

LEGISLATIVE BILL 720

Approved by the Governor March 26, 1997

Introduced by Transportation Committee: Kristensen, 37, Chairperson;
 Bruning, 3; Coordsen, 32; Elmer, 44; Matzke, 47;
 Dw. Pedersen, 39; C. Peterson, 35; Robinson, 16

AN ACT relating to transportation; to amend sections 60-133, 60-310, 60-311.09, 66-718, 66-1405, 66-1411, 66-1414, 77-27, 119, and 77-27, 208, Reissue Revised Statutes of Nebraska, and sections 37-1214, 37-1216, 37-1276 to 37-1278.01, 37-1286, 37-1289, 60-302, 60-305.09, 60-311.07, 60-312, 60-320, 60-483, and 60-6,290, Revised Statutes Supplement, 1996; to change provisions relating to certificates of title and registration of motorboats; to change and provide fees; to change provisions relating to odometers, proof of financial responsibility, registration of motor vehicles, In Transit decals, driver record information, vehicle length provisions, the International Registration Plan, the International Fuel Tax Agreement Act, and transfers of fuel tax funds; to create and eliminate funds; to authorize and establish procedures for a fuel tax setoff against state income tax refunds for the Department of Motor Vehicles; to eliminate provisions relating to rules and regulations; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 37-1214, Revised Statutes Supplement, 1996, is amended to read:

37-1214. (1) Except as otherwise provided in section 37-1211, the owner of each motorboat shall register such vessel every three years. The owner of such vessel shall file an application for a certificate of number pursuant to section 37-1216 with the county treasurer of the county in which the applicant resides on forms approved and provided by the commission, ~~and for applications made on or after January 1, 1997, shall present the certificate of title acquired pursuant to sections 37-1275 to 37-1287.~~ The application shall be signed by the owner of the vessel, shall contain the year manufactured, ~~shall contain a copy of the certificate of title for applications made on or after January 1, 1997,~~ and shall be accompanied by a fee for the three-year period of not less than fifteen dollars and not more than twenty dollars for Class 1 boats, not less than thirty dollars and not more than forty dollars for Class 2 boats, not less than forty-five dollars and not more than sixty dollars for Class 3 boats, and not less than seventy-five dollars and not more than one hundred dollars for Class 4 boats, as established by the commission pursuant to section 81-814.02.

(2) 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 37-1214 to 37-1227 shall be performed by the designated county official.

Sec. 2. Section 37-1216, Revised Statutes Supplement, 1996, is amended to read:

37-1216. Upon presentation of the certificate of title acquired pursuant to sections 37-1275 to 37-1287 and receipt of the application under section 37-1214 in approved form After the owner of the vessel submits an application as provided in section 37-1214 and presents a certificate of title if required pursuant to section 37-1276, the county treasurer or designated county official shall enter the application upon the records of the office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner. The number shall be displayed on each side of the bow, and the numbers shall be at least three inches high, of block characteristics, contrasting in color with the boat, and clearly visible from a distance of one hundred feet. The commission shall assign each county treasurer or designated county official a block of numbers and certificates therefor.

Sec. 3. Section 37-1276, Revised Statutes Supplement, 1996, is amended to read:

37-1276. (1) Except as provided in subsection (2) of this section or section 37-1275, (a) no person shall sell or otherwise dispose of a motorboat without delivering to the purchaser or transferee of the motorboat a certificate of title with an assignment on the certificate to show title in

the purchaser and affixing to the motorboat its hull identification number if not already affixed and (b) no person shall purchase or otherwise acquire or bring into this state a motorboat without complying with sections 37-1275 to 37-1287 except for temporary use.

(2) A motorboat manufactured before November 1, 1972, is exempt from the requirement to have a certificate of title. A motorboat owned by the United States, the State of Nebraska, or an agency or political subdivision of either is exempt from the requirement to have a certificate of title.

(3) No purchaser or transferee shall receive a certificate of title which does not contain an assignment to show title in the purchaser or transferee. Possession of a title which does not meet this requirement shall be prima facie evidence of a violation of this section.

Sec. 4. Section 37-1277, Revised Statutes Supplement, 1996, is amended to read:

37-1277. No (1) Except as provided in subsections (2) and (3) of this section, no person acquiring a motorboat from the owner thereof, whether the owner is a manufacturer, importer, dealer, or otherwise, shall acquire any right, title, claim, or interest in or to such motorboat until he or she has physical possession of the motorboat and a certificate of title or a manufacturer's or importer's certificate with assignments on the certificate to show title in the purchaser or an instrument in writing required by section 37-1281. No waiver or estoppel shall operate in favor of such person against a person having physical possession of the motorboat and the certificate of title, the manufacturer's or importer's certificate, or an instrument in writing required by section 37-1281. No court in any case at law or in equity shall recognize the right, title, claim, or interest of any person in or to any motorboat sold, disposed of, mortgaged, or encumbered unless there is compliance with this section.

(2) A motorboat manufactured before November 1, 1972, is exempt from the requirement to have a certificate of title. If a person acquiring a motorboat which is exempt from the requirement to have a certificate of title desires to acquire a certificate of title for the motorboat, the person may apply for a certificate of title pursuant to section 37-1278.

(3) A motorboat owned by the United States, the State of Nebraska, or an agency or political subdivision of either is exempt from the requirement to have a certificate of title. A person other than an agency or political subdivision acquiring such a motorboat which is not covered under subsection (2) of this section shall apply for a certificate of title pursuant to section 37-1278. The person shall show proof of purchase from a governmental agency or political subdivision to obtain a certificate of title.

Sec. 5. Section 37-1278, Revised Statutes Supplement, 1996, is amended to read:

37-1278. (1) Application for a certificate of title shall be presented to the county clerk or designated county official, shall be made upon a form prescribed by the Department of Motor Vehicles, and shall be accompanied by the fee prescribed in section 37-1287. The owner of a motorboat for which a certificate of title is required shall may obtain a certificate of title at any time prior to registration required under section 37-1214.

(2) If a certificate of title has previously been issued for the motorboat in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned. If a certificate of title has not previously been issued for the motorboat in this state, the application shall be accompanied by a certificate of number from this state, a manufacturer's or importer's certificate, a duly certified copy thereof, proof of purchase from a governmental agency or political subdivision, a certificate of title from another state, or a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the motorboat was brought into this state from a state which does not have a certificate of title law. The county clerk or designated county official shall retain the evidence of title presented by the applicant on which the certificate of title is issued. When the evidence of title presented by the applicant is a certificate of title or an assigned registration certificate issued by another state, the department shall notify the state of prior issuance that the certificate has been surrendered. If a certificate of title has not previously been issued for the motorboat in this state and the applicant is unable to provide such documentation, the applicant may apply for a bonded certificate of title as prescribed in section 37-1278.01.

