

AMENDMENTS TO LB657

Introduced by Agriculture.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 19 of this act shall be known and may be
4 cited as the Nebraska Hemp Farming Act.

5 Sec. 2. It is the policy of this state that hemp is recognized as a
6 viable agricultural crop. The purpose of the Nebraska Hemp Farming Act is
7 to:

8 (1) Align state law with federal law regarding the cultivation,
9 handling, marketing, and processing of hemp and hemp products;

10 (2) Promote the cultivation and processing of hemp and open up new
11 commercial markets for farmers and businesses through the sale of hemp
12 products;

13 (3) Establish testing and compliance procedures;

14 (4) Promote the expansion of Nebraska's hemp industry to the maximum
15 extent permitted by law and allow farmers and businesses to cultivate,
16 handle, and process hemp and sell hemp products for commercial purposes;

17 (5) Encourage and empower research into hemp cultivation and the
18 processing of hemp products at postsecondary institutions in the state
19 and in the private sector; and

20 (6) Return Nebraska to the forefront of the hemp industry.

21 Sec. 3. For purposes of the Nebraska Hemp Farming Act:

22 (1) Broker means a person who engages or participates in the
23 marketing of hemp by acting as an intermediary or negotiator between
24 prospective buyers and sellers;

25 (2) Commercial sale means the sale of products in the stream of
26 commerce, at retail, wholesale, and online;

27 (3) Commission means the Nebraska Hemp Commission;

1 (4) Cultivate or cultivating means planting, watering, growing, and
2 harvesting a hemp plant or crop;

3 (5) Cultivator means a person who cultivates hemp;

4 (6) Department means the Department of Agriculture;

5 (7) Director means the Director of Agriculture or his or her
6 designee;

7 (8) Federally defined THC level for hemp means a delta-9
8 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry
9 weight basis as defined in section 10113 of the federal Agriculture
10 Improvement Act of 2018, Public Law 115-334, as such section existed on
11 January 1, 2019;

12 (9) GPS coordinates means latitude and longitude coordinates derived
13 from a global positioning system;

14 (10) Handle or handling means possessing or storing hemp plants for
15 any period of time on premises owned, operated, or controlled by a person
16 licensed to cultivate or process hemp. Handle or handling also includes
17 possessing or storing hemp plants in a vehicle for any period of time
18 other than during its actual transport from the premises of a person
19 licensed to cultivate or process hemp to the premises of another licensed
20 person. Handle or handling does not include possessing or storing
21 finished hemp products;

22 (11) Hemp means the plant Cannabis sativa L. and any part of such
23 plant, including the viable seeds of such plant and all derivatives,
24 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
25 whether growing or not, with a delta-9 tetrahydrocannabinol concentration
26 of not more than 0.3 percent on a dry weight basis. Hemp shall be
27 considered an agricultural commodity;

28 (12) Hemp products means all products with the federally defined THC
29 level for hemp derived from, or made by, processing hemp plants or plant
30 parts that are prepared in a form available for commercial sale,
31 including, but not limited to, cosmetics, personal care products, food

1 intended for animal or human consumption, cloth, cordage, fiber, fuel,
2 paint, paper, particleboard, plastics, or any product containing one or
3 more hemp-derived cannabinoids, such as cannabidiol;

4 (13) Licensee means an individual or a business entity possessing a
5 license issued by the department under the Nebraska Hemp Farming Act to
6 cultivate, handle, process, or broker hemp;

7 (14) Location ID means the unique identifier established by a
8 licensee for each unique set of GPS coordinates where hemp is cultivated,
9 handled, or processed;

10 (15) Nebraska heirloom cannabis plant or seed means a plant or seed
11 from the plant Cannabis sativa L. that possesses characteristics of a
12 unique and specialized cannabis seed variety that is present in Nebraska
13 or has been recognized as produced in Nebraska;

14 (16) Person means an individual, partnership, corporation, limited
15 liability company, association, post-secondary institution, or other
16 legal entity;

17 (17) Postsecondary institution means a postsecondary institution as
18 defined in section 85-2403 that also meets the requirements of 20 U.S.C.
19 1001, as such section existed on January 1, 2019;

20 (18) Process or processing means converting hemp into a marketable
21 form;

22 (19) Processor-handler means a person who handles or processes hemp;

23 (20) Site means an area defined by the same legal description in a
24 field, greenhouse, or other outdoor area or indoor structure;

25 (21) Testing facility means a testing facility approved by the
26 department; and

27 (22) THC means tetrahydrocannabinol. Notwithstanding any other
28 provision of law, the federally defined THC level that is found in hemp
29 or hemp products shall not be considered a controlled substance under the
30 Uniform Controlled Substance Act.

