

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1047**

Introduced by Brandt, 32; Dorn, 30.

Read first time January 08, 2024

Committee: Revenue

1 A BILL FOR AN ACT relating to motor fuel taxes; to amend section 66-489,  
2 Reissue Revised Statutes of Nebraska, and section 66-482, Revised  
3 Statutes Cumulative Supplement, 2022; to define and redefine terms;  
4 to change provisions relating to payment of an excise tax and  
5 exemption from a motor fuels tax as prescribed; to eliminate  
6 obsolete provisions; to harmonize provisions; to provide an  
7 operative date; to repeal the original sections; and to outright  
8 repeal section 66-4,146.01, Reissue Revised Statutes of Nebraska.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-482, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 66-482 For purposes of sections 66-482 to 66-4,149:

4 (1) Agricultural ethyl alcohol means ethyl alcohol produced from  
5 cereal grains or agricultural commodities grown within the continental  
6 United States and which is a finished product that is a nominally  
7 anhydrous ethyl alcohol meeting American Society for Testing and  
8 Materials D4806 standards. For the purpose of sections 66-482 to  
9 66-4,149, the purity of the ethyl alcohol shall be determined excluding  
10 denaturant and the volume of alcohol blended with gasoline for motor  
11 vehicle fuel shall include the volume of any denaturant required pursuant  
12 to law;

13 (2) Alcohol blend means a blend of agricultural ethyl alcohol in  
14 gasoline or other motor vehicle fuel, such blend to contain not less than  
15 five percent by volume of alcohol;

16 (3) Biodiesel means mono-alkyl esters of long-chain fatty acids  
17 derived from vegetable oils or animal fats which conform to American  
18 Society for Testing and Materials D6751 specifications for use in diesel  
19 engines. Biodiesel refers to the pure fuel before blending with diesel  
20 fuel;

21 (4) Biodiesel facility means a plant which produces biodiesel;

22 (5) Biomass feedstock means sugar, starch, polysaccharide, glycerin,  
23 lignin, fat, grease, or oil derived from plants, animals, or algae or a  
24 protein capable of being converted to a building block chemical by means  
25 of a biological or chemical conversion process;

26 (6) Compressed fuel means any fuel defined as compressed fuel in  
27 section 66-6,100;

28 (7) Department means the Department of Revenue;

29 (8) Diesel fuel means all combustibile liquids and biodiesel which  
30 are suitable for the generation of power for diesel-powered vehicles,  
31 except that diesel fuel does not include kerosene;

1       (9) Distributor means any person who acquires ownership of motor  
2 fuels directly from a producer or supplier at or from a barge, barge  
3 line, pipeline terminal, or ethanol or biodiesel facility in this state;

4       (10) Ethanol facility means a plant which produces agricultural  
5 ethyl alcohol;

6       (11) Exporter means any person who acquires ownership of motor fuels  
7 from any licensed producer, supplier, distributor, wholesaler, or  
8 importer exclusively for use or resale in another state;

9       (12) Gross gallons means measured gallons without adjustment or  
10 correction for temperature or barometric pressure;

11       (13) Highway means every way or place generally open to the use of  
12 the public for the purpose of vehicular travel, even though such way or  
13 place may be temporarily closed or travel thereon restricted for the  
14 purpose of construction, maintenance, repair, or reconstruction;

15       (14) Importer means any person who owns motor fuels at the time such  
16 fuels enter the State of Nebraska by any means other than barge, barge  
17 line, or pipeline. Importer does not include a person who imports motor  
18 fuels in a tank directly connected to the engine of a motor vehicle,  
19 train, watercraft, or airplane for purposes of providing fuel to the  
20 engine to which the tank is connected;

21       (15) Kerosene means kerosene meeting the specifications as found in  
22 the American Society for Testing and Materials publication D3699 entitled  
23 Standard Specifications for Kerosene;

24       (16) Motor fuels means motor vehicle fuel, diesel fuel, aircraft  
25 fuel, or compressed fuel;

26       (17) {1} Motor vehicle ~~has~~ shall have the same meaning definition as  
27 in section 60-339;

28       (18) {2} Motor vehicle fuel ~~includes~~ shall include all products and  
29 fuel commonly or commercially known as gasoline, including casing head or  
30 natural gasoline, and ~~includes~~ shall include any other liquid and such  
31 other volatile and inflammable liquids as may be produced, compounded, or

