

AMENDMENTS TO LB245

Introduced by Agriculture.

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

3           **Section 1.** Section 81-2,239, Reissue Revised Statutes of Nebraska,  
4 is amended to read:

5           81-2,239 Sections 81-2,239 to 81-2,292 and the provisions of the  
6 Food Code and the Current Good Manufacturing Practice ~~In Manufacturing,~~  
7 ~~Packing, or Holding Human Food~~ adopted by reference in sections  
8 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska  
9 Pure Food Act.

10          **Sec. 2.** Section 81-2,244.01, Reissue Revised Statutes of Nebraska,  
11 is amended to read:

12          81-2,244.01 Food Code shall mean the 2022 ~~2017~~ Recommendations of  
13 the United States Public Health Service, Food and Drug Administration,  
14 except the definitions of adulterated food and food establishment, person  
15 in charge, regulatory authority, and sections ~~2-102.12, 2-102.20(B),~~  
16 ~~2-103.11(I) and (M), 3-301.11(B), (C), (D), and (E), 3-501.16,~~  
17 ~~4-301.12(C)(5), (D), and (E), 4-603.16(C), 4-802.11(C),~~ 8-101, 8-102,  
18 8-201.11, 8-201.12, 8-202.10 through 8-304.20, 8-401.10(B)(2), 8-402.20  
19 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B). The term  
20 Food Code does not include the annexes of such federal recommendations.

21          **Sec. 3.** Section 81-2,245.01, Reissue Revised Statutes of Nebraska,  
22 is amended to read:

23          81-2,245.01 Food establishment shall mean an operation that stores,  
24 prepares, packages, serves, sells, vends, ~~delivers,~~ or otherwise provides  
25 food for human consumption. The term does not include:

26          (1) An establishment or vending machine operation that offers only  
27 prepackaged soft drinks, carbonated or noncarbonated; canned or bottled

1 fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato  
2 or corn chips; pretzels; cheese puffs and curls; crackers; popped  
3 popcorn; nuts and edible seeds; and cookies, cakes, pies, and other  
4 pastries, that are not time/temperature control for safety foods;

5 (2) A produce stand that only offers whole, uncut fresh fruits and  
6 vegetables;

7 (3) A food processing plant;

8 (4) A salvage operation;

9 (5) A private home where food is prepared or served for personal  
10 use, a small day care in the home, or a hunting lodge, guest ranch, or  
11 other operation where no more than ten paying guests eat meals in the  
12 home;

13 (6) A private home or other area where food that is not time/  
14 temperature control for safety food is prepared for sale or service at a  
15 religious, charitable, or fraternal organization's bake sale or similar  
16 function;

17 (7) A private home where a producer of food that meets the  
18 requirements of section 81-2,280 is prepared for sale directly to the  
19 consumer including, but not limited to, at a farmers market, fair,  
20 festival, craft show, or other public event or for pick up at or delivery  
21 from such private home;

22 (8) A private home or other area where food is prepared for  
23 distribution at a fundraising event for a charitable purpose if the  
24 consumer is informed by a clearly visible placard at the serving location  
25 that the food was prepared in a kitchen that is not subject to regulation  
26 and inspection by the regulatory authority. This subdivision does not  
27 apply to a caterer or other establishment providing food for the event if  
28 the caterer or establishment receives compensation for providing the  
29 food;

30 (9) The location where food prepared by a caterer is served so long  
31 as the caterer only minimally handles the food at the serving location;

1 (10) Educational institutions, health care facilities, nursing  
2 homes, and governmental organizations which are inspected by a state  
3 agency or a political subdivision other than the regulatory authority for  
4 sanitation in the food preparation areas;

5 (11) A pharmacy as defined in section 71-425 or a similar facility  
6 if the pharmacy or the similar facility only sells prepackaged  
7 pharmaceutical, medicinal, or health supplement foods that are not time/  
8 temperature control for safety or foods described in subdivision (1) of  
9 this section; and

10 (12) An establishment which is not a commercial food establishment  
11 and which sells only commercially packaged foods that are not time/  
12 temperature control for safety foods.

13 **Sec. 4.** Section 81-2,254, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 81-2,254 Single event food vendor shall mean a temporary food  
16 establishment that operates at no more than one event per calendar year  
17 for a period of no more than four ~~two~~ days.

18 **Sec. 5.** Section 81-2,257, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 81-2,257 Priority items are designated in the Food Code ~~and sections~~  
21 ~~81-2,272.01, 81-2,272.10, and 81-2,272.24.~~ Priority foundation items are  
22 designated in the Food Code.

