

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 657

FINAL READING
(SECOND)

Introduced by Wayne, 13; Hunt, 8; Slama, 1; Murman, 38; Brandt, 32;
Kolterman, 24; Hansen, M., 26.

Read first time January 23, 2019

Committee: Agriculture

1 A BILL FOR AN ACT relating to agriculture; to amend section 2-958,
2 Reissue Revised Statutes of Nebraska, and sections 2-5701, 28-401,
3 and 81-2,162.27, Revised Statutes Cumulative Supplement, 2018; to
4 adopt the Nebraska Hemp Farming Act; to provide a use for the
5 Noxious Weed Cash Fund and the Fertilizers and Soil Conditioners
6 Administrative Fund and provide for powers and duties; to change
7 provisions relating to the industrial hemp agricultural pilot
8 program and define and redefine terms; to define and redefine terms
9 under the Uniform Controlled Substances Act; to provide operative
10 dates; to provide severability; to repeal the original sections; and
11 to declare an emergency.
12 Be it enacted by the people of the State of Nebraska,

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

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

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

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

11 (3) Establish testing and compliance procedures;

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

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

18 (6) Facilitate interstate commerce by not impeding the shipment of
19 hemp into and out of this state; and

20 (7) 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;

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

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

31 (6) Department means the Department of Agriculture;

1 (7) Director means the Director of Agriculture or his or her
2 designee;

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

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

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

18 (11) Hemp means the plant Cannabis sativa L. and any part of such
19 plant, including the viable seeds of such plant and all derivatives,
20 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
21 whether growing or not, with a delta-9 tetrahydrocannabinol concentration
22 of not more than 0.3 percent on a dry weight basis. Hemp shall be
23 considered an agricultural commodity. Notwithstanding any other provision
24 of law, hemp shall not be considered a controlled substance under the
25 Uniform Controlled Substances Act;

26 (12) Licensee means an individual or a business entity possessing a
27 license issued by the department under the Nebraska Hemp Farming Act to
28 cultivate, handle, process, or broker hemp;

29 (13) Location ID means the unique identifier established by a
30 licensee for each unique set of GPS coordinates where hemp is cultivated,
31 handled, or processed;

1 (14) Nebraska heirloom cannabis plant or seed means a hemp plant or
2 seed from the plant Cannabis sativa L. that possesses characteristics of
3 a unique and specialized cannabis seed variety that is present in
4 Nebraska or has been recognized as produced in Nebraska;

5 (15) Person means an individual, partnership, corporation, limited
6 liability company, association, postsecondary institution, or other legal
7 entity;

8 (16) Postsecondary institution means a postsecondary institution as
9 defined in section 85-2403 that also meets the requirements of 20 U.S.C.
10 1001, as such section existed on January 1, 2019;

11 (17) Process or processing means converting hemp into a marketable
12 form;

13 (18) Processor-handler means a person who handles or processes hemp;

14 (19) Site means an area defined by the same legal description in a
15 field, greenhouse, or other outdoor area or indoor structure;

16 (20) Testing facility means a testing facility approved by the
17 department; and

18 (21) THC means tetrahydrocannabinol.

19 Sec. 4. (1) Notwithstanding any other provision of law, it shall be
20 lawful:

21 (a) For a licensee or his or her employee or agent to cultivate,
22 handle, process, or broker hemp in Nebraska and to transport hemp outside
23 of Nebraska; and

24 (b) To possess, transport, sell, and purchase lawfully produced hemp
25 products.

26 (2) The department shall establish, operate, and administer a
27 program to license and regulate cultivators, processor-handlers, and
28 brokers that meets the requirements of section 10113 of the federal
29 Agriculture Improvement Act of 2018, Public Law 115-334, as such section
30 existed on January 1, 2019, and the Nebraska Hemp Farming Act. Nebraska
31 heirloom cannabis plant or seed not being cultivated for commercial

1 purposes is not subject to the Nebraska Hemp Farming Act.

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

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

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

11 (c) Procedures for the effective destruction of plants cultivated,
12 handled, or processed in violation of the Nebraska Hemp Farming Act and
13 hemp products made from those plants;

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

17 (e) A procedure for conducting, at a minimum, annual inspections of
18 a random sample of hemp cultivators and processor-handlers to verify that
19 hemp is not cultivated, processed, or handled in violation of the
20 Nebraska Hemp Farming Act or the state plan as described in section 16 of
21 this act. The department may, at its discretion, conduct other
22 inspections of a cultivator's or processor-handler's operation, including
23 all sites registered with the department;

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

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

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

31 (2) Before a person may be licensed to cultivate hemp, such person

1 shall submit an application on a form prescribed by the department that
2 includes, but is not limited to, the following:

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

5 (b) If the applicant is an entity and not an individual, the name of
6 the applicant, mailing address, telephone number, and valid email
7 address, the full name of each officer, director, partner, member, or
8 owner owning in excess of ten percent of equity or stock in such entity,
9 and the birthdate, title, mailing address, telephone number, and valid
10 email address of each such person;

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

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

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

21 (3) Before a person may be licensed to cultivate hemp, such person
22 shall submit with the application a nonrefundable application fee as set
23 by the department pursuant to section 8 of this act.

24 (4) Before a person may be licensed to cultivate hemp, such person
25 shall submit with the application a site registration fee as set by the
26 department pursuant to section 8 of this act. The site registration fee
27 shall be paid for each separate site where the applicant will cultivate
28 hemp. Subsequent modifications to the sites listed in the application
29 shall be submitted on forms prescribed by the department along with a
30 site modification fee and shall only take effect upon written approval of
31 the department. The applicant must certify that all sites where hemp is

1 to be cultivated are under the control of the applicant and that the
2 department shall have unlimited access to all such sites.