31 Sec. 4. (1) Notwithstanding any other provision of law, it shall be

1 lawful for a licensee or his or her employee or agent to cultivate,
2 handle, process, or broker hemp in Nebraska, to transport hemp outside of
3 Nebraska, and to possess, transport, sell, and purchase lawfully produced
4 hemp products, except that nothing in the Nebraska Hemp Farming Act
5 authorizes any person to violate any state or federal law or regulation.
6 The department shall establish, operate, and administer a program to
7 license and regulate cultivators, processor-handlers, and brokers that
8 meets the requirements of section 10113 of the federal Agricultural
9 Improvement Act of 2018, Public Law 115-334, as such section existed on
10 January 1, 2019, and the Nebraska Hemp Farming Act. Nebraska heirloom
11 cannabis plant or seed not being cultivated for commercial purposes is
12 not subject to the Nebraska Hemp Farming Act.

13 (2) The department may adopt and promulgate rules and regulations to
14 implement the Nebraska Hemp Farming Act and administer programs,
15 including, but not limited to, the following:

16 (a) Practices to maintain relevant information regarding land where
17 hemp is cultivated, handled, or processed in the state, including a legal
18 description of such land, for a period of not less than three calendar
19 years;

20 (b) Procedures governing the sampling, chain of custody, and testing
21 of hemp cultivated, handled, or processed in the state;

22 (c) Procedures for the effective destruction of plants cultivated,
23 handled, or processed in violation of the Nebraska Hemp Farming Act and
24 hemp products from those plants;

25 (d) Procedures implementing enforcement provisions outlined in the
26 Nebraska Hemp Farming Act, including factors to be considered when
27 issuing administrative fines;

28 (e) A procedure for conducting, at a minimum, annual inspections of
29 a random sample of hemp cultivators to verify that hemp is not cultivated
30 in violation of the Nebraska Hemp Farming Act or the state plan as
31 described in section 16 of this act;

1 (f) A procedure for submitting required information to the United
2 States Secretary of Agriculture not more than thirty days after the
3 information is received; and

4 (g) Any other standard, practice, or procedure required by the
5 Nebraska Hemp Farming Act.

6 Sec. 5. (1) Hemp may only be cultivated by a person meeting the
7 requirements of section 2-5701 or in compliance with this section.

8 (2) Before a person may be licensed to cultivate hemp, such person
9 shall submit an application on a form prescribed by the department that
10 includes, but is not limited to, the following:

11 (a) If the applicant is an individual, the applicant's full name,
12 birthdate, mailing address, telephone number, and valid email address;

13 (b) If the applicant is an entity and not an individual, the name of
14 the applicant, mailing address, telephone number, and valid email
15 address, the full name of each officer, director, partner, member, or
16 owner owning in excess of ten percent of equity or stock in such entity,
17 and the birthdate, title, mailing address, telephone number, and valid
18 email address of each such person;

19 (c) The proposed acreage to be cultivated or the square footage of a
20 greenhouse or other indoor space to be cultivated;

21 (d) The street address, legal description, location ID, and GPS
22 coordinates for each field, greenhouse, building, or other site where
23 hemp will be cultivated. The site information may be verified by the
24 department; and

25 (e) Maps depicting each site where hemp will be cultivated, with
26 appropriate indications for entrances, field boundaries, and specific
27 locations corresponding to the GPS coordinates provided under subdivision
28 (d) of this subsection.

29 (3) Before a person may be licensed to cultivate hemp, such person
30 shall submit with the application a non-refundable application fee as set
31 by the department pursuant to section 8 of this act.

1 (4) Before a person may be licensed to cultivate hemp, such person
2 shall submit with the application a site registration fee as set by the
3 department pursuant to section 8 of this act. The site registration fee
4 shall be paid for each separate site where the applicant will cultivate
5 hemp. Subsequent modifications to the sites listed in the application
6 shall be submitted on forms prescribed by the department along with a
7 site modification fee and shall only take effect upon written approval of
8 the department. The applicant must certify that all sites where hemp is
9 to be cultivated are under the control of the applicant and that the
10 department shall have unlimited access to all such sites.

11 (5) After the department receives approval by the United States
12 Secretary of Agriculture for the state plan described in section 16 of
13 this act, an initial cultivator license application may be submitted at
14 any time, except that the department may set a cut-off date for
15 applications ahead of the growing season. An initial cultivator license
16 issued by the department expires on December 31 in the calendar year for
17 which it was issued.

18 (6) A renewal application for a license to cultivate hemp shall be
19 submitted on forms prescribed by the department. A renewal application is
20 due by December 31 and shall be accompanied by the cultivator license fee
21 and the site registration fee for all sites listed in the renewal
22 application. The renewal cultivator license is valid from January 1 or
23 when the license is granted, whichever is later, through December 31 next
24 following.

25 (7) A cultivator license shall lapse automatically upon a change of
26 ownership or location, and a new license must be obtained. The licensee
27 shall promptly provide notice of change in ownership or location to the
28 department.