23 **Sec. 6.** Section 81-2,259, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 81-2,259 The Legislature hereby adopts by reference the federal  
26 Current Good Manufacturing Practice In Manufacturing, Packing, or Holding  
27 Human Food found in 21 C.F.R. parts 117.4 and 117.10 to 117.110 as they  
28 ~~part 110 as it~~ existed on April 1, 2024 ~~2015~~.

29 **Sec. 7.** Section 81-2,268, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 81-2,268 (1) Food establishment, food processing plant, or salvage

1 operation facilities and equipment in use or new facilities and equipment  
2 for which contractual obligations are incurred before September 13, 1997,  
3 and which do not meet fully all the design and fabrication requirements  
4 of the Nebraska Pure Food Act shall be acceptable if:

5 (a) They meet food temperature requirements;

6 (b) They ~~they~~ are in good repair and capable of being maintained in  
7 a sanitary condition; and

8 (c) The ~~the~~ food-contact surfaces are of safe materials. A food  
9 establishment, food processing plant, or salvage operation which has a  
10 change of ownership or extensive remodeling after September 13, 1997,  
11 shall comply with all applicable facility and equipment requirements of  
12 the act.

13 **Sec. 8.** Section 81-2,270, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 81-2,270 (1) No person shall operate without a valid permit:

16 (a) A food establishment conducting those food handling activities  
17 authorized by such permit;

18 (b) A food processing plant; or

19 (c) A salvage operation.

20 (2) Application for a permit shall be made to the director on forms  
21 prescribed and furnished by the department. Such application shall  
22 include (a) the applicant's full name and mailing address and the names  
23 and addresses of any partners, members, or corporate officers, (b)  
24 whether the applicant is an individual, partnership, limited liability  
25 company, corporation, or other legal entity, (c) the location and type of  
26 proposed establishment or operation, and (d) the signature of the  
27 applicant. Application for a permit shall be made prior to the operation  
28 of a food establishment, food processing plant, or salvage operation. The  
29 application shall be accompanied by an initial permit fee and an initial  
30 ~~inspection~~ fee in the same amount as the annual ~~inspection~~ fee if  
31 inspections are required to be done by the department. If any food

1 establishment, food processing plant, or salvage operation is operating  
2 without a valid permit, such establishment, plant, or operation shall pay  
3 an additional fee of sixty dollars prior to the issuance of a valid  
4 permit.

5 (3) Payment of the initial permit fee, the initial annual ~~inspection~~  
6 fee, and the fee for operating without a valid permit shall not preclude  
7 payment of the annual ~~inspection~~ fees due on August 1 of each year.  
8 Except as provided in subsections (7) through (10) of this section and  
9 subsection (2) of section 81-2,281, a permitholder shall pay annual  
10 ~~inspection~~ fees on or before August 1 of each year regardless of when the  
11 initial permit was obtained.

12 (4)(a) The director shall set the initial permit fee and the annual  
13 ~~inspection~~ fees on or before July 1 of each fiscal year to meet the  
14 criteria in this subsection. The director may raise or lower the fees  
15 each year, but the fees shall not exceed the maximum fees listed in  
16 subdivision (4)(b) of this section. The director shall determine the fees  
17 based on the estimated annual revenue and fiscal year-end cash fund  
18 balance as follows:

19 (i) The estimated annual revenue shall not be greater than one  
20 hundred seven percent of program cash fund appropriations allocated for  
21 the Nebraska Pure Food Act;

22 (ii) The estimated fiscal year-end cash fund balance shall not be  
23 greater than seventeen percent of program cash fund appropriations  
24 allocated for the act; and

25 (iii) All fee increases or decreases shall be equally distributed  
26 between all categories to the nearest dollar.

27 (b) The maximum fees are:

28 Secondary  
29 or  
30 Additional

1				Food	Secondary
2				Preparation	Unit
3				Area	Or
4		Base	Annual	Annual	Units
5		Initial	Annual	<del>Inspection</del>	Annual
6		Permit	<del>Inspection</del>	Fee	<del>Inspection</del>
7	Permit Type	Fee	Fee	(per area)	Fee
8	Limited Retail				
9	<u>Food Establishment</u>	<u>\$122.00</u>	<u>\$122.00</u>	<u>\$61.00</u>	<u>N/A</u>
10	<del>Food Establishment</del>	<del>\$86.19</del>	<del>\$86.19</del>	<del>\$43.09</del>	<del>N/A</del>
11	<u>Itinerant Food Vendor</u>	<u>\$122.00</u>	<u>\$122.00</u>	<u>\$61.00</u>	<u>N/A</u>
12	<del>Itinerant Food Vendor</del>	<del>\$86.19</del>	<del>\$86.19</del>	<del>\$43.09</del>	<del>N/A</del>
13	Limited Food Service				
14	<u>Establishment</u>	<u>\$122.00</u>	<u>\$122.00</u>	<u>\$61.00</u>	<u>N/A</u>
15	<del>Establishment</del>	<del>\$86.19</del>	<del>\$86.19</del>	<del>\$43.09</del>	<del>N/A</del>
16	Mobile Food Unit				
17	<u>(for each unit)</u>	<u>\$122.00</u>	<u>N/A</u>	<u>N/A</u>	<u>\$61.00</u>
18	<del>(for each unit)</del>	<del>\$86.19</del>	<del>N/A</del>	<del>N/A</del>	<del>\$43.09</del>
19	<u>Pushcart (for each unit)</u>	<u>\$122.00</u>	<u>N/A</u>	<u>N/A</u>	<u>\$24.00</u>
20	<del>Pushcart (for each unit)</del>	<del>\$86.19</del>	<del>N/A</del>	<del>N/A</del>	<del>\$17.23</del>
21	Vending Machine				
22	<u>Operations:</u>	<u>\$122.00</u>			
23	<del>Operations:</del>	<del>\$86.19</del>			
24	<u>One to ten units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$24.00</u>
25	<del>One to ten units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$17.23</del>
26	<u>Eleven to twenty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$49.00</u>
27	<del>Eleven to twenty units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$34.46</del>
28	Twenty-one to thirty				
29	<u>units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$73.00</u>

1	<del>units</del>		N/A	N/A	\$51.69
2	Thirty-one to forty				
3	<u>units</u>		N/A	N/A	\$98.00
4	<del>units</del>		N/A	N/A	\$68.92
5	<u>Over forty units</u>		N/A	N/A	\$122.00
6	<del>Over forty units</del>		N/A	N/A	\$86.15
7	<u>Food Processing Plant</u>	\$122.00	\$171.00	\$61.00	N/A
8	<del>Food Processing Plant</del>	\$86.19	\$120.64	\$43.09	N/A
9	<u>Salvage Operation</u>	\$122.00	\$171.00	\$61.00	N/A
10	<del>Salvage Operation</del>	\$86.19	\$120.64	\$43.09	N/A
11	<u>Commissary</u>	\$122.00	\$171.00	\$61.00	N/A
12	<del>Commissary</del>	\$86.19	\$120.64	\$43.09	N/A
13	All Other Food				
14	<u>Establishment</u>	\$122.00	\$171.00	\$61.00	N/A.
15	<del>Establishment</del>	\$86.19	\$120.64	\$43.09	N/A

16 (5) For a food establishment, a base annual inspection fee includes  
 17 one food preparation area and one food handling activity based upon the  
 18 primary food handling activity conducted within the food establishment as  
 19 determined by the department. The annual inspection fee shall also  
 20 include any fees assessed for each additional food preparation area  
 21 within the primary establishment and any applicable secondary food  
 22 handling activity as determined by the department. Any mobile food  
 23 establishment that does not return to a commissary each day shall obtain  
 24 a separate permit and pay the annual base inspection fee for the mobile  
 25 food establishment.

26 (6) If a person fails to pay any fee due under this section the  
 27 ~~inspection fee~~ for more than one month after the fee is due, such person  
 28 shall pay a late fee equal to fifty percent of the total fee for the  
 29 first month that the fee is late and one hundred percent for the second  
 30 month that the fee is late. The purpose of the late fee is to cover the

1 administrative costs associated with collecting fees. All money collected  
2 as a late fee shall be remitted to the State Treasurer for credit to the  
3 Pure Food Cash Fund. If the total fees due remain unpaid ninety days  
4 after the original due date, the permit shall no longer be valid.

5 (7)(a) Any of the following entities that is ~~(7) An educational~~  
6 ~~institution, health care facility, nursing home, or governmental~~  
7 ~~organization~~ operating any type of food establishment, other than a  
8 mobile food unit or pushcart, is exempt from the requirements in  
9 subsections (1) through (6) of this section: -

10 (i) Any educational institution;

11 (ii) Any health care facility;

12 (iii) Any nursing home; or

13 (iv) Any governmental organization.

14 (b) If any entity described in subdivision (a) of this subsection  
15 utilizes an outside food service provider, such outside food service  
16 provider shall pay any applicable fee regardless of if the entity  
17 described in subdivision (a) of this subsection is listed as the owner on  
18 the permit.

19 (8) A food establishment which produces eggs and only stores,  
20 packages, sells, delivers, or otherwise provides for human consumption  
21 the eggs it produces, or only stores, packages, sells, delivers, or  
22 otherwise provides for human consumption eggs produced from no more than  
23 four producers at the same time, is exempt from the requirements of  
24 subsections (1) through (6) of this section.