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

10 (6) A renewal application for a license to cultivate hemp shall be
11 submitted on forms prescribed by the department. A renewal application is
12 due by December 31 and shall be accompanied by the cultivator license fee
13 and the site registration fee for all sites listed in the renewal
14 application. The renewal cultivator license is valid from January 1 or
15 when the license is granted, whichever is later, through December 31 next
16 following.

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

21 (8) An application and supporting documents submitted to the
22 department under this section are not public records subject to
23 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
24 be submitted to the United States Department of Agriculture pursuant to
25 the requirements of section 10113 of the federal Agriculture Improvement
26 Act of 2018, Public Law 115-334, as such section existed on January 1,
27 2019, or any other federal statute, rule, or regulation, and may be
28 submitted to law enforcement.

29 Sec. 6. (1) Except for approved testing facilities, a person shall
30 not process, handle, or broker hemp in this state unless the person meets
31 the requirements of section 2-5701 or is in compliance with this section

1 and licensed as a processor-handler or broker under the Nebraska Hemp
2 Farming Act.

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

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

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

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

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

22 (3) Before a person other than an approved testing facility may be
23 licensed to process, handle, or broker hemp, such person shall submit
24 with the application a nonrefundable application fee as set by the
25 department pursuant to section 8 of this act.

26 (4) Before a person other than an approved testing facility may be
27 licensed to process or handle hemp, such person shall submit with the
28 application a nonrefundable site registration fee as set by the
29 department pursuant to section 8 of this act. The site registration fee
30 shall be paid for each separate site where hemp is processed or handled.
31 Subsequent modifications to the sites listed in the application shall be

1 submitted on forms prescribed by the department along with the site
2 modification fee and shall only take effect upon written approval of the
3 department. The applicant must certify that all sites where hemp is to be
4 processed or handled are under the control of the applicant and that the
5 department shall have unlimited access to all such sites.

6 (5) After the department receives approval by the United States
7 Secretary of Agriculture for the state plan submitted pursuant to section
8 16 of this act, an initial processor-handler or broker license
9 application may be submitted at any time. An initial processor-handler or
10 broker license issued by the department expires on December 31 in the
11 calendar year for which it was issued.

12 (6) A renewal application for a processor-handler or broker license
13 shall be submitted on forms prescribed by the department. A renewal
14 application is due by December 31 and shall be accompanied by the
15 processor-handler or broker license fee and, if applicable, the site
16 registration fee for all sites listed in the renewal application. The
17 renewal processor-handler or broker license is valid from January 1 or
18 when the license is granted, whichever is later, through December 31 next
19 following.

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

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

26 (9) An application and supporting documents submitted to the
27 department under this section are not public records subject to
28 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
29 be submitted to the United States Department of Agriculture pursuant to
30 the requirements of section 10113 of the federal Agriculture Improvement
31 Act of 2018, Public Law 115-334, as such section existed on January 1,

1 2019, or any other federal statute, rule, or regulation, and may be
2 submitted to law enforcement.

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

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

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

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

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

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

20 (2) If an application is incomplete or deficient, the department
21 shall, in a timely manner, notify the applicant in writing describing the
22 reason or reasons and request additional information. If such application
23 is not corrected or supplemented within thirty days after the
24 department's request, the department shall deny the application.

25 (3) Any person who intentionally and materially falsifies any
26 information contained in an application under the Nebraska Hemp Farming
27 Act shall be ineligible to obtain a license to operate as a cultivator,
28 processor-handler, or broker.

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

31 Sec. 8. (1) License fees under the Nebraska Hemp Farming Act are

1 due on or before December 31 and shall be in the amount listed in column
 2 A of subsection (2) of this section. The fees due on or before December
 3 31, 2019, and by each December 31 thereafter shall be set by the director
 4 on or before July 1 of each year. The director may raise or lower such
 5 fees each year to meet the criteria in this subsection, but the fee shall
 6 not be greater than the amount in column B of subsection (2) of this
 7 section. The same percentage shall be applied to each category for all
 8 fee increases or decreases. The director shall use the fees in column A
 9 of subsection (2) of this section as a base for future fee increases or
 10 decreases. The director shall determine the fees based on estimated
 11 annual revenue and fiscal year-end cash fund balances as follows:

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

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

18 (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>
<u>Processor-handler site</u>		
<u>registration fee</u>	<u>\$800 per site</u>	<u>\$1,200 per site</u>
<u>Site modification fee</u>	<u>\$50</u>	<u>\$75</u>

26 (3) Any fee remaining unpaid for more than one month shall be
 27 considered delinquent and the person owing the fee shall pay an
 28 additional administrative fee of twenty-five percent of the delinquent
 29 amount for each month it remains unpaid, not to exceed one hundred
 30 percent of the original amount due. The department may waive the
 31 additional administrative fee based upon the existence and extent of any

1 mitigating circumstances that have resulted in the late payment of such
2 fee. The purpose of the additional administrative fee is to cover the
3 administrative costs associated with collecting fees, and all money
4 collected as an additional administrative fee shall be remitted to the
5 State Treasurer for credit to the Nebraska Hemp Program Fund.

6 Sec. 9. The Nebraska Hemp Program Fund is established. The fund
7 shall be administered by the department for the purpose of covering the
8 costs of the department in administering sections 4 to 16 of this act and
9 section 2-5701. The fund may receive appropriations by the Legislature,
10 gifts, grants, federal funds, and any other funds both public and
11 private. All fees collected by the department under section 8 of this act
12 and section 2-5701 shall be remitted to the State Treasurer for credit to
13 the fund. Transfers from the Nebraska Hemp Program Fund to the Noxious
14 Weed Cash Fund may be made as provided in section 2-958. Transfers from
15 the Nebraska Hemp Program Fund to the Fertilizers and Soil Conditioners
16 Administrative Fund may be made as provided in section 81-2,162.27. Any
17 money in the fund available for investment shall be invested by the state
18 investment officer pursuant to the Nebraska Capital Expansion Act and the
19 Nebraska State Funds Investment Act.