29 (8) An application and supporting documents submitted to the
30 department under this section are not public records subject to
31 disclosure pursuant to sections 84-712 to 85-712.09. Such information may

1 be submitted to the United States Department of Agriculture pursuant to
2 the requirements of section 10113 of the federal Agricultural Improvement
3 Act of 2018, Public Law 115-334, as such section existed on January 1,
4 2019, or any other federal statute, rule, or regulation, and may be
5 submitted to law enforcement.

6 Sec. 6. (1) Except for approved testing facilities, a person shall
7 not process, handle, or broker hemp in this state unless the person meets
8 the requirements of section 2-5701 or is in compliance with this section
9 and licensed as a processor-handler or broker under the Nebraska Hemp
10 Farming Act.

11 (2) Before a person other than an approved testing facility may be
12 licensed to process, handle, or broker hemp in this state, such person
13 shall submit an application on a form prescribed by the department that
14 includes, but is not limited to, the following:

15 (a) If the applicant is an individual, the applicant's full name,
16 birthdate, mailing address, telephone number, and valid email address;

17 (b) If the applicant is an entity and not an individual, the name of
18 the applicant, mailing address, telephone number, and valid email
19 address, the full name of each officer and director, partner, member, or
20 owner owning in excess of ten percent of equity or stock in such entity,
21 and the birthdate, title, mailing address, telephone number, and valid
22 email address of each such person;

23 (c) The street address, legal description, location ID, and GPS
24 coordinates for the site where hemp will be processed or handled, if
25 applicable; and

26 (d) Maps depicting the site where hemp will be processed or handled,
27 if applicable, with appropriate indications for entrances and specific
28 locations corresponding to the GPS coordinates provided under subdivision
29 (c) of this subsection.

30 (3) Before a person other than an approved testing facility may be
31 licensed to process, handle, or broker hemp, such person shall submit

1 with the application a nonrefundable application fee as set by the
2 department pursuant to section 8 of this act.

3 (4) Before a person other than an approved testing facility may be
4 licensed to process or handle hemp, such person shall submit with the
5 application a nonrefundable site registration fee as set by the
6 department pursuant to section 8 of this act. The site registration fee
7 shall be paid for each separate site where hemp is processed or handled.
8 Subsequent modifications to the sites listed in the application shall be
9 submitted on forms prescribed by the department along with the site
10 modification fee and shall only take effect upon written approval of the
11 department. The applicant must certify that all sites where hemp is to be
12 processed or handled are under the control of the applicant and that the
13 department shall have unlimited access to all such sites.

14 (5) After the department receives approval by the United States
15 Secretary of Agriculture for the state plan submitted pursuant to section
16 16 of this act, an initial processor-handler or broker license
17 application may be submitted at any time. An initial processor-handler or
18 broker license issued by the department expires on December 31 in the
19 calendar year for which it was issued.

20 (6) A renewal application for a processor-handler or broker license
21 shall be submitted on forms prescribed by the department. A renewal
22 application is due by December 31 and shall be accompanied by the
23 processor-handler or broker license fee and, if applicable, the site
24 registration fee for all sites listed in the renewal application. The
25 renewal processor-handler or broker license is valid from January 1 or
26 when the license is granted, whichever is later, through December 31 next
27 following.

28 (7) A processor-handler or broker license shall lapse automatically
29 upon a change of ownership or location, and a new license must be
30 obtained. The licensee shall promptly provide notice of change in
31 ownership or location to the department.

1 (8) A processor-handler licensee who also brokers hemp shall not be
2 required to also obtain a broker license under this section.

3 (9) An application and supporting documents submitted to the
4 department under this section are not public records subject to
5 disclosure pursuant to sections 84-712 to 85-712.09. Such information may
6 be submitted to the United States Department of Agriculture pursuant to
7 the requirements of section 10113 of the federal Agricultural Improvement
8 Act of 2018, Public Law 115-334, as such section existed on January 1,
9 2019, or any other federal statute, rule, or regulation, and may be
10 submitted to law enforcement.

11 Sec. 7. (1) The department may adopt and promulgate rules and
12 regulations governing the approval and denial of cultivator, processor-
13 handler, and broker license applications. Such applications shall be
14 denied if they are incomplete or deficient, or if the applicant does not
15 meet minimum qualifications, including, but not limited to:

16 (a) The applicant, if an individual, is at least eighteen years of
17 age;

18 (b) The site registered by the applicant is located in this state;

19 (c) The applicant has no unpaid fees or fines owed to the state
20 under the Nebraska Hemp Farming Act;

21 (d) The applicant has not had a cultivator, processor-handler, or
22 broker license revoked in the five years preceding the date of
23 application; or

24 (e) Any individual listed in the application for a cultivator,
25 processor-handler, or broker license has not been convicted of a felony
26 related to a controlled substance under either state or federal law
27 within the preceding ten years.

