after January 1, 2027, commercial fertilizers and beneficial substances.

(b) Such inspection fee shall be paid by the person distributing the product to the ultimate user.

(2) The director may increase or decrease the inspection fee each July 1, but such fee shall not exceed the maximum rate established in subsection (1) of this section. The director shall determine the fee based on the estimated annual revenue and fiscal year-end fund balance determined as follows:

(a) The estimated annual revenue shall not be greater than one hundred seven percent of the program cash fund appropriations allocated for the Nebraska Commercial Fertilizer and Beneficial Substances Act; and

(b) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of the program cash fund appropriations allocated for the Nebraska Commercial Fertilizer and Beneficial Substances Act.

(3) Payment of the inspection fee shall be evidenced by a statement made with documents showing that fees corresponding to the tonnage were received by the director.

(4)(a) Prior to January 1, 2027, every person who distributes any commercial fertilizer or soil conditioners to the ultimate user in this state

shall file, not later than July 31, 2026, and December 31, 2026, a semiannual tonnage report on forms provided by the department setting forth the number of net tons of commercial fertilizer and beneficial substances distributed in this state during the preceding six-month period, and such other information as the director shall deem necessary.

(b) Beginning on and after January 1, 2027, any person who distributes any commercial fertilizer or beneficial substance to the ultimate user in this state shall file, not later than July 31, 2027, and each July 31 thereafter, and January 31, 2028, and January 31 of each year thereafter, a semiannual tonnage report on forms provided by the department setting forth the number of net tons of commercial fertilizer and beneficial substances distributed in this state during the preceding six-month period and such other information as the director deems necessary.

(c) All persons required to be licensed pursuant to the Nebraska Commercial Fertilizer and Beneficial Substances Act shall file such report regardless of whether any inspection fee is due. Upon filing the report, such person shall pay the inspection fee at the rate prescribed pursuant to subsection (1) of this section. The minimum inspection fee required pursuant to this section shall be ten dollars, and no inspection fee shall be paid more than once for any one product.

(5) If a person fails to report and pay the fee required by subsection (4) of this section by January 31 and July 31, the fee shall be considered delinquent and the person owing the fee shall pay an additional administrative fee of twenty-five percent of the delinquent amount for each month it remains unpaid, not to exceed one hundred percent of the original amount due. The department may waive the additional administrative fee based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fee. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees and all money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Fertilizers and Beneficial Substances

Administrative Fund. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this subsection shall constitute sufficient cause for the cancellation of all product registrations, licenses, or both on file for such person.

(6) No information furnished to the department under this section shall be disclosed in such a way as to reveal the operation of any person.

Sec. 18. Section 81-2,162.07, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.07 (1) To enforce the Nebraska Commercial Fertilizer and Beneficial Substances Act or the rules and regulations adopted pursuant to the act, the director may:

(a) For purposes of inspection, enter any location, vehicle, or both in which commercial fertilizer or beneficial substance is manufactured, processed, packed, transported, or held for distribution during normal business hours, except that in the event that any such location or vehicle is not open to the public, the director shall present his or her credentials and obtain consent before making entry to such location or vehicle unless a search warrant has previously been obtained. Credentials shall not be required for each entry made during the period covered by the inspection. The person in charge of the location or vehicle shall be notified of the completion of the inspection. If the owner of such location or vehicle or his or her agent refuses to admit the director to inspect pursuant to this section, the director may obtain a search warrant from a court of competent jurisdiction directing such owner or agent to submit the location, vehicle, or both as described in such search warrant to inspection;

(b) Inspect any location or vehicle described in this subsection, all pertinent equipment, finished and unfinished materials, containers and labeling, all records, books, papers, and documents relating to the distribution and production of commercial fertilizers and beneficial substances, and other information necessary for the enforcement of the act;

(c) Obtain samples of commercial fertilizers and beneficial substances.

The owner, operator, or agent in charge shall be given a receipt describing the samples obtained; and

(d) Make analyses of and test samples obtained pursuant to subdivision (c) of this subsection to determine whether such commercial fertilizers and beneficial substances are in compliance with the act.

For purposes of this subsection, location shall include a factory, warehouse, or establishment.

(2) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International or in accordance with other generally recognized methods.

(3) The director, in determining for administrative purposes whether any product is deficient in plant nutrients, shall be guided solely by the official sample obtained and analyzed as provided for in subsection (2) of this section.

(4) The results of official analysis of any official sample shall be forwarded by the director to the person named on the label when the official sample is not in compliance with the act or the rules and regulations adopted pursuant to the act. Upon request made within ninety days of the analysis, the director shall furnish to the person named on the label a portion of the official sample. Following expiration of the ninety-day period, the director may dispose of such sample.