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

22 (a) A background check for any felony controlled substance charge in
23 the ten years prior to the time of application completed by the
24 department or a law enforcement agency at the direction of the
25 department, at any time, for all of the individuals listed on the
26 cultivator's, processor-handler's, or broker's application at the
27 applicant's expense, which shall be in addition to the application and
28 registration fees;

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

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

2 (d) Destruction of any of the following:

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

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

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

11 (e) Inspections by the department, at least annually, of cultivators
12 and processor-handlers to verify that hemp is not cultivated, processed,
13 or handled in violation of the Nebraska Hemp Farming Act.

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

18 Sec. 11. (1) Upon a determination by the director that any person
19 in the state has unintentionally violated the Nebraska Hemp Farming Act,
20 a state plan as described in section 16 of this act approved by the
21 United States Department of Agriculture, any rules and regulations
22 adopted and promulgated under the act, a corrective action plan issued
23 pursuant to this section, or an order of the director, the director may:

24 (a) Issue an order specifying the provisions of the act, state plan,
25 rule or regulation, corrective action plan, or order alleged to be
26 violated and the facts alleged to constitute a violation;

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

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

30 (2) Any person who commits a violation under this section shall not
31 be subject to any additional criminal enforcement by state or local

1 government authorities other than authorized under this section.

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

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

12 (a) A reasonable date by which the licensee shall correct the
13 unintentional violation;

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

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

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

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

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

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

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

1 Sec. 12. (1) Upon a determination by the director that any person
2 in the state has intentionally violated the Nebraska Hemp Farming Act, a
3 state plan approved by the United States Department of Agriculture, any
4 rules and regulations adopted and promulgated under the act, or an order
5 of the director, the director shall:

6 (a) Notify the United States Attorney General;

7 (b) Notify the Attorney General; and

8 (c) Notify the county attorney for the county in which the violation
9 occurred.

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

18 (3) A person aggrieved by an order of the director may request a
19 hearing pursuant to section 13 of this act.

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

30 (2) Appeals of final orders issued after a hearing held pursuant to
31 subsection (1) of this section shall be in accordance with the

1 Administrative Procedure Act. The district court for Lancaster County
2 shall have exclusive jurisdiction for appeals taken under the Nebraska
3 Hemp Farming Act.

4 Sec. 14. (1) Hemp from each cultivation site registered with the
5 department shall be tested for delta-9 tetrahydrocannabinol concentration
6 prior to harvest by an approved testing facility at the licensee's
7 expense. The results of such tests shall be certified directly to the
8 department by the testing facility prior to harvest. The test results
9 shall identify the location ID where the hemp was cultivated.

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

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

16 (4) Testing of hemp required under this section shall be conducted
17 pursuant to standards adopted by the department using post-
18 decarboxylation or other similarly reliable methods for the testing of
19 delta-9 tetrahydrocannabinol concentration.

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

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

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

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

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

1 (10) The approved testing facility shall provide a report giving the
2 results of the potency analysis of each sample. For tests directed by the
3 department, the report shall be provided to the licensee and a copy of
4 the report shall be issued to the department. The report shall be
5 provided before the harvest date, if applicable.

6 (11) When a test result is adverse, the department may require a
7 licensee to have further tests done and may require harvesting and
8 destruction of any plants in any portions of the site containing
9 noncompliant plants.

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

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

18 (3) Any person other than a cultivator or processor-handler who is
19 transporting hemp shall carry with such hemp being transported (a) a bill
20 of lading indicating the owner of the hemp, the point of origin of the
21 hemp, and the destination of the hemp and (b) either a copy of the test
22 results pertaining to such hemp or other documentation affirming that the
23 hemp was produced in compliance with section 10113 of the federal
24 Agriculture Improvement Act of 2018, Public Law 115-334, as such section
25 existed on January 1, 2019.

26 (4)(a) The department may develop a form bill of lading for use by a
27 person transporting hemp pursuant to subsection (3) of this section for
28 hemp originating in this state. Such bill of lading shall, at a minimum,
29 identify the transporting person and indicate the owner, point of origin,
30 and destination of the hemp.

31 (b) The department, in consultation with the Nebraska State Patrol,

1 may adopt and promulgate rules and regulations regulating the carrying or
2 transporting of hemp in this state to ensure that marijuana or any other
3 controlled substance is not disguised as hemp and carried or transported
4 into, within, or through this state.

5 (c) No person shall carry or transport hemp in this state unless
6 such hemp is:

7 (i) Produced in compliance with:

8 (A) For hemp originating in this state, the requirements of section
9 10113 of the federal Agriculture Improvement Act of 2018, Public Law
10 115-334, as such section existed on January 1, 2019, and the Nebraska
11 Hemp Farming Act and any rules and regulations adopted and promulgated
12 thereunder; or

13 (B) For hemp originating outside this state, the requirements of
14 section 10113 of the federal Agriculture Improvement Act of 2018, Public
15 Law 115-334, as such section existed on January 1, 2019; and

16 (ii) Carried or transported as provided in subsection (1), (2), or
17 (3) of this section.

18 (d) No person shall transport hemp in this state concurrently with
19 any other plant material that is not hemp.