28 (2) If an application is incomplete or deficient, the department
29 shall, in a timely manner, notify the applicant in writing describing the
30 reason or reasons and request additional information. If such application
31 is not corrected or supplemented within thirty days of the department's

1 request, the department shall deny the application.

2 (3) Any person who materially falsifies any information contained in
3 an application under the Nebraska Hemp Farming Act shall be ineligible to
4 obtain a license to operate as a cultivator, processor-handler, or broker
5 for five years.

6 (4) A person aggrieved by the denial of a license may request a
7 hearing pursuant to section 13 of this act.

8 Sec. 8. (1) License fees under the Nebraska Hemp Farming Act are
9 due on or before December 31 and shall be in the amount listed in column
10 A of subsection (2) of this section. The fees due on or before December
11 31, 2019, and by each December 31 thereafter shall be set by the director
12 on or before July 1 of each year. The director may raise or lower such
13 fees each year to meet the criteria in this subsection, but the fee shall
14 not be greater than the amount in column B of subsection (2) of this
15 section. The same percentage shall be applied to each category for all
16 fee increases or decreases. The director shall use the fees in column A
17 of subsection (2) of this section as a base for future fee increases or
18 decreases. The director shall determine the fees based on estimated
19 annual revenue and fiscal year-end cash fund balances as follows:

20 (a) The estimated annual revenue shall not be greater than one
21 hundred seven percent of program cash fund appropriations allocated for
22 the Nebraska Hemp Farming Act; and

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

26 (2) Fees.

<u>Fees</u>	<u>A</u>	<u>B</u>
<u>Cultivator, processor-handler, and</u>		
<u>broker license application fee</u>	<u>\$100</u>	<u>\$150</u>
<u>Cultivator site registration fee</u>	<u>\$400 per site</u>	<u>\$600 per site</u>

1	<u>Processor-handler site</u>		
2	<u>registration fee</u>	<u>\$800 per site</u>	<u>\$1,200 per site</u>
3	<u>Site modification fee</u>	<u>\$50</u>	<u>\$75</u>

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

15 Sec. 9. The Nebraska Hemp Program Fund is established. The fund
16 shall be administered by the department for the purpose of covering the
17 costs of the department in administering the Nebraska Hemp Farming Act.
18 The fund may receive appropriations by the Legislature, gifts, grants,
19 federal funds, and any other funds both public and private. All fees
20 collected by the department under section 8 of this act shall be remitted
21 to the State Treasurer for credit to the fund. Any money in the fund
22 available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act.

25 Sec. 10. (1) A cultivator, processor-handler, or broker consents to
26 all of the following:

27 (a) A background check for any felony controlled substance charge in
28 the ten years prior to the time of application completed by the
29 department or a law enforcement agency at the direction of the
30 department, at any time, for all of the individuals listed on the

1 cultivator's, processor-handler's, or broker's application at the
2 applicant's expense, which shall be in addition to the application and
3 registration fees;

4 (b) Entry onto, and inspection of, all registered sites by the
5 department or by persons at the direction of the department, with or
6 without cause, and with reasonable advance notice;

7 (c) Testing of samples of any hemp or hemp material;

8 (d) Destruction of any of the following:

9 (i) Hemp found to have a measured delta-9 tetrahydrocannabinol
10 concentration greater than that allowed by the Nebraska Hemp Farming Act;

11 (ii) Hemp intended for commercial purposes that is present at a
12 location not included in a cultivator's or processor-handler's
13 application; and

14 (iii) Hemp that is cultivated, processed, handled, or brokered in a
15 manner that violates the Nebraska Hemp Farming Act or the rules and
16 regulations adopted and promulgated thereunder; and

17 (e) Inspections by the department, at least annually, of cultivators
18 and processor-handlers to verify that hemp is not produced in violation
19 of the Nebraska Hemp Farming Act.

20 (2) A cultivator, processor-handler, or broker acknowledges that all
21 risk of financial loss under the Nebraska Hemp Farming Act is borne by
22 such person. No compensation shall be paid by the department or the State
23 of Nebraska for destruction of any hemp under this section.

24 Sec. 11. (1) Upon a determination by the director of any
25 unintentional violation of the Nebraska Hemp Farming Act, a state plan as
26 described in section 16 of this act approved by the United States
27 Department of Agriculture, any rules and regulations adopted and
28 promulgated under the act, a corrective action plan issued pursuant to
29 this section, or an order of the director, the director may:

30 (a) Issue an order specifying the provisions of the act, state plan,
31 rule or regulation, corrective action plan, or order alleged to be

1 violated and the facts alleged to constitute a violation;

2 (b) Issue a cease and desist order to the violator; and

3 (c) Issue an order for a corrective action plan in accordance with
4 this section.

