

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 948

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

Read first time January 09, 2026

Committee: Agriculture

1 A BILL FOR AN ACT relating to agriculture; to amend sections 2-3413,
2 2-4323, 2-4324, 81-2,162.01, 81-2,162.02, 81-2,162.03, 81-2,162.04,
3 81-2,162.05, 81-2,162.06, 81-2,162.07, 81-2,162.11, 81-2,162.12,
4 81-2,162.13, 81-2,162.14, 81-2,162.15, 81-2,162.16, 81-2,162.17,
5 81-2,162.18, 81-2,162.20, 81-2,162.21, 81-2,162.22, 81-2,162.23,
6 81-2,162.25, 81-2,162.26, 81-2,162.27, and 81-2,162.28, Reissue
7 Revised Statutes of Nebraska; to provide for the transfer of funds
8 from and the termination of the Nebraska Poultry and Egg
9 Development, Utilization, and Marketing Fund; to change the Nebraska
10 Commercial Fertilizer and Soil Conditioner Act to the Nebraska
11 Commercial Fertilizer and Beneficial Substances Act; to define and
12 redefine terms; to provide for the use of beneficial substances; to
13 change and provide provisions of the Nebraska Commercial Fertilizer
14 and Beneficial Substances Act relating to registration of products,
15 package labeling, fees, enforcement, prohibitions, and preemption of
16 local law; to change the Fertilizers and Soil Conditioners
17 Administrative Fund to the Fertilizers and Beneficial Substances
18 Administrative Fund and change provisions relating to such fund; to
19 eliminate references to soil conditioners; to eliminate provisions
20 relating to certain agricultural associations or societies, certain
21 qualifying organizations, the Nebraska Dairymen's Association, the
22 State Horticultural Society, the Nebraska Livestock Feeders and

1 Breeders Association, the Nebraska Home Economics Association of
2 Organized Agriculture, the Western Nebraska Organized Agriculture
3 Association, the Nebraska Poultry Improvement Association, and
4 certain appropriations authorization; to eliminate the Nebraska
5 Poultry and Egg Resources Act; to eliminate obsolete provisions; to
6 harmonize provisions; to repeal the original sections; and to
7 outright repeal sections 2-2801, 2-2802, 2-2803, 2-2804, 2-2805,
8 2-2806, 2-2807, 2-2809, 2-2810, 2-2812, 2-3401, 2-3402, 2-3403,
9 2-3404, 2-3405, 2-3406, 2-3407, 2-3408, 2-3409, 2-3410, 2-3411,
10 2-3412, 2-3414, 2-3415, and 2-3416, Reissue Revised Statutes of
11 Nebraska.

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

1 **Section 1.** Section 2-3413, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 2-3413 (1) The State Treasurer is hereby directed to establish in
4 the treasury of the State of Nebraska a fund to be known as the Nebraska
5 Poultry and Egg Development, Utilization, and Marketing Fund, to which
6 shall be credited all fees collected by the department pursuant to the
7 Nebraska Poultry and Egg Resources Act. After appropriation, the Director
8 of Administrative Services shall, upon receipt of proper vouchers
9 approved by the director, issue warrants on such fund including refund
10 payments authorized by section 2-3409 and the State Treasurer shall pay
11 the warrants out of the money credited to such fund. Any money in the
12 fund available for investment shall be invested by the state investment
13 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
14 State Funds Investment Act.

15 (2) The department may accept grants, contributions, or other funds
16 from any private or federal, state, or other public source to be used to
17 administer the Nebraska Poultry and Egg Resources Act and to conduct
18 programs under such act.

19 (3) On or before December 31, 2026, the State Treasurer shall
20 transfer all money in the Nebraska Poultry and Egg Development,
21 Utilization, and Marketing Fund to the Nebraska Agricultural Products
22 Marketing Cash Fund.

23 (4) This section terminates on January 1, 2027.

