

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 814

Introduced by Hudkins, 21

Read first time January 4, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to streets and roads; to amend sections
2 66-4,148, 66-6,109, and 77-27,132, Reissue Revised
3 Statutes of Nebraska, and sections 66-489, 66-4,105,
4 66-4,145, 66-4,146, and 66-6,107, Revised Statutes
5 Cumulative Supplement, 2004; to increase motor fuel
6 taxes; to allocate revenue as prescribed; to change
7 distribution of certain sales and use tax proceeds; to
8 provide an operative date; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-489, Revised Statutes Cumulative
2 Supplement, 2004, 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.

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

21 (b) The owner or agent of any bus equipped to carry
 22 more than seven persons for hire and engaged entirely in the
 23 transportation of passengers for hire within municipalities, or
 24 within a radius of six miles thereof, in lieu of the excise tax
 25 provided for in this section, shall pay an equalization fee of a

1 sum equal to twice the amount of the registration fee applicable to
2 such vehicle under the laws of this state. Such equalization fee
3 shall be paid in the same manner as the registration fee and be
4 disbursed and allocated as registration fees.

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

9 (4) Natural gasoline purchased for use as a denaturant
10 by a producer at an ethanol facility as defined in section 66-1333
11 shall be exempt from the motor fuels tax imposed by subsection (1)
12 of this section as well as the tax imposed pursuant to sections
13 66-4,140, 66-4,145, and 66-4,146.

14 (5) Motor fuels purchased on a Nebraska Indian
15 reservation where the purchaser is a Native American who resides on
16 the reservation shall be exempt from the motor fuels tax imposed
17 by this section as well as the tax imposed pursuant to sections
18 66-4,140, 66-4,145, and 66-4,146.

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

23 (7) In the case of diesel fuel, there shall be no tax on
24 the motor fuels reported if (a) the diesel fuel has been indelibly
25 dyed and chemically marked in accordance with regulations issued by

1 the Secretary of the Treasury of the United States under 26 U.S.C.
2 4082 or (b) the diesel fuel contains a concentration of sulphur
3 in excess of five-hundredths percent by weight or fails to meet
4 a cetane index minimum of forty and has been indelibly dyed in
5 accordance with regulations promulgated by the Administrator of the
6 Environmental Protection Agency pursuant to 42 U.S.C. 7545.

7 Sec. 2. Section 66-4,105, Revised Statutes Cumulative
8 Supplement, 2004, is amended to read:

9 66-4,105 There is hereby levied and imposed an excise
10 tax of ~~ten~~ eleven and one-half cents per gallon, increased by the
11 amounts imposed or determined under sections 66-4,140, 66-4,145,
12 and 66-4,146, upon the use of all motor fuels used in this state
13 and due the State of Nebraska under section 66-489. Users of motor
14 fuels subject to taxation under this section shall be allowed
15 the same exemptions, deductions, and rights of reimbursement as
16 are authorized and permitted by Chapter 66, article 4, other
17 than any commissions provided under such article. For purposes of
18 this section and section 66-4,106, use shall mean the purchase or
19 consumption of motor fuels in this state.

20 Sec. 3. Section 66-4,145, Revised Statutes Cumulative
21 Supplement, 2004, is amended to read:

22 66-4,145 In addition to the tax imposed by sections
23 66-489 and 66-4,140, each producer, supplier, distributor,
24 wholesaler, and importer required by section 66-489 to pay motor
25 fuels taxes shall pay an excise tax of ~~two~~ four cents per

1 gallon on all motor fuels received, imported, produced, refined,
2 manufactured, blended, or compounded by such producer, supplier,
3 distributor, wholesaler, or importer within the State of Nebraska.

4 Sec. 4. Section 66-4,146, Revised Statutes Cumulative
5 Supplement, 2004, is amended to read:

6 66-4,146 In addition to the tax imposed by sections
7 66-489, 66-4,140, and 66-4,145, each producer, supplier,
8 distributor, wholesaler, and importer required by section 66-489 to
9 pay motor fuels taxes shall pay an excise tax of ~~two~~ four cents per
10 gallon on all motor fuels used in the State of Nebraska.

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

13 66-4,148 ~~(1)~~ The State Treasurer shall monthly distribute
14 the receipts accruing to the Highway Allocation Fund pursuant to
15 section 66-4,147. One-half of such receipts shall be distributed
16 to the various counties and municipal counties for road purposes
17 and one-half of such receipts shall be distributed to the various
18 municipalities ~~and municipal counties~~ for street purposes.

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

22 Sec. 6. Section 66-6,107, Revised Statutes Cumulative
23 Supplement, 2004, is amended to read:

24 66-6,107 In addition to the tax imposed pursuant to
25 sections 66-6,108 and 66-6,109, an excise tax of ~~ten~~ eleven and

1 one-half cents per gallon or gallon equivalent is levied and
2 imposed on all compressed fuel sold for use in registered motor
3 vehicles.

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

6 66-6,109 In addition to the tax imposed by sections
7 66-6,107 and 66-6,108, each retailer shall pay an excise tax of ~~two~~
8 four cents per gallon or gallon equivalent on all compressed fuel
9 sold for use in registered motor vehicles.

10 Sec. 8. Section 77-27,132, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-27,132 (1) There is hereby created a fund to be
13 designated the Revenue Distribution Fund which shall be set apart
14 and maintained by the Tax Commissioner. Revenue not required to be
15 credited to the General Fund or any other specified fund may be
16 credited to the Revenue Distribution Fund. Credits and refunds of
17 such revenue shall be paid from the Revenue Distribution Fund. The
18 balance of the amount credited, after credits and refunds, shall be
19 allocated as provided by the statutes creating such revenue.

20 (2) The Tax Commissioner shall pay to a depository bank
21 designated by the State Treasurer all amounts collected under the
22 Nebraska Revenue Act of 1967. The Tax Commissioner shall present
23 to the State Treasurer bank receipts showing amounts so deposited
24 in the bank, and of the amounts so deposited the State Treasurer
25 shall credit to the Highway Trust Fund all of the proceeds of

1 the sales and use taxes derived from motor vehicles, trailers, and
2 semitrailers, ~~except that the proceeds equal to any sales tax~~
3 ~~rate provided for in section 77-2701.02 that is in excess of five~~
4 ~~percent derived from motor vehicles, trailers, and semitrailers~~
5 ~~shall be credited to the General Fund.~~ The balance of all amounts
6 collected under the Nebraska Revenue Act of 1967 shall be credited
7 to the General Fund.

8 Sec. 9. This act becomes operative on October 1, 2006.

9 Sec. 10. Original sections 66-4,148, 66-6,109, and
10 77-27,132, Reissue Revised Statutes of Nebraska, and sections
11 66-489, 66-4,105, 66-4,145, 66-4,146, and 66-6,107, Revised
12 Statutes Cumulative Supplement, 2004, are repealed.