5 (2) Any person who commits a violation under this section shall not
6 be subject to any additional criminal enforcement by state or local
7 government authorities other than authorized under this section.

8 (3) Any person who unintentionally violates the Nebraska Hemp
9 Farming Act, a state plan as described in section 16 of this act approved
10 by the United States Department of Agriculture, any rules and regulations
11 adopted and promulgated under the act, a corrective action plan issued
12 pursuant to this section, or an order of the director three times in a
13 five-year period shall be ineligible to obtain a license to cultivate,
14 handle, process, or broker hemp for a period of five years beginning on
15 the date of the third violation.

16 (4) If the director orders issuance of a corrective action plan,
17 such plan may include:

18 (a) A reasonable date by which the licensee shall correct the
19 unintentional violation;

20 (b) A requirement that the licensee shall periodically report to the
21 department on the compliance of the licensee with the corrective action
22 plan for a period of not less than the next two calendar years;

23 (c) An administrative fine of up to five hundred dollars per day;
24 and

25 (d) Temporary suspension of a license to operate as a cultivator,
26 processor-handler, or broker.

27 (5) Upon violation of a corrective action plan, the director may
28 issue an amended corrective action plan.

29 (6) A person aggrieved by an order of the director may request a
30 hearing pursuant to section 13 of this act.

31 (7) The director shall advise the Attorney General of the failure of

1 any person to pay an administrative fine imposed under this section. The
2 Attorney General shall bring an action in Lancaster County district court
3 to recover the fine.

4 (8) Any administrative fine collected under this section shall be
5 remitted to the State Treasurer for distribution in accordance with
6 Article VII, section 5, of the Constitution of Nebraska.

7 Sec. 12. (1) Upon a determination by the director that a person has
8 intentionally violated the Nebraska Hemp Farming Act, a state plan as
9 described in section 16 of this act approved by the United States
10 Department of Agriculture, any rules and regulations adopted and
11 promulgated under the act, a corrective action plan issued pursuant to
12 section 11 of this act, or an order of the director, such person may be
13 subject to the following:

14 (a) An administrative fine as follows:

15 (i) For the first violation, an administrative fine of not less than
16 five hundred dollars or more than one thousand dollars, plus the actual
17 costs of any investigation per day;

18 (ii) For a second violation within five years after the date of the
19 first violation, an administrative fine of not less than one thousand
20 dollars or more than two thousand dollars, plus the actual costs of any
21 investigation per day; and

22 (iii) For a third or subsequent violation within five years after
23 the date of the first violation, an administrative fine of not less than
24 two thousand dollars or more than five thousand dollars, plus the actual
25 costs of any investigation per day;

26 (b) A cease and desist order issued by the director; or

27 (c) Criminal enforcement under relevant statutes, including the
28 Uniform Controlled Substances Act.

29 (2) If the director determines that any person in the state has
30 intentionally violated the Nebraska Hemp Farming Act, a state plan
31 approved by the United States Department of Agriculture, any rules and

1 regulations adopted and promulgated under the act, or an order of the
2 director, the director shall:

3 (a) Notify the Attorney General; and

4 (b) Notify the county attorney for the county in which the violation
5 occurred.

6 (3) The director shall advise the Attorney General of the failure of
7 any person to pay an administrative fine imposed under this section. The
8 Attorney General shall bring an action in Lancaster County district court
9 to recover the fine.

10 (4) Any administrative fine collected under this section shall be
11 remitted to the State Treasurer for distribution in accordance with
12 Article VII, section 5, of the Constitution of Nebraska.

13 Sec. 13. (1) Any person aggrieved by an order of the director
14 pursuant to the Nebraska Hemp Farming Act for which a hearing was not
15 held may request a hearing by contacting the department in writing within
16 thirty days of the date the order was issued, and a hearing shall
17 thereafter be held. Hearings shall be in accordance with the
18 Administrative Procedure Act. At such hearing the department shall
19 receive any relevant evidence and the burden of the proof shall be upon
20 the person aggrieved by the director's order. After such hearing the
21 department shall render a decision in writing and shall issue such order
22 or orders duly certified as deemed necessary.

23 (2) Appeals of final orders issued after a hearing held pursuant to
24 subsection (1) of this section shall be in accordance with the
25 Administrative Procedure Act. The district court for Lancaster County
26 shall have exclusive jurisdiction for appeals taken under the Nebraska
27 Hemp Farming Act.

28 Sec. 14. (1) Hemp from each site registered with the department
29 shall be tested for delta-9 tetrahydrocannabinol concentration prior to
30 harvest by an approved testing facility at the licensee's expense. The
31 results of such tests shall be certified directly to the department by

1 the lab prior to harvest. The test results shall identify the location ID
2 where the hemp was cultivated.