1 used for the purpose of operating or propelling motor vehicles,  
2 motorboats, or aircraft or as an ingredient in the manufacture of such  
3 fuel. Motor vehicle fuel includes agricultural ~~Agricultural~~ ethyl alcohol  
4 produced for use as a motor vehicle fuel ~~shall be considered a motor~~  
5 ~~vehicle fuel~~. Motor vehicle fuel does ~~shall~~ not include the products  
6 commonly known as methanol, kerosene oil, kerosene distillate, crude  
7 petroleum, naphtha, and benzine with a boiling point over two hundred  
8 degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive  
9 racing fuel with an American Society of Testing Materials research method  
10 octane number in excess of one hundred five, and any petroleum product  
11 with an initial boiling point under two hundred degrees Fahrenheit, a  
12 ninety-five percent distillation (recovery) temperature in excess of four  
13 hundred sixty-four degrees Fahrenheit, an American Society of Testing  
14 Materials research method octane number less than seventy, and an end or  
15 dry point of distillation of five hundred seventy degrees Fahrenheit  
16 maximum;

17 (19) Person means any individual, firm, partnership, limited  
18 liability company, company, agency, association, corporation, state,  
19 county, municipality, or other political subdivision. Whenever a fine or  
20 imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the  
21 word person as applied to a partnership, a limited liability company, or  
22 an association means the partners or members thereof;

23 (20) Producer means any person who manufactures agricultural ethyl  
24 alcohol or biodiesel at an ethanol or biodiesel facility in this state;

25 (21) Retailer means any person who acquires motor fuels from a  
26 producer, supplier, distributor, wholesaler, or importer for resale to  
27 consumers of such fuel;

28 (22) Semiannual period means either the period which begins on  
29 January 1 and ends on June 30 of each year or the period which begins on  
30 July 1 and ends on December 31 of each year;

31 ~~(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced~~

1 ~~from cereal grains or agricultural commodities grown within the~~  
2 ~~continental United States and which is a finished product that is a~~  
3 ~~nominally anhydrous ethyl alcohol meeting American Society for Testing~~  
4 ~~and Materials D4806 standards. For the purpose of sections 66-482 to~~  
5 ~~66-4,149, the purity of the ethyl alcohol shall be determined excluding~~  
6 ~~denaturant and the volume of alcohol blended with gasoline for motor~~  
7 ~~vehicle fuel shall include the volume of any denaturant required pursuant~~  
8 ~~to law;~~

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

12 ~~(23) (5) Supplier means shall mean any person who owns motor fuels~~  
13 ~~imported by barge, barge line, or pipeline and stored at a barge, barge~~  
14 ~~line, or pipeline terminal in this state; and~~

15 ~~(6) Distributor shall mean any person who acquires ownership of~~  
16 ~~motor fuels directly from a producer or supplier at or from a barge,~~  
17 ~~barge line, pipeline terminal, or ethanol or biodiesel facility in this~~  
18 ~~state;~~

19 ~~(24) (7) Wholesaler means shall mean any person, other than a~~  
20 ~~producer, supplier, distributor, or importer, who acquires motor fuels~~  
21 ~~for resale. ;~~

22 ~~(8) Retailer shall mean any person who acquires motor fuels from a~~  
23 ~~producer, supplier, distributor, wholesaler, or importer for resale to~~  
24 ~~consumers of such fuel;~~

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

31 ~~(10) Exporter shall mean any person who acquires ownership of motor~~

1 ~~fuels from any licensed producer, supplier, distributor, wholesaler, or~~  
2 ~~importer exclusively for use or resale in another state;~~

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

5 ~~(12) Diesel fuel shall mean all combustible liquids and biodiesel~~  
6 ~~which are suitable for the generation of power for diesel-powered~~  
7 ~~vehicles, except that diesel fuel shall not include kerosene;~~

8 ~~(13) Compressed fuel shall mean any fuel defined as compressed fuel~~  
9 ~~in section 66-6,100;~~