(3) The county clerk or designated county official shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records of motorboats in his or

her office. If he or she is satisfied that the applicant is the owner of the motorboat and that the application is in the proper form, the county clerk or designated county official shall issue a certificate of title over his or her signature and sealed with his or her seal.

(4) In the case of the sale of a motorboat, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that for titles to be held by husband and wife, applications may be accepted by the county clerk or designated county official upon the signature of either spouse as a signature for himself or herself and as an agent for his or her spouse.

(5) In all cases of transfers of motorboats, the application for a certificate of title shall be filed within thirty days after the delivery of the motorboat. A dealer need not apply for a certificate of title for a motorboat in stock or acquired for stock purposes, but upon transfer of a motorboat in stock or acquired for stock purposes, the dealer shall give the transferee a reassignment of the certificate of title on the motorboat or an assignment of a manufacturer's or importer's certificate. If all reassignments printed on the certificate of title have been used, the dealer shall obtain title in his or her name prior to any subsequent transfer.

(6) If a county board consolidates services under the office of a designated county official other than the county clerk pursuant to section 23-186, the powers and duties of the county clerk relating to motorboat titles under sections 37-1278 to 37-1289 shall be performed by the designated county official.

Sec. 6. Section 37-1278.01, Revised Statutes Supplement, 1996, is amended to read:

37-1278.01. (1) The Department of Motor Vehicles shall issue a bonded certificate of title to an applicant who:

(a) Presents evidence reasonably sufficient to satisfy the department of the applicant's ownership of the motorboat or security interest in the motorboat;

(b) Pays a fee of fifty dollars for motorboats manufactured on or after January 1, 1990, and twenty dollars for motorboats manufactured prior to January 1, 1990; and

(c) Files a bond in a form prescribed by the department and executed by the applicant.

(2) The bond shall be issued by a surety company authorized to transact business in this state, in an amount equal to one and one-half times the value of the motorboat as determined by the department using reasonable appraisal methods, and conditioned to indemnify any prior owner and secured party, any subsequent purchaser and secured party, and any successor of the purchaser and secured party for any expense, loss, or damage, including reasonable attorney's fees, incurred by reason of the issuance of the certificate of title to the motorboat or any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the motorboat. An interested person may have a cause of action to recover on the bond for a breach of the conditions of the bond. The aggregate liability of the surety to all persons having a claim shall not exceed the amount of the bond.

(3) At the end of three years after the issuance of the bond, the holder of the certificate of title may apply to the department on a form prescribed by the department for the release of the bond and the removal of the notice required by subsection (4) of this section if no claim has been made on the bond. The department may release the bond at the end of three years after the issuance of the bond if all questions as to the ownership of the motorboat have been answered to the satisfaction of the department unless the department has been notified of the pendency of an action to recover on the bond. If the currently valid certificate of title is surrendered to the department, the department may release the bond prior to the end of the three-year period.

(4) The department shall include the following statement on a bonded certificate of title issued pursuant to this section and any subsequent title issued as a result of a title transfer while the bond is in effect:

NOTICE: THIS MOTORBOAT MAY BE SUBJECT TO AN UNDISCLOSED INTEREST,
BOND NUMBER

(5) The department shall recall a bonded certificate of title if the department finds that the application for the title contained a false statement or if a check presented by the applicant for fees pursuant to this section is returned uncollected by a financial institution.

(6) The department shall remit fees collected pursuant to this section to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Sec. 7. Section 37-1286, Revised Statutes Supplement, 1996, is amended to read:

37-1286. A certificate of title shall be printed upon safety security paper to be selected by the Department of Motor Vehicles. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and may include county of issuance, date of issuance, certificate of title number, previous certificate of title number, registration number, name and address of the owner, acquisition date, manufacturer's name, model year, hull identification number, hull material, propulsion, hull length, issuing county clerk's or designated county official's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. If a motorboat does not have a hull identification number, the state shall assign a hull identification number to the title.

An assignment of certificate of title shall appear on each certificate of title and shall include a statement that the owner of the motorboat assigns all his or her right, title, and interest in the motorboat, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the owner.

A reassignment by a dealer shall appear on each certificate of title and shall include a statement that the dealer assigns all his or her right, title, and interest in the motorboat, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the dealer or designated representative. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient. The department may, with the approval of the Attorney General, require additional information on such forms.

The county clerk or designated county official, subject to the approval of the department, shall assign a distinguishing hull identification number to any homebuilt motorboat or any motorboat manufactured prior to November 1, 1972. Hull identification numbers shall be assigned and affixed in conformity with the Federal Boat Safety Act of 1971. The county clerk or designated county official shall charge a nonrefundable fee of twenty dollars for each hull identification number and shall remit the fee to the department. The department shall remit the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Sec. 8. Section 37-1289, Revised Statutes Supplement, 1996, is amended to read:

37-1289. It shall be a Class III misdemeanor to (1) operate in this state a motorboat for which a certificate of title is required without having a certificate of title or upon which the certificate of title has been canceled, (2) acquire, purchase, hold, or display for sale a new motorboat without having obtained a manufacturer's or importer's certificate or a certificate of title therefor, (3) fail to surrender any certificate of title or any certificate of number upon cancellation of the certificate by the county clerk, the designated county official, or the Department of Motor Vehicles and notice thereof, (4) fail to surrender the certificate of title to the county clerk or designated county official in case of the destruction or dismantling or change of a motorboat in such respect that it is not the motorboat described in the certificate of title, (5) purport to sell or transfer a motorboat without delivering to the purchaser or transferee of the motorboat a certificate of title if required or a manufacturer's or importer's certificate thereto duly assigned to the purchaser, (6) knowingly alter or deface a certificate of title, or (7) violate any of the other provisions of sections 37-1275 to 37-1287.

Sec. 9. Section 60-133, Reissue Revised Statutes of Nebraska, is amended to read:

60-133. If any odometer is repaired or replaced, the reading of the repaired or replaced odometer shall be set at the reading of the odometer repaired or replaced immediately prior to repair or replacement and the adjustment shall not be deemed a violation of sections 60-132 to 60-138, except that when the repaired or replaced odometer is incapable of registering the same mileage as before such repair or replacement, the repaired or replaced odometer shall be adjusted to read zero and a notice in writing on a form prescribed by the Department of Motor Vehicles shall be attached to the left door frame of the vehicle, or in the case of a motorcycle to the registration certificate and all subsequent registration certificates, of the vehicle frame of the motorcycle, by the owner or his or her agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced and any removal or alteration of such notice so affixed shall be deemed a violation of such sections.

Sec. 10. Section 60-302, Revised Statutes Supplement, 1996, 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 the 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) An application for registration of a motor vehicle shall be accompanied by proof of financial responsibility or evidence of insurance covering the motor vehicle. 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. Evidence of insurance shall give the effective dates of the automobile 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.