Sec. 19. Section 81-2,162.11, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.11 The director shall annually make available, in such form as he or she may deem proper, information concerning the sales of commercial fertilizers and beneficial substances and a report of the results of the analysis based on official samples of commercial fertilizers and beneficial substances distributed within the state as compared with the analyses guaranteed under the provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act.

Sec. 20. Section 81-2,162.12, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.12 For the enforcement of the Nebraska Commercial Fertilizer and Beneficial Substances Act, the director is authorized to prescribe rules and regulations, after public hearing following due public notice, relating to the distribution of commercial fertilizers and beneficial substances as he or she may find necessary to carry into effect the full intent and meaning of the act.

Sec. 21. Section 81-2,162.13, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.13 The director is authorized and empowered to cancel the registration or license of any person manufacturing or distributing any commercial fertilizer or beneficial substance or to refuse to register any beneficial substance upon satisfactory evidence that the registrant, licensee, or guarantor has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act or any rules and regulations promulgated thereunder. No license or registration shall be revoked or refused until the registrant, licensee, or guarantor has been given the opportunity to appear for a hearing before the director.

Sec. 22. Section 81-2,162.14, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.14 The director may issue and enforce a written or printed stop-sale, stop-use, or removal order to the owner or custodian of any lot of commercial fertilizer or beneficial substance and may require the owner or custodian to hold any lot at a designated place when the director has reason to believe the product is being offered or exposed for sale in violation of any of the provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act until the law has been complied with and such product is released in writing by the director or the violation has been otherwise legally disposed of by written authority. The director shall release the product so withdrawn when the requirements of the act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

Sec. 23. Section 81-2,162.15, Reissue Revised Statutes of Nebraska, is

amended to read:

81-2,162.15 Any lot of commercial fertilizer or beneficial substance not in compliance with the provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which such product is located. In the event the court finds such product to be in violation of the provisions of such act and orders the condemnation of such product, it shall be disposed of in any manner consistent with the quality of the product and the laws of the state. In no instance shall the disposition of such product be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such product or for permission to process or relabel such product to bring it into compliance with the provisions of the act.

Sec. 24. Section 81-2,162.16, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.16 If it shall appear from the examination of any commercial fertilizer or beneficial substance that any of the provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act or the rules and regulations issued thereunder have been violated, the director shall cause notice of the violations to be given to the person from whom the sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the director. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of the act or rules and regulations issued thereunder have been violated, the director may certify the facts to the county attorney of the county in which the violation occurred or to the Attorney General, as the case may be.

Sec. 25. Section 81-2,162.17, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.17 Any person violating any provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act or the rules and regulations issued

thereunder, or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the director in the performance of his or her duty pursuant to the act, shall be guilty of a Class II misdemeanor.

Sec. 26. Section 81-2,162.18, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.18 Nothing in the Nebraska Commercial Fertilizer and Beneficial Substances Act shall be construed as requiring the director to report for prosecution or for the institution of seizure proceedings for minor violations of such act when he or she believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 27. Section 81-2,162.20, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.20 The director is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of the Nebraska Commercial Fertilizer and Beneficial Substances Act, or any rules or regulations promulgated under the act, notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

Sec. 28. Section 81-2,162.21, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.21 Nothing in the Nebraska Commercial Fertilizer and Beneficial Substances Act shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or beneficial substances to each other by importers, manufacturers, or manipulators who mix commercial fertilizers or beneficial substances for sale or as preventing the free and unrestricted shipments of commercial fertilizers and beneficial substances to manufacturers or manipulators who have met the provisions of the act.

Sec. 29. Section 81-2,162.22, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.22 Sections 81-2,162.01 to 81-2,162.28 shall be known and may be cited as the Nebraska Commercial Fertilizer and Beneficial Substances Act.

Sec. 30. Section 81-2,162.23, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.23 (1) No person shall manufacture or distribute any commercial fertilizer or beneficial substance in this state unless such person holds a valid license for each facility in this state where such person manufactures or distributes such commercial fertilizer or beneficial substance. Any out-of-state manufacturer or distributor who has no distribution facility within this state shall obtain a license for his or her principal out-of-state office if he or she markets or distributes any commercial fertilizer or beneficial substance in the State of Nebraska.

(2) An applicant for a license shall make application to the department on forms furnished by the department. Application forms shall be submitted to the department accompanied by an annual license fee of twenty-five dollars. Licenses shall be renewed on or before January 1 of each year.

(3) A copy of the valid license shall be posted in a conspicuous place in each manufacturing or distribution facility.