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

26 2-4323 (1) Every retailer licensee shall file, not later than the
27 last day of January and July of each year, a semiannual tonnage report on
28 forms provided by the department, setting forth the number of net tons of
29 each agricultural liming material sold in Nebraska during the preceding
30 six-month period, which report shall cover the periods from July 1 to
31 December 31 and January 1 to June 30, and such other information as the

1 director shall deem necessary. All persons required to be licensed
2 pursuant to the Agricultural Liming Materials Act shall file such report
3 regardless of whether any inspection fee is due. Upon filing the report,
4 such person shall pay the inspection fee at the rate prescribed pursuant
5 to this section. The inspection fee shall be at the rate fixed by the
6 director but not exceeding ten cents per ton. The fee shall be set at an
7 amount to cover the expenses of the inspection provided in section 2-4325
8 and the costs of administering this section. The minimum inspection fee
9 required pursuant to this section shall be five dollars, and no
10 inspection fee shall be paid more than once for any one product. In the
11 case of agricultural lime slurry, the fee shall be paid on the base lime
12 material only.

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

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

1 the operation of any registrant or licensee.

2 **Sec. 3.** Section 2-4324, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 2-4324 All fees paid to the department pursuant to the Agricultural
5 Liming Materials Act shall be remitted to the State Treasurer for credit
6 to the Fertilizers and Beneficial Substances Soil Conditioners
7 Administrative Fund. All money credited to the fund shall be used by the
8 department to aid in defraying expenses of administering the Agricultural
9 Liming Materials Act and the Nebraska Commercial Fertilizer and
10 Beneficial Substances Soil Conditioner Act.

11 **Sec. 4.** Section 81-2,162.01, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 81-2,162.01 The Nebraska Commercial Fertilizer and Beneficial
14 Substances Soil Conditioner Act shall be administered by the Director of
15 Agriculture.

16 **Sec. 5.** Section 81-2,162.02, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-2,162.02 For purposes of the Nebraska Commercial Fertilizer and
19 Beneficial Substances Soil Conditioner Act, unless the context otherwise
20 requires:

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

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

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

30 (2) (1) Director means the Director of Agriculture or his or her
31 duly authorized agent;

1 (3) (2) Department means the Department of Agriculture;
2 (4) (3) Commercial fertilizer means any formula or product
3 distributed for further distribution or ultimate use as a plant nutrient,
4 intended to promote plant growth, containing one or more plant nutrients
5 recognized by the Association of American Plant Food Control Officials in
6 its official publication. The term commercial fertilizer shall not be
7 deemed to include unmanipulated animal and vegetable manures but shall be
8 deemed to include both finished products and fertilizer ingredients
9 capable of being used in the formulation of a finished product;

10 (5) (4) Bulk means nonpackaged;

11 (6) (5) Custom-blended product means any individually compounded
12 commercial fertilizer or beneficial substance that is soil conditioner
13 mixed, blended, offered for sale, or sold in Nebraska to a person's
14 specifications, when such person is the ultimate consumer, if the
15 ingredients used in such product which are subject to the registration
16 requirements of section 81-2,162.03 have been so registered;

17 (7) (6) Distribute means to offer for sale, sell, barter, or
18 otherwise supply commercial fertilizers or beneficial substances soil
19 conditioners;

20 (8) (7) Fineness means the percentage of weight of the material
21 which will pass United States standard sieves of specified sizes;

22 (9) (8) Grade means the percentage of total nitrogen, available
23 phosphate, and soluble potash;

24 (10) (9) Label means a display of written, printed, or other graphic
25 matter upon the container in which a commercial fertilizer or beneficial
26 substance soil conditioner is distributed, or a statement accompanying
27 such product;

28 (11) (10) Labeling means the label and all other written, printed,
29 or graphic matter accompanying the commercial fertilizer or beneficial
30 substance soil conditioner at any time or to which reference is made on
31 the label;

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

6 (13) (11) Official sample means any sample of commercial fertilizer
7 or beneficial substance soil conditioner taken by the director or his or
8 her agent;

9 (14) (12) Product means both commercial fertilizers and beneficial
10 substances soil conditioners;

11 (15) (13) Ton means a net weight of two thousand pounds avoirdupois;

12 (16) (14) Percent or percentage means the percentage by weight;

13 (17) (15) Person includes individual, cooperative, partnership,
14 limited liability company, association, firm, and corporation;

15 (18) (16) Sell or sale includes exchange; and

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

23 (19) (18) Specialty product means a product for nonfarm use.