(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 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 the application 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 66-6109, 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 the 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 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 Cash Fund.

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

(7) If a citation is issued to an owner or operator of a vehicle for a violation of this section and the owner properly registers and licenses the vehicle not in compliance and pays all taxes and fees due and the owner or operator provides proof of such registration to the prosecuting attorney within ten days after the issuance of the citation, 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. 11. Section 60-305.09, Revised Statutes Supplement, 1996, is amended to read:

60-305.09. (1) Any owner engaged in operating a fleet of

apportionable vehicles in this state in interstate commerce may, in lieu of registration of such vehicles under the general provisions of sections 60-301 to 60-344, register and license such fleet for operation in this state by filing a sworn statement and the application required by section 60-305.16 with the Division of Motor Carrier Services of the Department of Motor Vehicles. The statement shall be in such form and contain such information as the division requires, declaring the total mileage operated by such vehicles in all states and in this state during the preceding year and describing and identifying each such vehicle to be operated in this state during the ensuing license year. Upon receipt of such statement and application, the division shall determine the total fee payment which shall be equal to the amount of fees due pursuant to section 60-305.16 and the amount obtained by applying the proportion of in-state fleet miles to total fleet miles, as reported in such states, to a fee of thirty-two dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer, semitrailer, or combination thereof with which it is to be operated in combination at any one time, plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity states by vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska in-state fleet miles.

Temporary authority which permits the operation of a fleet or an addition to a fleet in this state while the application is being processed may be issued upon application to the division if necessary to complete processing of the application.

Upon completion of such processing and receipt of the appropriate fees, the division shall issue to the applicant a sufficient number of distinctive registration certificates and such other evidence of registration for display on the vehicle as the division determines appropriate for each of the vehicles of his or her fleet, identifying it as a part of an interstate fleet proportionately registered. All fees received as provided in this section shall be remitted to the State Treasurer for credit to the International Registration Plan Motor Carrier Services Division Distributive Fund. The Director of Motor Vehicles shall ratify and do all things necessary to effectuate the International Registration Plan with such exceptions as are deemed advisable and such changes as are necessary. ~~which fund is hereby created.~~ Such fund shall be disbursed to carry out the provisions of the International Registration Plan. 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 vehicles so registered shall be exempt from all further registration and license fees under sections 60-301 to 60-344 for movement or operation in the State of Nebraska except as provided in section 60-305.16. The proportional registration and licensing provision of this section shall apply to vehicles added to such fleets and operated in this state during the license year except with regard to permanent license plates issued under section 60-305.16.

The right of applicants to proportional registration under this section shall be subject to the terms and conditions of any reciprocity agreement, contract, or consent made by the division.

When a nonresident fleet owner has registered his or her vehicles on an apportionment basis, his or her vehicles shall be considered as fully registered for both interstate and intrastate commerce when the state of base registration for such fleet accords the same consideration for fleets with a base registration in Nebraska. Each vehicle of a fleet registered by a resident of Nebraska on an apportionment basis shall be considered as fully registered for both interstate and intrastate commerce.

(2) Mileage proportions for interstate fleets not operated in this state during the preceding year shall be determined by the division upon the sworn application of the applicant on forms to be supplied by the division which shall show the operations of the preceding year in other states and estimated operations in Nebraska or, if no operations were conducted the previous year, a full statement of the proposed method of operation.

(3) Any owner complying with and being granted proportional registration shall preserve the records on which the application is made for a period of three years following the current registration year. Upon request of the division, the owner shall make such records available to the division at its office for audit as to accuracy of computation and payments or pay the costs of an audit at the home office of the owner by a duly appointed representative of the division if the office where the records are maintained is not within the State of Nebraska. The division may enter into agreements with agencies of other states administering motor vehicle registration laws

for joint audits of any such owner. All payments received to cover the costs of an audit shall be remitted by the division to the State Treasurer for credit to the Motor Carrier Division Cash Fund. No deficiency shall be assessed and no claim for credit shall be allowed for any license registration year for which records on which the application was made are no longer required to be maintained.

(4) If the division claims that a greater amount of fee is due under this section than was paid, the division shall notify the owner of the additional amount claimed to be due. The owner may accept such claim and pay the amount due, or he or she may dispute the claim and submit to the division any information which he or she may have in support of his or her position. If the dispute cannot otherwise be resolved within the division, the entire matter shall be submitted to the Director of Motor Vehicles for his or her final departmental determination thereof. The director shall incorporate his or her determination into a written order. Such order may be appealed. The appeal shall be in accordance with the Administrative Procedure Act, to the district court in the manner provided in section 60-4-105, except that the bond shall be filed with the clerk of the district court and shall be a surety bond or a cash bond equal to the amount claimed to be due plus two hundred dollars as security for costs that might be assessed against the owner. A certified copy of the director's order shall be filed in lieu of a transcript. Upon expiration of the time for perfecting an appeal if no appeal is taken or upon final judicial determination if an appeal is taken, the division shall deny the owner the right to further registration for a fleet license until the amount finally determined to be due, together with any costs assessed against the owner, has been paid.

(5) Every applicant who licenses any vehicles under this section and section 60-305.16 shall have his or her registration certificates issued only after all fees under such sections are paid and, if applicable, proof has been furnished of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by the Internal Revenue Code, 26 U.S.C. 4481.

(6) In the event of the transfer of ownership of any registered motor vehicle or in the case of loss of possession because of fire or theft or because the motor vehicle was wrecked, junked, or dismantled, its registration shall expire, except that if the registered owner applies to the division after such transfer or loss of possession and accompanies the application with the fee of one dollar and fifty cents, he or she may have assigned to another motor vehicle the registration identification of the motor vehicle so transferred or lost. If the assigned motor vehicle has a greater gross weight than the transferred or lost motor vehicle, the owner of the assigned motor vehicle shall additionally pay only the registration fee for the increased gross weight for the remaining months of the registration year based on the factors determined by the division in the original fleet application.

(7) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered motor vehicle from a fleet of registered motor vehicles because of (a) the transfer of ownership or (b) the loss of possession due to fire or theft or because the motor vehicle was wrecked, junked, or dismantled, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, if such certificate or certificates or such other evidence of registration is unavailable, then by making an affidavit to the division of such transfer or loss, receive a refund of the registration fee based upon the number of unexpired months remaining in the registration year. No refund shall be allowed for any fees paid under section 60-305.16. When such motor vehicle is transferred or lost within the same month as acquired, no refund shall be allowed for such month. Such refund may be in the form of a credit against any registration fees that have been incurred or are, at the time of the refund, being incurred by the registered motor vehicle owner.