25 (9) A food establishment or food processing plant holding a permit  
26 under the Nebraska Milk Act is exempt from the requirements of  
27 subsections (1) through (6) of this section.

28 (10) A single event food vendor or a religious, charitable, or  
29 fraternal organization operating any type of temporary food  
30 establishment, mobile food unit, or pushcart is exempt from the  
31 requirements of subsections (1) through (6) of this section. Any such

1 organization operating any nontemporary food establishment prior to July  
2 1, 1985, is exempt from the requirements of subsection (2) of this  
3 section.

4 (11) A permitholder may sell food prepared by the permitholder at  
5 the location of another permitholder without obtaining a separate permit  
6 at such location so long as the permitholder preparing the food is not a  
7 food processing plant. Both the permitholder preparing the food and the  
8 permitholder selling the food are responsible for compliance with the  
9 Nebraska Pure Food Act.

10 **Sec. 9.** Section 81-2,271, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 81-2,271 (1) The permit required by section 81-2,270 shall be posted  
13 in a conspicuous manner at the food establishment, each location where  
14 food handling activity included under a permit is occurring, the food  
15 processing plant, or the salvage operation. For a food establishment that  
16 does not have a permanent location, the permit location shall be a  
17 permanent address where the permitholder may be contacted.

18 (2) The permit is not transferable to any other person or location.  
19 Any permit issued lapses automatically upon a change of ownership or  
20 location except as provided in subsection (3) of this section. The  
21 permitholder shall notify the department in writing at least thirty days  
22 prior to any change in ownership, name, or address. ~~When an establishment~~  
23 ~~is to be permanently closed, the permitholder shall return the permit to~~  
24 ~~the department within one week after the closing.~~

25 (3) A permitholder shall provide information regarding the current  
26 location of any food handling activity included under the permitholder's  
27 permit to the regulatory authority upon request.

28 (4) Every mobile food unit or pushcart operator shall have a copy of  
29 the permit to operate available at the mobile food unit or pushcart when  
30 in operation.

31 **Sec. 10.** Section 81-2,274, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-2,274 (1) Any notice or order provided for in the Nebraska Pure  
3 Food Act shall be ~~personally~~ served on the permitholder at ~~or on the~~  
4 ~~person authorized by the permitholder to receive notices and orders of~~  
5 ~~the department or shall be sent by certified mail, return receipt~~  
6 ~~requested,~~ to the last-known address of the permitholder or at the  
7 permitted location ~~the person authorized to receive such notices and~~  
8 ~~orders.~~ A copy of the notice and the order shall be filed in the records  
9 of the department.

10 (2) A notice to comply provided for in section 81-2,273 shall set  
11 forth the acts or omissions with which the permitholder is charged.

12 (3) A notice of the permitholder's right to a hearing provided for  
13 in the act shall set forth the time and place of the hearing except as  
14 provided in subsection (4) of section 81-2,273. A notice of the  
15 permitholder's right to such hearing shall include notice that a  
16 permitholder's right to a hearing may be waived pursuant to subsection  
17 (5) of this section. A notice of the permitholder's right to a hearing to  
18 show cause why the permit should not be revoked shall include notice to  
19 the permitholder that the permit may be revoked or suspended, that the  
20 permitholder may be subject to an order of probation, or that the permit  
21 may be suspended and the permitholder subject to an order of probation,  
22 if the director determines such action is more appropriate. A notice of  
23 the permitholder's right to a hearing to show cause why the permit should  
24 not be suspended shall include notice to the permitholder that the permit  
25 may be suspended or that the permitholder may also be subject to an order  
26 of probation if the director determines such action is more appropriate.

27 (4) The hearings provided for in the act shall be conducted by the  
28 director at the time and place he or she designates. The director shall  
29 make a final finding based upon the complete hearing record and issue an  
30 order. If the director has suspended a permit pursuant to subsection (4)  
31 of section 81-2,273, the director shall sustain, modify, or rescind the

1 order. All hearings shall be in accordance with the Administrative  
2 Procedure Act.

3 (5) A permitholder shall be deemed to waive the right to a hearing  
4 if such permitholder does not come to the hearing at the time and place  
5 set forth in the notice described in subsection (3) of this section  
6 without requesting the director at least two days before the designated  
7 time to change the time and place for the hearing, except that before an  
8 order of the director becomes final, the director may designate a  
9 different time and place for the hearing if the permitholder shows the  
10 director that the permitholder had a justifiable reason for not coming to  
11 the hearing and not timely requesting a change in the time and place for  
12 such hearing. If the permitholder waives the right to a hearing, the  
13 director shall make a final finding based upon the available information  
14 and issue an order. If the director has suspended a permit pursuant to  
15 subsection (4) of section 81-2,273, the director shall sustain, modify,  
16 or rescind the order.