20 (5)(a) A peace officer may detain any person carrying or
21 transporting hemp in this state if such person does not provide the
22 documentation required by this section. Unless the peace officer has
23 probable cause to believe the hemp is, or is being carried or transported
24 with, marijuana or any other controlled substance, the peace officer
25 shall immediately release the hemp and the person carrying or
26 transporting such hemp upon production of such documentation.

27 (b) The failure of a person detained as described in this subsection
28 to produce documentation required by this section shall constitute
29 probable cause to believe the hemp may be marijuana or any other
30 controlled substance. In such case, a peace officer may collect such hemp
31 for testing to determine the delta-9 tetrahydrocannabinol concentration

1 in the hemp, and, if the peace officer has probable cause to believe the
2 person detained is carrying or transporting marijuana or any other
3 controlled substance in violation of state or federal law, the peace
4 officer may seize and impound the hemp or marijuana or other controlled
5 substance and arrest such person.

6 (c) This subsection does not limit or restrict in any way the power
7 of a peace officer to enforce violations of the Uniform Controlled
8 Substances Act and federal law regulating marijuana and other controlled
9 substances.

10 (6) In addition to any other penalties provided by law, including
11 those imposed under the Nebraska Hemp Farming Act, any person who
12 intentionally violates this section shall be guilty of a Class IV
13 misdeemeanor and fined not more than one thousand dollars.

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

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

23 (b) A procedure for testing, using post-decarboxylation or other
24 similarly reliable methods, delta-9 tetrahydrocannabinol concentration of
25 hemp cultivated in Nebraska;

26 (c) A procedure for the effective destruction of hemp that is
27 cultivated, processed, or handled in violation of the Nebraska Hemp
28 Farming Act;

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

30 (e) A procedure for conducting, at a minimum, annual inspections of
31 a random sample of hemp cultivators and processor-handlers to verify that

1 hemp is not being cultivated, processed, or handled in violation of state
2 or federal law;

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

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

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

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

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

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

21 (a) The dean of the University of Nebraska College of Agricultural
22 Sciences and Natural Resources or his or her designee;

23 (b) One member representing postsecondary institutions other than
24 the University of Nebraska; and

25 (c) Three members appointed by the Governor representing the
26 following interests:

27 (i) Two Nebraska farmers with an interest in cultivating hemp; and

28 (ii) A manufacturer of hemp products.

29 (2) Members appointed pursuant to subdivisions (1)(b) and (c) of
30 this section shall serve a term of four years and may be reappointed. A
31 majority of the members of the commission shall constitute a quorum. The

1 commission shall annually elect one member from among the remaining
2 members to serve as chairperson. The commission shall meet quarterly and
3 may meet more often upon the call of the chairperson or by request of a
4 majority of the members. The commission shall be appointed and conduct
5 its first meeting no later than September 1, 2019. The members of the
6 commission shall serve without pay but shall receive expenses incurred
7 while on official business as provided in sections 81-1174 to 81-1177.

8 (3) The commission shall have primary responsibility for promoting
9 the Nebraska hemp industry and shall have the following powers and
10 duties:

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

14 (b) To prepare and approve a budget;

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

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

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

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

27 (g) To establish an administrative office at such place in the state
28 as may be suitable for the proper discharge of commission functions.

29 (4) The commission shall periodically report to the Governor and to
30 the Legislature on hemp policies and practices that will result in the
31 proper and legal growth, management, marketing, and use of the state's

1 hemp industry. Any report submitted to the Legislature shall be submitted
2 electronically. Such policies and practices shall, at a minimum, address
3 the following:

4 (a) Federal laws and regulatory constraints;

5 (b) The economic and financial feasibility of a hemp market in
6 Nebraska;

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

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

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

10 (f) The feasibility of private funding for a Nebraska hemp research
11 program;

12 (g) Law enforcement concerns;

13 (h) Statutory and regulatory schemes for the cultivation of hemp by
14 private producers; and

15 (i) Technical support and education about hemp.

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

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

24 Sec. 18. The Hemp Promotion Fund is established. The fund shall be
25 administered by the commission for the purposes set forth in section 17
26 of this act. The fund may receive appropriations by the Legislature and
27 gifts, grants, federal funds, and any other funds both public and
28 private. All fees collected as set forth in section 19 of this act shall
29 be remitted to the State Treasurer for credit to the fund. Any money in
30 the fund available for investment shall be invested by the state
31 investment officer pursuant to the Nebraska Capital Expansion Act and the

1 Nebraska State Funds Investment Act.

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

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

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

9 (c) First purchaser means any person, public or private corporation,
10 association, partnership, limited liability company, or other entity
11 buying, accepting for shipment, or otherwise acquiring hemp from a
12 cultivator.

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

21 (3) The first purchaser, at the time of settlement with the
22 cultivator, shall deduct the fees imposed by this section. The fees shall
23 be deducted whether the hemp is stored in this state or any other state.
24 The first purchaser shall maintain the necessary records of the fees for
25 each purchase or delivery of hemp on the settlement form or check stub
26 showing payment to the cultivator for each purchase or delivery. Such
27 records maintained by the first purchaser shall be open for inspection
28 during normal business hours and provide the following information:

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

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

31 (c) The number of pounds of hemp seed or pounds or tons of hemp

1 fiber purchased; and

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

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

9 (5) All fees collected by the commission pursuant to this section
10 shall be remitted to the State Treasurer for credit to the Hemp Promotion
11 Fund. The commission shall remit the fees collected to the State
12 Treasurer within ten days after receipt.

13 (6) Any person intentionally violating this section shall be guilty
14 of a Class III misdemeanor.