(8) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered motor vehicle from a fleet of registered motor vehicles because the vehicle is disabled and has been removed from service, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, in the case of the unavailability of such certificate or certificates or such other evidence of registration, then by making an affidavit to the division of such disablement and removal from service, receive a credit for that portion of the registration fee deposited in the Highway Trust Fund based upon the number of unexpired months remaining in the registration year. No credit shall be allowed for any fees paid under section 60-305.16. When such motor vehicle is removed from service within the same month in which it was registered, no credit shall be allowed for such month. Such credit may be

applied against registration fees for new or replacement vehicles incurred within one year after cancellation of registration of the motor vehicle for which the credit was allowed. When any such vehicle is reregistered within the same registration year in which its registration has been canceled, the fee shall be that portion of the registration fee provided to be deposited in the Highway Trust Fund for the remainder of the registration year.

(9) In case of addition to the registered fleet during the registration year, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date of the application for the remaining balance of the registration year. The fee for any permanent license plate issued for such addition pursuant to section 60-305.16 shall be the full fee required by such section, regardless of the number of months remaining in the license year.

(10) In lieu of registration under subsections (1) through (9) of this section, the title holder of record may apply to the division for special registration, to be known as an unladen-weight registration, for any commercial vehicle or combination of vehicles. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. The issuance of such permits shall be governed by subsection (1) of section 60-305.03.

(11) In lieu of registration under subsections (1) through (9) of this section, a trip permit for any nonresident truck, truck-tractor, bus, or truck or truck-tractor combination shall be purchased. Such permit shall be valid for (a) a single trip across or through Nebraska and (b) not longer than seventy-two hours. The fee for such permit shall be twenty-five dollars for each vehicle or combination of vehicles. Such permit 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. The carrier enforcement division shall act as an agent for the Division of Motor Carrier Services in collecting such fees and shall remit all such fees collected to the State Treasurer for credit to the Highway Cash Fund. 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. 12. Section 60-310, Reissue Revised Statutes of Nebraska, is amended to read:

60-310. Such registration may be renewed annually in the same manner and upon payment of the same fee as provided for the original registration. On making an application for renewal, the registration certificate for the preceding registration period shall be presented with the application. ~~If the certificate is not presented, a fee of one dollar shall be added to the registration fee.~~

The certificate of registration and license plates furnished by the department shall be valid during the registration period for which they are issued and, when renewal tabs furnished pursuant to section 60-311 have been affixed thereto, they shall also be valid for the registration period designated by such renewal tabs.

The registration period for motor vehicles, trailers, semitrailers, and cabin trailers required to be registered as provided in section 60-302 shall expire on the first day of the month one year from the month of issuance, and renewal shall become due on such day and shall become delinquent on the first day of the following month.

The above provisions shall not apply to dealer's license plates, repossession plates, and transporter plates as provided in section 60-320, which plates shall be issued for a calendar year. The registration period for vehicles licensed as apportioned vehicles as provided in section 60-305.09 shall expire December 31 of each year and shall become delinquent February 1 of the following year. Any owner who has two or more vehicles required to be registered under Chapter 60, article 3, may register all such vehicles on a calendar-year basis or on an annual basis for the same registration period beginning in a month chosen by the owner. When electing to establish the same registration period for all such vehicles, the owner shall pay the registration fee and motor vehicle tax on each vehicle for the number of months necessary to extend its current registration period to the registration period under which all such vehicles will be registered. Credit shall be given for registration paid on each vehicle when the vehicle has a later expiration date than that chosen by the owner. Thereafter all such vehicles shall be registered on an annual basis starting in the month chosen by the

owner.

Sec. 13. Section 60-311.07, Revised Statutes Supplement, 1996, is amended to read:

60-311.07. The Department of Motor Vehicles shall prescribe the size and design of the license plates prescribed in section 60-311.05 and furnish such plates to the persons applying for and entitled to the same under section 60-311.05 upon the payment of the required fee. ~~The department shall adopt and promulgate such rules and regulations in regard thereto as are necessary to comply with all license laws relating to the use and operation of a private passenger motor vehicle, a self-propelled mobile home, or a commercial truck before issuing such license plates.~~

Sec. 14. Section 60-311.09, Reissue Revised Statutes of Nebraska, is amended to read:

60-311.09. (1) Any resident of this state may, in addition to the application required by section 60-302, make application to the Department of Motor Vehicles for a set of license plates designed by the department to indicate that the applicant for the plates has received from the federal government an award of a Purple Heart. The inscription of the plates shall be designed so as to include a facsimile of the award and beneath any numerical designation upon the plates pursuant to section 60-311.01 the words Purple Heart separately on one line and the words Combat Wounded on the line below.

(2) The license plates shall be issued upon payment of the regular license fee and an additional fee of five dollars and furnishing proof satisfactory to the department that the applicant was awarded the Purple Heart. Only one motor vehicle owned by the applicant shall be so licensed at any one time.

(3) If license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement plates upon request and without charge.

~~(4) The department shall adopt and promulgate rules and regulations necessary to carry out this section.~~

Sec. 15. Section 60-312, Revised Statutes Supplement, 1996, is amended to read:

60-312. (1) The certificate of registration shall contain upon the face thereof 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 whether alternative fuel as defined in section 66-686 was used to propel the motor vehicle and, if so, the type of fuel.~~ The certificate shall have and contain the identical registration number denoted on the number plate in connection with which such certificate is issued and shall be valid only for the registration period for which it is issued. ~~The~~ On the back of the certificate, the certificate shall include a statement in boldface print that an automobile liability policy or proof of financial responsibility is required in Nebraska. By paying the required registration fees, every person whose name appears on the title registration of the motor vehicle certifies that ~~he or she will maintain a current and effective automobile liability policy or proof of financial responsibility will be maintained~~ for the motor vehicle at the time of registration and while the motor vehicle is operated on a public highway of this state and that he or she will also provide a current and effective automobile liability policy, evidence of insurance, or proof of financial responsibility for the motor vehicle upon demand.

(2) It shall be unlawful for any owner to pay the required registration fees when the owner does not, at the time of paying the fees or during the entire registration period, have or keep in effect a current and effective automobile liability policy or proof of financial responsibility. Any person violating this subsection shall be guilty of a Class IV misdemeanor. The penalty shall be mandatory and shall not be suspended by a court.

