

## LEGISLATIVE BILL 562

Approved by the Governor June 1, 2023

Introduced by Dorn, 30; Ballard, 21; Brandt, 32; Ibach, 44; Jacobson, 42; Lippincott, 34; Briese, 41; Halloran, 33; Murman, 38; Linehan, 39; McDonnell, 5; Vargas, 7.

A BILL FOR AN ACT relating to business; to amend sections 58-242, 77-5205, and 77-5213, Reissue Revised Statutes of Nebraska, and sections 77-5203, 77-5208, 77-5209, 77-5209.01, 77-5211, 77-7002, 77-7003, 77-7004, 77-7007, 81-2,239, and 81-2,240, Revised Statutes Cumulative Supplement, 2022; to adopt the E-15 Access Standard Act; to change a loan requirement under the Nebraska Investment Finance Authority Act; to redefine a term and change provisions relating to board membership and duties, a limitation on new applications, applicant qualifications, and a tax credit allowance and annual limitation under the Beginning Farmer Tax Credit Act; to redefine a term and change provisions relating to tax credit amounts, annual limits, and a limitation on new applications under the Nebraska Higher Blend Tax Credit Act; to define a term, provide for licensing reciprocity and an ordinance registry relating to mobile food establishments, require a report by certain regulatory authorities, and provide duties for the Department of Agriculture and certain cities under the Nebraska Pure Food Act; to harmonize provisions; and to repeal the original sections.

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

Section 1. Sections 1 to 11 of this act shall be known and may be cited as the E-15 Access Standard Act.

Sec. 2. The purpose of the E-15 Access Standard Act is to increase consumer access to E-15 gasoline through the establishment of an access standard.

Sec. 3. For purposes of the E-15 Access Standard Act, unless the context otherwise requires:

(1) Department means the Department of Agriculture;  
(2) Director means the Director of Agriculture;  
(3) E-15 access standard means the requirements described in subsections (1) and (2) of section 4 of this act;

(4) E-15 gasoline means a classification of ethanol blended gasoline formulated with a percentage of more than ten percent but no more than fifteen percent by volume of ethanol;

(5) Ethanol has the same meaning as agricultural ethyl alcohol as defined in section 66-482;

(6) Motor fuel means a substance or combination of substances which is intended to be or is capable of being used for the purpose of operating an internal combustion engine and is kept for sale or sold for that purpose;

(7) Motor fuel dispenser means equipment that is the part of motor fuel storage and dispensing infrastructure that includes mechanical or electrical systems that operate a motor fuel pump dispensing motor fuel from a motor fuel storage tank to the end point of the equipment's nozzle;

(8) Motor fuel pump means the part of motor fuel storage and dispensing infrastructure that is a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank, on a retail basis;

(9)(a) Motor fuel storage and dispensing infrastructure means equipment used to:

(i) Store and dispense motor fuel; or  
(ii) Store, blend, and dispense motor fuel.  
(b) Motor fuel storage and dispensing infrastructure includes, but is not limited to, a motor fuel storage tank, motor fuel pump, motor fuel dispenser, and associated pipes, hoses, nozzles, tubes, lines, fittings, valves, filters, seals, and covers. Motor fuel storage and dispensing infrastructure does not include signage not located on the motor fuel dispenser or motor fuel pump;

(10) Motor fuel storage tank means the part of motor fuel storage and dispensing infrastructure that includes an aboveground or belowground container constituting a fixture used to store an accumulation of motor fuel;

(11) Nonqualifying motor fuel dispenser means:  
(a) A dispenser that exclusively dispenses any of the following:  
(i) Aviation fuel;  
(ii) Diesel fuel;  
(iii) Kerosene; or  
(iv) Diesel exhaust fluid;

(b) A dispenser that is part of a tank vehicle as defined in section 60-4,131 that is not used to dispense motor fuel on the premises of the retail motor fuel site; or

(c) A dispenser that is part of a commercial marina;  
(12) Qualifying motor fuel dispenser means a motor fuel dispenser that is capable of dispensing motor fuel at all times that it is in operation. The term does not include nonqualifying motor fuel dispensers;

(13) Retail dealer means a person engaged in the business of storing and

dispensing motor fuel from a motor fuel pump for sale on a retail basis; and

(14) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

Sec. 4. (1) Beginning January 1, 2024, if a retail dealer constructs a new retail motor fuel site or replaces more than eighty percent of the motor fuel storage and dispensing infrastructure located at an existing retail motor fuel site, the retail dealer shall advertise for sale and sell E-15 gasoline from at least fifty percent of all qualifying motor fuel dispensers located at such retail motor fuel site unless the retail dealer has filed a statement with the department under section 8 of this act in which the retail dealer swears or affirms that the retail motor fuel site qualifies as a small retail motor fuel site.