15 Sec. 20. Section 2-958, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 2-958 (1) A noxious weed control fund may be established for each
18 control authority, which fund shall be available for expenses authorized
19 to be paid from such fund, including necessary expenses of the control
20 authority in carrying out its duties and responsibilities under the
21 Noxious Weed Control Act. The weed control superintendent within the
22 county shall (a) ascertain and tabulate each year the approximate amount
23 of land infested with noxious weeds and its location in the county, (b)
24 ascertain and prepare all information required by the county board in the
25 preparation of the county budget, including actual and expected revenue
26 from all sources, cash balances, expenditures, amounts proposed to be
27 expended during the year, and working capital, and (c) transmit such
28 information tabulated by the control authority to the county board not
29 later than June 1 of each year.

30 (2) The Noxious Weed Cash Fund is created. The fund shall consist of
31 proceeds raised from fees imposed for the registration of pesticides and

1 earmarked for the fund pursuant to section 2-2634, funds credited or
2 transferred pursuant to sections 81-201 and 81-201.05, any gifts, grants,
3 or donations from any source, and any reimbursement funds for control
4 work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount
5 from the General Fund may be appropriated annually for the Noxious Weed
6 Control Act. The fund shall be administered and used by the director to
7 maintain the noxious weed control program and for expenses directly
8 related to the program. Until January 1, 2020, the fund may also be used
9 to defray all reasonable and necessary costs related to the
10 implementation of the Nebraska Hemp Farming Act. The Department of
11 Agriculture shall document all costs incurred for such purpose. The
12 budget administrator of the budget division of the Department of
13 Administrative Services may transfer a like amount from the Nebraska Hemp
14 Program Fund to the Noxious Weed Cash Fund no later than October 1, 2022.

15 (3) Any money in the fund available for investment shall be invested
16 by the state investment officer pursuant to the Nebraska Capital
17 Expansion Act and the Nebraska State Funds Investment Act.

18 Sec. 21. Section 2-5701, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 2-5701 (1) A postsecondary institution in this state or the
21 Department of Agriculture may ~~grow or~~ cultivate industrial hemp if the
22 industrial hemp is ~~grown or~~ cultivated for purposes of research conducted
23 under an agricultural pilot program or other agricultural or academic
24 research.

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

27 (3)(a) Prior to approval by the United States Secretary of
28 Agriculture of the state plan as provided in section 16 of this act, a
29 person with a valid licensing agreement with the department pursuant to
30 this section may cultivate, handle, or process industrial hemp as a part
31 of the department's agricultural pilot program. Qualified applicants

1 shall be selected at random by the department. To be qualified to apply
2 and to retain a valid licensing agreement, a cultivator or processor-
3 handler shall comply with all applicable requirements set forth in the
4 Nebraska Hemp Farming Act, except that a licensing agreement shall be
5 required in lieu of any license requirements under the act. (3)

6 (b) A cultivator or processor-handler shall pay the license
7 application fee, site registration fee, and site modification fee, if
8 applicable, established in section 8 of this act for each one-year
9 licensing agreement and shall be required to submit a report for
10 department research purposes. The report shall be submitted as required
11 by the department. All fees collected by the department under this
12 section shall be remitted to the State Treasurer for credit to the
13 Nebraska Hemp Program Fund.

14 (c) Licensing agreements shall establish procedures for sampling and
15 testing of industrial hemp, effective destruction of noncompliant
16 industrial hemp, and department inspections to monitor compliance with
17 the agreements.

18 (d) A cultivator or processor-handler who has had a licensing
19 agreement terminated for failure to comply with the agreement or the
20 Nebraska Hemp Farming Act, or any rules or regulations adopted and
21 promulgated under the act, may request a hearing as set forth in section
22 13 of this act.

23 (e) The Department of Agriculture may shall adopt and promulgate
24 rules and regulations with respect to the growth or cultivation of
25 industrial hemp and the certification and registration of sites growing
26 or cultivating industrial hemp as necessary to carry out authorized under
27 this section.

28 (4) For purposes of this section:

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

31 (b) Cultivate and cultivator have the same meaning as in section 3

1 of this act;

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

3 (d) (b) Industrial hemp means hemp as defined in section 3 of this
4 act the plant Cannabis sativa L. and any part of such plant, whether
5 growing or not, with a delta-9 tetrahydrocannabinol concentration of not
6 more than three-tenths percent on a dry weight basis; and

7 (e) (e) Postsecondary institution has the same meaning as in section
8 3 of this act; and means a postsecondary institution as defined in
9 section 85-2403 that also meets the requirements of 20 U.S.C. 1001, as
10 such section existed on January 1, 2014.

11 (f) Process and processor-handler have the same meaning as in
12 section 3 of this act.

13 Sec. 22. Section 28-401, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

15 28-401 As used in the Uniform Controlled Substances Act, unless the
16 context otherwise requires:

17 (1) Administer means to directly apply a controlled substance by
18 injection, inhalation, ingestion, or any other means to the body of a
19 patient or research subject;

20 (2) Agent means an authorized person who acts on behalf of or at the
21 direction of another person but does not include a common or contract
22 carrier, public warehouse keeper, or employee of a carrier or warehouse
23 keeper;

24 (3) Administration means the Drug Enforcement Administration of the
25 United States Department of Justice;

26 (4) Controlled substance means a drug, biological, substance, or
27 immediate precursor in Schedules I through V of section 28-405.
28 Controlled substance does not include distilled spirits, wine, malt
29 beverages, tobacco, hemp, or any nonnarcotic substance if such substance
30 may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et
31 seq., as such act existed on January 1, 2014, and the law of this state,

1 be lawfully sold over the counter without a prescription;