3 (2) The department may, at its discretion, conduct sampling and
4 testing of any hemp from any licensee at any time.

5 (3) The department may adopt and promulgate rules and regulations
6 governing the sampling and testing of hemp, including, but not limited
7 to, the number of samples required, the procedure for gathering samples,
8 and certification of the test results to the department.

9 (4) Testing of hemp required under this section shall be conducted
10 pursuant to standards adopted by the department using reliable methods
11 for the testing of delta-9 tetrahydrocannabinol concentration.

12 (5) Testing of hemp shall be conducted by a testing facility
13 approved by the department.

14 (6) The department shall create and maintain a list of approved
15 testing facilities.

16 (7) The entire hemp plant is not required to be submitted for
17 testing.

18 (8) The test sample shall be obtained from flowering tops when
19 flowering is occurring, shall be approximately eight inches in length,
20 and shall consist of the fan leaf, stalk, flower, and, if available, the
21 seed head.

22 (9) The requirements of this section shall be sufficient for both
23 dioecious and monoecious cultivars.

24 (10) The approved testing facility shall provide a report giving the
25 results of the potency analysis of each sample. For tests directed by the
26 department, the report shall be provided to the licensee and a copy of
27 the report shall be issued to the department. The report shall be
28 provided before the harvest date, if applicable.

29 (11) When a test result is adverse, the department may require a
30 licensee to have further tests done and may require harvesting and
31 destruction of any noncompliant plants.

1 Sec. 15. (1) Any cultivator transporting hemp cultivated under the
2 Nebraska Hemp Farming Act shall carry with the hemp being transported a
3 copy of the cultivator license under which it was cultivated and a copy
4 of the test results pertaining to such hemp.

5 (2) Any processor-handler transporting hemp processed under the
6 Nebraska Hemp Farming Act shall carry with the hemp being transported a
7 copy of the processor-handler license under which the hemp is being
8 transported and a copy of the test results pertaining to such hemp.

9 (3) Any person other than a cultivator or processor-handler who is
10 transporting hemp governed under the Nebraska Hemp Farming Act shall
11 carry with such hemp being transported a bill of lading indicating the
12 owner of the hemp, the point of origin of the hemp, and the destination
13 of the hemp, and a copy of the test results pertaining to such hemp.

14 (4) The department may, at its discretion, conduct inspections of a
15 cultivator's or processor-handler's operation, including all sites
16 registered with the department. At a minimum, the department shall
17 conduct annual inspections of a random sample of cultivators and
18 processor-handlers to verify that hemp is not produced in violation of
19 the Nebraska Hemp Farming Act.

20 Sec. 16. (1) No later than December 31, 2019, the director, in
21 consultation with the Governor and the Attorney General, shall submit to
22 the United States Secretary of Agriculture for approval a state plan by
23 which the department shall regulate the cultivation, handling, and
24 processing of hemp. Such state plan shall include, at a minimum:

25 (a) A practice to maintain relevant information regarding land on
26 which hemp is cultivated, handled, or processed in Nebraska, including a
27 legal description of the land, for a period of not less than three
28 calendar years;

29 (b) A procedure for testing delta-9 tetrahydrocannabinol
30 concentration of hemp cultivated in Nebraska;

31 (c) A procedure for the effective destruction of hemp that is

1 produced in violation of the Nebraska Hemp Farming Act; and

2 (d) A procedure to implement enforcement procedures under the act;

3 (e) A procedure for conducting, at a minimum, annual inspections of
4 a random sample of hemp cultivators and processor-handlers to verify that
5 hemp is not being produced in violation of state or federal law;

6 (f) A procedure for submitting required information to the United
7 States Department of Agriculture, as required; and

8 (g) A certification that the state has the resources and personnel
9 needed to carry out the practices and procedures required by the act and
10 federal law.

11 (2) If the United States Secretary of Agriculture disapproves the
12 plan, the director, in consultation with the Governor and the Attorney
13 General, shall submit an amended state plan to the secretary within
14 ninety days of such disapproval.

15 (3) The director shall have the authority to alter or amend the
16 state plan as required, consistent with the Nebraska Hemp Farming Act and
17 federal law.

18 (4) Nothing in the Nebraska Hemp Farming Act shall be construed to
19 be less restrictive than section 10113 of the federal Agriculture
20 Improvement Act of 2018, Public Law 115-334, as such section existed on
21 January 1, 2019.

22 Sec. 17. (1) The Nebraska Hemp Commission is created. The
23 commission shall consist of the following members:

24 (a) The director or his or her designee;

25 (b) The Director of Economic Development or his or her designee;

26 (c) The dean of the University of Nebraska College of Agricultural
27 Sciences and Natural Resources or his or her designee;

28 (d) One member representing postsecondary institutions other than
29 the University of Nebraska; and

30 (e) Three members appointed by the Governor representing the
31 following interests:

- 1 (i) Two Nebraska farmers with an interest in growing hemp; and
2 (ii) A manufacturer of hemp products.