(2) If the statewide ethanol blend rate for 2027 is below fourteen percent as determined pursuant to section 9 of this act and the retail motor fuel site is not a retail motor fuel site described in subsection (1) of this section, then beginning January 1, 2028, the retail dealer shall advertise for sale and sell E-15 gasoline from at least one qualifying motor fuel dispenser located at such retail motor fuel site unless:

(a) A waiver has been issued under section 6 of this act because the motor fuel storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline;

(b) The retail motor fuel site is exempt under section 7 of this act because all of the motor fuel storage tanks located at such site are listed with the State Fire Marshal as described in section 7 of this act; or

(c) The retail dealer has filed a statement with the department under section 8 of this act in which the retail dealer swears or affirms that the retail motor fuel site qualifies as a small retail motor fuel site.

(3) A retail dealer owning or operating a retail motor fuel site is not prohibited from advertising for sale and selling motor fuel from any number of nonqualifying motor fuel dispensers.

(4) It is not a violation of this section if a retail dealer is out of compliance with this section while (a) temporarily maintaining, repairing, or reconditioning motor fuel storage and dispensing infrastructure or (b) temporarily installing, expanding, replacing, or converting motor fuel storage and dispensing infrastructure. The department may require that a retail dealer notify the department in advance of such actions, and the department may inspect the retail motor fuel site to determine if a violation occurred.

Sec. 5. The Governor may issue or renew an executive order that temporarily suspends the E-15 access standard if there is an inadequate supply of E-15 gasoline or the market price of E-15 gasoline may cause consumers to suffer economic hardship.

Sec. 6. (1) The director shall issue an administrative order that waives the requirement that a retail dealer comply with subsection (2) of section 4 of this act at a retail motor fuel site owned or operated by the retail dealer if the retail motor fuel site qualifies under this section based on the fact that the motor fuel storage and dispensing infrastructure located at such site is not compatible with the use of E-15 gasoline.

(2) A retail dealer may apply for a waiver under this section by submitting an application to the department in a manner prescribed by the department.

(3) The application shall be supported by credible evidence that the retail dealer is unable to comply with subsection (2) of section 4 of this act because the motor fuel storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline and the cost to replace the motor fuel storage and dispensing infrastructure would exceed fifteen thousand dollars as determined by a person certified by the department as a professional retail motor fuel site installer. For purposes of this section, motor fuel storage and dispensing infrastructure is compatible with E-15 gasoline if the equipment is included in a list published by an independent testing laboratory for use with E-15 gasoline or the manufacturer of the equipment has issued a written statement of compatibility with E-15 gasoline.

(4) The application shall include an inventory and description of the motor fuel storage and dispensing infrastructure located at the retail motor fuel site.

(5) The department may require a retail dealer to attach any supporting documentation to the application, which may include an inspection report completed by a person certified by the department as a professional retail motor fuel site installer. The certified professional retail motor fuel site installer may be a licensed engineer or other person who the department determines is qualified by education, testing, or experience to oversee a project involving the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure.

(6) The department, in consultation with the State Fire Marshal, shall review and evaluate an application to determine whether it is supported by credible evidence sufficient for the director to issue an order granting a waiver under this section. The department shall approve or disapprove a completed application within one hundred twenty days following the date that the application was submitted to the department.

(7) The retail dealer shall sign the application, which shall include a statement that the retail dealer swears or affirms that all information in the application completed by the retail dealer is true and correct. If a certified professional retail motor fuel site installer completes an inspection report to

support an application, the installer shall sign a statement that the installer swears or affirms that all information in the inspection report completed by the installer is true and correct.

(8) The department may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of this section.

(9) The department shall publish a copy of each administrative order granting a waiver under this section on the department's website within ten days after the issuance of the order. The order shall take effect on its date of publication, unless the order specifies a later date.

