

LEGISLATIVE BILL 262

Approved by the Governor April 16, 2024

Introduced by Agriculture Committee: Halloran, 33, Chairperson; Brewer, 43; Hansen, B., 16; Holdcroft, 36; Hughes, 24; Ibach, 44; Riepe, 12.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-501, 2-503, 2-505, 2-509, 2-515, 2-518, 2-958, 2-3611, 2-3615, 2-3619, 2-3620, 2-3622, 2-3623, 2-3629, 2-3631, 2-3632, 2-3634, 2-3635, 2-3804, 2-3966, 75-902, 75-903, 75-903.02, 81-2,251.03, 88-526, 88-527, 88-528.01, 88-541, and 88-549, Reissue Revised Statutes of Nebraska, sections 28-401, 28-476, 75-156, 81-2,162.27, 81-2,244.01, 81-2,245.01, 81-2,248, 81-2,263, 81-2,270, 81-2,271, 81-2,280, 81-2,281, and 88-530, Revised Statutes Cumulative Supplement, 2022, and sections 81-2,239 and 81-2,240, Revised Statutes Supplement, 2023; to change and eliminate provisions of the Nebraska Hemp Farming Act and the Uniform Controlled Substances Act relating to hemp; to change provisions relating to the Nebraska Corn Resources Act, the Nebraska Agricultural Products Marketing Act, warehouse operators, the Grain Dealer Act, the Nebraska Pure Food Act, and the Grain Warehouse Act; to eliminate provisions relating to hemp, the Nebraska Corn Resources Act, and the Nebraska Pure Food Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 2-502, 2-504, 2-506, 2-507, 2-508, 2-510, 2-511, 2-512, 2-513, 2-514, 2-516, 2-517, 2-519, 2-3616, 2-3627, 2-3628, 2-5701, 81-2,242.03, and 81-2,251.02, Reissue Revised Statutes of Nebraska, and sections 81-2,245, 81-2,251.01, and 81-2,272.31, Revised Statutes Cumulative Supplement, 2022.

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

Section 1. Section 2-501, Reissue Revised Statutes of Nebraska, is amended to read:

2-501 Sections 2-501 to ~~2-518~~ 2-519 shall be known and may be cited as the Nebraska Hemp Farming Act.

Sec. 2. Section 2-503, Reissue Revised Statutes of Nebraska, is amended to read:

2-503 For purposes of the Nebraska Hemp Farming Act:

~~(1) Acceptable hemp THC level has the same meaning as in 7 C.F.R. 990.1, as such section existed on January 1, 2020;~~

~~(1) (2) Agriculture Improvement Act of 2018 means section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, and any regulations adopted and promulgated under such section, as such section, act, and regulations existed on January 1, 2024~~ 2020;

~~(3) Approved testing facility means a testing facility approved by the department;~~

~~(4) Broker means a person who engages or participates in the marketing of hemp by acting as an intermediary or negotiator between prospective buyers and sellers;~~

~~(5) Commercial sale means the sale of products in the stream of commerce, at retail, wholesale, and online;~~

~~(6) Commission means the Nebraska Hemp Commission;~~

~~(2) (7) Cultivate or cultivating means planting, watering, growing, and harvesting a hemp plant or crop. The presence of plants of the plant Cannabis sativa L. growing as uncultivated, naturalized plants in the environment is not cultivating hemp for purposes of the Nebraska Hemp Farming Act;~~

~~(8) Cultivator means a person who cultivates hemp;~~

~~(9) Department means the Department of Agriculture;~~

~~(10) Director means the Director of Agriculture or his or her designee;~~

~~(11) GPS coordinates means latitude and longitude coordinates derived from a global positioning system;~~

~~(12) Handle or handling means possessing or storing hemp plants or hemp plant parts prior to cultivation, in the process of cultivation, or after being harvested or dried but before processing. Handle or handling also includes possessing or storing such hemp plants or hemp plant parts in a vehicle for any period of time other than during its actual transport from the premises of a person licensed to cultivate or process hemp to the premises of another licensee. Handle or handling does not include possessing, storing, or transporting finished hemp products or hemp seeds;~~

~~(3) (13) Hemp means the plant Cannabis sativa L. and any part of such plant, including the viable seeds of such plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Hemp shall be considered an agricultural commodity. Notwithstanding any other provision of law, hemp shall not be considered a controlled substance under the Uniform Controlled Substances Act;~~

~~(14) Licensee means an individual or a business entity possessing a license issued by the department under the Nebraska Hemp Farming Act, including authorized employees or agents of such licensee, to cultivate, handle, process, or broker hemp;~~

~~(15) Location ID means the unique identifier established by a licensee for each unique set of GPS coordinates where hemp is cultivated, handled, or processed;~~

~~(16) Lot means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout such area;~~

~~(17) Measurement of uncertainty has the same meaning as in 7 C.F.R. 990.1, as such section existed on January 1, 2020;~~

~~(4) (18) Person means an individual, partnership, corporation, limited liability company, association, postsecondary institution, or other legal entity;~~

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

~~(20) Process or processing means converting hemp plants or plant parts into a marketable form;~~

(5) State-program-licensed hemp producer means a person licensed under a USDA-approved state or tribal program as authorized under the Agriculture Improvement Act of 2018 and includes the authorized employees or agents of such person;

~~(21) Processor handler means a person who handles or processes hemp;~~

~~(22) Site means an area defined by the same legal description in a field, greenhouse, or other outdoor area or indoor structure, or for a mobile processor, such processor's primary place of business;~~

(6) USDA means the United States Department of Agriculture ~~(23) THC means tetrahydrocannabinol; and~~

(7) (24) USDA-licensed hemp producer means a person licensed by the USDA United States Department of Agriculture to produce hemp as provided in 7 C.F.R. part 990, subpart C, as such regulations existed on January 1, 2024, and includes the authorized employees or agents of such person 2020.

Sec. 3. Section 2-505, Reissue Revised Statutes of Nebraska, is amended to read:

2-505 (1) Hemp may only be cultivated in this state by a USDA-licensed hemp producer, in accordance with such producer's USDA-issued license, or by a state-program-licensed hemp producer, in accordance with such producer's license under a USDA-approved tribal program or a person meeting the requirements of section 2-5701 or in compliance with this section.

~~(2) Hemp may only be transported pursuant to section 2-515. Before a person may be licensed to cultivate hemp under the Nebraska Hemp Farming Act, such person shall submit an application on a form prescribed by the department that includes, but is not limited to, the following:~~

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

~~(b) If the applicant is an entity and not an individual, (i) the name of the applicant, mailing address, telephone number, and valid email address, (ii) the full name of each officer, director, partner, member, or owner owning in excess of ten percent of equity or stock in such entity, (iii) the full name of each key participant as defined in 7 C.F.R. 990.1, and (iv) the birthdate, title, mailing address, telephone number, and valid email address of each such person or key participant;~~

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

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

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

~~(3) Before a person may be licensed to cultivate hemp under the Nebraska Hemp Farming Act, such person shall submit with the application a nonrefundable application fee as set by the department pursuant to section 2-508.~~

~~(4) Before a person may be licensed to cultivate hemp under the Nebraska Hemp Farming Act, such person shall submit a site registration fee as set by the department pursuant to section 2-508. The site registration fee shall be paid for each separate site where the applicant will cultivate hemp. Subsequent modifications to the sites listed in the application shall be submitted on forms prescribed by the department along with a site modification fee and shall only take effect upon written approval of the department. The applicant must certify that all sites where hemp is to be cultivated are under the control of the applicant and that the department shall have unlimited access to all such sites.~~

~~(5) After the department receives approval by the United States Secretary of Agriculture for the state plan described in section 2-516, an initial cultivator license application may be submitted at any time, except that the department may set a cutoff date for applications ahead of the growing season. An initial cultivator license issued by the department expires on December 31 in the calendar year for which it was issued.~~

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

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

~~(8) An application and supporting documents submitted to the department under this section are not public records subject to disclosure pursuant to sections 84-712 to 84-712.09. Such information may be submitted to the United States Department of Agriculture pursuant to the requirements of the federal Agriculture Improvement Act of 2018 or any other federal statute, rule, or regulation, and may be submitted to law enforcement.~~

Sec. 4. Section 2-509, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-509 The Nebraska Hemp Program Fund is established. The fund terminates on the operative date of this section and the State Treasurer shall transfer any money in the fund on such date or as soon thereafter as administratively possible to the Noxious Weed Cash Fund shall be administered by the department for the purpose of covering the costs of the department in administering sections 2-504 to 2-516 and 2-5701. The fund may receive appropriations by the Legislature, gifts, grants, federal funds, and any other funds both public and private. All fees collected by the department under sections 2-508 and 2-5701 shall be remitted to the State Treasurer for credit to the fund. Transfers from the Nebraska Hemp Program Fund to the Noxious Weed Cash Fund may be made as provided in section 2-958. Transfers from the Nebraska Hemp Program Fund to the Fertilizers and Soil Conditioners Administrative Fund may be made as provided in section 81-2,162.27. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

Sec. 5. Section 2-515, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-515 (1) Except as provided in subsection (3) (4) of this section, any USDA-licensed hemp producer or state-program-licensed hemp producer transporting hemp cultivated under the Nebraska Hemp Farming Act shall carry with the hemp being transported a copy of the USDA cultivator license or state program license under which it was cultivated and a copy of the test results pertaining to each lot of hemp being transported.~~

~~(2) Except as provided in subsection (4) of this section, any processor-handler transporting hemp processed under the Nebraska Hemp Farming Act shall carry with the hemp being transported a copy of the processor-handler license under which the hemp is being transported and a copy of the test results pertaining to such hemp.~~

~~(2) (3)(a) A USDA-licensed hemp producer or state-program-licensed hemp producer under a USDA-approved tribal program cultivating hemp in this state licensee shall maintain a record of shipments of hemp shipped from or received by such producer the licensee. Such record shall, for each shipment of hemp, indicate the date of shipment, identify the point of origin and destination, identify the name of the person sending and receiving the shipment, and include the vehicle identification number of the vehicle transporting the hemp. Each shipment of hemp shall be entered on the record of shipments kept by the licensee by the close of the business day the shipment is shipped from or received by the licensee.~~

~~(b) A licensee may give notice to the Nebraska State Patrol up to seven days prior to a shipment of hemp to be shipped from or received by the licensee. Such notification shall be given in a manner and form prescribed by the Nebraska State Patrol and shall not be considered a public record for purposes of sections 84-712 to 84-712.09.~~

~~(3) (4) Any USDA-licensed hemp producer or state-program-licensed hemp producer licensee transporting hemp cultivated or processed under such producer's USDA license or state program license the Nebraska Hemp Farming Act shall not be required to carry a copy of the test results relating to such hemp as provided in subsection (1) or (2) of this section if such producer licensee carries with the hemp being transported a copy of the applicable USDA license or state program license and is transporting:~~

~~(a) Hemp between two registered sites listed on the producer's USDA or state program licensee's license application;~~

~~(b) Samples of hemp for testing to determine the tetrahydrocannabinol THC level for private testing purposes prior to testing pursuant to section 2-514; or~~

~~(c) Live hemp plants to a registered site listed on the producer's USDA or state program licensee's license application prior to cultivating such hemp plants.~~

~~(4) Any person who is carrying or transporting hemp who is not a USDA-licensed hemp producer or state-program-licensed hemp producer shall only carry or transport hemp if such hemp meets the following requirements:~~

~~(a) The hemp is carried or transported with a bill of lading stating the owner of the hemp, the point of origin of the hemp, and the destination of the hemp;~~

~~(b) The hemp is carried or transported with a copy of the valid USDA or state program license under which the hemp was cultivated;~~

~~(c) The hemp is carried or transported with a copy of the test results pertaining to each lot of hemp being transported; and~~

~~(d) The hemp is not unloaded or in any way removed from the vehicle transporting such hemp unless authorized by state or federal law enforcement.~~

~~(5) No person shall transport or carry hemp in this state concurrently with any other plant material that is not hemp.~~

Sec. 6. Section 2-518, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-518 The Hemp Promotion Fund is established. The fund terminates on the operative date of this section and the State Treasurer shall transfer any money in the fund on such date or as soon thereafter as administratively possible to the Noxious Weed Cash Fund shall be administered by the commission for the purposes set forth in section 2-517. The fund may receive appropriations by the Legislature and gifts, grants, federal funds, and any other funds both public and private. All fees collected as set forth in section 2-519 shall be remitted to the State Treasurer for credit to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

Sec. 7. Section 2-958, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The Noxious Weed Cash Fund is created. The fund shall consist of proceeds raised from fees imposed for the registration of pesticides and earmarked for the fund pursuant to section 2-2634, funds credited or transferred pursuant to sections ~~2-509, 2-518, 81-201, and 81-201.05~~, any gifts, grants, or donations from any source, and any reimbursement funds for control work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount from the General Fund may be appropriated annually for the Noxious Weed Control Act. The fund shall be administered and used by the director to maintain the noxious weed control program and for expenses directly related to the program. Until January 1, ~~2025~~ 2020, the fund may also be used to defray all reasonable and necessary costs related to the ~~administration implementation~~ of the Nebraska Hemp Farming Act. ~~The Department of Agriculture shall document all costs incurred for such purpose. The budget administrator of the budget division of the Department of Administrative Services may transfer a like amount from the Nebraska Hemp Program Fund to the Noxious Weed Cash Fund no later than October 1, 2022.~~

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

Sec. 8. Section 2-3611, Reissue Revised Statutes of Nebraska, is amended to read:

2-3611 (1) The board shall be composed of nine members who (a) ~~(1)~~ are citizens of Nebraska, (b) ~~(2)~~ are at least twenty-one years of age, (c) ~~(3)~~ have been actually engaged in growing corn in this state for a period of at least five years, and (d) ~~(4)~~ derive a substantial portion of their income from growing corn.

~~(2) There shall be eight district members appointed by the Governor as follows: One member from each membership district described in section 2-3615.~~

~~(3) There shall be one at-large member appointed by the eight district members.~~

~~(4) The Director of Agriculture, the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources, and the president of the Nebraska Corn Growers Association shall be ex officio members of the board but shall have no vote in board matters.~~

Sec. 9. Section 2-3615, Reissue Revised Statutes of Nebraska, is amended to read:

2-3615 (1) ~~The membership districts are as follows One member shall be appointed from each of the following districts:~~

(a) District 1. The counties of Butler, Saunders, Douglas, Sarpy, Seward, Lancaster, Cass, Otoe, Saline, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson;

(b) District 2. The counties of Adams, Clay, Fillmore, Franklin, Webster, Nuckolls, and Thayer;

(c) District 3. The counties of Merrick, Polk, Hamilton, and York;

(d) District 4. The counties of Knox, Cedar, Dixon, Dakota, Pierce, Wayne, Thurston, Madison, Stanton, Cuming, Burt, Colfax, Dodge, and Washington;

(e) District 5. The counties of Sherman, Howard, Dawson, Buffalo, and Hall;

(f) District 6. The counties of Hayes, Frontier, Gosper, Phelps, Kearney, Hitchcock, Red Willow, Furnas, and Harlan;

(g) District 7. The counties of Boyd, Holt, Antelope, Garfield, Wheeler, Boone, Platte, Valley, Greeley, and Nance; and

(h) District 8. The counties of Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden, Deuel, Cherry, Keya Paha, Brown, Rock, Grant, Hooker, Thomas, Blaine, Loup, Arthur, McPherson, Logan, Custer, Keith, Lincoln, Perkins, Chase, and Dundy.

~~(2) The board may provide recommendations to the Agriculture Committee of~~

the Legislature for potential changes to the list of counties that make up each membership district.

Sec. 10. Section 2-3619, Reissue Revised Statutes of Nebraska, is amended to read:

2-3619 The voting members of the board, while engaged in the performance of their official duties, shall receive compensation at the rate of fifty ~~twenty-five~~ dollars per day while so serving, including travel time. In addition, members of the board shall receive reimbursement for expenses on the same basis and subject to the same conditions as provided in sections 81-1174 to 81-1177.

Sec. 11. Section 2-3620, Reissue Revised Statutes of Nebraska, is amended to read:

2-3620 A member of the board shall be removable by the Governor for cause. The member ~~He~~ shall first be given a copy of written charges against such member ~~him~~ and also an opportunity to be heard publicly. In addition to all other causes, a member ceasing to (1) be a resident of the state, (2) live in the district from which such member ~~he~~ was appointed, or (3) be actually engaged in growing corn in the state shall be deemed sufficient cause for removal from office.

Sec. 12. Section 2-3622, Reissue Revised Statutes of Nebraska, is amended to read:

2-3622 The duties and responsibilities of the board shall be prescribed in the authority for the corn program and to the extent applicable shall include the following:

(1) To develop and direct any corn development, utilization, and marketing program. Such program may include a program to make grants and enter into contracts for research, accumulation of data, and construction of ethanol production facilities;

(2) To prepare and approve a budget consistent with limited receipts and the scope of the corn commodity program;

(3) To adopt and promulgate such rules and regulations as are necessary to enforce the Nebraska Corn Resources Act in accordance with the Administrative Procedure Act;

(4) To procure and evaluate data and information necessary for the proper administration and operation of the corn commodity program;

(5) To employ personnel or ~~and~~ contract for services which are necessary for the proper operation of the program;

(6) To establish a means whereby any grower of corn has the opportunity at least annually to offer such grower's ~~his or her~~ ideas and suggestions relative to board policy for the upcoming year;

(7) To authorize the expenditure of funds and contracting of expenditures to conduct proper activities of the program;

(8) To bond the treasurer and such other persons necessary to insure adequate protection of funds;

(9) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board, and to keep these records open to examination by any grower-participant during normal business hours;

(10) To prohibit any funds collected by the board from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state legislation. The board shall not expend more than ten ~~twenty-five~~ percent of its annual budget to influence federal legislation; and

(11) To make refunds for overpayment of fees according to rules and regulations adopted and promulgated by the board.

Sec. 13. Section 2-3623, Reissue Revised Statutes of Nebraska, is amended to read:

2-3623 (1) The following corn fee is levied ~~There is hereby levied a fee of five-tenths of a cent per bushel upon all corn sold through commercial channels in Nebraska or delivered in Nebraska: -~~

(a) Until and on September 30, 2024, one-half cent per bushel; and

(b) Beginning October 1, 2024, one cent per bushel.

(2) The fee shall be paid by the grower at the time of sale or delivery and shall be collected by the first purchaser. Under the Nebraska Corn Resources Act, no corn shall be subject to the fee more than once.

Sec. 14. Section 2-3629, Reissue Revised Statutes of Nebraska, is amended to read:

2-3629 The fee, ~~provided for by section 2-3623,~~ shall be deducted, ~~as provided in the Nebraska Corn Resources Act by sections 2-3601 to 2-3635,~~ whether such corn is stored in this state or any other state.

Sec. 15. Section 2-3631, Reissue Revised Statutes of Nebraska, is amended to read:

2-3631 (1)(a) The first ~~(1) The~~ purchaser, at the time of settlement, shall deduct the corn fee and shall maintain the necessary record of the fee for each purchase of corn on the grain settlement form or check stub showing payment to the grower for each purchase. Such records maintained by the first purchaser shall provide the following information:

(i) (a) Name and address of the grower and seller;

(ii) (b) The date of the purchase;

(iii) (c) The number of bushels of corn sold; and

(iv) (d) The amount of fees collected on each purchase.

(b) Such records shall be open for inspection during normal the business hours observed by the first purchaser.

(2) The first purchaser shall render and have on file with the board by

the last day of each January, April, July, and October, on forms prescribed by the board, a statement of the number of bushels of corn purchased in Nebraska. At the time the statement is filed, the first purchaser shall pay and remit to the board the fee as provided for in section 2-3623.

Sec. 16. Section 2-3632, Reissue Revised Statutes of Nebraska, is amended to read:

2-3632 (1) The board shall prepare and make available an annual report on or before January 1 of each year, which report shall set forth in detail the income received from the corn assessment for the previous year and shall include:

(a) ~~(1)~~ The expenditure of all funds by the board during the previous year for the administration of the Nebraska Corn Resources Act;

(b) ~~(2)~~ The action taken by the board on all contracts requiring the expenditure of funds by the board;

(c) ~~(3)~~ A description of all such contracts;

(d) ~~(4)~~ A detailed explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of corn, the direct expense associated with each program, and copies of such programs if in writing; and

(e) ~~(5)~~ The name and address of each member of the board and a copy of all rules and regulations promulgated by the board.

(2) Such report and a copy of all contracts requiring expenditure of funds by the board shall be available to the public in an electronic form upon request.

Sec. 17. Section 2-3634, Reissue Revised Statutes of Nebraska, is amended to read:

2-3634 The board shall not be authorized to set up research or development units or agencies of its own, but shall limit its activity to cooperation and contracts with the University of Nebraska Institute of Agriculture and Natural Resources and other proper local, state, or national organizations, public or private, in carrying out the Nebraska Corn Resources Act ~~the purposes of sections 2-3601 to 2-3635.~~

Sec. 18. Section 2-3635, Reissue Revised Statutes of Nebraska, is amended to read:

2-3635 Any person violating the Nebraska Corn Resources Act ~~any of the provisions of sections 2-3601 to 2-3635~~ shall be guilty of a Class III misdemeanor.

Sec. 19. Section 2-3804, Reissue Revised Statutes of Nebraska, is amended to read:

2-3804 Agricultural product or commodity shall include all products resulting from the conduct of farming or ranching activities, dairying, beekeeping, aquaculture, insect production, poultry or egg production, or comparable activities, and any byproducts resulting from such activities.

Sec. 20. Section 2-3966, Reissue Revised Statutes of Nebraska, is amended to read:

2-3966 For purposes of the Nebraska Milk Act, unless the context otherwise requires:

(1) 3-A Sanitary Standards has the same meaning as in the Grade A Pasteurized Milk Ordinance;

(2) Acceptable milk means milk that qualifies under sections 2-3979 to 2-3982 as to sight and odor and that is classified acceptable for somatic cells, bacterial content, drug residues, and sediment content;

(3) Components of milk means whey, whey and milk protein concentrate, whey cream, cream, butter, skim milk, condensed milk, ultra-filtered milk, milk powder, dairy blends that are at least fifty-one percent dairy components, and any similar milk byproduct;

(4) C-I-P or cleaned-in-place means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation;

(5) Dairy products means products allowed to be made from milk for manufacturing purposes and not required to be of Grade A quality;

(6) Department means the Department of Agriculture;

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

(8) Field representative means an individual qualified and trained in the sanitary methods of production and handling of milk as set forth in the Nebraska Milk Act and who is generally employed by a processing or manufacturing milk plant or cooperative for the purpose of quality control work;

(9) First purchaser means a person who purchases raw milk directly from the farm for processing or for resale to a processor, who purchases milk products or components of milk for processing or resale to a processor, or who utilizes milk from the first purchaser's own farm for the manufacturing of milk products or dairy products;

(10) Grade A Pasteurized Milk Ordinance means the documents delineated in subsection (3) of section 2-3965;

(11) Milk for manufacturing purposes means milk produced for processing and manufacturing into products not required by law to be of Grade A quality;

(12) Milk distributor means a person who distributes milk, fluid milk, milk products, or dairy products whether or not the milk is shipped within or into the state. The term does not include (a) a milk plant, a bulk milk hauler/sampler, or a milk producer, as such terms are defined in the Grade A Pasteurized Milk Ordinance, ~~or~~ (b) a food establishment, as defined in the

Nebraska Pure Food Act, or (c) a private home not included in the definition of a food establishment in section 81-2,245.01;

(13) Probational milk means milk classified undergrade for somatic cells, bacterial content, or sediment content that may be accepted by plants for specific time periods; and

(14) Reject milk means milk that does not qualify under sections 2-3979 to 2-3982.

Sec. 21. Section 28-401, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

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

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

(4) Controlled substance means a drug, biological, substance, or immediate precursor in Schedules I through V of section 28-405. Controlled substance does not include distilled spirits, wine, malt beverages, tobacco, hemp, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, and the law of this state, be lawfully sold over the counter without a prescription;

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

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

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

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

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

(10) Prescribe means to issue a medical order;

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

(12) Deliver or delivery means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(13) Hemp has the same meaning as in section 2-503;

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

(b) Marijuana does not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, the sterilized seed of such plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration.

(c) Marijuana does not include hemp.

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

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

(15) Manufacture means the production, preparation, propagation, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. Manufacture does not include the preparation or compounding of a controlled substance by an individual for his or her own use, except for the preparation or compounding of components or ingredients used for or intended to be used for the manufacture of

methamphetamine, or the preparation, compounding, conversion, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; or (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

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

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

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

(19) Poppy straw means all parts, except the seeds, of the opium poppy after mowing;

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

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

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

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

(24) State means the State of Nebraska;

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

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

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

(28)(a) Hashish or concentrated cannabis means (i) the separated resin, whether crude or purified, obtained from a plant of the genus *cannabis* or (ii) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols.

(b) ~~When resins extracted from (i) industrial hemp as defined in section 2-5701 are in the possession of a person as authorized under section 2-5701 or (ii) hemp as defined in section 2-503 are in the possession of a person as authorized under the Nebraska Hemp Farming Act, they are not considered hashish or concentrated cannabis for purposes of the Uniform Controlled Substances Act.~~

(c) Hashish or concentrated cannabis does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

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

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

(31)(a) Controlled substance analogue means a substance (i) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on

the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

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

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

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

(34) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

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

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

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

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

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

(40) Electronic signature has the definition found in section 86-621;

(41) Electronic transmission means transmission of information in electronic form. Electronic transmission includes computer-to-computer transmission or computer-to-facsimile transmission;

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

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

(44) Cannabinoid receptor agonist means any chemical compound or substance that, according to scientific or medical research, study, testing, or analysis, demonstrates the presence of binding activity at one or more of the CB1 or CB2 cell membrane receptors located within the human body. Cannabinoid receptor agonist does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration; and

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

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

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

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

(d) The packaging or label on the product or substance contains words or

markings that state or suggest that the product or substance is in compliance with state and federal laws regulating controlled substances;

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

(f) The owner or person in control of the product or substance makes a verbal or written statement suggesting or implying that the product or substance is a synthetic drug or that consumption of the product or substance will replicate or mimic effects on the human body to those effects commonly produced through use or consumption of a controlled substance;

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

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

Sec. 22. Section 28-476, Revised Statutes Cumulative Supplement, 2022, is amended to read:

~~28-476 (1) Any person other than the Department of Agriculture, a cultivator, a processor handler, or an approved testing facility who is transporting hemp shall carry with such hemp being transported (a) a bill of lading indicating the owner of the hemp, the point of origin of the hemp, and the destination of the hemp and (b) either a copy of the test results pertaining to such hemp or other documentation affirming that the hemp was produced in compliance with the federal Agriculture Improvement Act of 2018.~~

~~(1) (2)(a) No person shall carry or transport hemp in this state unless such hemp is:~~

~~(a) (i) Produced in compliance with: (A) For hemp originating in this state, the requirements of the federal Agriculture Improvement Act of 2018 under the Nebraska Hemp Farming Act and any rules and regulations adopted and promulgated thereunder, a tribal hemp production plan approved by the United States Secretary of Agriculture, or the United States Department of Agriculture Domestic Hemp Production Plan; or (B) For hemp originating outside this state, the requirements of the federal Agriculture Improvement Act of 2018, as such act is defined in section 2-503; and~~

~~(b) (ii) Carried or transported as provided in section 2-515 or subsection (1) of this section.~~

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

~~(2)(a) (3)(a) A peace officer may detain any person carrying or transporting hemp in this state if such person does not provide the documentation required by this section and section 2-515. Unless the peace officer has probable cause to believe the hemp is, or is being carried or transported with, marijuana or any other controlled substance, the peace officer shall immediately release the hemp and the person carrying or transporting such hemp upon production of such documentation.~~

~~(b) The failure of a person detained as described in this subsection to produce documentation required by this section shall constitute probable cause to believe the hemp may be marijuana or another controlled substance. In such case, a peace officer may collect such hemp for testing to determine the delta-9 tetrahydrocannabinol concentration in the hemp, and, if the peace officer has probable cause to believe the person detained is carrying or transporting marijuana or any other controlled substance in violation of state or federal law, the peace officer may seize and impound the hemp or marijuana or other controlled substance and arrest such person.~~

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

~~(3) (4) In addition to any other penalties provided by law, including those imposed under the Nebraska Hemp Farming Act, any person who intentionally violates this section shall be guilty of a Class IV misdemeanor and fined not more than one thousand dollars.~~

~~(5) This section does not apply to a person transporting hemp products purchased at retail in small amounts for personal or household use and not intended for resale.~~

~~(6) For purposes of this section: (a) Agriculture Improvement Act of 2018 has the same meaning as in section 2-503;~~

~~(b) Approved testing facility has the same meaning as in section 2-503;~~

~~(c) Cultivator has the same meaning as in section 2-503; and~~

~~(d) Processor handler has the same meaning as in section 2-503.~~

Sec. 23. Section 75-156, Revised Statutes Cumulative Supplement, 2022, is amended to read:

75-156 (1) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any person, motor carrier, regulated motor carrier, common carrier, contract carrier, licensee, grain dealer, or grain warehouse operator warehouseman for each violation of (a) any provision of the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01, (b) any term, condition, or limitation of any certificate, permit,

license, or authority issued by the commission pursuant to the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01, or (c) any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01.

(2) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty not less than one hundred dollars and not more than one thousand dollars against any jurisdictional utility for each violation of (a) any provision of the State Natural Gas Regulation Act, (b) any rule, regulation, order, or lawful requirement issued by the commission pursuant to the act, (c) any final judgment or decree made by any court upon appeal from any order of the commission, or (d) any term, condition, or limitation of any certificate issued by the commission issued under authority delegated to the commission pursuant to the act. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(3) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any wireless carrier for each violation of the Enhanced Wireless 911 Services Act or any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the act.

(4) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to one thousand dollars against any person for each violation of the Nebraska Uniform Standards for Modular Housing Units Act or the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or any rule, regulation, or order of the commission issued under the authority delegated to the commission pursuant to either act. Each such violation shall constitute a separate violation with respect to each modular housing unit, manufactured home, or recreational vehicle, except that the maximum penalty shall not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(5) The civil penalty assessed under this section shall not exceed two million dollars per year for each violation except as provided in subsection (4) of this section. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(6) Upon notice and hearing in accordance with this section and section 75-157, the commission may enter an order assessing a civil penalty of up to one hundred dollars against any person, firm, partnership, limited liability company, corporation, cooperative, or association for failure to file an annual report or pay the fee as required by section 75-116 and as prescribed by commission rules and regulations or for failure to register as required by section 86-125 and as prescribed by commission rules and regulations. Each day during which the violation continues after the commission has issued an order finding that a violation has occurred constitutes a separate offense. Any party aggrieved by an order of the commission under this section may appeal. The appeal shall be in accordance with section 75-136.

(7) When any person or party is accused of any violation listed in this section, the commission shall notify such person or party in writing (a) setting forth the date, facts, and nature of each act or omission upon which each charge of a violation is based, (b) specifically identifying the particular statute, certificate, permit, rule, regulation, or order purportedly violated, (c) that a hearing will be held and the time, date, and place of the hearing, (d) that in addition to the civil penalty, the commission may enforce additional penalties and relief as provided by law, and (e) that upon failure to pay any civil penalty determined by the commission, the penalty may be collected by civil action in the district court of Lancaster County.

Sec. 24. Section 75-902, Reissue Revised Statutes of Nebraska, is amended to read:

75-902 For purposes of the Grain Dealer Act, unless the context otherwise requires:

(1) Commission means the Public Service Commission;

(2) Direct delivery grain has the same meaning as in section 88-526;

(3) Direct delivery obligation has the same meaning as in section 88-526;

(4)(a) (4) Grain means includes, but is not limited to, all unprocessed beans, whole corn, milo and other sorghum, wheat, rye, barley, oats, millet, safflower seed and processed plant pellets, alfalfa pellets, and any other bulk pelleted agricultural storable commodity, except grain which has been processed or packaged for distribution as seed. ÷

(b) Grain includes all commodities described in subdivision (4)(a) of this section whether grown and marketed as fungible commodities or within segregated marketing channels, including, but not limited to, certified organic

commodities;

(5)(a) Grain dealer means any person, partnership, limited liability company, corporation, or association that (i) buys grain from the producer of the grain within this state for purposes of selling such grain or (ii) acts as an employee or agent of a buyer or seller for purposes of collective bargaining in the marketing of grain.

(b) Grain dealer does not include (i) a feeder or custom feeder of livestock or poultry or (ii) a warehouse licensee under the Grain Warehouse Act or a warehouse licensee under the United States Warehouse Act of a warehouse located in Nebraska if the warehouse licensee does not buy, sell, or transport grain other than grain that is received at its licensed warehouse facilities;

(6) In-store transfer has the same meaning as in section 88-526;

(7) Post-direct delivery storage position has the same meaning as in section 88-526; and

(8) Producer means the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of grain produced on that land.

Sec. 25. Section 75-903, Reissue Revised Statutes of Nebraska, is amended to read:

75-903 All grain dealers doing business in this state shall be licensed by the commission. If the applicant is an individual, the application shall include the applicant's social security number. To procure and maintain a license, each grain dealer shall:

(1) Pay an annual fee of one hundred dollars which shall be due on or before the date established by the commission for each license. Such fees shall be paid to the State Treasurer and credited to the General Fund;

(2) File security which may be a bond issued by a corporate surety company and payable to the commission, an irrevocable letter of credit, or a certificate of deposit, subject to the approval of the commission, for the benefit of any producer who files a valid claim arising from a sale to a grain dealer. The security shall be in an amount set by the commission of not less than thirty-five thousand dollars and not more than one million dollars ~~the amount of thirty-five thousand dollars or seven percent of grain purchases or exchanges by the grain dealer in the grain dealer's preceding fiscal year, whichever is greater, not to exceed three hundred thousand dollars.~~ Amounts used in the calculation of the security shall include all direct delivery grain purchases and exchanges valued on the date delivery is made. Amounts used in the calculation of the security shall not include any transactions in which direct delivery grain is exchanged for a post-direct delivery storage position and the post-direct delivery storage position is created by an in-store transfer on the same date as the delivery of the direct delivery grain. Such security shall be furnished on the condition that the licensee will pay for any grain purchased upon demand, not later than fifteen days after the date of the last shipment of any contract. The liability of the surety shall cover purchases made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with the commission shall be in continuous force and effect until canceled by the surety. The liability of the surety on any bond required by this section shall not accumulate for each successive license period during which the bond is in force; and

(3) File a reviewed or audited fiscal year-end financial statement prepared by an independent certified public accounting firm. If licensing as an individual, the financial statement shall be prepared in accordance with Other Comprehensive Basis of Accountancy, as filed with the board, for a personal financial statement, using historical cost and accrual basis of accounting. If licensing as a partnership, corporation, or limited liability company, the financial statement shall be prepared in accordance with accounting principles generally accepted. The financial statement shall include: (a) A statement of income showing profit or loss; (b) a balance sheet; (c) a statement of cash flow; (d) a statement of proprietor's capital or retained earnings; (e) the volume and dollar value of the grain purchases the licensee made in Nebraska during the fiscal year; (f) the volume and dollar value of transactions in which direct delivery grain is exchanged for a post-direct delivery storage position and the post-direct delivery storage position is not created by an in-store transfer on the same date as the delivery of the direct delivery grain; and (g) the accounting firm's certification, assurances, opinions, and comments and the notes with respect to the financial statement. If the volume and dollar value of the grain purchases is not reported, the grain dealer shall file the maximum grain dealer security as required by the Grain Dealer Act.

(4) If an applicant for a grain dealer license is a wholly owned subsidiary of a parent company and such a financial statement is not prepared for the subsidiary, the parent company shall submit its reviewed or audited fiscal year-end financial statement and shall execute an unconditional guarantee agreement as prescribed by the commission.

Sec. 26. Section 75-903.02, Reissue Revised Statutes of Nebraska, is amended to read:

75-903.02 For each application filed under section 75-903 after January 1, 2004, one of the following primary parties shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol: (1) If the applicant is not an individual, the chief executive officer, president, or general manager; or (2) if the applicant is an individual, the individual. ~~If the primary party has been subject to a check of his or her criminal history record information pursuant to this section on a prior application, he or she~~

~~is not subject to another such check upon a subsequent application.~~ If a primary party has been subject to a check of his or her criminal history record information pursuant to another law, the commission may waive such requirement under this section. A primary party shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The primary party shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The primary party shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The primary party shall authorize release of the national criminal history record check to the commission. The criminal history record information check shall be completed within ninety days after the date the application for a license is received in the commission's office, and if not, the application shall be returned to the applicant. The commission shall deny a grain dealer license to any applicant whose primary party has been convicted of a felony financial crime.

Sec. 27. Section 81-2,162.27, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,162.27 (1) All money received under the Nebraska Commercial Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials Act shall be remitted to the State Treasurer for credit to the Fertilizers and Soil Conditioners Administrative Fund, which fund is hereby created. Money so received shall be used by the department for defraying the expenses of administering the Nebraska Commercial Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials Act. The fund may also be used to defray costs incurred by the department directly related to administrative and budgetary support of the Healthy Soils Task Force pursuant to sections 2-401 to 2-404, except that no more than ten thousand dollars may be expended by the department from the fund for such purpose. ~~Until January 1, 2020, the fund may also be used to defray all reasonable and necessary costs related to the implementation of the Nebraska Hemp Farming Act. The Department of Agriculture shall document all costs incurred for such purpose. The budget administrator of the budget division of the Department of Administrative Services may transfer a like amount from the Nebraska Hemp Program Fund to the Fertilizers and Soil Conditioners Administrative Fund no later than October 1, 2022.~~ Transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer two hundred seventy-five thousand dollars from the Fertilizers and Soil Conditioners Administrative Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

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

Sec. 28. Section 81-2,239, Revised Statutes Supplement, 2023, is amended to read:

81-2,239 Sections 81-2,239 to 81-2,292 and sections 32, 35, and 36 of this act and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 29. Section 81-2,240, Revised Statutes Supplement, 2023, is amended to read:

81-2,240 For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254 and sections 32, 35, and 36 of this act shall be used. In addition, the definitions found in the code and practice adopted by reference in sections 81-2,257.01 and 81-2,259 shall be used.

Sec. 30. Section 81-2,244.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,244.01 Food Code shall mean the 2017 Recommendations of the United States Public Health Service, Food and Drug Administration, except the definitions of adulterated food and food establishment, person in charge, regulatory authority, and sections 2-102.12, 2-102.20(B), 2-103.11(I) and (M), 3-301.11(B), (C), (D), and (E), 3-501.16, 4-301.12(C)(5), (D), and (E), 4-603.16(C), 4-802.11(C), ~~5-104.11~~, 8-101, 8-102, 8-201.11, 8-201.12, 8-202.10 through 8-304.20, 8-401.10(B)(2), 8-402.20 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B). The term Food Code does not include the annexes of such federal recommendations.

Sec. 31. Section 81-2,245.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

(1) An establishment or vending machine operation that offers only prepackaged soft drinks, carbonated or noncarbonated; canned or bottled fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato or corn chips; pretzels; cheese puffs and curls; crackers; popped popcorn; nuts and edible seeds; and cookies, cakes, pies, and other pastries, that are not time/temperature control for safety foods;

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

(3) A food processing plant;

(4) A salvage operation;

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

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

(7) A private home ~~or other area~~ where a producer of food that meets the requirements of section 81-2,280 ~~is not time/temperature control for safety food~~ is prepared for sale directly to the consumer including, but not limited to, at a farmers market, fair, festival, craft show, or other public event or for pick up at or delivery from such private home; ~~or other area, if:~~

~~(a) The consumer is informed by a clearly visible notification that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority and may contain allergens. For sales conducted at a farmers market, fair, festival, craft show, or other public event, such notification shall be at the sale location. For sales conducted for pick up at or delivery from a private home or other area, such notification shall be at such private home or other area, on the producer's website if one exists, and in any print, radio, television, or Internet advertisement for such sales;~~

~~(b) The name and address of the producer is provided to the consumer on the package or container label;~~

~~(c) Product delivery is made directly from the producer to the actual customer in a person-to-person transaction or by United States mail or a commercial mail delivery service;~~

~~(d) The producer follows any food safety and handling guidelines for sale at a farmers market, fair, festival, craft show, or other public event required by the county, city, or village where the food is sold;~~

~~(e) Prior to conducting any food sales, the producer, other than one selling directly to the consumer at a farmers market, has successfully completed (i) a nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food safe environment or (ii) a certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit;~~

~~(f) The producer, if using private well water to produce food sold under this subdivision (7), has had such well water tested for contamination by nitrates or bacteria prior to conducting any food production and sales; and~~

~~(g) The producer complies with section 81-2,280;~~

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

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

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

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

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

Sec. 32. Food handling activity shall mean food service, food catering, conducting retail food sales, or operating a commissary, mobile food unit, food pushcart, or food vending machine.

Sec. 33. Section 81-2,248, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,248 Itinerant food vendor shall mean a temporary food establishment ~~or shall mean~~ a person that sells prepackaged, time/temperature control for safety food from an approved source at a nonpermanent location such as a farmers market, craft show, or county fair.

Sec. 34. Section 81-2,251.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,251.03 Limited food service establishment shall mean a food ~~shall mean~~ an establishment that serves only alcoholic beverages or serves or otherwise provides only snack items or commercially prepared and wrapped foods that require little or no preparation.

Sec. 35. Limited retail food establishment shall mean a food establishment where food offered to the consumer is intended for off-premises consumption and where there are no meat processing or produce processing areas.

Sec. 36. Secondary food handling activity shall mean operating mobile food units, food pushcarts, or food vending machines or operating any other type of food handling activity as not the primary food handling activity.

Sec. 37. Section 81-2,263, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,263 If there is an inconsistency between sections 81-2,239 to 81-2,292 and sections 32, 35, and 36 of this act and any code adopted by reference, the requirements of the sections shall control.

Sec. 38. Section 81-2,270, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

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

(b) A a food processing plant; or

(c) A a salvage operation, without a valid permit which sets forth the types of operation occurring within the establishment.

(2) Application for a permit shall be made to the director on forms prescribed and furnished by the department. Such application shall include (a) the applicant's full name and mailing address and ~~the names and addresses of any partners, members, or corporate officers,~~ (b) ~~the name and address of the person authorized by the applicant to receive the notices and orders of the department as provided in the Nebraska Pure Food Act,~~ whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity, (c) the location and type of proposed establishment or operation, and (d) the signature of the applicant. Application for a permit shall be made prior to the operation of a food establishment, food processing plant, or salvage operation. The application shall be accompanied by an initial permit fee and an initial inspection fee in the same amount as the annual inspection fee if inspections are required to be done by the department. If ~~any~~ the food establishment, food processing plant, or salvage operation is operating without has been in operation prior to applying for a valid permit or notifying the regulatory authority, such establishment, plant, or operation the applicant shall pay an additional fee of sixty dollars prior to the issuance of a valid permit.

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

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

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

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

(iii) All fee increases or decreases shall be equally distributed between all categories.

(b) The maximum fees are:

Permit Type			Secondary	Secondary
			or	No-Food
	Base	Additional	Preparation	
	First	Food	Area,	
	Food	Preparation	Unit	
	Preparation	Area	Or	
	Area	Annual	Units	
Food	Initial	Annual	Inspection	Annual
Handling	Permit	Inspection	Fee	Inspection
Activity	Fee	Fee	(per area)	Fee
<u>Limited Retail</u>				
Food Establishment	\$86.19	\$86.19	\$43.09	N/A
Convenience Store	\$86.19	\$86.19	\$43.09	N/A
Itinerant Food Vendor	\$86.19	\$86.19	\$43.09	N/A

~~Licensed Beverage~~

Establishment	\$86.19	\$86.19	\$43.09	N/A
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Limited Food Service

Establishment	\$86.19	\$86.19	\$43.09	N/A
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~~Temporary Food~~

Establishment	\$86.19	\$86.19	\$43.09	N/A
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Food Delivery Service	\$86.19	N/A	N/A	\$17.23
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Mobile Food Unit

(for each unit)	\$86.19	N/A	N/A	\$43.09
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Pushcart (for each unit)	\$86.19	N/A	N/A	\$17.23
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Vending Machine

Operations:	\$86.19			
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One to ten units		N/A	N/A	\$17.23
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Eleven to twenty units		N/A	N/A	\$34.46
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Twenty-one to thirty

units		N/A	N/A	\$51.69
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Thirty-one to forty

units		N/A	N/A	\$68.92
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Over forty units		N/A	N/A	\$86.15
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Food Processing Plant	\$86.19	\$120.64	\$43.09	N/A
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Salvage Operation	\$86.19	\$120.64	\$43.09	N/A
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Commissary	\$86.19	\$120.64	\$43.09	N/A
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All Other Food

Establishments	\$86.19	\$120.64	\$43.09	N/A
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(5) ~~For~~ If a food establishment, a base inspection fee includes one food preparation area and is engaged in more than one food handling activity listed in subsection (4) of this section, the inspection fee charged shall be based upon the primary food handling activity conducted within the food establishment as determined by the department. The annual inspection fee shall also include and any fees assessed for each additional food preparation area within the primary establishment and any applicable secondary food handling activity as determined by the department. Any mobile food establishment that does not return to a commissary each day shall obtain a separate permit and pay the base inspection fee for the mobile food establishment.

(6) If a person fails to pay the inspection fee for more than one month after the fee is due, such person shall pay a late fee equal to fifty percent of the total fee for the first month that the fee is late and one hundred percent for the second month that the fee is late. The purpose of the late fee is to cover the administrative costs associated with collecting fees. All money collected as a late fee shall be remitted to the State Treasurer for credit to the Pure Food Cash Fund. If the total fees due remain unpaid ninety days after the original due date, the permit shall no longer be valid.

(7) An educational institution, health care facility, nursing home, or governmental organization operating any type of food establishment, other than a mobile food unit or pushcart, is exempt from the requirements in subsections (1) through (6) of this section.

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

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

(10) A single event food vendor or a religious, charitable, or fraternal organization operating any type of temporary food establishment, mobile food

unit, or pushcart is exempt from the requirements of subsections (1) through (6) of this section. Any such organization operating any nontemporary food establishment prior to July 1, 1985, is exempt from the requirements of subsection (2) of this section.

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

Sec. 39. Section 81-2,271, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,271 (1) The permit required by section 81-2,270 shall be posted in a conspicuous manner at the food establishment, each location where food handling activity included under a permit is occurring, the food processing plant, or the salvage operation location in the food establishment, food processing plant, or salvage operation which is conspicuous to the public. A salvage operation shall also have a copy of the permit in each vehicle. For a food establishment that does not have a permanent location delivery service, the permit location shall be a permanent address where the permitholder may be contacted.

(2) The permit is not transferable to any other person or location. Any permit issued lapses automatically upon a change of ownership or location except as provided in subsection (3) of this section. The permitholder shall notify the department in writing at least thirty days prior to any change in ownership, name, or address. The permitholder shall notify the department in writing before there is a change of the name or address of the person authorized to receive the notices and orders of the department. When an establishment is to be permanently closed, the permitholder shall return the permit to the department within one week after the closing.

(3) A permitholder shall provide information regarding the current location of any food handling activity included under the permitholder's permit. A mobile food unit, pushcart, or vending machine may be moved if the permitholder is able to provide the location of such unit, pushcart, or machine to the regulatory authority upon request and the person authorized by the permitholder to receive notices and orders of the department maintains a permanent mailing address on file with the department. A food delivery service shall upon request provide the department with information regarding the location of all conveyances it controls.

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

Sec. 40. Section 81-2,280, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,280 (1) A producer of food at a private home as described in subdivision (7) of section 81-2,245.01 shall meet the requirements of this section.

(2) Such producer shall only provide food that is not adulterated and is not any of the following types of time/temperature control for safety food:

(a) Any part of an animal, vertebrate or invertebrate, or animal by-product;

(b) Fluid milk or milk products as defined in the Grade A Pasteurized Milk Ordinance adopted by reference in the Nebraska Milk Act;

(c) Raw eggs;

(d) Unpasteurized juice;

(e) Infused oils or honey;

(f) Sprouts;

(g) Low-acid canned food and hermetically sealed acidified food;

(h) Tofu, tempeh, or similar meat substitutes; or

(i) Kimchi, kombucha, or similar fermented foods.

(3) Prior to conducting any food sales, the producer, other than a producer selling food that is not time/temperature control for safety food directly to the consumer at a farmers market, shall successfully complete:

(a) A nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food-safe environment;

(b) A certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit; or

(c) A food safety and handling education course approved by the department.

(4) The producer shall register with the department prior to conducting any sales of food. The registration shall be made on forms prescribed by the department and include (a) (1) the name, address, and telephone number of the producer, (b) (2) the type of food safety and handling education or training course taken pursuant to subsection (3) of this section and the date of its successful completion, and (c) (3) proof of private well water testing for contamination by nitrate or bacteria if the producer uses private well water pursuant to subdivision (7)(f) of section 81-2,245.01, if applicable. This subsection section shall not apply to a producer of food that is not time/temperature control for safety food selling directly to the consumer at a farmers market.

(5)(a) The producer shall inform the consumer by a clearly visible

notification that the food:

(i) Was prepared in a kitchen that is not subject to regulation and inspection by a regulatory authority; and

(ii) May contain allergens.

(b) For sales conducted at a farmers market, fair, festival, craft show, or other public event, such notification shall be provided at the sale location.

(c) For sales conducted for pickup or delivery, such notification shall be provided at the producer's private home, on the producer's website, if such website exists, and in any print, radio, television, or Internet advertisement for such sales.

(6) The producer shall label the food so that the name and address of the producer is provided to the consumer on the package or container label. Food that is time/temperature control for safety food shall also have labeling that includes ingredients in descending order of predominance.

(7)(a) Food that is not time/temperature control for safety food may be delivered by United States mail or a commercial mail delivery service.

(b) Food that is time/temperature control for safety food shall be delivered only by the producer to the consumer in person. When transported, such food shall be maintained at a temperature in accordance with the Nebraska Pure Food Act and not be transported for longer than two hours.

(8) The provisions of this section supersede and preempt any ordinance, rule, regulation, or resolution regulating food safety and handling adopted or enacted by a political subdivision that is not in conformance with this section.

Sec. 41. Section 81-2,281, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,281 (1) The department shall enforce the Nebraska Pure Food Act and any rule or regulation adopted and promulgated pursuant to such act. The department may:

(a) Enter at reasonable times and in a reasonable manner, without being subject to any action for trespass or damages if reasonable care is exercised, any food establishment, food processing plant, or salvage operation to inspect all food, structures, vehicles, equipment, packing materials, containers, records, and labels on such property. The department may inspect and examine all records and property relating to compliance with the Nebraska Pure Food Act. Such records and property shall be made available to the department for review at all reasonable times;

(b) In a reasonable manner, hold for inspection and take samples of any food which may not be in compliance with the Nebraska Pure Food Act;

(c) Inspect at any time or place food that is being shipped into or through the state and take any enforcement action authorized under the Nebraska Pure Food Act; and

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

(2) In addition to its authority provided in subsection (1) of this section, the department may contract with any political subdivision or state agency it deems qualified to conduct any or all regulatory functions authorized pursuant to the act except those functions relating to the issuance, suspension, or revocation of permits or any order of probation. Holders of permits issued pursuant to the act who are regularly inspected by political subdivisions under contract with the department shall be exempt from the inspection fees prescribed in section 81-2,270 if such holders pay license or inspection fees to the political subdivision performing the inspections.

(3) It shall be the responsibility of the regulatory authority to inspect food establishments and food processing plants as often as required by the act. An inspection of a salvage operation shall be performed at least once every three hundred sixty-five days of operation. Additional inspections shall be performed as often as is necessary for the efficient and effective enforcement of the act.

(4) All inspections conducted pursuant to the act shall be performed by persons who (a) meet the requirements of section 8-402.10 of the Food Code and, within thirty-six months after being hired to conduct such inspections, pass a certified professional food safety credential examination approved by the department that meets the requirements of Option 2 of Standard 2, Trained Regulatory Staff, of the 2022 United States Food and Drug Administration's Voluntary National Retail Food Regulatory Program Standards or (b) are provisional environmental health specialists or registered environmental health specialists as defined in section 38-1305 or 38-1306.

(5) Duly authorized personnel of the regulatory authority after showing proper identification shall have access at all reasonable times to food establishments, food processing plants, or salvage operations required by the act to obtain a permit to perform authorized regulatory functions. Such functions shall include, but not be limited to, inspections, checking records maintained in the establishment or other locations to obtain information pertaining to food and supplies purchased, received, used, sold, or distributed, copying and photographing violative conditions, and examining and sampling food. When samples are taken, the inspectors shall pay or offer to pay for samples taken. The authorized personnel shall also have access to the records of salvage operations pertaining to distressed salvageable and salvaged merchandise purchased, received, used, sold, or distributed.

(6) Regulatory activities performed by a political subdivision or state

agency under contract shall conform with the provisions of the act and such activities shall have the same effect as those performed by the department. Any interference with the regulatory authority's duty to inspect shall be an interference with the department's duties for the purposes of section 81-2,273.

Sec. 42. Section 88-526, Reissue Revised Statutes of Nebraska, is amended to read:

88-526 As used in the Grain Warehouse Act, unless the context otherwise requires:

(1) Commission means the Public Service Commission;

(2) Direct delivery grain means all grain that is bought, sold, or transported in the name of a warehouse licensee, other than grain that is received at the licensed warehouse facilities;

(3) Direct delivery obligation means the obligation of a warehouse licensee or grain dealer to transfer title to warehouse-owned grain to a producer by an in-store transfer upon the delivery of direct delivery grain. A direct delivery obligation is treated as a grain dealer obligation until such time as it is satisfied by an in-store transfer;

(4)(a) ~~(4)~~ Grain means wheat, corn, oats, soybeans, barley, rye, flax, or sorghum which has not been processed or packaged for the purpose of distribution as seed, including, but not limited to, edible beans, whole corn plant pellets, alfalfa pellets, millet, sunflower seed, safflower seed, and any other bulk pelleted agricultural storable commodity. ~~;~~

(b) Grain includes all commodities described in subdivision (4)(a) of this section whether grown and marketed as fungible commodities or grown and marketed within segregated marketing channels, including, but not limited to, certified organic commodities;

(5) Grain dealer has the same meaning as in section 75-902;

(6) Grain in storage means any grain which has been received at any warehouse and to which title has not been transferred to the warehouse operator ~~warehouseman~~ by signed contract or priced scale ticket;

(7) In-store transfer means a method by which a warehouse licensee transfers title to warehouse-owned grain to any person in satisfaction of a direct delivery obligation between the warehouse licensee or grain dealer and the producer, and the grain remains in the warehouse;

(8) Post-direct delivery storage position means a storage position acquired through an in-store transfer in satisfaction of a direct delivery obligation;

(9) Warehouse means any grain elevator, mill, grist mill, building, or receptacle in which grain is held in storage for more than ten consecutive days;

(10) Warehouse licensee means any warehouse operator ~~warehouseman~~ who is licensed pursuant to the Grain Warehouse Act; and

(11) Warehouse operator ~~Warehouseman~~ means any person, partnership, limited liability company, corporation, or association who (a) receives grain for storage or stores or offers to store grain for legal consideration for another person, partnership, limited liability company, corporation, or association in a warehouse where delivered or (b) receives grain for shipment to other points for storage, consignment, or resale either in or out of this state.

Sec. 43. Section 88-527, Reissue Revised Statutes of Nebraska, is amended to read:

88-527 (1) No person shall ~~operate a warehouse nor~~ act as a warehouse operator ~~warehouseman~~ without a license issued pursuant to the Grain Warehouse Act. Warehouses, except warehouses which are licensed under the United States Warehouse Act, shall be licensed and regulated by the commission. If the applicant is an individual, the application shall include the applicant's social security number. Such warehouses shall be inspected by the commission at least once every twelve months.

(2) If the commission determines that additional examinations are necessary after a regular examination is completed at a warehouse, the commission may charge such warehouse for the cost of the additional examinations according to the commission's fee schedule. Warehouses shall only be charged if such examinations are for reasons of irregularities from the previous examination or if financial conditions warrant additional examinations.

(3) The commission may make available to the United States Government or any of its agencies, including the Commodity Credit Corporation, the results of inspections made and inspection reports submitted by employees of the commission upon payment of such fees as may be determined by the commission. The fees shall cover the actual cost of the services rendered in regard to providing the information.