24 **Sec. 6.** Section 81-2,162.03, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 81-2,162.03 (1) All products Each soil conditioner shall be
27 registered before being distributed in this state. The distributor who
28 first causes the distribution of the product into or within this state
29 shall be responsible for compliance with the product registration
30 requirements of this section. The application for registration shall be
31 submitted to the director on forms prescribed furnished by the director

1 and shall be accompanied by one copy ~~two copies~~ of the labeling for such
2 product and a fee of fifty dollars per product. If the product is
3 approved by the director, the department shall notify the applicant of
4 such approval. Upon approval by the director, a copy of the registration
5 shall be furnished to the applicant. All registrations shall expire on
6 December 31 of each year. The application shall include the following
7 information:

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

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

12 (c) The name and principal address of the person manufacturing the
13 product, if different than the registrant;

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

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

18 (f)(i) For beneficial substances, the (f) The percentage of every
19 ingredient present; and in each soil conditioner.

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

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

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

7 **Sec. 7.** Section 81-2,162.04, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-2,162.04 (1) Any packaged beneficial substance soil conditioner
10 distributed in this state, except custom-blended products, shall have
11 placed on or affixed to the package a label stating clearly and
12 conspicuously (a) the net weight or measure of the product, (b) the
13 information required by subdivisions (1)(c) and (d) of section
14 81-2,162.03, (c) the total percentage of all active ingredients in the
15 beneficial substance soil conditioner, (d) the identification and
16 percentage of each individual active ingredient, (e) the total percentage
17 of the inactive ingredients, (f) the identification and percentage of
18 each individual inactive ingredient which comprises more than two percent
19 of the entire beneficial substance soil conditioner, and (g) under a
20 category entitled other inactive ingredients, the total percentage of the
21 remaining inactive ingredients which individually do not comprise two
22 percent or more of the beneficial substance, and (h) for any product that
23 claims to contain any microorganism, the expiration date for use of the
24 product and any required storage conditions for the product soil
25 conditioner.

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

31 (3) Whenever a beneficial substance soil conditioner is so comprised

1 as to be recognized by a name commonly understood by ordinary
2 individuals, such name shall be prominently and conspicuously displayed
3 on the label.

4 (4) Notwithstanding any other provision of the Nebraska Commercial
5 Fertilizer and Beneficial Substances ~~Soil Conditioner~~ Act, any beneficial
6 substance that ~~soil conditioner~~ which is also a pesticide, labeled in
7 conformance with the Pesticide Act, shall be deemed to be labeled in
8 conformance with the Nebraska Commercial Fertilizer and Beneficial
9 Substances ~~Soil Conditioner~~ Act.

10 **Sec. 8.** Section 81-2,162.05, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 81-2,162.05 (1) Any packaged commercial fertilizer distributed in
13 this state, except custom-blended products, shall have placed on or
14 affixed to the package a label stating clearly and conspicuously:

15 (a) The net weight or measure of the product;

16 (b) The name and principal address of the manufacturer or
17 distributor;

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

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

22 Total Nitrogen.....percent

23 Ammoniacal Nitrogen

24 (Specialty products only).....percent

25 Nitrate Nitrogen

26 (Specialty products only).....percent

27 Water Insoluble Nitrogen

28 (Specialty products only).....percent

29 Available Phosphate (P2O5).....percent

30 Soluble Potash (K2O).....percent

31 Unacidulated mineral phosphatic materials and basic slag shall be

1 guaranteed as to both total available phosphate and the degree of
2 fineness. Plant nutrients, other than nitrogen, phosphorus, and
3 potassium, shall be guaranteed when present in significant quantities as
4 determined by the director. Such, which guarantees shall be expressed in
5 elemental form. The director may also request that the sources of such
6 nutrients be included on the label. ~~Other beneficial substances,~~
7 ~~determinable by chemical methods, may be guaranteed only by permission of~~
8 ~~the director by and with the advice of the University of Nebraska~~
9 ~~Institute of Agriculture and Natural Resources;~~