(10)(a) The director shall terminate an administrative order issued under this section if a terminable event has occurred. A terminable event includes any of the following:

(i) The failure of a retail dealer to maintain a valid permit as required under section 89-187.01;

(ii) The cessation of the retail dealer's business of advertising for sale or selling motor fuel at the retail motor fuel site; or

(iii) The installation, replacement, or conversion of a motor fuel storage tank located at the retail motor fuel site.

(b) The department may require that a retail dealer notify the department that a terminable event as described in subdivision (10)(a) of this section is planned to occur, is occurring, or has occurred.

Sec. 7. Subsection (2) of section 4 of this act shall not apply to a retail motor fuel site if all of the motor fuel storage tanks located at such site are listed with the State Fire Marshal as falling within one of the following categories:

(1) Each motor fuel storage tank not constructed of fiberglass was installed during or prior to 1985; or

(2) Each motor fuel storage tank constructed of fiberglass was installed during or prior to:

(a) For a double-wall fiberglass underground motor fuel storage tank, 1991; or

(b) For a single-wall fiberglass underground motor fuel storage tank, 1996.

Sec. 8. (1) The E-15 access standard shall not apply to a retail motor fuel site if the retail dealer provides a statement to the Department of Agriculture in which the retail dealer swears or affirms that the retail motor fuel site qualifies under this section as a small retail motor fuel site. A retail dealer may include multiple retail motor fuel sites in one statement.

(2) For purposes of this section, a retail motor fuel site shall qualify as a small retail motor fuel site if:

(a) The retail motor fuel site has only one qualifying motor fuel dispenser; or

(b) The retail motor fuel site's average annual gasoline gallonage was three hundred thousand gallons or less for the three-year period beginning on January 1, 2021, and ending on December 31, 2023.

(3) Upon request by the Department of Agriculture, the Department of Revenue shall determine whether or not a particular retail motor fuel site met the average annual gasoline gallonage requirement described in subdivision (2) (b) of this section and shall inform the Department of Agriculture of such determination. The determination shall be based on information for the retail motor fuel site in motor fuel tax returns required to be filed by the retail dealer with the Department of Revenue.

(4) The information received by the Department of Agriculture from the Department of Revenue under subsection (3) of this section shall be confidential and shall be used by the Department of Agriculture for the limited purposes of evaluating a retail dealer's compliance with this section.

(5) The Department of Revenue may adopt and promulgate rules and regulations as needed to carry out this section.

(6) The Department of Agriculture shall publish on its website the number of statements filed with the department under this section and the total number of retail motor fuel sites qualifying as small retail motor fuel sites.

(7) The Department of Agriculture may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of this section.

Sec. 9. Beginning in 2025, the Department of Revenue and the Department of Environment and Energy shall annually issue a joint report that identifies the statewide ethanol blend rate. The statewide ethanol blend rate shall be equal to the average percentage of ethanol contained in each gallon of motor fuel sold in this state. Retail dealers shall provide a quarterly report of the number of gallons of each type of motor fuel sold and the percentage of ethanol in each gallon to the Department of Revenue. Reports to the Department of Revenue shall be submitted on a form and in the manner prescribed by the Department of Revenue.

Sec. 10. (1) Beginning January 1, 2024, the department may suspend or revoke a permit issued to a retail dealer pursuant to section 89-187.01 if the retail dealer fails to comply with subsection (1) of section 4 of this act.

(2) Beginning April 1, 2028, the department may suspend or revoke a permit issued to a retail dealer pursuant to section 89-187.01 if the retail dealer fails to comply with subsection (2) of section 4 of this act.

Sec. 11. The department may adopt and promulgate rules and regulations to carry out the E-15 Access Standard Act.

