

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 758

Introduced by Hudkins, 21.

Read first time January 09, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to streets and roads; to amend sections
2 66-4,148 and 66-6,109, Reissue Revised Statutes of
3 Nebraska, sections 66-4,105, 66-4,145, 66-4,146, and
4 66-6,107, Revised Statutes Cumulative Supplement, 2006,
5 and sections 66-489 and 77-27,132, Revised Statutes
6 Supplement, 2007; to increase motor fuel taxes; to
7 allocate revenue as prescribed; to change distribution
8 of certain sales and use tax proceeds; to provide an
9 operative date; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-489, Revised Statutes Supplement,
2 2007, is amended to read:

3 66-489 (1) At the time of filing the return required by
4 section 66-488, such producer, supplier, distributor, wholesaler,
5 or importer shall, in addition to the tax imposed pursuant to
6 sections 66-4,140, 66-4,145, and 66-4,146 and in addition to the
7 other taxes provided for by law, pay a tax of ~~ten~~ eleven and
8 one-half cents per gallon upon all motor fuels as shown by such
9 return, except that there shall be no tax on the motor fuels
10 reported if (a) the required taxes on the motor fuels have been
11 paid, (b) the motor fuels have been sold to a licensed exporter
12 exclusively for resale or use in another state, (c) the motor
13 fuels have been sold from a Nebraska barge line terminal, pipeline
14 terminal, refinery, or ethanol or biodiesel facility, including
15 motor fuels stored offsite in bulk, by a licensed producer or
16 supplier to a licensed distributor, (d) the motor fuels have been
17 sold by a licensed distributor or licensed importer to a licensed
18 distributor or to a licensed wholesaler and the seller acquired
19 ownership of the motor fuels directly from a licensed producer
20 or supplier at or from a refinery, barge, barge line, pipeline
21 terminal, or ethanol or biodiesel facility, including motor fuels
22 stored offsite in bulk, in this state or was the first importer
23 of such fuel into this state, or (e) as otherwise provided in
24 this section. Such producer, supplier, distributor, wholesaler, or
25 importer shall remit such tax to the department.

1 (2) As part of filing the return required by section
2 66-488, each producer of ethanol shall, in addition to other
3 taxes imposed by the motor fuel laws, pay an excise tax of one
4 and one-quarter cents per gallon through December 31, 2004, and
5 commencing January 1, 2010, and two and one-half cents per gallon
6 commencing January 1, 2005, through December 31, 2009, on natural
7 gasoline purchased for use as a denaturant by the producer at
8 an ethanol facility. All taxes, interest, and penalties collected
9 under this subsection shall be remitted to the State Treasurer
10 for credit to the Agricultural Alcohol Fuel Tax Fund, except that
11 commencing January 1, 2005, through December 31, 2009, one and
12 one-quarter cents per gallon of such excise tax shall be credited
13 to the Ethanol Production Incentive Cash Fund. For fiscal years
14 2007-08 through 2011-12, if the total receipts from the excise
15 tax authorized in this subsection and designated for deposit in
16 the Agricultural Alcohol Fuel Tax Fund exceed five hundred fifty
17 thousand dollars, the State Treasurer shall deposit amounts in
18 excess of five hundred fifty thousand dollars in the Ethanol
19 Production Incentive Cash Fund.

20 (3)(a) Motor fuels, methanol, and all blending agents
21 or fuel expanders shall be exempt from the taxes imposed by this
22 section and sections 66-4,105, 66-4,140, 66-4,145, and 66-4,146,
23 when the fuels are used for buses equipped to carry more than
24 seven persons for hire and engaged entirely in the transportation
25 of passengers for hire within municipalities or within a radius of

1 six miles thereof.

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

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

15 (4) Natural gasoline purchased for use as a denaturant
16 by a producer at an ethanol facility as defined in section 66-1333
17 shall be exempt from the motor fuels tax imposed by subsection (1)
18 of this section as well as the tax imposed pursuant to sections
19 66-4,140, 66-4,145, and 66-4,146.

20 (5) Unless otherwise provided by an agreement entered
21 into between the State of Nebraska and the governing body of any
22 federally recognized Indian tribe within the State of Nebraska,
23 motor fuels purchased on a Nebraska Indian reservation where the
24 purchaser is a Native American who resides on the reservation shall
25 be exempt from the motor fuels tax imposed by this section as well

1 as the tax imposed pursuant to sections 66-4,140, 66-4,145, and
2 66-4,146.