2 (5) Counterfeit substance means a controlled substance which, or the
3 container or labeling of which, without authorization, bears the
4 trademark, trade name, or other identifying mark, imprint, number, or
5 device, or any likeness thereof, of a manufacturer, distributor, or
6 dispenser other than the person or persons who in fact manufactured,
7 distributed, or dispensed such substance and which thereby falsely
8 purports or is represented to be the product of, or to have been
9 distributed by, such other manufacturer, distributor, or dispenser;

10 (6) Department means the Department of Health and Human Services;

11 (7) Division of Drug Control means the personnel of the Nebraska
12 State Patrol who are assigned to enforce the Uniform Controlled
13 Substances Act;

14 (8) Dispense means to deliver a controlled substance to an ultimate
15 user or a research subject pursuant to a medical order issued by a
16 practitioner authorized to prescribe, including the packaging, labeling,
17 or compounding necessary to prepare the controlled substance for such
18 delivery;

19 (9) Distribute means to deliver other than by administering or
20 dispensing a controlled substance;

21 (10) Prescribe means to issue a medical order;

22 (11) Drug means (a) articles recognized in the official United
23 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
24 States, official National Formulary, or any supplement to any of them,
25 (b) substances intended for use in the diagnosis, cure, mitigation,
26 treatment, or prevention of disease in human beings or animals, and (c)
27 substances intended for use as a component of any article specified in
28 subdivision (a) or (b) of this subdivision, but does not include devices
29 or their components, parts, or accessories;

30 (12) Deliver or delivery means the actual, constructive, or
31 attempted transfer from one person to another of a controlled substance,

1 whether or not there is an agency relationship;

2 (13) Hemp has the same meaning as in section 3 of this act;

3 (14)(a) ~~(13)~~ Marijuana means all parts of the plant of the genus
4 cannabis, whether growing or not, the seeds thereof, and every compound,
5 manufacture, salt, derivative, mixture, or preparation of such plant or
6 its seeds.

7 (b) Marijuana ,~~but~~ does not include the mature stalks of such
8 plant, hashish, tetrahydrocannabinols extracted or isolated from the
9 plant, fiber produced from such stalks, oil or cake made from the seeds
10 of such plant, any other compound, manufacture, salt, derivative,
11 mixture, or preparation of such mature stalks, the sterilized seed of
12 such plant which is incapable of germination, or cannabidiol contained in
13 a drug product approved by the federal Food and Drug Administration or
14 obtained pursuant to sections 28-463 to 28-468.

15 (c) Marijuana does not include hemp.

16 (d) When the weight of marijuana is referred to in the Uniform
17 Controlled Substances Act, it means its weight at or about the time it is
18 seized or otherwise comes into the possession of law enforcement
19 authorities, whether cured or uncured at that time.

20 (e) When industrial hemp as defined in section 2-5701 is in the
21 possession of a person as authorized under section 2-5701, it is not
22 considered marijuana for purposes of the Uniform Controlled Substances
23 Act;

24 (15) ~~(14)~~ Manufacture means the production, preparation,
25 propagation, conversion, or processing of a controlled substance, either
26 directly or indirectly, by extraction from substances of natural origin,
27 independently by means of chemical synthesis, or by a combination of
28 extraction and chemical synthesis, and includes any packaging or
29 repackaging of the substance or labeling or relabeling of its container.
30 Manufacture does not include the preparation or compounding of a
31 controlled substance by an individual for his or her own use, except for

1 the preparation or compounding of components or ingredients used for or
2 intended to be used for the manufacture of methamphetamine, or the
3 preparation, compounding, conversion, packaging, or labeling of a
4 controlled substance: (a) By a practitioner as an incident to his or her
5 prescribing, administering, or dispensing of a controlled substance in
6 the course of his or her professional practice; or (b) by a practitioner,
7 or by his or her authorized agent under his or her supervision, for the
8 purpose of, or as an incident to, research, teaching, or chemical
9 analysis and not for sale;

10 (16) ~~(15)~~ Narcotic drug means any of the following, whether produced
11 directly or indirectly by extraction from substances of vegetable origin,
12 independently by means of chemical synthesis, or by a combination of
13 extraction and chemical synthesis: (a) Opium, opium poppy and poppy
14 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,
15 derivative, or preparation of opium, coca leaves, or opiates; or (c) a
16 substance and any compound, manufacture, salt, derivative, or preparation
17 thereof which is chemically equivalent to or identical with any of the
18 substances referred to in subdivisions (a) and (b) of this subdivision,
19 except that the words narcotic drug as used in the Uniform Controlled
20 Substances Act does not include decocainized coca leaves or extracts of
21 coca leaves, which extracts do not contain cocaine or ecgonine, or
22 isoquinoline alkaloids of opium;

23 (17) ~~(16)~~ Opiate means any substance having an addiction-forming or
24 addiction-sustaining liability similar to morphine or being capable of
25 conversion into a drug having such addiction-forming or addiction-
26 sustaining liability. Opiate does not include the dextrorotatory isomer
27 of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic
28 and levorotatory forms;

29 (18) ~~(17)~~ Opium poppy means the plant of the species *Papaver*
30 *somniferum* L., except the seeds thereof;

31 (19) ~~(18)~~ Poppy straw means all parts, except the seeds, of the

1 opium poppy after mowing;

2 (20) ~~(19)~~ Person means any corporation, association, partnership,
3 limited liability company, or one or more persons;

4 (21) ~~(20)~~ Practitioner means a physician, a physician assistant, a
5 dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a
6 certified nurse midwife, a certified registered nurse anesthetist, a
7 nurse practitioner, a scientific investigator, a pharmacy, a hospital, or
8 any other person licensed, registered, or otherwise permitted to
9 distribute, dispense, prescribe, conduct research with respect to, or
10 administer a controlled substance in the course of practice or research
11 in this state, including an emergency medical service as defined in
12 section 38-1207;