10 (e) The sources from which the nitrogen, available phosphate (P2O5),
11 and potash (K2O) are derived; and

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

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

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

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

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

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

1 **Sec. 9.** Section 81-2,162.06, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-2,162.06 (1) There shall be paid to the director, for all
4 commercial fertilizers and beneficial substances ~~soil conditioners~~
5 distributed in this state to the ultimate user, except custom-blended
6 products, an inspection fee at the rate fixed by the director but not
7 exceeding fifteen cents per ton. The fee shall be paid by the person
8 distributing the product to the ultimate user.

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

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

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

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

25 (4) Every person who distributes any commercial fertilizer or
26 beneficial substance ~~soil conditioners~~ to the ultimate user in this state
27 shall file, not later than the last day of January and July of each year,
28 a semiannual tonnage report on forms provided by the department setting
29 forth the number of net tons of commercial fertilizer and beneficial
30 substances ~~soil conditioners~~ distributed in this state during the
31 preceding six-month period, which report shall cover the periods from

1 July 1 to December 31 and January 1 to June 30, and such other
2 information as the director shall deem necessary. All persons required to
3 be licensed pursuant to the Nebraska Commercial Fertilizer and Beneficial
4 Substances Soil Conditioner Act shall file such report regardless of
5 whether any inspection fee is due. Upon filing the report, such person
6 shall pay the inspection fee at the rate prescribed pursuant to
7 subsection (1) of this section. The minimum inspection fee required
8 pursuant to this section shall be ten ~~five~~ dollars, and no inspection fee
9 shall be paid more than once for any one product.

10 (5) If a person fails to report and pay the fee required by
11 subsection (4) of this section by January 31 and July 31, the fee shall
12 be considered delinquent and the person owing the fee shall pay an
13 additional administrative fee of twenty-five percent of the delinquent
14 amount for each month it remains unpaid, not to exceed one hundred
15 percent of the original amount due. The department may waive the
16 additional administrative fee based upon the existence and extent of any
17 mitigating circumstances that have resulted in the late payment of such
18 fee. The purpose of the additional administrative fee is to cover the
19 administrative costs associated with collecting fees and all money
20 collected as an additional administrative fee shall be remitted to the
21 State Treasurer for credit to the Fertilizers and Beneficial Substances
22 Soil Conditioners Administrative Fund. Failure to make an accurate
23 statement of tonnage or to pay the inspection fee or comply as provided
24 in this subsection shall constitute sufficient cause for the cancellation
25 of all product registrations, licenses, or both on file for such person.

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

29 **Sec. 10.** Section 81-2,162.07, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 81-2,162.07 (1) To enforce the Nebraska Commercial Fertilizer and

1 Beneficial Substances Soil Conditioner Act or the rules and regulations
2 adopted pursuant to the act, the director may:

3 (a) For purposes of inspection, enter any location, vehicle, or both
4 in which commercial fertilizer or beneficial substance is fertilizers and
5 ~~soil conditioners~~ are manufactured, processed, packed, transported, or
6 held for distribution during normal business hours, except that in the
7 event that any such location or vehicle is such locations and vehicles
8 are not open to the public, the director shall present his or her
9 credentials and obtain consent before making entry to such location or
10 vehicle ~~thereto~~ unless a search warrant has previously been obtained.
11 Credentials shall not be required for each entry made during the period
12 covered by the inspection. The person in charge of the location or
13 vehicle shall be notified of the completion of the inspection. If the
14 owner of such location or vehicle or his or her agent refuses to admit
15 the director to inspect pursuant to this section, the director may obtain
16 a search warrant from a court of competent jurisdiction directing such
17 owner or agent to submit the location, vehicle, or both as described in
18 such search warrant to inspection;

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

25 (c) Obtain samples of commercial fertilizers and beneficial
26 substances ~~soil conditioners~~. The owner, operator, or agent in charge
27 shall be given a receipt describing the samples obtained; and

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

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

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

6 (3) The director, in determining for administrative purposes whether
7 any product is deficient in plant nutrients, shall be guided solely by
8 the official sample as defined in subdivision (11) of section 81-2,162.02
9 and obtained and analyzed as provided for in subsection (2) of this
10 section.