17 (6) Any person aggrieved by the finding of the director shall have  
18 ten days from the entry of the director's order to request a new hearing  
19 if such person can show that a mistake of fact has been made which  
20 affected the director's determination. Any order of the director shall  
21 become final upon the expiration of ten days after its entry if no  
22 request for a new hearing is made.

23 **Sec. 11.** Section 81-2,277, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 81-2,277 Food processing plants and salvage operations shall comply  
26 with the federal Current Good Manufacturing Practice ~~In Manufacturing,~~  
27 ~~Packing, or Holding Human Food~~ adopted in section 81-2,259.

28 **Sec. 12.** Section 89-186, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 89-186 (1) The Legislature hereby adopts by reference the following:

31 (a) The standards of the National Conference on Weights and Measures

1 published in National Institute of Standards and Technology Handbook 44  
2 entitled Specifications, Tolerances, and Other Technical Requirements for  
3 Weighing and Measuring Devices as it existed on January 1, 2025 ~~2019~~,  
4 except Section 3.31. Vehicle - Tank meters. UR.2.2. Ticket Printer,  
5 Customer Ticket, Section 2.20. Scales, N.3. Minimum Test Weights and Test  
6 Loads; and Table 4, are not adopted. In addition to the language found in  
7 Section 3.30. Liquid-Measuring Devices, S.1.6.4., S.1.6.5., UR.3.2., and  
8 UR.3.3. of such handbook, any computing device in which a product or  
9 grade is offered for sale at more than one unit price may also compute at  
10 the lowest possible unit price for such transaction. All prices shall  
11 still be displayed or posted on the face of the dispenser. Such handbook  
12 shall govern all commercial and law enforcement weighing and measuring  
13 devices in the state;

14 (b) The Uniform Regulation for the Method of Sale of Commodities of  
15 the National Conference on Weights and Measures published in National  
16 Institute of Standards and Technology Handbook 130 entitled Uniform Laws  
17 and Regulations in the Areas of Legal Metrology and Engine Fuel Quality  
18 as it existed on January 1, 2025 ~~2019~~. Such handbook shall be used to  
19 determine the proper units of measurement to be used in the keeping for  
20 sale or sale of commodities;

21 (c) The Uniform Packaging and Labeling Regulation of the National  
22 Conference on Weights and Measures published in National Institute of  
23 Standards and Technology Handbook 130 entitled Uniform Laws and  
24 Regulations in the Areas of Legal Metrology and Engine Fuel Quality as it  
25 existed on January 1, 2025 ~~2019~~. Such handbook shall govern the packaging  
26 and labeling by weight, measure, or count of commodities kept for sale or  
27 sold in this state; and

28 (d) The procedures designated in National Institute of Standards and  
29 Technology Handbook 133 entitled Checking the Net Contents of Packaged  
30 Goods as it existed on January 1, 2025 ~~2019~~.

31 (2) Copies of the handbooks adopted by reference in this section

1 shall be filed with the Secretary of State, Clerk of the Legislature, and  
2 Department of Agriculture. Copies filed with the Clerk of the Legislature  
3 shall be filed electronically.

4 (3) Whenever there exists an inconsistency between the provisions of  
5 the Weights and Measures Act other than this section and any of the  
6 handbooks adopted by reference, the requirements of such provisions of  
7 the act shall control.

8 **Sec. 13.** Section 89-187, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 89-187 For purposes of administering and enforcing the Weights and  
11 Measures Act, the director is authorized to:

12 (1) Maintain traceability of the primary standards to the National  
13 Institute of Standards and Technology;

14 (2) Enforce the provisions of the Weights and Measures Act;

15 (3) Adopt and promulgate reasonable rules and regulations for the  
16 enforcement of the act including the following:

17 (a) Requirements for the voluntary registration of sales and repair  
18 personnel for commercial weighing and measuring devices including:

19 (i) Registration fees for such personnel which shall not exceed the  
20 actual cost to defray the operation of the voluntary registration  
21 program;

22 (ii)(A) Qualifications for registration, which may include  
23 examinations, (B) performance standards to maintain registration, (C)  
24 types of equipment necessary for the work to be performed by the  
25 personnel, (D) responsibilities and privileges of registration, and (E)  
26 revocation and suspension of such registration and probation of the  
27 registrant; and

28 (iii) Minimum standards for the installation and maintenance of  
29 commercial weighing and measuring devices;

30 (b) Additional standards not specifically provided for in the act;