Sec. 16. Section 60-320, Revised Statutes Supplement, 1996, is amended to read:

60-320. (1) Each licensed motor vehicle dealer or trailer dealer as defined in section 60-1401.02 doing business in this state, in lieu of the registering of each motor vehicle or trailer which such dealer owns of a type otherwise required to be registered, or any employee of such dealer may (a) operate or move the same upon the streets and highways of this state solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of his or her business as a motor vehicle or trailer dealer, including the personal or private use of such dealer and the personal or private use of any bona fide employee licensed pursuant to Chapter 60,

article 14, or for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery or (b) sell the same without registering each such motor vehicle or trailer upon the condition that any such vehicle display thereon, in the manner prescribed in section 60-323, dealer number plates as provided for in subsection (3) of this section. Each licensed manufacturer as defined in section 60-1401.02 which actually manufactures or assembles motor vehicles, motorcycles, or trailers within this state, in lieu of the registering of each motor vehicle or trailer which such manufacturer owns of a type otherwise required to be registered, or any employee of such manufacturer may operate or move the same upon the streets and highways of this state solely for purposes of transporting, testing, demonstrating to prospective customers, or use in the ordinary course and conduct of business as a motor vehicle, motorcycle, or trailer manufacturer, upon the condition that any such vehicle display thereon, in the manner prescribed in section 60-323, dealer number plates as provided for in subsection (3) of this section. In no event shall such plates be used on motor vehicles or trailers hauling other than automotive or trailer equipment, complete motor vehicles, semitrailers, or trailers which are inventory of such licensed dealer or manufacturer unless there is issued by the Department of Motor Vehicles a special permit specifying the hauling of other products.

(2) Motor vehicles or trailers owned by such dealer and bearing such dealer number plates may be driven upon the streets and highways for demonstration purposes by any prospective buyer thereof for a period of forty-eight hours. Motor vehicles or trailers owned and held for sale by such dealer and bearing such dealer number plates may be driven upon the streets and highways for a period of forty-eight hours as service loaner vehicles by customers having their vehicles repaired by the dealer. Upon delivery of such motor vehicle or trailer to such prospective buyer for demonstration purposes or to a service customer, the dealer shall deliver to the prospective buyer or service customer a card or certificate giving the name and address of the dealer, the name and address of the prospective buyer or service customer, and the date and hour of such delivery and the products to be hauled, if any, under a special permit. The special permit and card or certificate shall be in such form as shall be prescribed by the Department of Motor Vehicles and shall be carried by such prospective buyer or service customer while driving such motor vehicle or pulling such trailer. The Department of Motor Vehicles shall make a charge of ten dollars for each special permit issued hereunder. A finance company as defined in section 60-1401.02 which is licensed to do business in this state may, in lieu of registering each motor vehicle or trailer repossessed, upon the payment of a fee of ten dollars, make an application to the Department of Motor Vehicles for a repossession certificate and one repossession plate. Additional certificates and repossession plates may be procured for a fee of ten dollars each. Such repossession plates may be used only for moving motor vehicles or trailers on the streets and highways for the purpose of repossession, demonstration, and disposal of such motor vehicles or trailers repossessed. Such repossession plates shall be of the same size and material as the normal motor vehicle license plates and shall be prefixed with a large letter R and be serially numbered from 1 to distinguish them from each other. Such plates shall be displayed only on the rear of a repossessed motor vehicle or trailer. The certificate shall be displayed on demand for any motor vehicle or trailer being operated on a repossession plate. A finance company shall be entitled to a dealer number plate only in the event such company has qualified as a motor vehicle dealer under Chapter 60, article 14.

(3)(a) Any licensed dealer or manufacturer described in subsection (1) of this section may, upon payment of a fee of thirty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer or designated county official as provided in section 60-302 of the county in which his or her place of business is located for a certificate and one dealer number plate for the type of vehicle the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. One additional dealer number plate may be procured for the type of vehicle the dealer has sold during the last previous period of October 1 through September 30 for each twenty vehicles sold at retail during such period or one additional dealer number plate for each thirty vehicles sold at wholesale during such period, but not to exceed a total of five additional dealer number plates in the case of vehicles sold at wholesale, or, in the case of a manufacturer, for each ten vehicles actually manufactured or assembled within the state within the last previous period of October 1 through September 30 for a fee of fifteen dollars each. However, when an applicant applies for a license, the Nebraska Motor Vehicle Industry Licensing Board may authorize the county treasurer or designated county

official to issue additional dealer number plates when the dealer or manufacturer furnishes satisfactory proof for a need of additional dealer number plates because of special condition or hardship. In the case of unauthorized use of dealer plates by any licensed dealer, the Nebraska Motor Vehicle Industry Licensing Board is empowered to hold a hearing and after such hearing may determine that such dealer is not qualified for continued usage of such dealer plates for a set period not to exceed one year. Such additional dealer number plates shall, in addition to all other numbers and letters required by section 60-311.02, bear such mark or number as will distinguish such plates one from another.

(b) Subject to all the provisions of law relating to motor vehicles and trailers not inconsistent with this section, any person, firm, or corporation holding a dealer's license issued pursuant to the laws of this state who is regularly engaged within this state in the business of buying and selling motor vehicles and trailers, who regularly maintains within this state an established place of business, and who desires to effect delivery of any motor vehicle or trailer bought or sold by him or her from the point where purchased or sold to points within or outside this state may, solely for the purpose of such delivery by himself or herself, agent, or bona fide purchaser, drive such motor vehicle or pull such trailer on the highways of this state without charge or registration of such vehicle or trailer. There shall be displayed on the front and rear windows ~~or the rear side windows~~ of such motor vehicle, except a motorcycle, and displayed on the front and rear of each such trailer a decal on which shall be plainly printed in black letters the words In Transit. One In Transit decal shall be displayed on a motorcycle, which decal may be one-half the size required for other motor vehicles. Such decals shall include a registration number, which registration number shall be different for each decal or pair of decals issued, and the form of such decal and the numbering system shall be as prescribed by the Department of Motor Vehicles. Each dealer issuing such decals shall keep a record of the registration number of each decal or pair of decals on the invoice of such sale. Such transit decal shall allow such owner to operate the motor vehicle or pull such trailer for a period of thirty days in order to effect proper registration of the new or used motor vehicle or trailer. When any person, firm, or corporation has had a motor vehicle or trailer previously registered and license plates assigned to such person, firm, or corporation, such owner may operate the motor vehicle or pull such trailer for a period of thirty days in order to effect transfer of plates to the new or used motor vehicle or trailer. Upon demand of proper authorities, there shall be presented by the person in charge of such motor vehicle or trailer, for examination, a duly executed bill of sale therefor, a certificate of title, or other satisfactory evidence of the right of possession by such person of such motor vehicle or trailer.

(4) Any transporter doing business in this state may, in lieu of registering each motor vehicle or trailer which such transporter is transporting, upon payment of a fee of ten dollars, make an application to the Department of Motor Vehicles for a transporter's certificate and one transporter number plate. Additional certificates and plates may be procured for a fee of ten dollars each. Such transporter number plates may be the same size as plates issued for motorcycles, shall bear thereon a mark to distinguish them as transporter plates, and shall be serially numbered so as to distinguish them from each other. Such plates may only be displayed upon the front of a driven vehicle of a lawful combination or upon the front of a motor vehicle driven singly or upon the rear of a trailer being pulled. The certificate shall be issued in duplicate. The original thereof shall be kept on file by the transporter, and the duplicate shall be displayed upon demand by the driver of any vehicle or trailer being transported. A transporter plate or certificate may not be displayed upon a work or service vehicle, except that when a properly registered truck or tractor being a work or service vehicle is in the process of towing or drawing a trailer or semitrailer, including a cabin trailer, which itself is being delivered by the transporter, then the registered truck or tractor shall also display a transporter plate upon the front thereof. The applicant for a transporter plate shall keep for three years a record of each vehicle transported by him or her hereunder, and such record shall be available to the department for inspection. Each applicant hereunder shall file proof of his or her status as a bona fide transporter.