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

18 **Sec. 11.** Section 81-2,162.11, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 81-2,162.11 The director shall annually make available, in such form
21 as he or she may deem proper, information concerning the sales of
22 commercial fertilizers and beneficial substances ~~soil conditioners~~ and a
23 report of the results of the analysis based on official samples of
24 commercial fertilizers and beneficial substances ~~soil conditioners~~
25 distributed within the state as compared with the analyses guaranteed
26 under the provisions of the Nebraska Commercial Fertilizer and Beneficial
27 Substances Soil Conditioner Act.

28 **Sec. 12.** Section 81-2,162.12, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-2,162.12 For the enforcement of the Nebraska Commercial
31 Fertilizer and Beneficial Substances Soil Conditioner Act, the director

1 is authorized to prescribe rules and regulations, after public hearing
2 following due public notice, relating to the distribution of commercial
3 fertilizers and beneficial substances ~~soil conditioners~~ as he or she may
4 find necessary to carry into effect the full intent and meaning of the
5 act.

6 **Sec. 13.** Section 81-2,162.13, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 81-2,162.13 The director is authorized and empowered to cancel the
9 registration or license of any person manufacturing or distributing any
10 commercial fertilizer or beneficial substance ~~soil conditioner~~ or to
11 refuse to register any beneficial substance ~~soil conditioner~~ upon
12 satisfactory evidence that the registrant, licensee, or guarantor has
13 used fraudulent or deceptive practices in the evasions or attempted
14 evasions of the provisions of the Nebraska Commercial Fertilizer and
15 Beneficial Substances ~~Soil Conditioner~~ Act or any rules and regulations
16 promulgated thereunder. No license or registration shall be revoked or
17 refused until the registrant, licensee, or guarantor has been given the
18 opportunity to appear for a hearing before the director.

19 **Sec. 14.** Section 81-2,162.14, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 81-2,162.14 The director may issue and enforce a written or printed
22 stop-sale, stop-use, or removal order to the owner or custodian of any
23 lot of commercial fertilizer or beneficial substance ~~soil conditioner~~ and
24 may require the owner or custodian to hold any lot at a designated place
25 when the director has reason to believe the product is being offered or
26 exposed for sale in violation of any of the provisions of the Nebraska
27 Commercial Fertilizer and Beneficial Substances ~~Soil Conditioner~~ Act
28 until the law has been complied with and such product is released in
29 writing by the director or the violation has been otherwise legally
30 disposed of by written authority. The director shall release the product
31 so withdrawn when the requirements of the act have been complied with and

1 all costs and expenses incurred in connection with the withdrawal have
2 been paid.

3 **Sec. 15.** Section 81-2,162.15, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 81-2,162.15 Any lot of commercial fertilizer or beneficial substance
6 ~~soil conditioner~~ not in compliance with the provisions of the Nebraska
7 Commercial Fertilizer and Beneficial Substances Soil Conditioner Act
8 shall be subject to seizure on complaint of the director to a court of
9 competent jurisdiction in the area in which such product is located. In
10 the event the court finds such product to be in violation of the
11 provisions of such act and orders the condemnation of such product, it
12 shall be disposed of in any manner consistent with the quality of the
13 product and the laws of the state. In no instance shall the disposition
14 of such product be ordered by the court without first giving the claimant
15 an opportunity to apply to the court for release of such product or for
16 permission to process or relabel such product to bring it into compliance
17 with the provisions of the act.

18 **Sec. 16.** Section 81-2,162.16, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 81-2,162.16 If it shall appear from the examination of any
21 commercial fertilizer or beneficial substance ~~soil conditioner~~ that any
22 of the provisions of the Nebraska Commercial Fertilizer and Beneficial
23 Substances Soil Conditioner Act or the rules and regulations issued
24 thereunder have been violated, the director shall cause notice of the
25 violations to be given to the person from whom the sample was taken. Any
26 person so notified shall be given opportunity to be heard under such
27 rules and regulations as may be prescribed by the director. If it appears
28 after such hearing, either in the presence or absence of the person so
29 notified, that any of the provisions of the act or rules and regulations
30 issued thereunder have been violated, the director may certify the facts
31 to the county attorney of the county in which the violation occurred or

1 to the Attorney General, as the case may be.