(4) Persons distributing custom-blended products shall maintain records of purchase orders received for custom-blended products from the date such orders are received until such products are distributed, which records shall be sufficient to show the product ordered, date of such order, purchaser, and quantity of product ordered.

(5) The provisions of this section shall not apply to any retail store which sells or offers for sale less than a five-ton volume of commercial fertilizer or beneficial substances annually.

Sec. 31. Section 81-2,162.25, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.25 No person shall distribute any misbranded commercial fertilizer or beneficial substance. A commercial fertilizer or beneficial substance shall be deemed to be misbranded if:

(1) Its labeling is false or misleading in any particular;

(2) It is distributed under the name of another commercial fertilizer or

beneficial substance;

(3) It is not labeled as required by the Nebraska Commercial Fertilizer and Beneficial Substances Act or the rules and regulations adopted and promulgated under the act;

(4) It purports to be or is represented as a commercial fertilizer or beneficial substance or as containing an ingredient, for which a definition of identity or standard of quality has been prescribed by rules and regulations adopted and promulgated by the department, unless it conforms to such definition and standard; or

(5) Any word, statement, or other information required by the act or the rules and regulations adopted and promulgated under the act to appear on the label is not prominently displayed with such conspicuousness, as compared with other words, statements, designs, or devices, on the label, and in such terms as to render it likely to be read and understood by an individual under customary conditions of purchase and use.

Sec. 32. Section 81-2,162.26, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.26 No person shall distribute any adulterated commercial fertilizer or beneficial substance. A commercial fertilizer or beneficial substance shall be deemed to be adulterated if:

(1) It contains any toxic materials, other than pesticides registered pursuant to law, in quantities injurious to plant or animal health;

(2) Any valuable constituent has been in whole or in part omitted or subtracted therefrom or any less valuable substance substituted therefor;

(3) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its label;

(4) Warning statements or directions for use, as prescribed by the director to be shown on the label, are not displayed thereon; or

(5) It contains amounts of crop seed, weed seed, or other foreign materials in excess of tolerances as may be adopted and promulgated by rules and regulations of the department.

Sec. 33. Section 81-2,162.27, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.27 (1) All money received under the Nebraska Commercial Fertilizer and Beneficial Substances Act and the Agricultural Liming Materials Act shall be remitted to the State Treasurer for credit to the Fertilizers and Beneficial Substances Administrative Fund.

(2) The Fertilizers and Beneficial Substances Administrative Fund is created. Money in the fund shall be used by the department for defraying the expenses of administering the Nebraska Commercial Fertilizer and Beneficial Substances Act, the Agricultural Liming Materials Act, and any other plant health program that is administered by the department. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

(3) Any unexpended balance in the Fertilizers and Beneficial Substances Administrative Fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium. 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. 34. Section 81-2,162.28, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,162.28 The Nebraska Commercial Fertilizer and Beneficial Substances Act and any rules and regulations adopted and promulgated thereunder shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of any fertilizer or beneficial substance. No political subdivision shall prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of any fertilizer or beneficial substance. No political subdivision shall prohibit or in any other manner regulate any matter relating to the storage, transportation, distribution, notification of use, or use that is in addition to or in conflict with the Nebraska Commercial Fertilizer and Beneficial Substances Act and any rules and regulations adopted and promulgated

thereunder. Nothing in this section shall be construed to preempt or otherwise limit the authority of any city or county to adopt and enforce zoning regulations or any natural resources district to enforce the Nebraska Ground Water Management and Protection Act.

Sec. 35. Original sections 2-1091, 2-1091.02, 2-1095, 2-10,117, 2-2634, 2-3401, 2-4323, 2-4324, 49-1499.02, 81-201, 81-2,162.01, 81-2,162.02, 81-2,162.03, 81-2,162.04, 81-2,162.05, 81-2,162.06, 81-2,162.07, 81-2,162.11, 81-2,162.12, 81-2,162.13, 81-2,162.14, 81-2,162.15, 81-2,162.16, 81-2,162.17, 81-2,162.18, 81-2,162.20, 81-2,162.21, 81-2,162.22, 81-2,162.23, 81-2,162.25, 81-2,162.26, 81-2,162.27, and 81-2,162.28, Reissue Revised Statutes of Nebraska, and section 2-958, Revised Statutes Cumulative Supplement, 2024, are repealed.

Sec. 36. The following sections are outright repealed: Sections 2-2801, 2-2802, 2-2803, 2-2804, 2-2805, 2-2806, 2-2807, 2-2809, 2-2810, 2-2811, 2-2812, and 81-201.05, Reissue Revised Statutes of Nebraska.

Sec. 37. Since an emergency exists, this act takes effect when passed and approved according to law.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 948 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR