

LEGISLATIVE BILL 182

Approved by the Governor March 29, 1995

Introduced by Warner, 25

AN ACT relating to taxes; to amend section 87-411, Reissue Revised Statutes of Nebraska, and sections 21-330, 39-2215, 39-2215.01, 39-2216, 52-1401, 60-302, 60-312, 66-482, 66-490, 66-491, 66-492, 66-493, 66-4,141, 66-4,142, 66-4,143, 66-4,144, 66-4,147, 66-651, 66-654, 66-668, 66-672, 66-673, 66-681, 66-684, 66-685, 66-686, 66-687, 66-688, 66-691, 66-694, 66-712, 66-719.01, 66-726, 66-727, 66-733 to 66-737, 66-740, 66-1345, 66-1414, 66-1510, 77-381, and 77-2704.05, Revised Statutes Supplement, 1994; to adopt the Compressed Fuel Tax Act; to provide for refunds of and eliminate obsolete provisions relating to occupation taxes and fees; to change provisions relating to taxation of motor fuels; to authorize an exempt use of diesel fuel; to continue and provide duties for a task force; to eliminate provisions relating to an alternative fuel user permit and the Petroleum Products Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal sections 66-1215, 66-1217, 66-1218, 66-1220, and 66-1222 to 66-1224, Reissue Revised Statutes of Nebraska, and sections 66-689, 66-690, 66-692, 66-693, 66-1216, 66-1219, and 66-1221, Revised Statutes Supplement 1994; and to declare an emergency.

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

Section 1. Sections 1 to 20 of this act shall be known and may be cited as the Compressed Fuel Tax Act.

Sec. 2. The purpose of the Compressed Fuel Tax Act is to supplement the provisions of the tax upon motor vehicle fuel set forth in Chapter 66, article 4, and the tax upon diesel fuel set forth in the Diesel Fuel Tax Act by imposing a tax upon all compressed fuel sold or distributed for use in motor vehicles registered for operation upon the highways of this state.

Sec. 3. For purposes of the Compressed Fuel Tax Act, the definitions found in sections 4 to 9 of this act shall be used.

Sec. 4. Compressed fuel means compressed natural gas, liquified petroleum gas, liquified natural gas, butane, and any other type of compressed gas or compressed liquid suitable for fueling a motor vehicle. Compressed fuel does not include motor vehicle fuel as defined in section 66-482 or diesel fuel as defined in section 66-654.

Sec. 5. Department means the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue.

Sec. 6. Gallon equivalent means the amount of any nonliquid compressed fuel that is deemed to be the equivalent of a gallon of gasoline according to the National Institute of Standards and Technology Handbook 130 entitled Method of Sale of Commodities Regulation, Paragraph 2.27.1.3.

Sec. 7. Motor vehicle has the same definition as in section 60-301.

Sec. 8. Person means any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine or imprisonment is prescribed or imposed in the Compressed Fuel Tax Act, the word person as applied to a partnership, a limited liability company, or an association means the partners or members thereof.

Sec. 9. Retailer means any person engaged in the business of selling or otherwise providing compressed fuel to consumers of the fuel for use in motor vehicles. Retailer also includes any person, other than a consumer of compressed fuel, who has equipment capable of dispensing compressed fuel into a motor vehicle.

Sec. 10. (1) Before engaging in business as a retailer, a person shall obtain a license to transact such business in the State of Nebraska. An application for a retailer's license shall be made to the department on a form prepared and furnished by the department. The application shall contain such information as the department deems necessary and shall be accompanied by an application fee of ten dollars to cover the cost of issuing the license. All fees collected shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

(2) After reviewing an application received in proper form, the department may issue to the applicant a retailer's license. The department may refuse to issue such license to any person according to the provisions of

section 66-729. Each retailer's license shall be valid until suspended or revoked for cause or otherwise canceled and shall not be transferable.

(3) The department, for the first year of a new license or whenever it deems it necessary to insure compliance with the Compressed Fuel Tax Act, may require any retailer subject to the act to place with the department such security as it determines. The amount and duration of the security shall be fixed by the department and shall be approximately two times the estimated average quarterly tax liability payable by such retailer pursuant to the act, unless such retailer is required to file monthly tax returns pursuant to section 14 of this act, in which case the amount of the security shall be approximately three times the estimated monthly tax liability payable by the retailer. The security shall consist of a surety bond executed by a surety company duly licensed and authorized to do business within this state in the amount specified by the department. The security shall run to the department and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such retailer is liable, whether such liability was incurred prior to or after the security is filed.

Sec. 11. In addition to the tax imposed pursuant to section 66-4.142 and sections 12 and 13 of this act, an excise tax of ten and one-half cents per gallon or gallon equivalent is levied and imposed on all compressed fuel sold for use in registered motor vehicles.

Sec. 12. Each retailer shall, in addition to all other taxes provided by law, pay an excise tax at the rate set pursuant to section 66-4.144 on all gallons or gallon equivalents of compressed fuel sold for use in registered motor vehicles. All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to retailers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated to the Highway Restoration and Improvement Bond Fund if bonds are issued pursuant to subsection (2) of section 39-2223 and to the Highway Cash Fund if no bonds are issued pursuant to such subsection.

Sec. 13. In addition to the tax imposed by sections 11 and 12 of this act, each retailer shall pay an excise tax of two cents per gallon or gallon equivalent on all compressed fuel sold for use in registered motor vehicles.

Sec. 14. Each retailer shall file a tax return with the department on forms prescribed by the department. Quarterly returns are required if the retailer's yearly tax liability is less than six thousand dollars. Monthly returns are required if the retailer's yearly tax liability is six thousand dollars or more. The return shall contain a declaration by the person making the return to the effect that the statements contained in the return are true and are made under penalties of law, which declaration has the same force and effect as a verification of the return and is in lieu of such verification. The return shall show such information as the department reasonably requires for the proper administration and enforcement of the Compressed Fuel Tax Act. The retailer shall file the return on or before the twentieth day of the next succeeding calendar month following the reporting period to which it relates. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day is the final filing date. The return is filed on time if mailed in an envelope properly addressed to the department, postage paid, and postmarked before midnight of the final filing date.

Sec. 15. The tax imposed by the Compressed Fuel Tax Act shall be computed by each retailer by multiplying the tax rate established in section 66-4.142 and sections 11, 12, and 13 of this act by the number of gallons or gallon equivalents of compressed fuel sold for use in registered motor vehicles.

Sec. 16. All taxes, interest, and penalties collected under the Compressed Fuel Tax Act shall be remitted to the State Treasurer for credit to the Highway Trust Fund or Highway Cash Fund as appropriate.

Sec. 17. In lieu of the expense of remitting the compressed fuel tax and complying with the statutes and rules and regulations related thereto, every retailer shall be entitled to deduct and withhold a commission of two percent upon the first five thousand dollars and one-half of one percent upon all amounts in excess of five thousand dollars remitted each tax period.

Sec. 18. Every retailer shall prepare and maintain such records as the department reasonably requires with respect to inventories, receipts, purchases, and sales or other dispositions of compressed fuel. The records required by this section shall be retained for a minimum period of three years or for five years if the required returns or reports are not filed and shall be available at all reasonable times for audit and examination by the department to determine liability for the payment of the taxes and penalties under the Compressed Fuel Tax Act.

Sec. 19. (1) A person shall not place compressed fuel into the supply tank of a registered motor vehicle unless the taxes imposed by the Compressed Fuel Tax Act are paid to the retailer of the fuel at the time the fuel is purchased. Any person who fuels a registered motor vehicle in violation of this section is guilty of a Class IV misdemeanor and, in addition to the taxes imposed by the act, is subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(2) The department shall by rule or regulation adopt a standard miles-per-gallon rating for compressed fuel transport and delivery vehicles that are not equipped with a separate fuel supply tank. The miles-per-gallon rating adopted shall be used by the owners of the vehicles to calculate the amount of fuel tax owed to the state on the fuel consumed from the vehicle's cargo tank for purposes of operating the vehicle. The owners of the vehicles shall pay the excise taxes imposed by the act and make a report concerning the taxes to the department in like manner, form, and time as is required by the act for retailers of compressed fuel.

Sec. 20. The department shall enforce the Compressed Fuel Tax Act and the rules and regulations adopted pursuant to the act. The department may adopt and promulgate rules and regulations to carry out the act.

Sec. 21. Section 21-330, Revised Statutes Supplement, 1994, is amended to read:

21-330. Any corporation which has paid tax in excess of the proper amount of the occupation tax imposed in sections 21-301 to 21-325 for any year shall be entitled to a refund of such excess payment. Claims for refund shall be filed with the Secretary of State or may be submitted by the Secretary of State based on his or her own investigation. If approved or submitted by the Secretary of State, the claim shall be forwarded to the State Treasurer for payment from the General Fund. (1) For 1993, in addition to the occupation tax imposed in sections 21-301 to 21-325, there is hereby levied on all corporations subject to the occupation tax and all corporations exempt from the occupation tax pursuant to section 21-321 an additional fee of one hundred fifty dollars per corporation to be levied and collected in the same manner as the occupation tax.

(2) The Secretary of State may credit the fee paid by a corporation pursuant to this section for 1992 against the fee imposed by this section for 1993. Any corporation not subject to the fee imposed by this section for 1993 and which paid the fee or assessment imposed for 1992 shall be issued a refund of the fee or assessment paid for 1992.

Sec. 22. Section 39-2215, Revised Statutes Supplement, 1994, is amended to read:

39-2215. (1) There is hereby created in the state treasury a special fund to be known as the Highway Trust Fund.

(2) All funds credited to the Highway Trust Fund pursuant to sections 66-4,140, 66-4,147, and 66-669 and section 12 of this act shall be allocated as provided in such sections. The State Treasurer shall make the transfer to the General Fund required by section 66-499.

(3) All other motor vehicle fuel taxes, and diesel fuel taxes, compressed fuel taxes, and alternative fuel taxes related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund pursuant to section 60-302, and other highway-user taxes imposed by state law and allocated to the Highway Trust Fund, except for the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers credited to the fund pursuant to section 77-27,132, are hereby irrevocably pledged for the terms of the bonds issued prior to January 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose.

(4) Of the money in the fund specified in subsection (3) of this section which is not required for the use specified in such subsection, (a) an amount equal to three dollars times the number of motorcycles registered during the previous month shall be placed in the Motorcycle Safety Education Fund, (b) an amount to be determined annually by the Legislature through the appropriations process may be transferred to the Motor Fuel Tax Enforcement and Collection Cash Fund for use as provided in section 66-738 on a monthly or other less frequent basis as determined by the appropriation language, (c) an amount to be determined annually by the Legislature through the appropriations process shall be transferred to the License Plate Cash Fund as needed to meet the current obligations associated with the manufacture of license plates and

stickers or tabs provided for in sections 60-311, 60-311.02, and 60-1804, as certified by the Director of Motor Vehicles, and (d) the remaining money may be used for the purchase for retirement of the bonds issued prior to January 1, 1988, in the open market.

(5) The State Treasurer shall monthly transfer, from the proceeds of the sales and use taxes credited to the Highway Trust Fund and any money remaining in the fund after the requirements of subsections (2) through (4) of this section are satisfied, (a) thirty thousand dollars to the Grade Crossing Protection Fund and (b) the amount calculated pursuant to section 13-1210 for financing the operating costs of public transportation systems to the Highway Cash Fund.

(6) Except as provided in subsection (7) of this section, the balance of the Highway Trust Fund shall be allocated fifty-three and one-third percent, less the amount provided for in section 39-847.01, to the Department of Roads, twenty-three and one-third percent, less the amount provided for in section 39-847.01, to the various counties for road purposes, and twenty-three and one-third percent to the various municipalities for street purposes. If bonds are issued pursuant to subsection (2) of section 39-2223, the portion allocated to the Department of Roads shall be credited monthly to the Highway Restoration and Improvement Bond Fund, and if no bonds are issued pursuant to such subsection, the portion allocated to the department shall be credited monthly to the Highway Cash Fund. The portions allocated to the counties and municipalities shall be credited monthly to the Highway Allocation Fund and distributed monthly as provided by law. Vehicles accorded prorated registration pursuant to section 60-305.09 shall not be included in any formula involving motor vehicle registrations used to determine the allocation and distribution of state funds for highway purposes to political subdivisions.

(7) If it is determined by December 20 of any year that a county will receive from its allocation of state-collected highway revenue and from any funds relinquished to it by municipalities within its boundaries an amount in such year which is less than such county received in state-collected highway revenue in calendar year 1969, based upon the 1976 tax rates for highway-user fuels and registration fees, the Department of Roads shall notify the State Treasurer that an amount equal to the sum necessary to provide such county with funds equal to such county's 1969 highway allocation for such year shall be transferred to such county from the Highway Trust Fund. Such makeup funds shall be matched by the county as provided in sections 39-2501 to 39-2510. The balance remaining in the fund after such transfer shall then be reallocated as provided in subsection (6) of this section.

(8) The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. All disbursements from the fund shall be made upon warrants drawn by the Director of Administrative Services. 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 and the earnings, if any, credited to the fund.

Sec. 23. Section 39-2215.01, Revised Statutes Supplement, 1994, is amended to read:

39-2215.01. (1) There is hereby created in the state treasury a fund to be known as the Highway Restoration and Improvement Bond Fund.

(2) If bonds are issued pursuant to subsection (2) of section 39-2223, all motor vehicle fuel taxes, diesel fuel taxes, compressed fuel taxes, and alternative fuel taxes related to highway use, motor vehicle registration fees, and other highway-user taxes which are retained by the state and allocated to the bond fund from the Highway Trust Fund shall be hereby irrevocably pledged for the terms of the bonds issued after July 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited directly in the bond fund for such purpose. Of the money in the bond fund not required for such purpose, such remaining money may be used for the purchase for retirement of the bonds in the open market or for any other lawful purpose related to the issuance of bonds, and the balance, if any, shall be transferred monthly to the Highway Cash Fund for such use as may be provided by law.

(3) The State Treasurer shall disburse the money in the bond fund as directed by resolution of the commission. All disbursements from the bond fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the bond 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. 24. Section 39-2216, Revised Statutes Supplement, 1994, is amended to read:

39-2216. The Legislature hereby irrevocably pledges and agrees with the holders of the bonds issued under the Nebraska Highway Bond Act that so long as such bonds remain outstanding and unpaid it shall not repeal, diminish, or apply to any other purposes the motor vehicle fuel taxes, and diesel fuel taxes, compressed fuel taxes, and alternative fuel taxes related to highway use, motor vehicle registration fees, and such other highway-user taxes which may be imposed by state law and allocated to the fund or bond fund, as the case may be, if to do so would result in fifty percent of the amount deposited in the fund or bond fund in each year being less than the amount equal to the maximum annual principal and interest requirements of such bonds.

Sec. 25. Section 52-1401, Revised Statutes Supplement, 1994, is amended to read:

52-1401. As used in sections 52-1401 to 52-1411, unless the context otherwise requires:

(1) Agricultural chemical shall mean a fertilizer or agricultural chemical which is applied to crops or land which is used for the raising of crops;

(2) Feed shall mean a commercial feed, a feed ingredient, a mineral feed, a drug, an animal health product, or a customer-formula feed which is used for the feeding of livestock;

(3) Petroleum product shall mean motor vehicle fuel, oil, grease, propane or other compressed fuel, and diesel or alternative fuel which is used in the production of crops and livestock;

(4) Seed shall mean agricultural seed which is used in the production of crops;

(5) Electricity shall mean electrical energy which is used in the production of crops and livestock;

(6) Labor shall mean labor performed in the application, delivery, or preparation of a product defined in subdivisions (1) through (4) of this section;

(7) Person shall mean an individual, partnership, limited liability company, corporation, company, cooperative, society, or association;

(8) Lender shall mean a person in the business of lending money identified in a lien-notification statement;

(9) Letter of commitment shall mean a binding, irrevocable, and unconditional agreement by a lender to honor drafts or other demands for payment upon the supplier presenting invoices signed by the purchaser or other proof of delivery; and

(10) Agricultural production input shall mean any agricultural chemical, feed, seed, petroleum product, electricity, or labor used in preparing the land for planting, cultivating, growing, producing, harvesting, drying, and storing crops or crop products or for feeding, producing, or delivering livestock.

Sec. 26. Section 60-302, Revised Statutes Supplement, 1994, is amended to read:

60-302. (1) No motor vehicle, trailer, semitrailer, or cabin trailer, unless otherwise expressly provided, shall be operated or parked on the highways of this state unless such vehicle is registered in accordance with Chapter 60, article 3. There shall be a rebuttable presumption that any vehicle stored and kept more than thirty days in the state is being operated or parked on the highways of this state and shall be registered in accordance with Chapter 60, article 3. Every owner of a vehicle required to be registered shall make application for registration to the county treasurer of the county in which the vehicle has tax situs as defined in section 77-1238. The application shall be a copy of a certificate of title or, in the case of a renewal of a registration, the application shall be the previous registration period's certificate. A salvage certificate of title as defined in section 60-129 and a nontransferable certificate of title provided for in section 60-131 shall not be valid for registration purposes.

(2) All applications for registration of motor vehicles shall be accompanied by proof of financial responsibility. Proof of financial responsibility shall be evidenced by a copy of proof of financial responsibility filed pursuant to subdivision (2), (3), or (4) of section 60-528 bearing the seal of the Department of Motor Vehicles or by a certificate or policy of insurance. Such certificate or policy of insurance shall be written by an insurance carrier duly authorized to do business in this state and shall certify that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility in limits for bodily injury or death and for injury to or

destruction of property of others set forth in section 60-509. Such certificate or policy shall give the effective dates of such motor vehicle liability policy, which dates shall be evidence that the coverage is in effect on and following the date of registration, and shall designate, by explicit description or by appropriate reference, all motor vehicles covered thereby. Such certificate or policy of motor vehicle liability insurance shall not exclude liability coverage under such certificate or policy solely because the injured person making a claim is the named insured in such certificate or policy or a spouse or relative residing in the same household with the named insured.

(3) Any nonresident owner who desires to register a vehicle or vehicles in this state shall register in the county where the vehicle is domiciled or where the owner conducts a bona fide business.

(4) Each new application shall contain, in addition to such other information as may be required by the department, the name and post office address of the applicant and a description of the vehicle, including the color, the manufacturer, the identification number, and the weight of the vehicle required by Chapter 60, article 3. With such application and proof of financial responsibility, the applicant shall pay the proper registration fee as provided in sections 60-305.08 to 60-339 and shall state whether the vehicle is propelled by motor vehicle fuel as defined in section 66-482, diesel fuel as defined in section 66-654, compressed fuel as defined in section 4 of this act, or alternative fuel as defined in section 66-686 and, if alternative fuel, the type of fuel. The form shall also contain a notice that bulk fuel purchasers may be subject to federal excise tax liability. The department shall prescribe a form, containing such notice, for supplying the information for vehicles to be registered. The county assessor shall include the form in each mailing made pursuant to section 77-1240.01. The county treasurer or his or her agent shall notify the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue whenever a vehicle powered by an alternative fuel as defined in section 66-686 is registered. The notification shall include the name and address of the registrant, the date of registration, the type of motor vehicle registered, and the type of alternative fuel used to propel the vehicle as indicated on the registration application.

(5) The county treasurer or his or her agent shall collect, in addition to the registration fees, one dollar and fifty cents for each and every certificate issued and shall remit one dollar and fifty cents of each additional fee collected to the State Treasurer for credit to the Department of Motor Vehicles Computerization and Operations Fund.

(6) The county treasurer or his or her agent shall collect, in addition to other registration fees, the sum of one dollar and fifty cents for each and every certificate issued, which fee shall be remitted by the county treasurer to the State Treasurer for credit to the State Recreation Road Fund.

(7) If a citation is issued to an owner of a vehicle for a violation of this section and the owner, within ten days of issuance of the citation, properly registers and licenses the vehicle not in compliance, pays all taxes and fees due, and provides proof of such registration to the prosecuting attorney, no prosecution for the offense cited shall occur.

(8) If a county board consolidates services under the office of a designated county official other than the county treasurer pursuant to section 23-186, the powers and duties of the county treasurer relating to registration under sections 60-301 to 60-347 shall be performed by the designated county official.

Sec. 27. Section 60-312, Revised Statutes Supplement, 1994, is amended to read:

60-312. The county treasurer or designated county official as provided in section 60-302 shall furnish each applicant for registration and on each renewal of registration, a certificate of registration which shall contain upon the face thereof the following data: The name of the registered owner of the motor vehicle, his or her post office address, a description of the vehicle as set forth in the application for registration, and the type of fuel used to propel the motor vehicle, whether motor vehicle fuel, diesel fuel, compressed fuel, or alternative fuel and, if alternative fuel, the type of fuel. It shall have and contain the identical registration number denoted on the number plate, in connection with which such certificate shall be issued. It shall be valid only for the registration period for which it is issued.

Sec. 28. Section 66-482, Revised Statutes Supplement, 1994, is amended to read:

66-482. For purposes of sections 66-482 to 66-4,149:

(1) Motor vehicle shall have the same definition as in section

60-301;

(2) Motor vehicle fuel shall include all products and fuel commonly or commercially known as gasoline, including casing head or natural gasoline, benzol, naphtha, and benzine with an initial boiling point under two hundred degrees Fahrenheit and shall include any other liquid and such other volatile and inflammable liquids as may be produced, compounded, or used for the purpose of or as may be used for operating or propelling motor vehicles, motorboats, or aircraft or as an ingredient in the manufacture of such fuel. Agricultural ethyl alcohol produced for use as a motor vehicle fuel shall be considered a motor vehicle fuel. Motor vehicle fuel shall not include the products commonly known as kerosene oil, kerosene distillate, crude petroleum, naphtha, and benzine with a boiling point over two hundred degrees Fahrenheit, residuum gas oil, smudge oil, and any petroleum product with an initial boiling point under two hundred degrees Fahrenheit, a ninety-five percent distillation (recovery) temperature in excess of four hundred sixty-four degrees Fahrenheit, an American Society of Testing Materials research method octane number less than seventy, and an end or dry point of distillation of five hundred seventy degrees Fahrenheit maximum;

(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced from cereal grains or agricultural commodities grown within the continental United States, and for the purpose of such sections 66-482 to 66-4,149, the purity of the ethyl alcohol shall be determined excluding denaturant and the volume of alcohol blended with gasoline for motor vehicle fuel shall include the volume of any denaturant required pursuant to law;

(4) Alcohol blend shall mean a blend of agricultural ethyl alcohol in gasoline or other motor vehicle fuel, such blend to contain not less than five percent by volume of alcohol;

(5) Supplier shall mean any person who owns motor vehicle fuel imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state and any person who refines and stores motor vehicle fuel at a refinery in this state;

(6) Distributor shall mean any person who acquires ownership of motor vehicle fuel directly from a supplier at or from a barge, barge line, or pipeline terminal in this state;

(7) Wholesaler shall mean any person, other than a supplier, distributor, or importer, who acquires motor vehicle fuel for resale;

(8) Retailer shall mean any person who acquires motor vehicle fuel from a supplier, distributor, wholesaler, or importer for resale to consumers of such fuel;

(9) Importer shall mean any person who owns motor vehicle fuel at the time such fuel enters the State of Nebraska by any means other than barge, barge line, or pipeline. Importer shall not include a person who imports motor vehicle fuel in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected;

(10) Exporter shall mean any person who acquires ownership of motor vehicle fuel from any licensed supplier, distributor, wholesaler, or importer exclusively for use or resale in another state;

(11) Gross gallons shall mean measured gallons without adjustment or correction for temperature or barometric pressure;

(12) Diesel fuel shall mean any fuel defined as diesel fuel in section 66-654;

(13) Compressed fuel shall mean any fuel defined as compressed fuel in section 4 of this act;

(14) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision; and

~~(14)~~ (15) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue.

Sec. 29. Section 66-490, Revised Statutes Supplement, 1994, is amended to read:

66-490. The purpose of sections 66-490 to 66-494 is to provide an additional method of collecting motor vehicle fuel taxes, and diesel fuel taxes, and compressed fuel taxes from interstate motor vehicle operators commensurate with their operations in Nebraska and to permit the department to suspend the collection as to transportation entering Nebraska from any other state when it appears that Nebraska tax revenue and interstate highway transportation moving out of Nebraska will not be unduly prejudiced thereby.

For purposes of such sections, (1) fuel used or consumed in operations shall include all fuel placed in the supply tanks and consumed in the engine of a qualified motor vehicle and (2) qualified motor vehicle shall mean a motor vehicle used, designed, or maintained for transportation of

persons or property which (a) has two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, (b) has three or more axles regardless of weight, or (c) is used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle or registered gross vehicle weight. Qualified motor vehicle shall not include a recreational vehicle.

Sec. 30. Section 66-491, Revised Statutes Supplement, 1994, is amended to read:

66-491. No person shall bring into this state in the fuel supply tanks of a qualified motor vehicle or in any other container, regardless of whether or not the supply tanks are connected to the motor of the vehicle, any motor vehicle fuel, or diesel fuel, or compressed fuel to be used in the operation of the vehicle in this state unless he or she has purchased a trip permit pursuant to subsection (4) of section 66-492 or paid or made arrangements in advance with the department for payment of Nebraska motor vehicle fuel taxes, or diesel fuel taxes, or compressed fuel taxes on the gallonage consumed in operating the vehicle in this state.

Any person who brings into this state in the fuel supply tanks of a qualified motor vehicle motor vehicle fuel, or diesel fuel, or compressed fuel in violation of this section or the Interstate Motor Carriers Base State Fuel Tax Compact Act shall be subject to an administrative penalty of one hundred dollars for each violation to be assessed and collected by the department or another state agency which may be contracted with to act as the department's agent for such purpose. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Sec. 31. Section 66-492, Revised Statutes Supplement, 1994, is amended to read:

66-492. (1) The advance arrangements referred to in section 66-491 shall include the procuring of a permit and the furnishing and maintaining of security as defined in section 66-485 in a sum to be fixed and determined by the department but not less than one thousand dollars to assure the required reporting, payment of tax, keeping of records, and payment of any penalties. The amount of security as fixed and determined by the department shall be a minimum of one thousand dollars and up to approximately two times the average liability for the reporting period of the permit holder. Such security shall run to the Department of Revenue and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such person is liable, whether such liability was incurred prior to or after such security is filed.

(2) Such permit may be obtained upon application to the department. The department shall charge a fee of ten dollars for each permit issued. The holder of a permit under this section shall have the privilege of bringing into this state in the fuel supply tanks of qualified motor vehicles any amount of motor vehicle fuel, or diesel fuel, or compressed fuel to be used in the operation of the vehicles and for that privilege shall pay Nebraska motor vehicle fuel, or diesel fuel, or compressed fuel taxes. The department may issue the permits required by this section in the form of gummed stickers or decals that expire on December 31.

(3) Each qualified motor vehicle operated into or through Nebraska in interstate operations using motor vehicle fuel, or diesel fuel, or compressed fuel acquired in any other state shall carry in or on each vehicle a duplicate of the permit required in this section. If the department issues the permits in the form of gummed stickers or decals, each vehicle shall have affixed an unexpired gummed sticker or decal. All fees collected shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

(4) In lieu of the permit and security required by subsection (1) of this section, the department shall provide for a trip permit to be issued. Such trip permits shall be issued for a fee of twenty dollars and shall be valid for a period of seventy-two hours. The carrier enforcement division designated under section 60-1303 shall act as an agent for the department in collecting the fees prescribed in this subsection and shall remit all such fees collected to the State Treasurer for credit to the Highway Cash Fund. Such trip permits shall be available at weighing stations operated by the carrier enforcement division and at various vendor stations as determined appropriate by the carrier enforcement division. Trip permits shall be obtained at the first available location, whether that is a weighing station or a vendor station. The vendor stations shall be entitled to collect and retain an additional fee of ten percent of the fee collected pursuant to this subsection as reimbursement for the clerical work of issuing the permits.

Sec. 32. Section 66-493, Revised Statutes Supplement, 1994, is amended to read:

66-493. Tax liability under sections 66-490 to 66-494 shall be computed on the total number of gross gallons of each kind of motor vehicle

fuel, and diesel fuel, and compressed fuel consumed in the operation in Nebraska of motor vehicles subject to such sections at the same rate for each kind of fuel as would be applicable thereto if taxed under section 66-489, 66-4,105, 66-4,140, 66-4,145, or 66-4,146, or the Diesel Fuel Tax Act, or the Compressed Fuel Tax Act. Credit against the tax liability so computed shall be allowed in the amount of fuel taxes paid under such sections or ~~act acts~~ on motor vehicle fuel, and diesel fuel, and compressed fuel used in qualified motor vehicles the operation of which is subject to the provisions of such sections or ~~act acts~~. Notwithstanding any provision in sections 66-490 to 66-494 to the contrary, the department upon application, supported by such proof as the department reasonably requires, shall issue a memorandum of credit for the amount of fuel tax paid on fuel in excess of the amount of fuel consumed by such vehicles in Nebraska which may be applied against subsequent fuel tax liability under such sections or, if the permitholder is no longer engaged in the operation of vehicles for which his or her permit was issued or has built up an excess of fuel tax credit amounting to twenty-five dollars or more with the state, the department may make proper refund to the permitholder.

To determine and collect the amount of taxes due under ~~such~~ sections 66-490 to 66-494 and to prevent the evasion thereof, the department may require reports on forms prescribed by the department. The payment of taxes due shall be at the same time as the reports are required to be filed. These reports and tax payments may be required covering actual operation and fuel consumption in Nebraska for qualified motor vehicles the operation of which is subject to such sections or on a basis of their average consumption of fuel in Nebraska determined by dividing the total miles traveled in Nebraska by the average miles-per-gallon for such qualified motor vehicles traveling in Nebraska. Average miles-per-gallon shall be determined by dividing the total miles traveled by such qualified motor vehicles in all jurisdictions by the total gallons of motor vehicle fuel, or diesel fuel, or compressed fuel placed into the supply tanks of such qualified motor vehicles in all jurisdictions.

Each person shall file the report on or before the last day of the next succeeding calendar month following the end of the calendar quarter to which it relates. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed on time if mailed in an envelope properly addressed to the department and postmarked before midnight of the final filing date.

Sec. 33. Section 66-4,141, Revised Statutes Supplement, 1994, is amended to read:

66-4,141. (1) ~~The department shall implement, administer, collect, and audit the tax imposed by sections 66-4,140, 66-4,142, 66-4,145, 66-4,146, 66-669, and 66-670 in an efficient and effective manner.~~ Upon receipt of the cost figures required by section 66-4,143, the department shall determine the statewide average cost by dividing the total amount paid for motor vehicle fuel, and diesel fuel, and compressed fuel by the State of Nebraska, excluding any state and federal taxes, by the total number of gallons of motor vehicle fuel, and diesel fuel, and compressed fuel purchased during the reporting period.

(2) After computing the statewide average cost as required in subsection (1) of this section, the department shall multiply such statewide average cost by the tax rate established pursuant to section 66-4,144.

(3) In making the computations required by subsections (1) and (2) of this section, gallonage reported shall be rounded to the nearest gallon and total costs shall be rounded to the nearest dollar. All other computations shall be made with three decimal places, except that after all computations have been made the tax per gallon shall be rounded to the nearest one-tenth of one cent.

(4) The tax rate per gallon computed pursuant to this section shall be distributed to all licensed motor vehicle fuel suppliers, distributors, wholesalers, and importers, diesel fuel suppliers, distributors, wholesalers, and importers, compressed fuel retailers, and interstate motor vehicle operators who choose to be subject to sections 66-490 to 66-494 at least five days prior to the first day of any calendar quarter during which the tax is to be adjusted. Such tax rate shall be utilized in computing the tax due for the period specified by the department.

Sec. 34. Section 66-4,142, Revised Statutes Supplement, 1994, is amended to read:

66-4,142. (1) The department shall at the end of each calendar quarter determine the total amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credit provided in section 66-1344 and due to any exemption provided in sections 66-489 and 66-4,105 less the

amount transferred to the Highway Trust Fund from the Ethanol Production Incentive Cash Fund pursuant to section 66-1345.

(2) If the amount determined in subsection (1) of this section is at least equal to the amount of revenue raised in the same period by one-tenth of one cent of the fuel tax imposed by sections 66-489, 66-4,105, and 66-668 and section 11 of this act, the department shall for the next succeeding calendar quarter adjust the rate of the fuel tax imposed by such sections in an amount which the department estimates, based on the estimates provided to the State Board of Equalization and Assessment pursuant to section 66-4,144, will raise sufficient revenue to meet and not exceed the amount so determined, except that all such adjustments shall be in increments of one-tenth of one cent per gallon.

Sec. 35. Section 66-4,143, Revised Statutes Supplement, 1994, is amended to read:

66-4,143. (1) The materiel administrator of the Department of Administrative Services shall on or before the tenth day of the second calendar month following the end of a calendar quarter submit to the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue a report providing the total cost and number of gallons of motor vehicle fuel, and diesel fuel, and compressed fuel purchased by the State of Nebraska during the preceding month. In providing such information, the materiel administrator shall total only those purchases which were fifty or more gallons and shall separately identify the amount of any state or federal tax which was included in the price paid.

(2) The department shall provide any assistance the materiel administrator may need in performing his or her duties under this section.

Sec. 36. Section 66-4,144, Revised Statutes Supplement, 1994, is amended to read:

66-4,144. (1) In order to insure that an adequate balance in the Highway Restoration and Improvement Bond Fund is maintained to meet the debt service requirements of bonds to be issued by the commission under subsection (2) of section 39-2223, the Governor may call a meeting of the State Board of Equalization and Assessment at any time in advance of the issuance of such bonds. At such meeting, the board shall set the rate of the excise tax imposed by sections 66-4,140 and 66-669 and section 12 of this act for each year during which such bonds are outstanding to provide in each such year money equal in amount to not less than one hundred twenty-five percent of such year's bond principal and interest payment requirements. Such rate shall be in addition to the rate of excise tax set pursuant to subsection (2) of this section. Each such rate shall be effective from July 1 of a stated year through June 30 of the succeeding year or during such other period not longer than one year as the board determines to be consistent with the principal and interest requirements of such bonds. Such excise tax rates set pursuant to this subsection may be increased, but such excise tax rates shall not be subject to reduction or elimination unless the board has received from the Nebraska Highway Bond Commission notice of reduced principal and interest requirements for such bonds, in which event the Governor may call a meeting of the board to determine whether the rate or rates shall be changed. The new rate or rates, if any, set by the board shall become effective on the first day of the following calendar quarter.

(2) In order to insure that there is maintained an adequate Highway Cash Fund balance to meet expenditures from such fund as appropriated by the Legislature, within fifteen days after the adjournment of each regular session of the Legislature, the board shall set the rate of the excise tax imposed by sections 66-4,140 and 66-669 and section 12 of this act which will be effective from July 1 through June 30 of the succeeding year. The rate of excise tax for a given July 1 through June 30 period set pursuant to this subsection shall be in addition to and independent of the rate or rates of excise tax set pursuant to subsection (1) of this section for such period.

(3) The Department of Roads, with assistance from the Department of Revenue, shall prepare and provide the necessary information to each member of the board at least five days before each meeting. Such information shall include, but not be limited to, the unobligated balance in the Highway Cash Fund anticipated on the subsequent June 30, monthly estimates of anticipated receipts to the Highway Cash Fund for the subsequent fiscal year, and the appropriations made from the Highway Cash Fund for the subsequent fiscal year.

(4) The board shall determine the cash and investment balances of the Highway Cash Fund at the beginning of each fiscal year under consideration and the estimated receipts to the Highway Cash Fund from each source which provides at least one million dollars annually to such fund. The board shall then fix the rate of excise tax in an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature. Such rate

shall be set in increments of one-tenth of one percent.

(5) On or before the fifteenth day of each month, the Department of Roads shall provide to each member of the board and the Clerk of the Legislature a report reflecting a comparison of the Highway Cash Fund deposits for the preceding calendar month and fiscal year to date against the projections for the same periods and the limitations of information contained in such report. The projections in the report shall be those last used by the board in setting the excise tax rate for the periods being reviewed. The report shall contain a comparison of actual receipts received to date added to any modified projections of deposits to the Highway Cash Fund for the remainder of the current fiscal year, as supplied by the Department of Roads to the board, against the appropriation for the current fiscal year. If the accumulative total deposits to the Highway Cash Fund under Chapter 66, articles 4 and 6, for the fiscal year are at any time less than ninety-eight percent or greater than one hundred four percent of the projected deposits for such period or if the actual receipts received to date added to any modified projections of deposits to the Highway Cash Fund for the current fiscal year, as supplied by the Department of Roads to the board, are less than ninety-eight percent or greater than one hundred four percent of the appropriation for the current fiscal year, the Governor may call a meeting of the board to determine whether the rate shall be changed. If such a change is required, the board shall set the new rate which shall become effective on the first day of the following calendar quarter.

(6) Nothing in this section shall be construed to abrogate the duties of the Department of Roads or attempt to change any highway improvement program schedule.

Sec. 37. Section 66-4,147, Revised Statutes Supplement, 1994, is amended to read:

66-4,147. The receipts from the tax established under sections 66-4,145, 66-4,146, and 66-670 and section 13 of this act shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to suppliers, distributors, wholesalers, and importers, or retailers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated to the Highway Allocation Fund.

Sec. 38. Section 66-651, Revised Statutes Supplement, 1994, is amended to read:

66-651. The purpose of the Diesel Fuel Tax Act is to supplement the provisions of the tax upon motor vehicle fuel set forth in Chapter 66, article 4, and the tax upon compressed fuel set forth in the Compressed Fuel Tax Act by imposing a tax upon all fuels suitable for the generation of power for diesel-powered motor vehicles registered for operation upon the highways of this state.

Sec. 39. Section 66-654, Revised Statutes Supplement, 1994, is amended to read:

66-654. Diesel fuel shall mean all combustible liquids suitable for the generation of power for diesel-powered motor vehicles registered for operation upon the highways of this state, except that it shall not include diesel fuel which contains a concentration of sulphur in excess of five-hundredths percent by weight or which fails to meet a cetane index minimum of forty and has been indelibly dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545 or kerosene as defined in section 66-660.

Sec. 40. Section 66-668, Revised Statutes Supplement, 1994, is amended to read:

66-668. (1) In addition to the tax imposed pursuant to sections 66-4,142, 66-669, and 66-670, there is hereby levied and imposed an excise tax of ten and one-half cents per gallon on all diesel fuel as shown by the return required by section 66-675, except that there shall be no tax on the diesel fuel reported if: (a) The diesel fuel has been indelibly dyed and chemically marked in accordance with regulations issued by the Secretary of the Treasury of the United States under 26 U.S.C. 4082; (b) the required taxes on the diesel fuel have been paid; (c) the diesel fuel has been sold to a licensed exporter exclusively for use or resale in another state; (d) the diesel fuel has been sold from a Nebraska barge line terminal, pipeline terminal, or refinery by a licensed supplier to a licensed distributor; or (e) the diesel fuel has been sold by a licensed distributor or licensed importer to a licensed distributor or to a licensed wholesaler and the seller acquired ownership of the diesel fuel directly from a licensed supplier at or from a refinery, barge, barge line, or pipeline terminal in this state or was the first importer of such fuel into this state; or (f) the diesel fuel contains a concentration of sulphur in excess of five-hundredths percent by weight or fails to meet a cetane index minimum of forty and has been indelibly dyed in

accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545. Suppliers, distributors, wholesalers, or importers shall remit such tax to the department.

(2) Kerosene and other blending agents or fuel expanders shall be exempt from the taxes imposed under this section and sections 66-4,142, 66-669, and 66-670 unless and until such kerosene, blending agents, or fuel expanders are placed directly into a motor vehicle or blended with diesel fuel. Any kerosene, blending agent, or fuel expander that is blended with diesel fuel shall become subject to the taxes imposed under this section and sections 66-4,142, 66-669, and 66-670 at the same time as the diesel fuel with which it is blended becomes subject to such taxes or upon blending if such taxes have already been paid on the diesel fuel.

Sec. 41. Section 66-672, Revised Statutes Supplement, 1994, is amended to read:

66-672. (1) Diesel fuel shall be exempt from the taxes imposed by ~~section sections~~ sections 66-4,142 and 66-668 to 66-670 when the fuel is used for:

(a) Agricultural, quarrying, industrial, or other nonhighway use; and

(b) Buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles thereof.

(2) The owner or agent of any bus equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities, or within a radius of six miles thereof, in lieu of the excise tax provided for in section 66-668, shall pay an equalization fee of a sum equal to twice the amount of the registration fee applicable to such vehicle under the laws of this state. Such equalization fee shall be paid in the same manner as the registration fee and be disbursed and allocated as registration fees.

(3) The department shall refund tax paid on undyed diesel fuel used for an exempt purpose. The purchaser of tax-paid, undyed diesel fuel used for an exempt purpose shall file a claim for refund with the department on forms prescribed by the department and shall provide such documentation and maintain such records as the department reasonably requires to substantiate that the fuel was used for an exempt purpose.

Sec. 42. Section 66-673, Revised Statutes Supplement, 1994, is amended to read:

66-673. (1)(a) Through December 31, 1995, a purchaser of diesel fuel that has not been indelibly dyed that is being delivered into a diesel fuel storage facility may present an exemption certificate to the seller when the purchaser uses the fuel exclusively for agricultural uses or if the purchaser is a state, county, municipality, or other political subdivision.

(b) A purchaser of diesel fuel that has not been indelibly dyed may present an exemption certificate to the seller when not more than fifty gallons of such fuel is placed directly into the supply tank of a temperature control unit or power take-off unit. To qualify for this exemption, the supply tank of the temperature control unit or power take-off unit cannot be connected to the engine which provides motive power to a motor vehicle or connected to any fuel supply tank connected to the engine of a motor vehicle.

(2) The seller of undyed diesel fuel may in good faith accept the exemption certificate and sell undyed diesel fuel without collecting the tax. The seller may accept an exemption certificate for multiple purchases. Such a certificate shall be renewed annually. If the seller is a supplier, distributor, wholesaler, or importer, the seller may deduct the number of gallons sold without the tax from the return for the period during which the fuel was sold or for a subsequent period. If the seller is not a supplier, distributor, wholesaler, or importer, the seller may provide a monthly exemption certificate to the distributor, wholesaler, or importer or other supplier of the taxed diesel fuel for the total number of gallons of undyed diesel fuel sold without tax during the prior month.

(3) Receipt of an exemption certificate taken in good faith shall be conclusive proof for the seller that the sale was exempt.

(4) Any person who wrongfully claims an exemption and presents an exemption certificate shall be liable for the tax on the diesel fuel. The department shall, on the basis of information available, determine the tax that would have been due on such transaction and assess the tax against such person.

(5) Any person who unlawfully issues an exemption certificate shall be subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway

Trust Fund.

(6) Any person who purchased undyed diesel fuel that has not been taxed prior to January 1, 1996, pursuant to an exemption certificate issued under subsection (1) of this section is liable for the taxes imposed by the Diesel Fuel Tax Act on any of the untaxed fuel subsequently used in a registered motor vehicle. The tax shall be paid on or before the twentieth day of the next succeeding calendar month following the monthly period in which the fuel was placed into the motor vehicle and shall be reported on forms prescribed by and available from the department. Failure to pay the tax by the date specified shall subject the purchaser of the fuel to penalties and interest in the same manner as is provided for all other motor fuel tax deficiencies. The rate of the tax imposed by this section shall be the amount of tax imposed under the act on December 31, 1995.

Sec. 43. Section 66-681, Revised Statutes Supplement, 1994, is amended to read:

66-681. (1) Except as provided in subsection (4) (5) of this section, no motor vehicle licensed in the State of Nebraska using diesel fuel shall be operated on any highway of this state unless, when it is refueled while in this state, it is refueled with undyed diesel fuel that has been taxed registered for operation on the highway shall be fueled with undyed diesel fuel that has not been taxed or diesel fuel which contains any evidence of the dye or chemical marker added pursuant to the regulations promulgated under 26 U.S.C. 4082 or 42 U.S.C. 7545 indicating untaxed low or high sulphur diesel fuel.

(2) No retailer of diesel fuel shall sell or offer to sell diesel fuel that contains any evidence of the dye or chemical marker added pursuant to the regulations promulgated under 26 U.S.C. 4082 or 42 U.S.C. 7545 indicating untaxed low or high sulphur diesel fuel unless the fuel dispensing device is clearly marked with a notice that the fuel is dyed or chemically marked. All sales of dyed diesel fuel shall be accompanied by a sales invoice or similar receipt containing a statement that the fuel contains evidence of dye or chemical marker.

(3) Any law enforcement officer, who has been duly authorized to make arrests for violations of traffic laws of this state or ordinances of any city or village or any carrier enforcement officer, or any agent of the department who has reasonable grounds to believe that a vehicle is being operated in violation of this section suspect a violation of the Diesel Fuel Tax Act may inspect the fuel in the fuel supply tank of such any motor vehicle or the fuel storage facilities and dispensing devices of any diesel fuel retailer to determine compliance with this section. Fuel inspections may also be conducted in the course of safety or other vehicle inspections authorized by law.

~~(3)~~ (4) Any person who violates any provision of this section or who refuses to permit an inspection authorized by this section operates a motor vehicle in violation of this section shall be guilty of a Class IV misdemeanor and, in lieu of the taxes imposed by the Diesel Fuel Tax Act, shall be subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

~~(4)~~ (5) Any motor vehicle owned or leased by any state, county, municipality, or other political subdivision may be operated on the highways of this state with dyed diesel fuel, except high sulphur diesel fuel dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545, if the taxes imposed by the act have been paid are paid to the department by the state, county, municipality, or other political subdivision. The state, county, municipality, or other political subdivision shall pay the tax and file a return concerning the tax to the department in like manner and form as is required under section 66-674.

Sec. 44. Section 66-684, Revised Statutes Supplement, 1994, is amended to read:

66-684. Sections 66-684 to 66-696 and section 51 of this act shall be known as the Alternative Fuel Tax Act.

Sec. 45. Section 66-685, Revised Statutes Supplement, 1994, is amended to read:

66-685. The purpose of the Alternative Fuel Tax Act is to supplement the provisions of the tax upon motor vehicle fuel set forth in Chapter 66, article 4, and diesel fuel set forth in the Diesel Fuel Tax Act, and compressed fuel set forth in the Compressed Fuel Tax Act by requiring any person who operates on the highways of this state a motor vehicle powered by alternative fuel to purchase an alternative fuel user permit to pay such person's estimated fuel use tax liability.

Sec. 46. Section 66-686, Revised Statutes Supplement, 1994, is amended to read:

66-686. For purposes of the Alternative Fuel Tax Act:

(1) Alternative fuel shall include compressed natural gas, liquified petroleum gas, liquified natural gas, electricity, solar power, and any other source of energy not otherwise taxed under the motor fuel tax laws which is used to power a motor vehicle. The term shall not include motor vehicle fuel as defined in section 66-482, or diesel fuel as defined in section 66-654, or compressed fuel as defined in section 4 of this act;

(2) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue;

(3) Motor vehicle shall have the same definition as in section 60-301; and

(4) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision.

Sec. 47. Section 66-687, Revised Statutes Supplement, 1994, is amended to read:

66-687. Every person registering a motor vehicle designed or modified to be propelled in whole or part by alternative fuel shall obtain from the department an annual alternative fuel user permit for each motor vehicle propelled by alternative fuel. A person shall obtain all required alternative fuel user permits within thirty days of becoming an alternative fuel user. An alternative fuel user may fuel any motor vehicle registered by such user, to which is attached a valid alternative fuel user permit, without having to pay any taxes otherwise required under the motor fuel tax laws.

Sec. 48. Section 66-688, Revised Statutes Supplement, 1994, is amended to read:

66-688. The department shall prescribe the form of the application which shall require the applicant to provide the following information: (1) The name and address of the owner or person registering the motor vehicle; (2) a description of the motor vehicle which shall include the mileage on the motor vehicle as of the date of application; and (3) such other information as may be necessary for the proper implementation of the Alternative Fuel Tax Act. The application shall be submitted to the department accompanied by a fee of seventy-five dollars per vehicle. All alternative fuel user permit fees collected by the department shall be deposited in the Highway Trust Fund. A completed application and the fee required under section 66-689 shall be submitted to the county treasurer each time the alternative-fuel-powered motor vehicle is registered. The county treasurer shall retain three percent of the fee for the cost of administration. The remainder of the fee collected shall be remitted quarterly in the same manner as the sales and use taxes under the Nebraska Revenue Act of 1967 and deposited in the Highway Trust Fund.

Sec. 49. Section 66-691, Revised Statutes Supplement, 1994, is amended to read:

66-691. An alternative fuel user permit shall not be transferable either to a new vehicle or to a new owner. Upon the transfer of ownership of any motor vehicle having an alternative fuel user permit, the transferor shall be credited with the number of unexpired months remaining in the registration period, except that when such a vehicle is transferred within the same month in which acquired, no credit for such month shall be allowed. If a transferor acquires another motor vehicle for which an alternative fuel user permit is required at the time of transfer, the credit provided by this section shall be applied toward payment of the alternative fuel user permit fee then due. Otherwise, such transferor shall file a claim for a refund of the amount of the credit with the county treasurer upon a form prescribed by the department. The county treasurer shall make payment of the claim from the undistributed alternative fuel user permit fees. No person shall be entitled to a refund if the amount of the credit is less than two dollars.

Sec. 50. Section 66-694, Revised Statutes Supplement, 1994, is amended to read:

66-694. No alternative-fuel-powered motor vehicle shall be fueled while in this state unless it has attached a valid alternative fuel user permit or a valid temporary permit as authorized by section 66-692. registered in this state shall be operated on the highways of this state unless a valid alternative fuel user permit has been obtained from the department. Any motor vehicle operator or alternative fuel retailer who violates this section shall be subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department.

Sec. 51. (1) The department shall refund a portion of the fee paid for an alternative fuel user permit purchased between July 1, 1994, and June

30, 1995, for a motor vehicle powered by alternative fuel as defined in section 66-686 as it existed prior to July 1, 1995.

(2) The refunds provided for by this section shall be claimed by purchasers of alternative fuel user permits by filing a claim with the department on forms prepared and furnished by the department. The department shall compute the difference between fifteen thousand miles and the number of miles actually driven between July 1, 1994, and June 30, 1995, as claimed by the purchaser of the permit and refund a proportionate amount of the alternative fuel user permit fee previously paid. In the case of a dual-fuel-powered motor vehicle, only those miles driven using alternative fuel shall be used in computing the refund available. The owner of any alternative-fuel-powered motor vehicle driven fifteen thousand miles or more between July 1, 1994, and June 30, 1995, shall not be eligible for a refund of any portion of the alternative fuel user permit fee paid for such vehicle.

(3) The refund claim shall contain a declaration by the person making the claim to the effect that the statements contained in the refund claim are true and are made under penalties of law, which declaration shall have the same force and effect as a verification of the actual number of miles driven using alternative fuel between July 1, 1994, and June 30, 1995, and shall be in lieu of such verification, and shall be accompanied by proof of payment of the alternative fuel user permit fee and such other documentation as the department deems necessary.

(4) No refund shall be made in any amount less than two dollars. All refunds issued under this section shall be paid from the Highway Trust Fund.

Sec. 52. Section 66-712, Revised Statutes Supplement, 1994, is amended to read:

66-712. For purposes of Chapter 66, articles 4, 5, and 6, and sections 66-712 to 66-737:

(1) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue;

(2) Motor fuel shall mean any fuel defined as motor vehicle fuel in section 66-482, and any fuel defined as diesel fuel in section 66-654, and any fuel defined as compressed fuel in section 4 of this act;

(3) Motor fuel laws shall mean the provisions of Chapter 66, articles 4, 5, and 6 and sections 66-712 to 66-737; and

(4) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-737, the word person as applied to a partnership, a limited liability company, or an association shall mean the partners or members thereof.

Sec. 53. Section 66-719.01, Revised Statutes Supplement, 1994, is amended to read:

66-719.01. The department may pay to any person, other than a state officer or employee, who furnishes original information that any person has failed to file the reports required on motor vehicle fuel or diesel fuel imported into the State of Nebraska or has failed to pay the tax on the sale or use of motor vehicle fuel, or diesel fuel, or compressed fuel as provided by the laws of this state, such a share of the tax and penalties recovered as the department may deem reasonable and just, not exceeding thirty percent, if it appears that the recovery was had in consequence of the information furnished.

Sec. 54. Section 66-726, Revised Statutes Supplement, 1994, is amended to read:

66-726. (1) The department may adjust all errors in payment, refund tax paid on motor vehicle fuel or diesel fuel destroyed, refund tax paid on motor vehicle fuel or diesel fuel used and consumed by the United States Government or its agencies, refund tax overpaid on motor vehicle fuel or diesel fuel, and refund an amount equal to the per-gallon tax imposed by this state on sales of motor vehicle fuel or diesel fuel on which tax was paid in this state but which was sold in a state other than Nebraska.

(2) The department shall refund the tax paid on motor vehicle fuel or diesel fuel purchased on a Nebraska Indian reservation if the purchaser is a Native American who resides on the reservation.

(3) No refund shall be allowed unless a claim is filed setting forth the circumstances by reason of which refund should be allowed. Such claim shall be filed with the department within three years from the date of the payment of the tax.

(4) No refund shall be made in any amount less than two dollars.

Sec. 55. Section 66-727, Revised Statutes Supplement, 1994, is amended to read:

66-727. (1) It shall be unlawful for any person to:

(a) Knowingly import any motor vehicle fuel or diesel fuel into the State of Nebraska without remitting the full amount of tax imposed by the provisions of the motor fuel laws;

(b) Refuse or knowingly and intentionally fail to make and file any return, report, or statement required by the motor fuel laws in the manner or within the time required;

(c) Knowingly and with intent to evade or to aid or abet any other person in the evasion of the tax imposed by the motor fuel laws (i) make any false or incomplete report, return, or statement, (ii) conceal any material fact in any record, report, return, or affidavit provided for in the motor fuel laws, or (iii) improperly claim any exemption from tax imposed by the motor fuel laws;

(d) Knowingly conduct any activities requiring a license under the provisions of the Petroleum Release Remedial Action Act, the Diesel Fuel Tax Act, the ~~Alternative Compressed~~ Fuel Tax Act, and Chapter 66, articles 4, 5, and 7, without a license or after a license has been surrendered, suspended, or canceled;

(e) Knowingly conduct any activities requiring a license under the Interstate Motor Carriers Base State Fuel Tax Compact Act or any activities requiring a permit under the provisions of the motor fuel laws without such license or permit or after such license or permit has been surrendered, suspended, or canceled;

(f) Knowingly assign or attempt to assign a license or permit;

(g) Knowingly fail to keep and maintain books and records required by the motor fuel laws;

(h) Knowingly fail or refuse to pay a fuel tax when due;

(i) Knowingly make any false statement in connection with an application for the refund of any money or tax;

(j) Fail or refuse to produce for inspection any license or permit issued under the motor fuel laws; or

(k) Knowingly violate any of the motor fuel laws or any rule or regulation under the motor fuel laws.

(2) Any person who violates subdivision (1)(b), (f), (h), or (k) of this section shall be guilty of a Class IV felony. Failing to report or pay taxes due shall constitute a separate offense for each reporting period.

(3) Any person who violates subdivision (1)(a), (c), (d), (g), or (i) of this section shall be guilty of a Class IV felony if the amount of tax involved is less than five thousand dollars and a Class III felony if the amount of tax is five thousand dollars or more. Failing to report or pay taxes due shall constitute a separate offense for each reporting period.

(4) Any person who violates subdivision (1)(e) or (j) of this section shall be guilty of a separate Class IV misdemeanor for each day of operation.

Sec. 56. Section 66-733, Revised Statutes Supplement, 1994, is amended to read:

66-733. ~~(1) All licensed diesel fuel suppliers, distributors, wholesalers, and importers shall jointly furnish a cash bond to the state to secure the payment of all diesel fuel taxes.~~

~~(2) (1) All motor vehicle fuel suppliers, distributors, wholesalers, and importers licensed under section 3-149, or 66-484, or 66-666 and all retailers licensed under section 10 of this act shall jointly furnish a cash bond to the state to secure the payment of all fuel taxes, other than diesel fuel.~~

~~(3) (2) The cash bonds bond shall be held by the State Treasurer in a diesel motor fuel importers trust fund, which fund is hereby created, and in a motor vehicle fuel importers trust fund, which fund is hereby created, for the benefit of suppliers, distributors, wholesalers, and importers, and retailers. No supplier, distributor, wholesaler, or importer, or retailer shall have any claim or rights against the funds fund as a separate person. Any money in the diesel fuel importers trust fund and the motor vehicle fuel importers trust fund on the operative date of this section shall be transferred to the motor fuel trust fund on such date.~~

~~(4) (3) All funds in the trust funds 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 and may be pooled with other funds for the purposes of section 72-1267.~~

Sec. 57. Section 66-734, Revised Statutes Supplement, 1994, is amended to read:

66-734. (1) The contribution for the cash ~~bonds bond~~ required in section 66-733 shall be collected by the department each tax period with the tax return for all such periods beginning on and after September 30, 1985.

The amount due shall be deemed to be tax for the purpose of collection or refund.

(2) The amount collected each tax period from the diesel motor fuel suppliers, distributors, wholesalers, and importers, and retailers shall be the portion of the commission allowed which equals one-fourth of one percent of the total tax due.

(3) The amount collected each period from the motor vehicle fuel suppliers, distributors, wholesalers, and importers shall be the portion of the commission allowed which equals one-fourth of one percent of the total tax due.

(4) The contributions from the diesel motor fuel suppliers, distributors, wholesalers, and importers, and retailers shall continue to be collected until the amount in their the trust fund, including interest earned, is equal to one-half of one percent of the total diesel motor fuel tax collected during the preceding year. The contributions shall resume whenever the amount is less than one-fourth one-half of one percent of the diesel motor fuel tax collected during the preceding year.

(5) The contributions from the motor vehicle fuel suppliers, distributors, wholesalers, and importers shall continue to be collected until the amount in their trust fund, including interest earned, is equal to one-half of one percent of the total fuel tax collected, other than diesel fuel tax, during the preceding year. The contributions shall resume whenever the amount is less than one-fourth of one percent of the fuel taxes, other than diesel fuel taxes, collected during the preceding year.

(6) (4) The department shall notify the appropriate suppliers, distributors, wholesalers, and importers, and retailers whenever it is necessary for the contributions for either fund to resume. The contributions shall begin with the first tax return that is due at least thirty days after notice is provided by the department.

Sec. 58. Section 66-735, Revised Statutes Supplement, 1994, is amended to read:

66-735. (1) Money in the trust funds fund created pursuant to section 66-733 shall be used solely for the purpose of preventing a loss to the state for fuel taxes that are not paid.

(2) Whenever the department determines that fuel tax has been delinquent for ninety days, it shall certify the delinquent amount of tax and the interest due thereon to the State Treasurer. The certification shall include the specific fund into which the tax would have been deposited if received, and which cash bond is liable for the tax and interest.

(3) Upon receipt of the certification, the State Treasurer shall transfer the amount to the fund identified.

(4) Such transfer shall not affect the liability of the supplier, distributor, wholesaler, or importer, or retailer to the state.

Sec. 59. Section 66-736, Revised Statutes Supplement, 1994, is amended to read:

66-736. (1) A refund of the contributions made pursuant to section 66-734 shall be made only when there is a refund of the tax on which the contribution is calculated or when there was an error in the calculation.

(2) If the cash bonds are bond is abolished, the money in the trust funds fund shall be returned to the suppliers, distributors, wholesalers, and importers, and retailers who are then licensed by increasing the commission by the amount specified for the contributions. The reduction in collections because of the additional amount allowed to the suppliers, distributors, wholesalers, and importers, and retailers shall be replaced by a transfer from the cash bonds bond to the appropriate highway fund.

Sec. 60. Section 66-737, Revised Statutes Supplement, 1994, is amended to read:

66-737. (1) The department shall appoint a committee to oversee the operation of the trust funds fund created in section 66-733. The committee shall consist of five seven members. Two of the members shall be diesel fuel suppliers, distributors, wholesalers, or importers, and two members shall be motor vehicle fuel suppliers, distributors, wholesalers, or importers, and two members shall be compressed fuel retailers. Members shall be appointed for terms of four years, except that of the initial appointees appointed after July 1, 1994, the term of one of the diesel fuel suppliers, distributors, wholesalers, or importers, and one of the motor vehicle fuel suppliers, distributors, wholesalers, or importers, and one of the compressed fuel retailers shall expire two years from the date of appointment. The terms of all current members shall expire December 31, 1994, and the department shall appoint a new committee as provided in this section.

(2) The committee shall have access to information concerning any transfers occurring from the trust funds fund, the collection efforts of the

department to collect from the person owing the tax, and the management of the trust ~~funds fund~~.

(3) Members of the committee shall be considered employees of the department solely for the purpose of the disclosure of confidential information and the imposition of penalties for the unauthorized disclosure of such information.

(4) The committee may receive confidential information only for the purpose of determining the effectiveness of the department in collecting the amounts transferred from the cash ~~bonds bond~~ collected pursuant to section 66-734.

Sec. 61. Section 66-740, Revised Statutes Supplement, 1994, is amended to read:

66-740. The motor fuel tax task force created pursuant to Laws 1989, LB 813, section 30, composed of representatives from the Department of Roads, the Department of Revenue, the Attorney General, the Nebraska State Patrol, the Department of Agriculture, and the State Fire Marshal, shall continue to function until June 30, ~~1996~~ 1997, to carry out the duties prescribed in this section. The task force shall meet at least quarterly to review the activities of the state agencies that are involved in motor vehicle fuel ~~and diesel~~ fuel tax collection, prosecution, investigation, and information gathering. The task force shall study and assess the diesel fuel tax exemption for undyed diesel fuel purchased for use in temperature control units or power take-off units as set forth in section 66-673 to determine whether such exemption should be continued in light of federal and state motor fuel tax collection and enforcement efforts. The task force shall study and assess the successes and problems associated with the passage of Laws 1991, LB 627, and make recommendations for further administrative, statutory, or budgetary improvements to the Appropriations Committee and Revenue Committee of the Legislature on December 1 of each year through 1995 1996.

On June 30, ~~1996~~ 1997, the task force shall issue a final report to the committees. The report shall summarize for the period from January 1, 1992, until the date of the report: (1) The activities of the task force; (2) the total expenses of state agencies associated with the implementation of Laws 1991, LB 627; and (3) the estimated increases in motor vehicle fuel ~~and diesel~~ fuel tax collection that are related to Laws 1991, LB 627, or any associated legislation.

The remaining balance of the amount reappropriated pursuant to Laws 1991, LB 627A, section 5, to support the activities of the task force shall be reappropriated for ~~FY1993-94 and FY1994-95, FY1995-96, and FY1996-97.~~

All state agencies shall cooperate, to the extent possible, with all national initiatives intended to enhance motor vehicle fuel ~~and diesel~~ fuel tax collection at the federal and state levels. State activity in this area should include efforts to have Nebraska designated as a leading state in these initiatives, should the opportunity be made available.

Sec. 62. Section 66-1345, Revised Statutes Supplement, 1994, is amended to read:

66-1345. (1) There is hereby created the Ethanol Production Incentive Cash Fund which shall be used by the board to pay the credits created in section 66-1344 to the extent provided in this section. 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. The State Treasurer shall transfer to the Ethanol Production Incentive Cash Fund such money as shall be (a) appropriated to the Ethanol Production Incentive Cash Fund by the Legislature, (b) given as gifts, bequests, grants, or other contributions to the Ethanol Production Incentive Cash Fund from public or private sources, (c) made available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, (d) received as return on investment of the Ethanol Authority and Development Cash Fund, and (e) credited to the Ethanol Production Incentive Cash Fund from the fertilizer fee pursuant to section 77-4401.

(2) The Department of Revenue shall, at the end of each calendar quarter, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credits provided in section 66-1344. The State Treasurer shall transfer from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund an amount equal to such credits less the following amounts:

(a) For 1993, 1994, and 1995, the amount generated during the calendar quarter by a one-cent tax on motor fuel pursuant to sections 66-489 and 66-668 and section 11 of this act;

(b) For 1996, the amount generated during the calendar quarter by a three-quarters-cent tax on motor fuel pursuant to such sections;

(c) For 1997, the amount generated during the calendar quarter by a one-half-cent tax on motor fuel pursuant to such sections; and

(d) For 1998, 1999, and 2000, no reduction.

The amounts shall be transferred through December 31, 2000. For 1993 through 1997, if the amount generated pursuant to subdivisions (a), (b), and (c) of this subsection and the amount transferred pursuant to subsection (1) of this section are not sufficient to fund the credits provided in section 66-1344, then the credits shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund. For 1998, 1999, and 2000, the credits provided in such section shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund.

(3) On February 15, 2001, the State Treasurer shall transfer any unexpended and unobligated funds from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund.

Sec. 63. Section 66-1414, Revised Statutes Supplement, 1994, is amended to read:

66-1414. (1) Any fuel tax collected pursuant to the agreement shall be remitted to the State Treasurer for credit to the Highway Trust Fund for allocation as other motor vehicle fuel taxes, ~~and diesel fuel taxes, and compressed fuel taxes~~ collected pursuant to sections 66-490 to 66-494, except that the State Treasurer shall first transfer such amounts to the Base State Fuels Tax Fund as the Tax Commissioner determines to be equal to the amounts required to be transferred to other states.

(2) There is hereby created a fund to be designated the Base State Fuels Tax Fund which shall be set apart and maintained by the State Treasurer for prompt payments of all money to be transferred to another state pursuant to a cooperative fuel tax agreement. Any money in the Base State Fuels Tax 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. 64. Section 66-1510, Revised Statutes Supplement, 1994, is amended to read:

66-1510. Petroleum shall mean:

(1) Motor vehicle fuels as defined in section 66-482, except denatured agricultural ethyl alcohol that is not blended with motor vehicle fuels;

(2) Diesel fuel as defined in section 66-654, including kerosene, ~~and and diesel fuel which contains a concentration of sulphur in excess of five-hundredths percent by weight or which fails to meet a cetane index minimum of forty and has been indelibly dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545;~~

~~(3) Alternative fuel as defined in section 66-686 except combustible gases or electricity; and~~

~~(4) (3) A fraction of crude oil that is liquid at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute.~~

Sec. 65. Section 77-381, Revised Statutes Supplement, 1994, is amended to read:

77-381. For purposes of the Tax Expenditure Reporting Act, unless the context otherwise requires:

(1) Tax expenditure shall mean a revenue reduction that occurs in the tax base of the state or a political subdivision as the result of an exemption, deduction, exclusion, tax deferral, credit, or preferential rate introduced into the tax structure;

(2) Department shall mean the Department of Revenue;

(3) Income tax shall mean the tax imposed upon individuals and corporations under Chapter 77, ~~article 27 the Nebraska Revenue Act of 1967;~~

(4) Sales tax shall mean the tax imposed upon expenditures under Chapter 77, ~~article 27 the Nebraska Revenue Act of 1967;~~

(5) Property tax shall mean the tax imposed upon real and personal property under Chapter 77; and

(6) Miscellaneous tax shall mean revenue sources other than income, sales, and property taxes for state and local government including, but not limited to, motor vehicle and diesel fuel taxes, liquor taxes, cigarette taxes, inheritance and estate taxes, generation-skipping transfer taxes, insurance premium taxes, and occupation taxes and fees or other taxes which generate state or local revenue annually in excess of two million dollars.

Sec. 66. Section 77-2704.05, Revised Statutes Supplement, 1994, is amended to read:

77-2704.05. Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of motor vehicle fuels as defined, taxed, or exempted under Chapter 66, article 4, diesel and alternative compressed fuels as taxed for use on the highways under Chapter 66, article 6 the Diesel Fuel Tax Act and the Compressed Fuel Tax Act, diesel and alternative compressed fuels used to provide motive power for railroad rolling stock, and diesel and alternative compressed fuels delivered into the fuel supply tanks of other vehicles.

Sec. 67. Section 87-411, Reissue Revised Statutes of Nebraska, is amended to read:

87-411. (1) Any franchise agreement relating to the distribution or retail sale of motor fuels and diesel and alternative fuels and any agreement for the lease of real or personal property which is part of any such franchise agreement shall terminate upon the death of the franchisee. However, a one-year trial lease and franchise agreement shall be granted by such franchisor to the franchisee's designated and qualified successor in interest if:

(a) The franchisee has provided the franchisor with written notice of the designation of a qualified successor in interest at least six months prior to the death of the franchisee. Such notice shall be on a form prescribed by the franchisor and made available to the franchisee at the franchisee's request; and

(b) The franchisee has been a franchisee of the same franchisor with whom he or she has a valid franchise agreement at the time of his or her death for a period of at least five consecutive years prior to his or her death.

(2) For purposes of sections 87-411 to 87-414, successor in interest shall be restricted to a surviving spouse, adult child, brother, sister, or parent of the franchisee who, at the time of the franchisee's death, meets reasonable qualifications then being required of franchisees by the franchisor.

(3) Unless otherwise specifically provided in this section, actions to be performed by the franchisor or by the successor in interest under sections 87-411 to 87-414 shall be performed within a reasonable time.

Sec. 68. The Revisor of Statutes shall assign sections 1 to 20 and 51 of this act to Chapter 66, article 6.

Sec. 69. Sections 21, 39 to 41, 43, 56 to 60, 69, 71, 73, and 74 of this act become operative on their effective date. The other sections of this act become operative on July 1, 1995.

Sec. 70. Original section 87-411, Reissue Revised Statutes of Nebraska, and sections 39-2215, 39-2215.01, 39-2216, 52-1401, 60-302, 60-312, 66-482, 66-490, 66-491, 66-492, 66-493, 66-4,141, 66-4,142, 66-4,143, 66-4,144, 66-4,147, 66-651, 66-673, 66-684, 66-685, 66-686, 66-687, 66-688, 66-691, 66-694, 66-712, 66-719.01, 66-726, 66-727, 66-740, 66-1345, 66-1414, 66-1510, 77-381, and 77-2704.05, Revised Statutes Supplement, 1994, are repealed.

Sec. 71. Original sections 21-330, 66-654, 66-668, 66-672, 66-681, and 66-733 to 66-737, Revised Statutes Supplement, 1994, are repealed.

Sec. 72. The following sections are outright repealed: Sections 66-689, 66-690, 66-692, and 66-693, Revised Statutes Supplement, 1994.

Sec. 73. The following sections are outright repealed: Sections 66-1215, 66-1217, 66-1218, 66-1220, and 66-1222 to 66-1224, Reissue Revised Statutes of Nebraska, and sections 66-1216, 66-1219, and 66-1221, Revised Statutes Supplement, 1994.

Sec. 74. Since an emergency exists, this act takes effect when passed and approved according to law.