13 (22) ~~(21)~~ Production includes the manufacture, planting,
14 cultivation, or harvesting of a controlled substance;

15 (23) ~~(22)~~ Immediate precursor means a substance which is the
16 principal compound commonly used or produced primarily for use and which
17 is an immediate chemical intermediary used or likely to be used in the
18 manufacture of a controlled substance, the control of which is necessary
19 to prevent, curtail, or limit such manufacture;

20 (24) ~~(23)~~ State means the State of Nebraska;

21 (25) ~~(24)~~ Ultimate user means a person who lawfully possesses a
22 controlled substance for his or her own use, for the use of a member of
23 his or her household, or for administration to an animal owned by him or
24 her or by a member of his or her household;

25 (26) ~~(25)~~ Hospital has the same meaning as in section 71-419;

26 (27) ~~(26)~~ Cooperating individual means any person, other than a
27 commissioned law enforcement officer, who acts on behalf of, at the
28 request of, or as agent for a law enforcement agency for the purpose of
29 gathering or obtaining evidence of offenses punishable under the Uniform
30 Controlled Substances Act;

31 (28)(a) ~~(27)~~ Hashish or concentrated cannabis means (i) ~~(a)~~ the

1 separated resin, whether crude or purified, obtained from a plant of the
2 genus cannabis or (ii) ~~(b)~~ any material, preparation, mixture, compound,
3 or other substance which contains ten percent or more by weight of
4 tetrahydrocannabinols.

5 (b) When resins extracted from (i) industrial hemp as defined in
6 section 2-5701 are in the possession of a person as authorized under
7 section 2-5701 or (ii) hemp as defined in section 3 of this act are in
8 the possession of a person as authorized under the Nebraska Hemp Farming
9 Act, they are not considered hashish or concentrated cannabis for
10 purposes of the Uniform Controlled Substances Act;

11 (29) ~~(28)~~ Exceptionally hazardous drug means (a) a narcotic drug,
12 (b) thiophene analog of phencyclidine, (c) phencyclidine, (d)
13 amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h)
14 methamphetamine;

15 (30) ~~(29)~~ Imitation controlled substance means a substance which is
16 not a controlled substance or controlled substance analogue but which, by
17 way of express or implied representations and consideration of other
18 relevant factors including those specified in section 28-445, would lead
19 a reasonable person to believe the substance is a controlled substance or
20 controlled substance analogue. A placebo or registered investigational
21 drug manufactured, distributed, possessed, or delivered in the ordinary
22 course of practice or research by a health care professional shall not be
23 deemed to be an imitation controlled substance;

24 (31)(a) ~~(30)(a)~~ Controlled substance analogue means a substance (i)
25 the chemical structure of which is substantially similar to the chemical
26 structure of a Schedule I or Schedule II controlled substance as provided
27 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
28 or hallucinogenic effect on the central nervous system that is
29 substantially similar to or greater than the stimulant, depressant,
30 analgesic, or hallucinogenic effect on the central nervous system of a
31 Schedule I or Schedule II controlled substance as provided in section

1 28-405. A controlled substance analogue shall, to the extent intended for
2 human consumption, be treated as a controlled substance under Schedule I
3 of section 28-405 for purposes of the Uniform Controlled Substances Act;
4 and

5 (b) Controlled substance analogue does not include (i) a controlled
6 substance, (ii) any substance generally recognized as safe and effective
7 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
8 301 et seq., as such act existed on January 1, 2014, (iii) any substance
9 for which there is an approved new drug application, or (iv) with respect
10 to a particular person, any substance if an exemption is in effect for
11 investigational use for that person, under section 505 of the Federal
12 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
13 January 1, 2014, to the extent conduct with respect to such substance is
14 pursuant to such exemption;

15 (32) ~~(31)~~ Anabolic steroid means any drug or hormonal substance,
16 chemically and pharmacologically related to testosterone (other than
17 estrogens, progestins, and corticosteroids), that promotes muscle growth
18 and includes any controlled substance in Schedule III(d) of section
19 28-405. Anabolic steroid does not include any anabolic steroid which is
20 expressly intended for administration through implants to cattle or other
21 nonhuman species and has been approved by the Secretary of Health and
22 Human Services for such administration, but if any person prescribes,
23 dispenses, or distributes such a steroid for human use, such person shall
24 be considered to have prescribed, dispensed, or distributed an anabolic
25 steroid within the meaning of this subdivision;

26 (33) ~~(32)~~ Chart order means an order for a controlled substance
27 issued by a practitioner for a patient who is in the hospital where the
28 chart is stored or for a patient receiving detoxification treatment or
29 maintenance treatment pursuant to section 28-412. Chart order does not
30 include a prescription;

31 (34) ~~(33)~~ Medical order means a prescription, a chart order, or an

1 order for pharmaceutical care issued by a practitioner;

2 (35) ~~(34)~~ Prescription means an order for a controlled substance
3 issued by a practitioner. Prescription does not include a chart order;

4 (36) ~~(35)~~ Registrant means any person who has a controlled
5 substances registration issued by the state or the Drug Enforcement
6 Administration of the United States Department of Justice;

7 (37) ~~(36)~~ Reverse distributor means a person whose primary function
8 is to act as an agent for a pharmacy, wholesaler, manufacturer, or other
9 entity by receiving, inventorying, and managing the disposition of
10 outdated, expired, or otherwise nonsaleable controlled substances;

11 (38) ~~(37)~~ Signature means the name, word, or mark of a person
12 written in his or her own hand with the intent to authenticate a writing
13 or other form of communication or a digital signature which complies with
14 section 86-611 or an electronic signature;