31 (c) Standards for (i) attachments or parts entering into the

1 construction or installation of commercial weighing and measuring devices  
2 which shall tend to secure correct results in the use of such devices and  
3 (ii) the setting of laboratory fees which shall not exceed the actual  
4 cost for testing, correcting, calibrating, and verifying secondary  
5 standards and the establishment of standard laboratory operating  
6 procedures;

7 (d) Requirements for the suitable use of commercial weighing and  
8 measuring devices; and

9 (e) Guidelines for the appropriate method of weighing or measuring  
10 whenever the director determines that such guidelines would further the  
11 purpose of the act;

12 (4) Establish standards of weight, measure, or count, reasonable  
13 standards of fill, and standards for the presentation of cost-per-unit  
14 information for any commodity;

15 (5) Upon an application filed with the department by the applicant,  
16 grant exemptions, including specific exemptions for single-use commercial  
17 weighing and measuring devices, from the provisions of the act or the  
18 rules and regulations when the applicant on such application provides  
19 assurances, acceptable to the director, that such exemption is  
20 appropriate to the maintenance of good commercial practices within the  
21 state. Notwithstanding any other provision of the act, meters used by a  
22 public utility system for the measurement of electricity, natural or  
23 manufactured gas, water, or the usage of communication services, the  
24 appliances or accessories associated with such meters, and all weighing  
25 and measuring devices inspected or tested by the Public Service  
26 Commission shall be exempt from the registration, inspection, and testing  
27 requirements of the act, except that this exemption shall not apply to  
28 meters which determine the weight or measurement of motor fuel;

29 (6) Conduct investigations to insure compliance with the act;

30 (7) Delegate to appropriate personnel any of these responsibilities  
31 for the proper administration of the director's office;

1 (8) In his or her discretion, inspect and test weighing and  
2 measuring devices kept for sale or sold;

3 (9) Inspect and test annually and from time to time, as in the  
4 director's judgment seems necessary, to ascertain whether commercial  
5 weighing and measuring devices are correct;

6 (10) Register and test as far as practical all commercial weighing  
7 and measuring devices used in checking the receipt or disbursement of  
8 supplies in every institution for which funds are appropriated by the  
9 Legislature;

10 (11) Test annually and at the request of the Nebraska State Patrol  
11 all weighing and measuring devices used for the enforcement of sections  
12 60-3,144, 60-3,147, and 60-6,294. The agency responsible for such  
13 weighing and measuring devices shall pay the department for the actual  
14 cost of such tests. The department shall bill test fees to such agency  
15 upon completion of the test;

16 (12) Approve for use and may mark commercial weighing and measuring  
17 devices which the director finds to be correct and shall reject and mark  
18 or tag as rejected such commercial weighing and measuring devices which  
19 the director finds to be not correct or not registered and inspected in  
20 accordance with the Weights and Measures Act. Commercial weighing and  
21 measuring devices that have been rejected may be seized if not made  
22 correct within the time specified or if used or disposed of in a manner  
23 not specifically authorized. The director shall condemn and may seize  
24 commercial weighing and measuring devices which are found not to be  
25 correct and not capable of being made correct;

26 (13) Weigh, measure, or inspect commodities kept for sale, sold, or  
27 in the process of delivery to determine whether they contain the amounts  
28 represented and whether they are kept for sale or sold in accordance with  
29 the act or the rules and regulations. When commodities are found not to  
30 contain the amounts represented or are found to be kept for sale, sold,  
31 or in the process of delivery in violation of the act, the director may

1 issue stop-sale, hold, or removal orders and may mark or tag such  
2 commodities as being in violation of the act. In carrying out the  
3 provisions of this section, the director shall employ recognized  
4 procedures pursuant to subdivisions (1)(b) through (d) of section 89-186;

5 (14) Provide for the weights and measures training of inspection  
6 personnel and adopt and promulgate by rule and regulation minimum  
7 training requirements which shall be met by all inspection personnel;

8 (15) Adopt and promulgate rules and regulations prescribing the  
9 appropriate term or unit of measurement to be used whenever the director  
10 determines in the case of a specific commodity that an existing practice  
11 of declaring the quantity by weight, measure, numerical count, or  
12 combination thereof does not facilitate value comparisons by consumers or  
13 offers an opportunity for consumer confusion;

14 (16) Allow reasonable variations from the stated quantity of  
15 contents which shall include those caused by loss or gain of moisture  
16 during the course of good distribution practice or by unavoidable  
17 deviations in good manufacturing practice only after the commodity has  
18 entered intrastate commerce;

19 (17) Verify advertised prices, price representations, and point-of-  
20 sale systems, as deemed necessary, to determine: (a) The accuracy of  
21 prices, quantity, and computations; (b) the correct use of the equipment;  
22 and (c) if such systems utilize scanning or coding means in lieu of  
23 manual entry, the accuracy of prices and quantity printed or recalled  
24 from a database;