(4) The commission may charge for inspections conducted at the request of a warehouse licensee.

(5) The commission may assess a surveillance fee against the assets of a warehouse licensee for actual expenses incurred by the commission in suspending a license or terminating the operations of a warehouse licensee. The commission may enter into contracts for such purpose and shall keep a record of all surveillance fees collected. All surveillance fees collected by the commission shall be remitted to the State Treasurer for credit to the Nebraska Grain Warehouse Surveillance Cash Fund.

(6) The commission may enter into agreements and contracts with regulators in states which border Nebraska for the purpose of licensing or examining any public grain warehouse operator ~~warehouseman~~ which operates facilities in such

states. The commission shall assume all jurisdiction over any warehouse operator warehouseman headquartered in Nebraska regarding his or her warehouse activity. A warehouse operator warehouseman headquartered and licensed in another state which acquires facilities in Nebraska is under the jurisdiction of the headquarter state under the terms of such agreement or contract.

Sec. 44. Section 88-528.01, Reissue Revised Statutes of Nebraska, is amended to read:

88-528.01 For each application filed under section 88-528 ~~after January 1, 2004~~, one of the following primary parties shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol: (1) If the applicant is not an individual, the chief executive officer, president, or general manager; or (2) if the applicant is an individual, the individual. ~~If the primary party has been subject to a check of his or her criminal history record information pursuant to this section on a prior application, he or she is not subject to another such check upon a subsequent application.~~ If a primary party has been subject to a check of his or her criminal history record information pursuant to another law, the commission may waive such requirement under this section. A primary party shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The primary party shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The primary party shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The primary party shall authorize release of the national criminal history record check to the commission. The criminal history record information check shall be completed within ninety days after the date the application for a license is received in the commission's office, and if not, the application shall be returned to the applicant. The commission shall deny a warehouse license to any applicant whose primary party has been convicted of a felony financial crime.

Sec. 45. Section 88-530, Revised Statutes Cumulative Supplement, 2022, is amended to read:

88-530 Each applicant shall show sufficient net worth or stockholders' equity to conform with the financial requirements which the commission shall establish by the adoption and promulgation of rules and regulations. Applicants shall file with the commission security in the form of a bond, a certificate of deposit, an irrevocable letter of credit, United States bonds or treasury notes, or other public debt obligations of the United States which are unconditionally guaranteed as to both principal and interest by the United States in such sum as the commission may require and in the form and of the kind prescribed by the commission. The security shall be in an amount set by the commission pursuant to rules and regulations, but shall not be less than twenty-five thousand dollars. The security shall run to the State of Nebraska for the benefit of each person who stores grain in such warehouse and of each person who, not more than five business days prior to the cutoff date of operation of the warehouse, owned and sold grain stored in the warehouse and had not received payment from the warehouse licensee for such grain, but shall not include grain sold by signed contract or priced scale ticket. The cutoff date of operation of the warehouse shall be the date the commission officially closes the warehouse. The security shall be conditioned upon (1) the warehouse licensee carrying combustion, fire, lightning, and tornado insurance sufficient to cover loss upon all stored grain in such warehouse, (2) the delivery of the grain upon surrender of the warehouse receipt, and (3) the faithful performance by the warehouse licensee of all provisions of law relating to the storage of grain by such warehouse licensee and rules and regulations adopted and promulgated by the commission. The commission may require increases in the amount of the security from time to time as it may deem necessary for the protection of the storers. For an applicant who has filed a reviewed fiscal year-end financial statement pursuant to section 88-528, the commission shall require additional security in an amount set by the commission pursuant to rules and regulations, which shall not be less than twenty-five thousand dollars and not more than one million five hundred thousand ~~one million five hundred thousand~~ dollars. The surety on a bond shall be a surety company licensed by the Department of Insurance. An irrevocable letter of credit or certificate of deposit shall be issued by a federally insured depository institution.

The security shall particularly describe the warehouse intended to be covered by the security. The liability of the surety on a bond shall not accumulate for each successive license period which the bond covers. The liability of the surety shall be limited to the amount stated on the bond or on an appropriate rider or endorsement to the bond.

Sec. 46. Section 88-541, Reissue Revised Statutes of Nebraska, is amended to read:

88-541 (1) Each warehouse licensee shall file with the commission a schedule of the licensee's storage rates and charges existing as of the date of filing, and each applicant for a warehouse license shall file with the commission a schedule of the applicant's storage rates and charges existing on the date the application is filed. A warehouse licensee shall post the filed schedule of rates and charges on signage issued by the commission in a conspicuous place at the licensee's warehouse location. Such rates and charges shall be full compensation for receiving, handling, storing, delivering, and insuring grain.

(2) A warehouse licensee may increase or decrease such rates and charges

~~by (a) filing notice of such change of rates and charges with the commission and also sending such notice to all grain owners of record not less than thirty days prior to such change of rates and charges and (b) posting notice of such change of rates and charges on signage issued by the commission in a conspicuous place at the warehouse licensee's warehouse. The new rates and charges shall be charged on all grain in storage at the time of, and all grain received for storage after, the effective date of the change of rates and charges. Not less than once each year, the commission shall by order fix reasonable storage rates, and no warehouse licensee shall charge a lesser or greater rate, except upon application to and a hearing before the commission. If, after a hearing, the commission finds that a lesser or greater rate should be ordered, it shall enter a supplemental order fixing a different rate for such applicant. Such charges shall be full compensation for the receiving, handling, storing, delivering, and insuring of grain.~~

~~(3) No discrimination shall be made between different customers by any state-licensed grain warehouse either in facilities, rates, charges, or handling of any grain, except that members of a cooperative may be given preference in storage facilities in warehouses of the cooperative. The rates charged to any governmental agency shall be exempt from commission regulation.~~

~~Sec. 47. Section 88-549, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~88-549 (1) At least once each calendar year and not later than one year from the date of receipt of the previous written notice, each warehouse licensee shall send written notice to each person who stores grain in such warehouse at such person's last-known address specifying the type and amount of grain in storage, the location at which the grain is being stored, and the current rate of storage.~~

~~(2) A warehouse licensee shall not charge any storage rates and charges other than or in addition to the schedule of storage rates and charges duly filed and posted pursuant to section 88-541.~~

~~(3) Any warehouse licensee who violates subsection (1) or (2) of this section shall be guilty of a Class V misdemeanor.~~

~~Sec. 48. Sections 1, 2, 3, 4, 5, 6, 7, 21, 22, 27, 49, and 52 of this act become operative on January 1, 2025. The other sections of this act become operative three calendar months after the adjournment of this legislative session.~~

~~Sec. 49. Original sections 2-501, 2-503, 2-505, 2-509, 2-515, 2-518, and 2-958, Reissue Revised Statutes of Nebraska, and sections 28-401, 28-476, and 81-2,162.27, Revised Statutes Cumulative Supplement, 2022, are repealed.~~

~~Sec. 50. Original sections 2-3611, 2-3615, 2-3619, 2-3620, 2-3622, 2-3623, 2-3629, 2-3631, 2-3632, 2-3634, 2-3635, 2-3804, 2-3966, 75-902, 75-903, 75-903.02, 81-2,251.03, 88-526, 88-527, 88-528.01, 88-541, and 88-549, Reissue Revised Statutes of Nebraska, sections 75-156, 81-2,244.01, 81-2,245.01, 81-2,248, 81-2,263, 81-2,270, 81-2,271, 81-2,280, 81-2,281, and 88-530, Revised Statutes Cumulative Supplement, 2022, and sections 81-2,239 and 81-2,240, Revised Statutes Supplement, 2023, are repealed.~~

~~Sec. 51. The following sections are outright repealed: Sections 2-3616, 2-3627, 2-3628, 81,2-242.03, and 81-2,251.02, Reissue Revised Statutes of Nebraska, and sections 81-2,245, 81-2,251.01, and 81-2,272.31, Revised Statutes Cumulative Supplement, 2022.~~

~~Sec. 52. The following sections are outright repealed: Sections 2-502, 2-504, 2-506, 2-507, 2-508, 2-510, 2-511, 2-512, 2-513, 2-514, 2-516, 2-517, 2-519, and 2-5701, Reissue Revised Statutes of Nebraska.~~