10 ~~(14) Person shall mean any individual, firm, partnership, limited~~  
11 ~~liability company, company, agency, association, corporation, state,~~  
12 ~~county, municipality, or other political subdivision. Whenever a fine or~~  
13 ~~imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the~~  
14 ~~word person as applied to a partnership, a limited liability company, or~~  
15 ~~an association shall mean the partners or members thereof;~~

16 ~~(15) Department shall mean the Department of Revenue;~~

17 ~~(16) Semiannual period shall mean either the period which begins on~~  
18 ~~January 1 and ends on June 30 of each year or the period which begins on~~  
19 ~~July 1 and ends on December 31 of each year;~~

20 ~~(17) Producer shall mean any person who manufactures agricultural~~  
21 ~~ethyl alcohol or biodiesel at an ethanol or biodiesel facility in this~~  
22 ~~state;~~

23 ~~(18) Highway shall mean every way or place generally open to the use~~  
24 ~~of the public for the purpose of vehicular travel, even though such way~~  
25 ~~or place may be temporarily closed or travel thereon restricted for the~~  
26 ~~purpose of construction, maintenance, repair, or reconstruction;~~

27 ~~(19) Kerosene shall mean kerosene meeting the specifications as~~  
28 ~~found in the American Society for Testing and Materials publication D3699~~  
29 ~~entitled Standard Specifications for Kerosene;~~

30 ~~(20) Biodiesel shall mean mono-alkyl esters of long chain fatty~~  
31 ~~acids derived from vegetable oils or animal fats which conform to~~

1 ~~American Society for Testing and Materials D6751 specifications for use~~  
2 ~~in diesel engines. Biodiesel refers to the pure fuel before blending with~~  
3 ~~diesel fuel;~~

4 ~~(21) Motor fuels shall mean motor vehicle fuel, diesel fuel,~~  
5 ~~aircraft fuel, or compressed fuel;~~

6 ~~(22) Ethanol facility shall mean a plant which produces agricultural~~  
7 ~~ethyl alcohol; and~~

8 ~~(23) Biodiesel facility shall mean a plant which produces biodiesel.~~

9 Sec. 2. Section 66-489, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 66-489 (1)(a) At the time of filing the return required by section  
12 66-488, such producer, supplier, distributor, wholesaler, or importer  
13 shall, in addition to the tax imposed pursuant to sections 66-489.02,  
14 66-4,140, 66-4,145, and 66-4,146 and in addition to the other taxes  
15 provided for by law, pay a tax in an amount set in subdivision (b) of  
16 this subsection upon all motor fuels as shown by such return, except that  
17 there shall be no tax on the motor fuels reported if (i) the required  
18 taxes on the motor fuels have been paid, (ii) the motor fuels have been  
19 sold to a licensed exporter exclusively for resale or use in another  
20 state, (iii) the motor fuels have been sold from a Nebraska barge line  
21 terminal, pipeline terminal, refinery, or ethanol or biodiesel facility,  
22 including motor fuels stored offsite in bulk, by a licensed producer or  
23 supplier to a licensed distributor, (iv) the motor fuels have been sold  
24 by a licensed distributor or licensed importer to a licensed distributor  
25 or to a licensed wholesaler and the seller acquired ownership of the  
26 motor fuels directly from a licensed producer or supplier at or from a  
27 refinery, barge, barge line, pipeline terminal, or ethanol or biodiesel  
28 facility, including motor fuels stored offsite in bulk, in this state or  
29 was the first importer of such fuel into this state, or (v) as otherwise  
30 provided in this section. Such producer, supplier, distributor,  
31 wholesaler, or importer shall remit such tax to the department.

1 (b) The tax shall be:

2 (i) Seven and one-half cents per gallon through December 31, 2015;

3 (ii) Eight cents per gallon beginning on January 1, 2016, through  
4 December 31, 2016;

5 (iii) Eight and one-half cents per gallon beginning on January 1,  
6 2017, through December 31, 2017;

7 (iv) Nine cents per gallon beginning on January 1, 2018, through  
8 December 31, 2018; and

9 (v) Nine and one-half cents per gallon beginning on January 1, 2019.