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

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

16 Sec. 2. Section 66-4,105, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 66-4,105 There is hereby levied and imposed an excise
19 tax of ~~ten~~ eleven and one-half cents per gallon, increased by the
20 amounts imposed or determined under sections 66-4,140, 66-4,145,
21 and 66-4,146, upon the use of all motor fuels used in this state
22 and due the State of Nebraska under section 66-489. Users of motor
23 fuels subject to taxation under this section shall be allowed
24 the same exemptions, deductions, and rights of reimbursement as
25 are authorized and permitted by Chapter 66, article 4, other

1 than any commissions provided under such article. For purposes of
2 this section and section 66-4,106, use shall mean the purchase or
3 consumption of motor fuels in this state.

4 Sec. 3. Section 66-4,145, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 66-4,145 In addition to the tax imposed by sections
7 66-489 and 66-4,140, each producer, supplier, distributor,
8 wholesaler, and importer required by section 66-489 to pay motor
9 fuels taxes shall pay an excise tax of ~~two~~ four cents per
10 gallon on all motor fuels received, imported, produced, refined,
11 manufactured, blended, or compounded by such producer, supplier,
12 distributor, wholesaler, or importer within the State of Nebraska.

13 Sec. 4. Section 66-4,146, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 66-4,146 In addition to the tax imposed by sections
16 66-489, 66-4,140, and 66-4,145, each producer, supplier,
17 distributor, wholesaler, and importer required by section 66-489 to
18 pay motor fuels taxes shall pay an excise tax of ~~two~~ four cents per
19 gallon on all motor fuels used in the State of Nebraska.

20 Sec. 5. Section 66-4,148, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 66-4,148 (1) The State Treasurer shall monthly distribute
23 the receipts accruing to the Highway Allocation Fund pursuant to
24 section 66-4,147. One-half of such receipts shall be distributed
25 to the various counties and municipal counties for road purposes

1 and one-half of such receipts shall be distributed to the various
2 municipalities ~~and municipal counties~~ for street purposes.

3 (2) The distribution of funds to the respective cities,
4 counties, and municipal counties under subsection (1) of this
5 section shall be based on the provisions of Chapter 39, article 25.

6 Sec. 6. Section 66-6,107, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 66-6,107 In addition to the tax imposed pursuant to
9 sections 66-6,108 and 66-6,109, an excise tax of ~~ten~~ eleven and
10 one-half cents per gallon or gallon equivalent is levied and
11 imposed on all compressed fuel sold for use in registered motor
12 vehicles.

13 Sec. 7. Section 66-6,109, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 66-6,109 In addition to the tax imposed by sections
16 66-6,107 and 66-6,108, each retailer shall pay an excise tax of ~~two~~
17 four cents per gallon or gallon equivalent on all compressed fuel
18 sold for use in registered motor vehicles.

19 Sec. 8. Section 77-27,132, Revised Statutes Supplement,
20 2007, is amended to read:

21 77-27,132 (1) There is hereby created a fund to be
22 designated the Revenue Distribution Fund which shall be set apart
23 and maintained by the Tax Commissioner. Revenue not required to be
24 credited to the General Fund or any other specified fund may be
25 credited to the Revenue Distribution Fund. Credits and refunds of

1 such revenue shall be paid from the Revenue Distribution Fund. The
2 balance of the amount credited, after credits and refunds, shall be
3 allocated as provided by the statutes creating such revenue.

4 (2) The Tax Commissioner shall pay to a depository bank
5 designated by the State Treasurer all amounts collected under the
6 Nebraska Revenue Act of 1967. The Tax Commissioner shall present to
7 the State Treasurer bank receipts showing amounts so deposited in
8 the bank, and of the amounts so deposited the State Treasurer shall
9 credit to the Highway Trust Fund all of the proceeds of the sales
10 and use taxes derived from the sale or lease for periods of more
11 than thirty-one days of motor vehicles, trailers, and semitrailers,
12 ~~except that the proceeds equal to any sales tax rate provided~~
13 ~~for in section 77-2701.02 that is in excess of five percent derived~~
14 ~~from the sale or lease for periods of more than thirty-one days of~~
15 ~~motor vehicles, trailers, and semitrailers shall be credited to the~~
16 ~~Highway Allocation Fund.~~ The balance of all amounts collected under
17 the Nebraska Revenue Act of 1967 shall be credited to the General
18 Fund.

19 Sec. 9. This act becomes operative on October 1, 2008.

20 Sec. 10. Original sections 66-4,148 and 66-6,109,
21 Reissue Revised Statutes of Nebraska, sections 66-4,105, 66-4,145,
22 66-4,146, and 66-6,107, Revised Statutes Cumulative Supplement,
23 2006, and sections 66-489 and 77-27,132, Revised Statutes
24 Supplement, 2007, are repealed.