(5) Any boat dealer when transporting a boat which is part of the inventory of the boat dealer on a trailer required to be registered may annually, in lieu of registration of the trailer and upon application to the Department of Motor Vehicles and payment of a fee of ten dollars, obtain a certificate and a number plate. The plate may be displayed on any trailer

owned by the boat dealer when the trailer is transporting such a boat. The number plate shall be of a type designed by the department and so numbered as to distinguish one plate from another.

For purposes of this subsection, boat dealer shall mean a person engaged in the business of buying, selling, or exchanging boats at retail who has a principal place of business for such purposes in this state.

(6) It shall be the duty of all law enforcement officers to arrest and prosecute all violators of the provisions of subsection (1), (2), (3), (4), or (5) of this section and see that they are properly prosecuted according to law. Any person, firm, or corporation, including any motor vehicle, trailer, or boat dealer or manufacturer, who fails to comply with such provisions shall be deemed guilty of a Class V misdemeanor and, in addition thereto, shall pay the county treasurer or designated county official any and all motor vehicle and trailer taxes, registration fees, or certification fees due had the motor vehicle or trailer been properly registered or certified according to law.

When any motor vehicle or trailer dealer's or manufacturer's license has been revoked or otherwise terminated, it shall be the duty of such dealer or manufacturer to immediately surrender to the Department of Motor Vehicles or to the Nebraska Motor Vehicle Industry Licensing Board any dealer number plates issued to him or her for the current year. Failure of such dealer or manufacturer to immediately surrender such dealer license plates to the department upon demand by the department shall be unlawful.

(7) Any motor vehicle or trailer owned by a dealer and bearing other than dealer number plates as provided in this section shall be conclusively presumed not to be a part of the dealer's inventory and not for demonstration or sale and therefore not eligible for any exemption from taxation applicable to vehicles with dealer plates.

Sec. 17. Section 60-483, Revised Statutes Supplement, 1996, is amended to read:

60-483. The director shall assign a distinguishing number to each operator's license issued and shall keep a record of the same which shall be open to public inspection. Any person requesting such driver record information shall furnish to the Department of Motor Vehicles the name of the person whose record is being requested, and when the name alone is insufficient to identify the correct record, the department may request additional identifying information. The department shall, upon request of any applicant, furnish a certified abstract of the operating record of any person and shall charge the applicant a fee of two dollars per abstract. The department shall remit twenty-five cents of each abstract fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund and shall remit one dollar and seventy-five cents of each abstract fee to the State Treasurer for credit to the General Fund.

The director shall, upon receiving a request and an agreement from the United States Selective Service System to comply with requirements of this section and the rules and regulations adopted and promulgated to carry out this section, furnish driver record information to the United States Selective Service System to include the name, post office address, date of birth, sex, and social security number of licensees. The United States Selective Service System shall pay all costs incurred by the department in providing the information but shall not be required to pay any other fee required by law for information. No driver record information shall be furnished regarding any female, nor regarding any male other than those between the ages of seventeen years and twenty-six years. The information shall only be used in the fulfillment of the required duties of the United States Selective Service System and shall not be furnished to any other person. The director may adopt and promulgate rules and regulations concerning the preparation, transmittal, safeguarding, and disposition of such information.

The director shall also keep a record of all applications for operators' licenses that are disapproved with a brief statement of the reason for disapproval of the application.

Sec. 18. Section 60-6,290, Revised Statutes Supplement, 1996, is amended to read:

60-6,290. (1)(a) No vehicle shall exceed a length of forty feet, extreme overall dimensions, inclusive of front and rear bumpers including load, except that:

(i) A bus may exceed the forty-foot limitation by up to but not to exceed six inches when such excess length is caused by the projection of a front or rear safety bumper constructed, treated, or manufactured so that it absorbs energy upon impact but shall not exceed a length of forty-five feet;

(ii) A truck-tractor may exceed the forty-foot limitation;

(iii) A semitrailer operating in a truck-tractor single semitrailer

combination, which semitrailer was actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation; and

(iv) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was not actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation but shall not exceed a length of fifty-three feet including load.

(b) No combination of vehicles shall exceed a length of sixty-five feet, extreme overall dimensions, inclusive of front and rear bumpers and including load, except:

(i) One truck and one trailer, loaded or unloaded, used in transporting a combine to be engaged in harvesting, while being transported into or through the state during daylight hours if the total length does not exceed seventy-five feet including load;

(ii) A truck-tractor single semitrailer combination;

(iii) A truck-tractor semitrailer trailer combination, but the semitrailer trailer portion of such combination shall not exceed sixty-five feet inclusive of connective devices; and

(iv) A driveaway saddle-mount vehicle transporter combination and driveaway saddle-mount with full-mount vehicle transporter combination, but the total overall length shall not exceed seventy-five feet.

(c) A truck shall be construed to be one vehicle for the purpose of determining length.

(d) A trailer shall be construed to be one vehicle for the purpose of determining length.

(2) Subsection (1) of this section shall not apply to:

(a) Extra-long vehicles which have been issued a permit pursuant to section 60-6,292;

(b) Vehicles which have been issued a permit pursuant to section 60-6,299;

(c) The temporary moving of farm machinery during daylight hours in the normal course of farm operations;

(d) The movement of unbaled livestock forage vehicles, loaded or unloaded;

(e) The movement of public utility or other construction and maintenance material and equipment at any time;

(f) Farm equipment dealers hauling, driving, delivering, or picking up farm equipment or implements of husbandry within the county in which the dealer maintains his or her place of business, or in any adjoining county or counties, and return;

(g) The overhang of any motor vehicle being hauled upon any lawful combination of vehicles, but such overhang shall not exceed the distance from the rear axle of the hauled motor vehicle to the closest bumper thereof;

(h) The overhang of a combine to be engaged in harvesting, while being transported into or through the state driven during daylight hours by a truck-tractor semitrailer combination, but the length of the semitrailer, including overhang, shall not exceed sixty-three feet and the maximum semitrailer length shall not exceed fifty-three feet; or

(i) Any rubber-tired crane with a fixed load when the requirements of subdivision (2)(j) of section 60-6,288 are met.