Sec. 12. Section 58-242, Reissue Revised Statutes of Nebraska, is amended

to read:

58-242 Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than one million five hundred thousand dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership, limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred seventeen thousand seven hundred dollars, as such amount shall be adjusted for inflation in accordance with section 147(c) of the Internal Revenue Code of 1986, as amended. In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and minor children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Sec. 13. Section 77-5203, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-5203 For purposes of the Beginning Farmer Tax Credit Act:

(1) Agricultural assets means agricultural land, livestock, farming, or livestock production facilities or buildings and machinery used for farming or livestock production located in Nebraska;

(2) Board means the Beginning Farmer Board created by section 77-5204;

(3) Cash rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined amount of money. A flex or variable rent agreement is an alternative form of a cash rent agreement in which a predetermined base rent is adjusted for actual crop yield, crop price, or both according to a predetermined formula;

(4) Farm means any improved or unimproved tract of land over ten acres in area used for or devoted to the commercial production of farm products;

(5) Farm product means those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing livestock, fruits, and vegetables;

(6) Farming or livestock production means the active use, management, and operation of real and personal property for the production of a farm product;

(7) Financial management program means a program for beginning farmers or livestock producers which includes, but is not limited to, assistance in the creation and proper use of record-keeping systems, periodic private consultations with licensed financial management personnel, year-end monthly cash flow analysis, and detailed enterprise analysis;

(8) Owner of agricultural assets means:

(a) An individual or a trustee having an ownership interest in an agricultural asset located within the State of Nebraska who meets any qualifications determined by the board;

(b) A spouse, child, or sibling who acquires an ownership interest in agricultural assets as a joint tenant, heir, or devisee of an individual or trustee who would qualify as an owner of agricultural assets under subdivision (8)(a) of this section; or

(c) A partnership, corporation, limited liability company, or other business entity having an ownership interest in an agricultural asset located within the State of Nebraska which meets any additional qualifications determined by the board;

(9) Qualified beginning farmer or livestock producer means an individual who is a resident individual as defined in section 77-2714.01, who has entered farming or livestock production or is seeking entry into farming or livestock production, who intends to farm or raise crops or livestock on land located within the state borders of Nebraska, and who meets the eligibility guidelines established in section 77-5209 and such other qualifications as determined by the board; and

(10) Share-rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products from the rented agricultural assets.

Sec. 14. Section 77-5205, Reissue Revised Statutes of Nebraska, is amended to read:

77-5205 The board shall consist of the following members:

(1) The Director of Agriculture or his or her designee;

- (2) The Tax Commissioner or his or her designee;
- (3) One individual representing lenders of agricultural credit;
- (4) One individual of the academic community with extensive knowledge and insight in the analysis of agricultural economic issues; and
- (5) Three individuals, ~~one from each congressional district,~~ who are currently engaged in farming or livestock production and are representative of a variety of farming or livestock production interests based on size of farm, type of farm operation, net worth of farm operation, and geographic location.

All members of the board shall be resident individuals as defined in section 77-2714.01. Members of the board listed in subdivisions (3) through (5) of this section shall be appointed by the Governor with the approval of a majority of the Legislature. All appointments shall be for terms of four years.

Vacancies in the appointed membership of the board shall be filled for the unexpired term by appointment by the Governor. Members of the board shall serve the full term and until a successor has been appointed by the Governor and approved by the Legislature. Any member is eligible for reappointment. Any member may be removed from the board by the Governor or by an affirmative vote by any four members of the board for incompetence, neglect of duty, or malfeasance.

Sec. 15. Section 77-5208, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-5208 The board shall meet at least twice during the year. The board shall review pending applications in order to approve and certify beginning farmers and livestock producers as eligible for the programs provided by the board, to approve and certify owners of agricultural assets as eligible for the tax credits authorized by sections 77-5211 to 77-5213, and to approve and certify qualified beginning farmers and livestock producers as eligible for the tax credit authorized by section 77-5209.01 and for qualification to claim an exemption of taxable tangible personal property as provided by section 77-5209.02. No new applications for any such programs, tax credits, or exemptions shall be approved or certified by the board after December 31, 2027 ~~2025~~. Any action taken by the board regarding approval and certification of program eligibility, granting of tax credits, or termination of rental agreements shall require the affirmative vote of at least four members of the board.