3 (2) Members appointed pursuant to subdivision (1)(e) of this section
4 shall serve a term of four years and may be reappointed. A majority of
5 the members of the commission shall constitute a quorum. The director
6 shall serve as vice-chairperson, and the commission shall annually elect
7 one member from among the remaining members to serve as chairperson. The
8 commission shall meet quarterly and may meet more often upon the call of
9 the chairperson or by request of a majority of the members. The
10 commission shall be appointed and conduct its first meeting no later than
11 September 1, 2019. The members of the commission shall serve without pay
12 but shall receive expenses incurred while on official business as
13 provided in sections 81-1174 to 81-1177.

14 (3) The Commission shall have the following powers and duties:

15 (a) To appoint and fix the salary of such support staff and
16 employees, who shall serve at the pleasure of the commission, as may be
17 required for the proper discharge of the functions of the commission;

18 (b) To prepare and approve a budget;

19 (c) To adopt and promulgate reasonable rules and regulations
20 necessary to carry out this section and section 19 of this act;

21 (d) To contract for services and authorize the expenditure of funds
22 which are necessary for the proper operation of this section and section
23 19 of this act;

24 (e) To keep minutes of its meetings and other books and records
25 which will clearly reflect all of the acts and transactions of the
26 commission and to keep such records open to public examination by any
27 person during normal business hours;

28 (f) To prohibit using any funds collected by the commission to
29 directly or indirectly support or oppose any candidate for public office
30 or to influence state legislation; and

31 (g) To establish an administrative office at such place in the state

1 as may be suitable for the proper discharge of commission functions.

2 (4) The commission shall periodically report to the Governor and to
3 the Legislature on hemp policies and practices that will result in the
4 proper and legal growth, management, marketing, and use of the state's
5 hemp industry. Any report submitted to the Legislature shall be submitted
6 electronically. Such policies and practices shall, at a minimum, address
7 the following:

8 (a) Federal laws and regulatory constraints;

9 (b) The economic and financial feasibility of a hemp market in
10 Nebraska;

11 (c) Nebraska businesses that may potentially utilize hemp;

12 (d) Examination of research on hemp production and utilization;

13 (e) The potential for globally marketing Nebraska hemp;

14 (f) The feasibility of private funding for a Nebraska hemp research
15 program;

16 (g) Law enforcement concerns;

17 (h) Statutory and regulatory schemes for growing of hemp by private
18 producers; and

19 (i) Technical support and education about hemp.

20 (5) The commission is authorized to develop and coordinate programs
21 to research and promote hemp, including, but not limited to, cultivating,
22 handling, processing, transporting, marketing, and selling hemp.

23 (6) The commission shall establish such programs with the goal of
24 securing at least twenty percent participation by small and emerging
25 businesses in the Nebraska hemp industry, including, but not limited to,
26 cultivating, handling, processing, transporting, marketing, and selling
27 hemp.

28 Sec. 18. The Hemp Promotion Fund is established. The fund shall be
29 administered by the commission for the purposes set forth in section 17
30 of this act. The fund may receive appropriations by the Legislature and
31 gifts, grants, federal funds, and any other funds both public and

1 private. All fees collected as set forth in section 19 of this act shall
2 be remitted to the State Treasurer for credit to the fund. Any money in
3 the fund available for investment shall be invested by the state
4 investment officer pursuant to the Nebraska Capital Expansion Act and the
5 Nebraska State Funds Investment Act.

6 Sec. 19. (1) For purposes of this section:

7 (a) Commercial channels means the sale or delivery of hemp for any
8 use to any commercial buyer, dealer, processor, or cooperative or to any
9 person, public or private, who resells any hemp or hemp product;

10 (b) Delivered or delivery means receiving hemp for utilization or as
11 a result of its sale in the State of Nebraska but excludes receiving hemp
12 for storage; and

13 (c) First purchaser means any person, public or private corporation,
14 association, partnership, limited liability company, or other entity
15 buying, accepting for shipment, or otherwise acquiring hemp from a
16 cultivator.

17 (2) A fee of one cent per pound is levied upon all hemp seed and a
18 fee of one dollar per ton is levied upon all hemp fiber sold through
19 commercial channels in Nebraska or delivered in Nebraska. Two-thirds of
20 the fee levied under this section shall be paid by the cultivator at the
21 time of sale or delivery and shall be collected by the first purchaser.
22 The first purchaser shall pay the remaining one-third of the fee. Hemp
23 seed and hemp fiber shall not be subject to the fees imposed by this
24 section more than once.