(3) The length limitations of this section shall be exclusive of safety and energy conservation devices such as rearview mirrors, turnsignal lights, marker lights, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors, and other devices necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

Sec. 19. Section 66-718, Reissue Revised Statutes of Nebraska, is amended to read:

66-718. (1) The department may require such other information as it deems necessary on any report, return, or other statement under the motor fuel laws. Licensees under the International Fuel Tax Agreement Act shall file reports as required by the agreement under section 66-1406.

(2) The department may require any of the reports, returns, or other filings under the motor fuel laws to be made electronically, except that such requirement shall not apply to any person normally reporting less than one hundred thousand gallons of motor fuel a month.

(3) The department shall prescribe the formats or procedures for electronic filing. To the extent not inconsistent with requirements of the motor fuel laws, the department shall adopt formats and procedures that are consistent with other states requiring electronic reporting of motor fuel

information.

(4) Any person who does not file electronically when required or who fails to use the prescribed formats and procedures shall be considered to have not filed the return, report, or other filing.

Sec. 20. Section 66-1405, Reissue Revised Statutes of Nebraska, is amended to read:

66-1405. The amount of the tax imposed and collected on behalf of this state under an agreement shall be determined as provided in Chapter 66, articles 4 and 6. The Department of Revenue in administering such articles shall provide information and assistance to the director regarding the amount of tax imposed and collected from time to time as may be necessary. The amount of tax due under an agreement may be collected by setoff against any state income tax refund due to the taxpayer pursuant to sections 25 to 36 of this act.

Sec. 21. Section 66-1411, Reissue Revised Statutes of Nebraska, is amended to read:

66-1411. (1) The legal remedies for any person served with an order or assessment under the International Fuel Tax Agreement Act shall be as prescribed in Chapter 66, article 7, and the Administrative Procedure Act.

(2) The director shall adopt and promulgate rules and regulations for enforcement, collection, and appeals consistent with Chapter 66, article 7, the Administrative Procedure Act, and the International Fuel Tax Agreement Act. Any person filing a report or return for tax due shall follow the filing periods or due dates established by the agreement under section 66-1406.

Sec. 22. Section 66-1414, Reissue Revised Statutes of Nebraska, 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 Motor Carrier Services Division Distributive Fund to carry out the International Fuel Tax Agreement Act. the Highway Trust Fund for allocation as other motor vehicle fuel taxes, 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 director 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. The Motor Carrier Services Division Distributive Fund is created. The fund shall be set apart and maintained by the State Treasurer to carry out the International Registration Plan and the International Fuel Tax Agreement Act. Any money in the Base State Fuels Tax Fund and in the International Registration Plan Distributive Fund on the operative date of this section shall be transferred to the Motor Carrier Services Division Distributive Fund. Any money in the Motor Carrier Services Division Distributive 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. Any interest received on money in the Motor Carrier Services Division Distributive Fund shall be credited to the Highway Trust Fund.

Sec. 23. Section 77-27,119, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,119. (1) The Tax Commissioner shall administer and enforce the income tax imposed by sections 77-2714 to 77-27,135, and he or she is authorized to conduct hearings, to adopt and promulgate such rules and regulations, and to require such facts and information to be reported as he or she may deem necessary to enforce the income tax provisions of such sections, except that such rules, regulations, and reports shall not be inconsistent with the laws of this state or the laws of the United States. The Tax Commissioner may for enforcement and administrative purposes divide the state into a reasonable number of districts in which branch offices may be maintained.

(2)(a) The Tax Commissioner may prescribe the form and contents of any return or other document required to be filed under the income tax provisions. Such return or other document shall be compatible as to form and content with the return or document required by the laws of the United States. The form shall have a place where the taxpayer shall designate the school district in which he or she lives and the county in which the school district is located. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure compliance with this requirement.

(b) The State Department of Education, with the assistance and cooperation of the Department of Revenue, shall develop a uniform system for numbering all school districts in the state. Such system shall be consistent with the data processing needs of the Department of Revenue and shall be used for the school district identification required by subdivision (a) of this subsection.

(c) The proper filing of an income tax return shall consist of the submission of such form as prescribed by the Tax Commissioner or an exact facsimile thereof with sufficient information provided by the taxpayer on the face of the form from which to compute the actual tax liability. Each taxpayer shall include such taxpayer's correct social security number or state identification number and the school district identification number of the school district in which the taxpayer resides on the face of the form. A filing is deemed to occur when the required information is provided.

(3) The Tax Commissioner, for the purpose of ascertaining the correctness of any return or other document required to be filed under the income tax provisions, for the purpose of determining corporate income, individual income, and withholding tax due, or for the purpose of making an estimate of taxable income of any person, shall have the power to examine or to cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters and may by summons require the attendance of the person responsible for rendering such return or other document or remitting any tax, or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons.

(4) The time and place of examination pursuant to this section shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons.

(5) No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer who brings an action to review the tax based thereon, against whom an action or proceeding for collection of tax has been instituted, or against whom an action, proceeding, or prosecution for failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-4110, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the

retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, or (h) to prohibit the disclosure to the Department of Labor of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Labor to be delinquent in the payment of contributions or in the repayment of benefit overpayments, and such disclosure shall be strictly limited to information necessary for the administration of the Employment Security Law, or (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

(7) Reports and returns required to be filed under income tax provisions of sections 77-2714 to 77-27,135 shall be preserved until the Tax Commissioner orders them to be destroyed.

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his or her delegates or the proper officer of any state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

(9) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(10)(a) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts, make tax returns and tax return information open to inspection by or disclosure to officers and employees of the Auditor of Public Accounts for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 84-304. The Auditor of Public Accounts shall statistically and randomly select the tax returns and tax return information to be audited based upon a computer tape provided by the Department of Revenue which contains only total population documents without specific identification of taxpayers. The Tax Commissioner shall have the authority to approve the statistical sampling method used by the Auditor of Public Accounts. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No officer or employee of the Auditor of Public Accounts shall disclose to any person, other than another officer or employee of the Auditor of Public Accounts whose official duties require such disclosure, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class IV felony and, in the discretion of the court, may be assessed the costs of prosecution. The guilty officer or employee shall be

dismissed from employment and be ineligible to hold any position of employment with the State of Nebraska for a period of two years thereafter. For purposes of this subsection, officer or employee shall include a former officer or employee of the Auditor of Public Accounts.

(11) For purposes of subsections (10) through (13) of this section:

(a) Tax returns shall mean any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2714 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return;

(b) Return information shall mean:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Disclosures shall mean the making known to any person in any manner a return or return information.

(12) The Auditor of Public Accounts shall (a) notify the Tax Commissioner in writing thirty days prior to the beginning of an audit of his or her intent to conduct an audit, (b) provide an audit plan, and (c) provide a list of the tax returns and tax return information identified for inspection during the audit.