10 ~~(2)(a) (2) As part of filing the return required by section 66-488,~~  
11 ~~each producer of ethanol shall, in addition to other taxes imposed by the~~  
12 ~~motor fuel laws, pay an excise tax of one and one-quarter cents per~~  
13 ~~gallon through December 31, 2004, and commencing January 1, 2010, and two~~  
14 ~~and one-half cents per gallon commencing January 1, 2005, through~~  
15 ~~December 31, 2009, on:~~

16 ~~(i) Gasoline, natural gasoline, or any other gasoline component,~~  
17 ~~including, but not limited to, any gasoline component produced from~~  
18 ~~biomass feedstock, purchased for use as a denaturant by the producer at~~  
19 ~~an ethanol facility; and -~~

20 ~~(ii) Two percent of agricultural ethyl alcohol sold that is unfit~~  
21 ~~for beverage purposes and does not meet the American Society for Testing~~  
22 ~~and Materials D4806 standards.~~

23 ~~(b) All taxes, interest, and penalties collected under this~~  
24 ~~subsection shall be remitted to the State Treasurer for credit to the~~  
25 ~~Agricultural Alcohol Fuel Tax Fund, except that commencing January 1,~~  
26 ~~2005, through December 31, 2009, one and one-quarter cents per gallon of~~  
27 ~~such excise tax shall be credited to the Ethanol Production Incentive~~  
28 ~~Cash Fund. For fiscal years 2007-08 through 2011-12, if the total~~  
29 ~~receipts from the excise tax authorized in this subsection and designated~~  
30 ~~for deposit in the Agricultural Alcohol Fuel Tax Fund exceed five hundred~~  
31 ~~fifty thousand dollars, the State Treasurer shall deposit amounts in~~



1 ~~excess of five hundred fifty thousand dollars in the Ethanol Production~~  
2 ~~Incentive Cash Fund.~~

3 (3)(a) Motor fuels, methanol, and all blending agents or fuel  
4 expanders shall be exempt from the taxes imposed by this section and  
5 sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and 66-4,146, when the  
6 fuels are used for buses equipped to carry more than seven persons for  
7 hire and engaged entirely in the transportation of passengers for hire  
8 within municipalities or within a radius of six miles thereof.

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

17 (c) Nothing in this section shall be construed as permitting motor  
18 fuels to be sold tax exempt. The department shall refund tax paid on  
19 motor fuels used in buses deemed exempt by this section.

20 (4) Gasoline, natural ~~Natural~~ gasoline, or any other gasoline  
21 component, including, but not limited to, any gasoline component produced  
22 from biomass feedstock, purchased for use as a denaturant by a producer  
23 at an ethanol facility as defined in section 66-1333 shall be exempt from  
24 the motor fuels tax imposed by subsection (1) of this section as well as  
25 the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and  
26 66-4,146.

27 (5) Unless otherwise provided by an agreement entered into between  
28 the State of Nebraska and the governing body of any federally recognized  
29 Indian tribe within the State of Nebraska, motor fuels purchased on a  
30 Nebraska Indian reservation where the purchaser is a Native American who  
31 resides on the reservation shall be exempt from the motor fuels tax

1 imposed by this section as well as the tax imposed pursuant to sections  
2 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

3 (6) Motor fuels purchased for use by the United States Government or  
4 its agencies shall be exempt from the motor fuels tax imposed by this  
5 section as well as the tax imposed pursuant to sections 66-489.02,  
6 66-4,140, 66-4,145, and 66-4,146.

7 (7) In the case of diesel fuel, there shall be no tax on the motor  
8 fuels reported if (a) the diesel fuel has been indelibly dyed and  
9 chemically marked in accordance with regulations issued by the Secretary  
10 of the Treasury of the United States under 26 U.S.C. 4082 or (b) the  
11 diesel fuel contains a concentration of sulphur in excess of five-  
12 hundredths percent by weight or fails to meet a cetane index minimum of  
13 forty and has been indelibly dyed in accordance with regulations  
14 promulgated by the Administrator of the United States Environmental  
15 Protection Agency pursuant to 42 U.S.C. 7545.

16 Sec. 3. This act becomes operative on August 1, 2024.

17 Sec. 4. Original section 66-489, Reissue Revised Statutes of  
18 Nebraska, and section 66-482, Revised Statutes Cumulative Supplement,  
19 2022, are repealed.

20 Sec. 5. The following section is outright repealed: Section  
21 66-4,146.01, Reissue Revised Statutes of Nebraska.