25 (3) The first purchaser, at the time of settlement with the
26 cultivator, shall deduct the fees imposed by this section. The fees shall
27 be deducted whether the hemp is stored in this state or any other state.
28 The first purchaser shall maintain the necessary records of the fees for
29 each purchase or delivery of hemp on the settlement form or check stub
30 showing payment to the cultivator for each purchase or delivery. Such
31 records maintained by the first purchaser shall be open for inspection

1 during normal business hours by the first purchaser and provide the
2 following information:

3 (a) The name and address of the cultivator and first purchaser;

4 (b) The date of the purchase or delivery;

5 (c) The number of pounds of hemp seed or pounds or tons of hemp
6 fiber purchased; and

7 (d) The amount of fees collected on each purchase or delivery.

8 (4) The first purchaser shall render and have on file with the
9 department by the last day of January and July of each year, on forms
10 prescribed by the commission, a statement of the number of pounds of hemp
11 seed or pounds or tons of hemp fiber purchased in Nebraska. At the time
12 the statement is filed, such first purchaser shall pay and remit to the
13 commission the fees imposed by this section.

14 (5) All fees collected by the commission pursuant to this section
15 shall be remitted to the State Treasurer for credit to the Hemp Promotion
16 Fund. The commission shall remit the fees collected to the State
17 Treasurer within ten days after receipt.

18 (6) In addition to any other penalties under the Nebraska Hemp
19 Farming Act, any person intentionally violating this section shall be
20 guilty of a Class III misdemeanor.

21 Sec. 20. Section 2-5701, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 2-5701 (1) A postsecondary institution in this state or the
24 Department of Agriculture may ~~grow or~~ cultivate industrial hemp if the
25 industrial hemp is ~~grown or~~ cultivated for purposes of research conducted
26 under an agricultural pilot program or other agricultural or academic
27 research.

28 (2) Sites used for ~~growing or~~ cultivating industrial hemp must be
29 certified by, and registered with, the Department of Agriculture.

30 (3) Prior to approval by the United States Secretary of Agriculture
31 of the state plan as provided in section 16 of this act, a person with a

1 valid licensing agreement with the department pursuant to this section
2 may cultivate, handle, or process industrial hemp as a part of the
3 department's agricultural pilot program. Qualified applicants shall be
4 selected at random by the department. To be qualified to apply and to
5 retain a valid licensing agreement, a cultivator or processor-handler as
6 defined in section 3 of this act shall comply with all applicable
7 requirements set forth in the Nebraska Hemp Farming Act, except that a
8 licensing agreement shall be required in lieu of any license requirements
9 under the act. A cultivator or processor-handler shall pay the license
10 application fee, site registration fee, and site modification fee, if
11 applicable, established in section 8 of this act for each one-year
12 licensing agreement and shall be required to submit a report for
13 department research purposes. The report shall be submitted as required
14 by department rules and regulations. Licensing agreements shall establish
15 procedures for sampling and testing of industrial hemp, effective
16 destruction of noncompliant industrial hemp, and department inspections
17 to monitor compliance with the agreements. A cultivator or processor-
18 handler who has had a licensing agreement terminated for failure to
19 comply with the agreement or the Nebraska Hemp Farming Act, or any rules
20 or regulations adopted and promulgated under the act, may request a
21 hearing as set forth in section 13 of this act ~~The Department of~~
22 ~~Agriculture shall adopt and promulgate rules and regulations with respect~~
23 ~~to the growth or cultivation of industrial hemp and the certification and~~
24 ~~registration of sites growing or cultivating industrial hemp as~~
25 ~~authorized under this section.~~

26 (4) For purposes of this section:

27 (a) Agricultural pilot program means a pilot program to study the
28 ~~growth,~~ cultivation, or marketing of industrial hemp;

29 (b) Cultivate has the same meaning as in section 3 of this act;

30 (c) Handle has the same meaning as in section 3 of this act;

31 (d) ~~(b)~~ Industrial hemp means hemp as defined in section 3 of this

1 ~~act the plant Cannabis sativa L. and any part of such plant, whether~~
2 ~~growing or not, with a delta-9 tetrahydrocannabinol concentration of not~~
3 ~~more than three-tenths percent on a dry weight basis; and~~

4 (e) (e) Postsecondary institution has the same meaning as in section
5 3 of this act; and means a postsecondary institution as defined in
6 section 85-2403 that also meets the requirements of 20 U.S.C. 1001, as
7 such section existed on January 1, 2014.

8 (f) Process has the same meaning as in section 3 of this act.

9 Sec. 21. If any section in this act or any part of any section is
10 declared invalid or unconstitutional, the declaration shall not affect
11 the validity or constitutionality of the remaining portions.

12 Sec. 22. Original section 2-5701, Revised Statutes Cumulative
13 Supplement, 2018, is repealed.

14 Sec. 23. Since an emergency exists, this act takes effect when
15 passed and approved according to law.