(13) The Auditor of Public Accounts shall, as a condition for receiving tax returns and tax return information: (a) Subject his or her employees to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return information, or audit workpapers shall be stored; (d) restrict access to the tax returns or tax return information only to persons whose duties or responsibilities require access; (e) provide such other safeguards as the Tax Commissioner determines to be necessary or appropriate to protect the confidentiality of the tax returns or tax return information; (f) provide a report to the Tax Commissioner which describes the procedures established and utilized by the Auditor of Public Accounts for insuring the confidentiality of tax returns, tax return information, and audit workpapers; and (g) upon completion of use of such returns or tax return information, return to the Tax Commissioner such returns or tax return information, along with any copies.

(14) The Tax Commissioner may permit other tax officials of this state to inspect the tax returns and reports filed under sections 77-2714 to 77-27,135, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(15) The Tax Commissioner shall compile the school district information required by subsection (2) of this section. Insofar as it is possible, such compilation shall include, but not be limited to, the total adjusted gross income of each school district in the state. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure that such compilation does not violate the confidentiality of any individual income tax return nor conflict with any other provisions of state or federal law.

Sec. 24. Section 77-27,208, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,208. Setoffs against state income tax refunds shall have the following ~~priorities~~ priority in the following order:

(1) Setoffs by the Department of Health and Human Services Finance and Support;

(2) Setoffs by the Internal Revenue Service; and

(3) Setoffs by the Department of Labor; and

(4) Setoffs by the Department of Motor Vehicles.

Sec. 25. It is the intent of the Legislature to establish and maintain a procedure to set off against a debtor's state income tax refund any debt owed to the Department of Motor Vehicles which has accrued as a result of an individual's liability for motor fuel taxes pursuant to section 66-1405.

Sec. 26. The Department of Revenue, the Department of Administrative Services, and the Department of Motor Vehicles shall develop and implement a collection system to carry out the intent of section 25 of this act.

Sec. 27. For purposes of sections 25 to 36 of this act:

(1) Debt means motor fuel taxes due and payable to the Department of Motor Vehicles pursuant to section 66-1405; and

(2) Refund means any Nebraska state income tax refund which the Department of Revenue determines to be due an individual, corporate, or business taxpayer. In the case of a joint income tax return, it shall be presumed that each partner to the marriage submitting such return contributed one-half of the earnings upon which the refund is based. The presumption may be contested by the state, the debtor, and the innocent spouse by virtue of the hearing process prescribed in section 31 of this act.

Sec. 28. The collection remedy authorized by sections 25 to 36 of this act shall be in addition to and not in substitution for any other remedy available by law.

Sec. 29. The Department of Motor Vehicles may submit any debt of twenty-five dollars or more to the Department of Revenue for collection pursuant to sections 25 to 36 of this act except when the validity of the debt has not been finally determined by the debtor's exercise or failure to exercise all applicable appeal rights.

Sec. 30. (1) If a debtor identified by the Department of Motor Vehicles pursuant to section 29 of this act is determined by the Department of Revenue to be entitled to a refund of twenty-five dollars or more, the Department of Revenue shall notify the Department of Motor Vehicles that a refund is pending.

(2) Upon receipt of the notification, the Department of Motor Vehicles shall, within twenty days, send written notification to the debtor of an assertion of its rights to all or a portion of the debtor's refund.

(3) The notification to the debtor shall clearly set forth the basis for the claim to the refund, the intention to apply the refund against the debt, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the Department of Motor Vehicles within twenty days after the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and notice that failure to apply for a hearing in writing within the twenty-day period will be deemed a waiver of the opportunity to contest the claim, causing a setoff by default. In the case of a joint income tax return, the notice shall also state the name of the taxpayer named in the return against whom no debt is claimed. There shall be no affirmative duty placed upon the non-owing spouse to initiate an action to receive payment of the noninterceptable amount.

Sec. 31. A written application pursuant to section 30 of this act by a debtor for a hearing shall be effective upon receipt of the application by the Department of Motor Vehicles. If the department receives a timely written application contesting its claim to a refund, it shall grant a hearing to the taxpayer to determine whether the claim is valid. If the amount asserted as due and owing is not correct, an adjustment to the claimed amount shall be made. No hearing shall be granted upon issues which have been finally determined.

Sec. 32. Any appeal of an action taken or as a result of a hearing held pursuant to section 31 of this act shall be in accordance with the Administrative Procedure Act.

Sec. 33. Upon the final determination of the amount and validity of the debt due and owing, by means of the hearing provided for in section 31 of this act or by the taxpayer's default through failure to request a hearing, the Department of Motor Vehicles shall certify the debt to the Department of Administrative Services within twenty days from the date of the final determination. Upon receipt of the certified debt amount from the Department of Motor Vehicles, the Department of Administrative Services shall deduct an amount equal to the certified debt from the refund due the debtor, up to the amount of the refund, and shall transfer such amount to the Department of Motor Vehicles. The Department of Administrative Services shall refund any remaining balance to the debtor as if the setoff had not occurred.

Sec. 34. When the Department of Motor Vehicles receives all or a portion of a certified debt pursuant to section 33 of this act, the department shall notify the debtor of the completion of the setoff and amount received. Such notice shall include the final amount of the refund to which the debtor

was entitled prior to the setoff, the amount of the certified debt, and the amount of the refund in excess of the debt, if any.

Sec. 35. The Department of Motor Vehicles shall reimburse the Department of Revenue and the Department of Administrative Services for all reasonable and necessary costs incurred in setting off debts pursuant to sections 25 to 36 of this act.

Sec. 36. The Department of Motor Vehicles shall adopt and promulgate rules and regulations necessary to carry out sections 25 to 36 of this act.

Sec. 37. Sections 1 to 8, 37, 41, and 42 of this act become operative on their effective date. Sections 11, 22, and 39 of this act become operative on July 1, 1997. Sections 10, 15, and 40 of this act become operative on January 1, 1998. The other sections of this act become operative three calendar months after the adjournment of this legislative session.

Sec. 38. Original sections 60-133, 60-310, 60-311.09, 66-718, 66-1405, 66-1411, 77-27,119, and 77-27,208, Reissue Revised Statutes of Nebraska, and sections 60-311.07, 60-320, 60-483, and 60-6,290, Revised Statutes Supplement, 1996, are repealed.

Sec. 39. Original section 66-1414, Reissue Revised Statutes of Nebraska, and section 60-305.09, Revised Statutes Supplement, 1996, are repealed.

Sec. 40. Original sections 60-302 and 60-312, Revised Statutes Supplement, 1996, are repealed.

Sec. 41. Original sections 37-1214, 37-1216, 37-1276 to 37-1278.01, 37-1286, and 37-1289, Revised Statutes Supplement, 1996, are repealed.

Sec. 42. Since an emergency exists, this act takes effect when passed and approved according to law.