25 (18) On or before July 1 of each year, notify all persons who have  
26 registered any commercial weighing or measuring device of the amount of  
27 fees which are due and that the fees are due on August 1 and shall be  
28 delinquent after such date;

29 (19) Require all persons who operate a weighing and measuring  
30 establishment to obtain a permit to operate such establishment pursuant  
31 to section 89-187.01 and to pay to the department an application permit

1 ~~fee pursuant to section 89-187.02;~~

2 (20) Require all persons who operate a weighing and measuring  
3 establishment to, on or before August 1 of each year:

4 (a) Register each commercial weighing and measuring device with the  
5 department upon forms furnished by the director;

6 (b) Pay to the department a registration fee of four dollars; and

7 (c) Pay to the department a device ~~inspection~~ fee.

8 (i) The device ~~inspection~~ fee shall be due each August 1 and shall  
9 be set by the director on or before July 1 of each year. The director may  
10 raise or lower the device ~~inspection~~ fees each year to meet the criteria  
11 in this subdivision, but the fee shall not be greater than the amount in  
12 column B of subdivision (20)(c)(ii) of this section. The same percentage  
13 shall be applied to each device category for all device ~~inspection~~ fee  
14 increases or decreases to the nearest dollar. The director shall use the  
15 amounts in column A of subdivision (20)(c)(ii) of this section as a base  
16 for future fee increases or decreases. The director shall determine the  
17 fees based on the estimated annual revenue and fiscal year-end cash fund  
18 balances as follows:

19 (A) The estimated annual revenue shall not be greater than one  
20 hundred seven percent of program cash fund appropriations allocated for  
21 the Weights and Measures Act; and

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

25 (ii)

26 Scales:	A	B
27 <u>Up through 35 pounds capacity</u>	<u>15.00</u>	<u>20.00</u>
28 <del>Up through 35 pounds capacity</del>	7.96	14.34
29 <u>Multiunit Scales</u>	<u>84.00</u>	<u>114.00</u>
30 <del>Multiunit Scales</del>	51.00	80.37

1	<u>Over 35 through 1,000 pounds capacity</u>	<u>27.00</u>	<u>36.00</u>
2	<del>Over 35 through 1,000 pounds capacity</del>	<del>15.13</del>	<del>25.35</del>
3	<u>Over 1,000 through 4,000 pounds capacity</u>	<u>54.00</u>	<u>72.00</u>
4	<del>Over 1,000 through 4,000 pounds capacity</del>	<del>31.87</del>	<del>51.03</del>
5	<u>Over 4,000 through 50,000 pounds capacity</u>	<u>61.00</u>	<u>83.00</u>
6	<del>Over 4,000 through 50,000 pounds capacity</del>	<del>36.65</del>	<del>58.36</del>
7	<u>Over 50,000 through 150,000 pounds capacity</u>	<u>65.00</u>	<u>88.00</u>
8	<del>Over 50,000 through 150,000 pounds capacity</del>	<del>39.04</del>	<del>62.03</del>
9	<u>Over 150,000 pounds capacity</u>	<u>142.00</u>	<u>192.00</u>
10	<del>Over 150,000 pounds capacity</del>	<del>86.87</del>	<del>135.40</del>
11	Length Measuring Devices:		
12	<u>Cordage or fabric</u>	<u>29.00</u>	<u>40.00</u>
13	<del>Cordage or fabric</del>	<del>16.56</del>	<del>27.55</del>
14	Pumps:		
15	Service Station Dispensers—per		
16	<u>measuring element</u>	<u>10.00</u>	<u>14.00</u>
17	<del>measuring element</del>	<del>5.09</del>	<del>9.94</del>
18	High-capacity service station		
19	dispensers over 20 gallons per		
20	<u>minute—per dispensing element</u>	<u>30.00</u>	<u>41.00</u>
21	<del>minute—per dispensing element</del>	<del>17.52</del>	<del>29.02</del>
22	Compressed natural gas—per		
23	<u>dispensing element</u>	<u>150.00</u>	<u>202.00</u>
24	<del>dispensing element</del>	<del>91.65</del>	<del>142.74</del>
25	Meters:		
26	<u>Vehicle tank meters</u>	<u>25.00</u>	<u>34.00</u>
27	<del>Vehicle tank meters</del>	<del>14.17</del>	<del>23.88</del>
28	<u>Loading rack meters</u>	<u>54.00</u>	<u>72.00</u>
29	<del>Loading rack meters</del>	<del>31.87</del>	<del>51.03</del>