15 (39) ~~(38)~~ Facsimile means a copy generated by a system that encodes
16 a document or photograph into electrical signals, transmits those signals
17 over telecommunications lines, and reconstructs the signals to create an
18 exact duplicate of the original document at the receiving end;

19 (40) ~~(39)~~ Electronic signature has the definition found in section
20 86-621;

21 (41) ~~(40)~~ Electronic transmission means transmission of information
22 in electronic form. Electronic transmission includes computer-to-computer
23 transmission or computer-to-facsimile transmission;

24 (42) ~~(41)~~ Long-term care facility means an intermediate care
25 facility, an intermediate care facility for persons with developmental
26 disabilities, a long-term care hospital, a mental health substance use
27 treatment center, a nursing facility, or a skilled nursing facility, as
28 such terms are defined in the Health Care Facility Licensure Act;

29 (43) ~~(42)~~ Compounding has the same meaning as in section 38-2811;

30 (44) ~~(43)~~ Cannabinoid receptor agonist shall mean any chemical
31 compound or substance that, according to scientific or medical research,

1 study, testing, or analysis, demonstrates the presence of binding
2 activity at one or more of the CB1 or CB2 cell membrane receptors located
3 within the human body; and

4 (45) ~~(44)~~ Lookalike substance means a product or substance, not
5 specifically designated as a controlled substance in section 28-405, that
6 is either portrayed in such a manner by a person to lead another person
7 to reasonably believe that it produces effects on the human body that
8 replicate, mimic, or are intended to simulate the effects produced by a
9 controlled substance or that possesses one or more of the following
10 indicia or characteristics:

11 (a) The packaging or labeling of the product or substance suggests
12 that the user will achieve euphoria, hallucination, mood enhancement,
13 stimulation, or another effect on the human body that replicates or
14 mimics those produced by a controlled substance;

15 (b) The name or packaging of the product or substance uses images or
16 labels suggesting that it is a controlled substance or produces effects
17 on the human body that replicate or mimic those produced by a controlled
18 substance;

19 (c) The product or substance is marketed or advertised for a
20 particular use or purpose and the cost of the product or substance is
21 disproportionately higher than other products or substances marketed or
22 advertised for the same or similar use or purpose;

23 (d) The packaging or label on the product or substance contains
24 words or markings that state or suggest that the product or substance is
25 in compliance with state and federal laws regulating controlled
26 substances;

27 (e) The owner or person in control of the product or substance uses
28 evasive tactics or actions to avoid detection or inspection of the
29 product or substance by law enforcement authorities;

30 (f) The owner or person in control of the product or substance makes
31 a verbal or written statement suggesting or implying that the product or

1 substance is a synthetic drug or that consumption of the product or
2 substance will replicate or mimic effects on the human body to those
3 effects commonly produced through use or consumption of a controlled
4 substance;

5 (g) The owner or person in control of the product or substance makes
6 a verbal or written statement to a prospective customer, buyer, or
7 recipient of the product or substance implying that the product or
8 substance may be resold for profit; or

9 (h) The product or substance contains a chemical or chemical
10 compound that does not have a legitimate relationship to the use or
11 purpose claimed by the seller, distributor, packer, or manufacturer of
12 the product or substance or indicated by the product name, appearing on
13 the product's packaging or label or depicted in advertisement of the
14 product or substance.

15 Sec. 23. Section 81-2,162.27, Revised Statutes Cumulative
16 Supplement, 2018, is amended to read:

17 81-2,162.27 (1) All money received under the Nebraska Commercial
18 Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials
19 Act shall be remitted to the State Treasurer for credit to the
20 Fertilizers and Soil Conditioners Administrative Fund, which fund is
21 hereby created. All money so received shall be used by the department for
22 defraying the expenses of administering the Nebraska Commercial
23 Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials
24 Act. Until January 1, 2020, the fund may also be used to defray all
25 reasonable and necessary costs related to the implementation of the
26 Nebraska Hemp Farming Act. The Department of Agriculture shall document
27 all costs incurred for such purpose. The budget administrator of the
28 budget division of the Department of Administrative Services may transfer
29 a like amount from the Nebraska Hemp Program Fund to the Fertilizers and
30 Soil Conditioners Administrative Fund no later than October 1, 2022.
31 Transfers may be made from the fund to the General Fund at the direction

1 of the Legislature. The State Treasurer shall transfer two hundred
2 seventy-five thousand dollars from the Fertilizers and Soil Conditioners
3 Administrative Fund to the General Fund on or before June 30, 2019, on
4 such dates and in such amounts as directed by the budget administrator of
5 the budget division of the Department of Administrative Services.

6 (2) Any unexpended balance in the Fertilizers and Soil Conditioners
7 Administrative Fund at the close of any biennium shall, when
8 reappropriated, be available for the uses and purposes of the fund for
9 the succeeding biennium. Any money in the fund available for investment
10 shall be invested by the state investment officer pursuant to the
11 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
12 Act.

13 Sec. 24. Sections 17, 18, and 19 of this act become operative on
14 July 1, 2021. The other sections of this act become operative on their
15 effective date.

16 Sec. 25. If any section in this act or any part of any section is
17 declared invalid or unconstitutional, the declaration shall not affect
18 the validity or constitutionality of the remaining portions.

19 Sec. 26. Original section 2-958, Reissue Revised Statutes of
20 Nebraska, and sections 2-5701, 28-401, and 81-2,162.27, Revised Statutes
21 Cumulative Supplement, 2018, are repealed.

22 Sec. 27. Since an emergency exists, this act takes effect when
23 passed and approved according to law.