Sec. 16. Section 77-5209, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-5209 (1) The board shall determine who is qualified as a beginning farmer or livestock producer based on the qualifications found in this section. A qualified beginning farmer or livestock producer shall be an individual who: (a) Has a net worth of not more than seven hundred fifty thousand ~~two hundred thousand~~ dollars, including any holdings by a spouse or dependent, based on fair market value; (b) provides the majority of the day-to-day physical labor and management of his or her farming or livestock production operations; (c) has, by the judgment of the board, adequate farming or livestock production experience or demonstrates knowledge in the type of farming or livestock production for which he or she seeks assistance from the board; (d) demonstrates to the board a profit potential by submitting board-approved projected earnings statements and agrees that farming or livestock production is intended to become his or her principal source of income; (e) demonstrates to the board a need for assistance; (f) participates in a financial management program approved by the board; (g) submits a nutrient management plan and a soil conservation plan to the board on any applicable agricultural assets purchased or rented from an owner of agricultural assets; ~~and~~ (h) is of legal age to enter into and be legally responsible for a binding contract or lease as provided under section 43-2101; and (i) has such other qualifications as specified by the board. The qualified beginning farmer or livestock producer net worth thresholds in subdivision (a) of this subsection shall be adjusted annually beginning October 1, 2023 ~~2009~~, and each October 1 thereafter, by taking the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods divided by the Producer Price Index for 2022 ~~2008~~ and multiplying the result by the qualified beginning farmer's or livestock producer's net worth threshold. If the resulting amount is not a multiple of twenty-five thousand dollars, the amount shall be rounded to the next lowest twenty-five thousand dollars.

(2) When determining a qualified beginning farmer's or livestock producer's net worth, the board shall exclude from such determination any pension, retirement, or other types of deferred benefit accounts owned by the beginning farmer or livestock producer, including such accounts owned by a spouse or dependent.

(3) (2) A qualified beginning farmer or livestock producer who has participated in a board approved and certified three-year rental agreement with an owner of agricultural assets shall be eligible to file subsequent applications for different assets.

Sec. 17. Section 77-5209.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-5209.01 A qualified beginning farmer or livestock producer ~~in the first, second, or third year of a qualifying three-year rental agreement~~ shall be allowed a one-time refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for the cost of participation in the financial management program required for eligibility under section 77-5209. The amount of the credit shall be the actual cost of participation in an approved program

incurred during the tax year for which the credit is claimed, up to a maximum of five hundred dollars.

Sec. 18. Section 77-5211, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-5211 (1) Except as otherwise disallowed under subsection (7) of this section, an owner of agricultural assets shall be allowed a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for agricultural assets rented on a rental agreement basis, including cash rent of agricultural assets or cash equivalent of a share-rent rental, to qualified beginning farmers or livestock producers. Such asset shall be rented at prevailing community rates as determined by the board.

(2) An owner of agricultural assets who has participated in a board approved and certified three-year rental agreement with a beginning farmer or livestock producer shall be eligible to file subsequent applications for different assets.

(3) Except as allowed pursuant to subsection (5) of this section, tax credits for an agricultural asset may be issued for a maximum of three years.

(4) The credit allowed shall be for renting agricultural assets used for farming or livestock production. Such credit shall be granted by the Department of Revenue only after approval and certification by the board and a written three-year rental agreement for such assets is entered into between an owner of agricultural assets and a qualified beginning farmer or livestock producer. An owner of agricultural assets or qualified beginning farmer or livestock producer may terminate such agreement for reasonable cause upon approval by the board. If an agreement is terminated without fault on the part of the owner of agricultural assets as determined by the board, the tax credit shall not be retroactively disallowed. If an agreement is terminated with fault on the part of the owner of agricultural assets as determined by the board, any prior tax credits claimed by such owner shall be disallowed and recaptured and shall be immediately due and payable to the State of Nebraska.

(5) A credit may be granted to an owner of agricultural assets for renting agricultural assets, including cash rent of agricultural assets or cash equivalent of a share-rent agreement, to any qualified beginning farmer or livestock producer for a period of three years. An owner of agricultural assets shall be eligible for further credits for such assets under the Beginning Farmer Tax Credit Act when the rental agreement is terminated prior to the end of the three-year period through no fault of the owner of agricultural assets. If the board finds that such a termination was not the fault of the owner of the agricultural assets, it may approve the owner for credits arising from a subsequent qualifying rental agreement on the same asset with a different qualified beginning farmer or livestock producer.

(6) Any credit allowable to a partnership, a corporation, a limited liability company, or an estate or trust may be distributed to the partners, members, shareholders, or beneficiaries. Any credit distributed shall be distributed in the same manner as income is distributed.

(7) The credit allowed under this section shall not be allowed to an owner of agricultural assets for a rental agreement with a beginning farmer or livestock producer who is a relative, as defined in section 36-802, of the owner of agricultural assets or of a partner, member, shareholder, or trustee of the owner of agricultural assets unless the rental agreement is included in a written succession plan. Such succession plan shall be in the form of a written contract or other instrument legally binding the parties to a process and timetable for the transfer of agricultural assets from the owner of agricultural assets to the beginning farmer or livestock producer. The succession plan shall provide for the transfer of assets to be completed within a period of no longer than thirty years, except that when the asset to be transferred is land owned by an individual, the period of transfer may be for a period up to the date of death of the owner. The owner of agricultural assets shall be allowed the credit provided for qualified rental agreements under this section if the board certifies the plan as providing a reasonable manner and probability of successful transfer.

(8) The total amount of credits granted under this section shall not exceed two million dollars per year. In calculating such limit, the board shall consider the cumulative amount of credits requested in the application submitted by the owner of agricultural assets rather than the amount of credits actually claimed by such owner.

Sec. 19. Section 77-5213, Reissue Revised Statutes of Nebraska, is amended to read:

77-5213 (1) The tax credit approved and certified by the board under section 77-5211 for an owner of agricultural assets in the first, second, or third year of a qualifying rental agreement shall be equal to (a) ten percent of the gross rental income stated in a rental agreement that is a cash rent agreement or (b) fifteen percent of the cash equivalent of the gross rental income in a rental agreement that is a share-rent agreement. Tax credits shall only be approved and certified for rental agreements that are approved and certified by the board under the Beginning Farmer Tax Credit Act.

(2) To qualify for the greater rate of credit allowed under subdivision (1)(b) of this section, a share-rent agreement shall provide for sharing of production expenses or risk of loss, or both, between the agricultural asset owner and the qualified beginning farmer or livestock producer. The board may adopt and promulgate rules and regulations, consistent with the policy objectives of the act, to further define the standards that share-rent agreements shall meet for approval and certification of the tax credit under

the act.

(3) The board shall review each existing three-year rental agreement between a beginning farmer or livestock producer and an owner of agricultural assets on an annual ~~a semiannual~~ basis and shall either certify or terminate program eligibility for beginning farmers or livestock producers or tax credits granted to owners of agricultural assets on an annual basis.

Sec. 20. Section 77-7002, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-7002 For purposes of the Nebraska Higher Blend Tax Credit Act:

- (1) Department means the Department of Revenue;
- (2) E-15 means ethanol blended gasoline formulated with a percentage of more than ten percent but no more than fifteen percent by volume of ethanol;
- (3) E-25 means ethanol blended gasoline formulated with a percentage of twenty-five percent by volume of ethanol;
- (4) E-30 means ethanol blended gasoline formulated with a percentage of thirty percent by volume of ethanol;
- (5) E-85 means ethanol blended gasoline formulated with a percentage of fifty-one percent to eighty-three percent by volume of ethanol;
- (6) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;
- (7) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis;
- (8) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis; and
- (9) Taxpayer means any natural person or any limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Sec. 21. Section 77-7003, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-7003 (1) Any taxpayer who is a retail dealer and who sold and dispensed E-15 or higher blend on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site shall be eligible to receive tax credits under the Nebraska Higher Blend Tax Credit Act.

(2)(a) Through calendar year 2023, the ~~(2)~~ The tax credit shall be in an amount equal to (i) (a) five cents multiplied by the total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site and (ii) (b) eight cents multiplied by the total number of gallons of E-25 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(b) For calendar year 2024, the tax credit shall be in an amount equal to eight cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(c) For calendar year 2025, the tax credit shall be in an amount equal to nine cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(d) For calendar year 2026, the tax credit shall be in an amount equal to eight cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(e) For calendar year 2027, the tax credit shall be in an amount equal to seven cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(f) For calendar year 2028, the tax credit shall be in an amount equal to five cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(3) The tax credit shall be a refundable credit that may be used against any income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections 77-907 to 77-918 or 77-3801 to 77-3807.

(4) Tax credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended.

(5) To receive tax credits, a taxpayer shall submit an application to the department on a form prescribed by the department. The application shall include the following information:

- (a) The name and address of the taxpayer;
- (b) The total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;
- (c) The total number of gallons of E-25 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;
- (d) The total number of gallons of E-30 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(e) The total number of gallons of E-85 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site; and

(f) Any other documentation required by the department.

Sec. 22. Section 77-7004, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-7004 (1) If the department determines that an application is complete and that the taxpayer qualifies for tax credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of tax credits approved to the taxpayer.

(2) The department shall consider applications in the order in which they are received and may approve tax credits until the annual limit for the calendar year has been reached. For calendar year 2022, the annual limit on tax credits shall be two million dollars. For calendar year 2023 ~~and each calendar year thereafter~~, the annual limit on tax credits shall be calculated by taking the annual limit from the prior calendar year and then multiplying such amount by (a) two hundred percent if the amount of tax credits approved in the prior calendar year exceeded ninety percent of the annual limit applicable to that calendar year or (b) one hundred percent if the amount of tax credits approved in the prior calendar year did not exceed ninety percent of the annual limit applicable to that calendar year. For calendar years 2024 through 2028, the annual limit on tax credits shall be five million dollars. In no case shall the annual limit on tax credits exceed four million dollars.

Sec. 23. Section 77-7007, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-7007 There shall be no new applications filed under the Nebraska Higher Blend Tax Credit Act after December 31, ~~2028~~ 2026. All applications and all tax credits pending or approved before such date shall continue in full force and effect.

Sec. 24. Section 81-2,239, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,239 Sections 81-2,239 to 81-2,292 and sections 26 to 29 of this act and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 25. Section 81-2,240, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-2,240 For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254 and section 26 of this act shall be used. In addition, the definitions found in the code and practice adopted by reference in sections 81-2,257.01 and 81-2,259 shall be used.

Sec. 26. Guidance document has the same meaning as in section 84-901.

Sec. 27. (1) A political subdivision acting as a regulatory authority may enter into an agreement under the Interlocal Cooperation Act with other public agencies to grant and provide reciprocity for local licensing of mobile food establishments for purposes of regulating food safety and handling.

(2) On or before December 1, 2023, a political subdivision acting as a regulatory authority that is eligible to participate in an agreement under this section shall submit a report electronically to the Legislature. Such report shall contain the following information:

(a) A description of any reciprocity agreement entered into pursuant to this section; or

(b) If a reciprocity agreement has not been entered into pursuant to this section, a summary of actions taken to develop such an agreement and a description of any impediments to such an agreement.

Sec. 28. (1) For purposes of this section, city means a city of the first class or a city of the second class.

(2) The department shall establish and maintain the Mobile Food Establishment Ordinance Registry. The registry shall be made available for review by the public on the department's website. The purpose of the registry is to record in a central location the municipal ordinances used to regulate mobile food establishments.

(3) Each city shall participate in the registry. Except as provided in subsection (4) of this section, each city shall provide the department with the following information for the registry:

(a) The name and address of each person responsible for regulating mobile food establishment operations;

(b) A sample copy of any form that is required to be submitted in order for the mobile food establishment to operate in the city;

(c) A complete electronic record of the ordinances used to regulate mobile food establishments; and

(d) Any other information the department deems necessary.

(4) Any city that does not regulate the operation of mobile food establishments in any way shall submit to the department for publication on the registry a written statement confirming that the city does not regulate the operation of mobile food establishments.

(5) To ensure an accurate and updated registry, each city shall:

(a) Upon a request by the department, make available to the department all information required pursuant to this section; and

(b) Beginning in 2023, by December 31 of each calendar year notify the department of any new or modified ordinance adopted within such calendar year



regulating mobile food establishments.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 29. The department shall develop and make available to the public a guidance document for mobile food establishment operators. The guidance document shall describe food establishment permit requirements applicable to mobile food establishments, including permit requirements applicable to reciprocity agreements between participating regulatory authorities under section 27 of this act.

Sec. 30. Original sections 58-242, 77-5205, and 77-5213, Reissue Revised Statutes of Nebraska, and sections 77-5203, 77-5208, 77-5209, 77-5209.01, 77-5211, 77-7002, 77-7003, 77-7004, 77-7007, 81-2,239, and 81-2,240, Revised Statutes Cumulative Supplement, 2022, are repealed.