1	<u>Liquid petroleum gas meters</u>	<u>67.00</u>	<u>90.00</u>
2	<del>Liquid petroleum gas meters</del>	<del>40.00</del>	<del>63.50</del>
3	<u>Liquid fertilizer and herbicide meters</u>	<u>61.00</u>	<u>83.00</u>
4	<del>Liquid fertilizer and herbicide meters</del>	<del>36.65</del>	<del>58.36</del>
5	<u>Liquid feed meters</u>	<u>61.00</u>	<u>83.00</u>
6	<del>Liquid feed meters</del>	<del>36.65</del>	<del>58.36</del>
7	<u>Cryogenic</u>	<u>88.00</u>	<u>119.00</u>
8	<del>Cryogenic</del>	<del>53.39</del>	<del>84.04</del>
9	Mass Flow Metering Systems:		
10	<u>Mass flow meters (all liquid)</u>	<u>128.00</u>	<u>173.00;</u>
11	<del>Mass flow meters (all liquid)</del>	<del>78.26</del>	<del>122.19;</del>
12	and		

13           (21) Require persons delinquent under subdivision (20) of this  
14 section to pay an administrative fee of fifty ~~twenty-five~~ percent of the  
15 annual fees due for each month any such fees are delinquent not to exceed  
16 one hundred percent of such fees. Such administrative fees paid shall be  
17 in addition to the annual fees due. The purpose of the additional  
18 administrative fee is to cover the administrative costs associated with  
19 collecting fees. All money collected as an additional administrative fee  
20 shall be remitted to the State Treasurer for credit to the Weights and  
21 Measures Administrative Fund. If any fee remains unpaid at the end of the  
22 ninetieth day after the original due date for such fee, the weighing and  
23 measuring establishment permit relating to such fee is void.

24           **Sec. 14.** Section 89-187.02, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26           89-187.02 Application for a permit to operate a weighing and  
27 measuring establishment shall be made to the director on forms prescribed  
28 and furnished by the department. Such application shall include the full  
29 name and mailing address of the applicant; the names and addresses of any  
30 partners, members, or corporate officers; the name and address of the

1 person authorized by the applicant to receive notices and orders of the  
2 department as provided in the Weights and Measures Act; whether the  
3 applicant is an individual, partnership, limited liability company,  
4 corporation, or other legal entity; and the location and type of all  
5 commercial weighing and measuring devices. An application for a permit  
6 shall be made prior to the operation of a weighing and measuring  
7 establishment. The application shall be accompanied by ~~a one-time permit~~  
8 ~~fee of five dollars~~ and the annual device registration and device  
9 ~~inspection~~ fees required in section 89-187. The full annual device  
10 registration and device inspection fees are required regardless of when  
11 during the year the device is put into operation.

12 **Sec. 15.** Section 89-187.05, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 89-187.05 (1) A weighing and measuring establishment which has a  
15 permanent location for commercial weighing and measuring devices shall  
16 have a valid permit posted in a conspicuous place at the establishment,  
17 and there shall not be a change in ownership, location, or business name  
18 without the permitholder obtaining a new permit. Any permit for such  
19 establishment shall lapse automatically upon a change of ownership,  
20 location, or business name.

21 (2) A weighing and measuring establishment which does not have a  
22 permanent location for commercial weighing and measuring devices shall  
23 have a copy of a valid permit posted on or about each device and shall  
24 not have a change in ownership, business name, or permanent mailing  
25 address without the permitholder obtaining a new permit. Any permit for  
26 such establishment shall lapse automatically upon a change of ownership,  
27 business name, or permanent mailing address.

28 (3) The holder of any weighing and measuring establishment permit  
29 shall notify the department in writing at least thirty days prior to any  
30 change requiring a new permit under subsection (1) or (2) of this  
31 section. A permitholder shall notify the department in writing before

1 there is a change of the name or address of the person authorized to  
2 receive notices and orders of the department. ~~When an establishment is to~~  
3 ~~be permanently closed, the permitholder shall return the permit to the~~  
4 ~~department within one week after the closing.~~

5 **Sec. 16.** Original sections 81-2,239, 81-2,244.01, 81-2,245.01,  
6 81-2,254, 81-2,257, 81-2,259, 81-2,268, 81-2,270, 81-2,271, 81-2,274,  
7 81-2,277, 89-186, 89-187, 89-187.02, and 89-187.05, Reissue Revised  
8 Statutes of Nebraska, are repealed.

9 **Sec. 17.** The following sections are outright repealed: Sections  
10 81-2,272.01, 81-2,272.10, 81-2,272.24, and 81-2,272.32, Reissue Revised  
11 Statutes of Nebraska.

12 **Sec. 18.** Since an emergency exists, this act takes effect when  
13 passed and approved according to law.