2 **Sec. 17.** Section 81-2,162.17, Reissue Revised Statutes of Nebraska,
3 is amended to read:

4 81-2,162.17 Any person violating any provisions of the Nebraska
5 Commercial Fertilizer and Beneficial Substances Soil Conditioner Act or
6 the rules and regulations issued thereunder, or who shall impede,
7 obstruct, hinder, or otherwise prevent or attempt to prevent the director
8 in the performance of his or her duty pursuant to the act, shall be
9 guilty of a Class II misdemeanor.

10 **Sec. 18.** Section 81-2,162.18, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 81-2,162.18 Nothing in the Nebraska Commercial Fertilizer and
13 Beneficial Substances Soil Conditioner Act shall be construed as
14 requiring the director to report for prosecution or for the institution
15 of seizure proceedings for minor violations of such act when he or she
16 believes that the public interest will be best served by a suitable
17 notice of warning in writing.

18 **Sec. 19.** Section 81-2,162.20, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 81-2,162.20 The director is hereby authorized to apply for and the
21 court to grant a temporary or permanent injunction restraining any person
22 from violating or continuing to violate any of the provisions of the
23 Nebraska Commercial Fertilizer and Beneficial Substances Soil Conditioner
24 Act, or any rules or regulations promulgated under the act,
25 notwithstanding the existence of other remedies at law. The injunction
26 shall be issued without bond.

27 **Sec. 20.** Section 81-2,162.21, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 81-2,162.21 Nothing in the Nebraska Commercial Fertilizer and
30 Beneficial Substances Soil Conditioner Act shall be construed to restrict
31 or avoid sales or exchanges of commercial fertilizers or beneficial

1 substances soil conditioners to each other by importers, manufacturers,
2 or manipulators who mix commercial fertilizers or beneficial substances
3 soil conditioners for sale or as preventing the free and unrestricted
4 shipments of commercial fertilizers and beneficial substances soil
5 conditioners to manufacturers or manipulators who have met the provisions
6 of the act.

7 **Sec. 21.** Section 81-2,162.22, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-2,162.22 Sections 81-2,162.01 to 81-2,162.28 shall be known and
10 may be cited as the Nebraska Commercial Fertilizer and Beneficial
11 Substances Soil Conditioner Act.

12 **Sec. 22.** Section 81-2,162.23, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 81-2,162.23 (1) No person shall manufacture or distribute any
15 commercial fertilizer or beneficial substance fertilizers or soil
16 conditioners in this state unless such person holds a valid license for
17 each manufacturing and distribution facility in this state where such
18 person manufactures or distributes such commercial fertilizer or
19 beneficial substance. Any out-of-state manufacturer or distributor who
20 has no distribution facility within this state shall obtain a license for
21 his or her principal out-of-state office if he or she markets or
22 distributes any commercial fertilizer or beneficial substance soil
23 conditioners in the State of Nebraska.

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

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

31 (4) Persons distributing custom-blended products shall maintain

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

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

9 **Sec. 23.** Section 81-2,162.25, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 81-2,162.25 No person shall distribute any misbranded commercial
12 fertilizer or beneficial substance fertilizers or soil conditioners. A
13 commercial fertilizer or beneficial substance soil conditioner shall be
14 deemed to be misbranded if:

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

16 (2) It is distributed under the name of another commercial
17 fertilizer or beneficial substance soil conditioner;

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

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

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

1 **Sec. 24.** Section 81-2,162.26, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-2,162.26 No person shall distribute any adulterated commercial
4 fertilizer or beneficial substance fertilizers or soil conditioners. A
5 commercial fertilizer or beneficial substance soil conditioner shall be
6 deemed to be adulterated if:

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

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

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

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

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

19 **Sec. 25.** Section 81-2,162.27, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 81-2,162.27 (1) All money received under the Nebraska Commercial
22 Fertilizer and Beneficial Substances Soil Conditioner Act and the
23 Agricultural Liming Materials Act shall be remitted to the State
24 Treasurer for credit to the Fertilizers and Beneficial Substances Soil
25 Conditioners Administrative Fund.

26 (2) The Fertilizers and Beneficial Substances Administrative Fund –
27 which fund is hereby created. Money in the fund so received shall be used
28 by the department for defraying the expenses of administering the
29 Nebraska Commercial Fertilizer and Beneficial Substances Soil Conditioner
30 Act, and the Agricultural Liming Materials Act, and any other plant
31 health program that is administered by the department. The fund may also

1 be used to defray costs incurred by the department directly related to
2 administrative and budgetary support of the Healthy Soils Task Force
3 pursuant to sections 2-401 to 2-404, except that no more than ten
4 thousand dollars may be expended by the department from the fund for such
5 purpose. Transfers may be made from the fund to the General Fund at the
6 direction of the Legislature. The State Treasurer shall transfer two
7 hundred seventy five thousand dollars from the Fertilizers and Soil
8 Conditioners Administrative Fund to the General Fund on or before June
9 30, 2019, on such dates and in such amounts as directed by the budget
10 administrator of the budget division of the Department of Administrative
11 Services.

12 (3) (2) Any unexpended balance in the Fertilizers and Beneficial
13 Substances Soil Conditioners Administrative Fund at the close of any
14 biennium shall, when reappropriated, be available for the uses and
15 purposes of the fund for the succeeding biennium. Any money in the fund
16 available for investment shall be invested by the state investment
17 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
18 State Funds Investment Act.

19 **Sec. 26.** Section 81-2,162.28, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 81-2,162.28 The Nebraska Commercial Fertilizer and Beneficial
22 Substances Soil Conditioner Act and any rules and regulations adopted and
23 promulgated thereunder shall supersede and preempt any ordinance, rule,
24 regulation, or resolution enacted by any political subdivision of the
25 state regarding the regulation of any fertilizer or beneficial substance
26 and soil conditioners. No political subdivision shall prohibit or in any
27 other manner regulate any matter relating to the registration, labeling,
28 or sale of any fertilizer or beneficial substance and soil conditioners.
29 No political subdivision shall prohibit or in any other manner regulate
30 any matter relating to the storage, transportation, distribution,
31 notification of use, or use that is in addition to or in conflict with

1 the Nebraska Commercial Fertilizer and Beneficial Substances Soil
2 ~~Conditioner~~ Act and any rules and regulations adopted and promulgated
3 thereunder. Nothing in this section shall be construed to preempt or
4 otherwise limit the authority of any city or county to adopt and enforce
5 zoning regulations or any natural resources district to enforce the
6 Nebraska Ground Water Management and Protection Act.

7 **Sec. 27.** Original sections 2-3413, 2-4323, 2-4324, 81-2,162.01,
8 81-2,162.02, 81-2,162.03, 81-2,162.04, 81-2,162.05, 81-2,162.06,
9 81-2,162.07, 81-2,162.11, 81-2,162.12, 81-2,162.13, 81-2,162.14,
10 81-2,162.15, 81-2,162.16, 81-2,162.17, 81-2,162.18, 81-2,162.20,
11 81-2,162.21, 81-2,162.22, 81-2,162.23, 81-2,162.25, 81-2,162.26,
12 81-2,162.27, and 81-2,162.28, Reissue Revised Statutes of Nebraska, are
13 repealed.

14 **Sec. 28.** The following sections are outright repealed: Sections
15 2-2801, 2-2802, 2-2803, 2-2804, 2-2805, 2-2806, 2-2807, 2-2809, 2-2810,
16 2-2812, 2-3401, 2-3402, 2-3403, 2-3404, 2-3405, 2-3406, 2-3407, 2-3408,
17 2-3409, 2-3410, 2-3411, 2-3412, 2-3414, 2-3415, and 2-3416, Reissue
18 Revised Statutes of Nebraska.