

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 977

Introduced by Schrock, 38; Connealy, 16

Read first time January 9, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to motor vehicle fuel tax; to amend
2 sections 66-489 and 66-4,105, Revised Statutes Cumulative
3 Supplement, 2004; to change the tax rate on certain
4 motor fuels; to provide an operative date; to repeal the
5 original sections; and to declare an emergency.
6 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 and one-half~~
8 ~~cents per gallon~~ upon all motor fuels as shown by such return,
9 except that there shall be no tax on the motor fuels reported if
10 (a) the required taxes on the motor fuels have been paid, (b) the
11 motor fuels have been sold to a licensed exporter exclusively for
12 resale or use in another state, (c) the motor fuels have been sold
13 from a Nebraska barge line terminal, pipeline terminal, refinery,
14 or ethanol or biodiesel facility, including motor fuels stored
15 offsite in bulk, by a licensed producer or supplier to a licensed
16 distributor, (d) the motor fuels have been sold by a licensed
17 distributor or licensed importer to a licensed distributor or to a
18 licensed wholesaler and the seller acquired ownership of the motor
19 fuels directly from a licensed producer or supplier at or from
20 a refinery, barge, barge line, pipeline terminal, or ethanol or
21 biodiesel facility, including motor fuels stored offsite in bulk,
22 in this state or was the first importer of such fuel into this
23 state, or (e) as otherwise provided in this section. The tax shall
24 be nine and one-half cents per gallon on all motor vehicle fuel
25 which contains a minimum of ten-percent blend of an agricultural

1 ethyl alcohol whose purity shall be at least ninety-nine percent
2 alcohol, excluding denaturant, produced from cereal grains or
3 domestic agricultural commodities, received, imported, produced,
4 refined, manufactured, blended, or compounded by such producer,
5 supplier, distributor, wholesaler, or importer within the State of
6 Nebraska, the tax shall be twelve and one-half cents per gallon
7 on all motor vehicle fuel which does not contain such a blend of
8 agricultural ethyl alcohol, and the tax shall be ten and one-half
9 cents per gallon on all other motor fuels. Such producer, supplier,
10 distributor, wholesaler, or importer shall remit such tax to the
11 department.

12 (2) As part of filing the return required by section
13 66-488, each producer of ethanol shall, in addition to other
14 taxes imposed by the motor fuel laws, pay an excise tax of one
15 and one-quarter cents per gallon through December 31, 2004, and
16 commencing January 1, 2010, and two and one-half cents per gallon
17 commencing January 1, 2005, through December 31, 2009, on natural
18 gasoline purchased for use as a denaturant by the producer at
19 an ethanol facility. All taxes, interest, and penalties collected
20 under this subsection shall be remitted to the State Treasurer
21 for credit to the Agricultural Alcohol Fuel Tax Fund, except that
22 commencing January 1, 2005, through December 31, 2009, one and
23 one-quarter cents per gallon of such excise tax shall be credited
24 to the Ethanol Production Incentive Cash Fund.

25 (3)(a) Motor fuels, methanol, and all blending agents

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

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

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

20 (4) Natural gasoline purchased for use as a denaturant
21 by a producer at an ethanol facility as defined in section 66-1333
22 shall be exempt from the motor fuels tax imposed by subsection (1)
23 of this section as well as the tax imposed pursuant to sections
24 66-4,140, 66-4,145, and 66-4,146.

25 (5) Motor fuels purchased on a Nebraska Indian

1 reservation where the purchaser is a Native American who resides on
2 the reservation shall be exempt from the motor fuels tax imposed
3 by this section as well as the tax imposed pursuant to sections
4 66-4,140, 66-4,145, and 66-4,146.

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

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

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

20 66-4,105 There is hereby levied and imposed an excise
21 tax, ~~of ten and one-half cents per gallon,~~ increased by the
22 amounts imposed or determined under sections 66-4,140, 66-4,145,
23 and 66-4,146, upon the use of all motor fuels used in this state
24 and due the State of Nebraska under section 66-489. The tax shall
25 be nine and one-half cents per gallon on all motor vehicle fuel

1 which contains a minimum of ten-percent blend of an agricultural
2 ethyl alcohol whose purity shall be at least ninety-nine percent
3 alcohol, excluding denaturant, produced from cereal grains or
4 domestic agricultural commodities, received, imported, produced,
5 refined, manufactured, blended, or compounded by such producer,
6 supplier, distributor, wholesaler, or importer within the State
7 of Nebraska, the tax shall be twelve and one-half cents per
8 gallon on all motor vehicle fuel which does not contain such a
9 blend of agricultural ethyl alcohol, and the tax shall be ten
10 and one-half cents per gallon on all other motor fuels. Users of
11 motor fuels subject to taxation under this section shall be allowed
12 the same exemptions, deductions, and rights of reimbursement as
13 are authorized and permitted by Chapter 66, article 4, other
14 than any commissions provided under such article. For purposes of
15 this section and section 66-4,106, use shall mean the purchase or
16 consumption of motor fuels in this state.

17 Sec. 3. This act becomes operative on July 1, 2006.

18 Sec. 4. Original sections 66-489 and 66-4,105, Revised
19 Statutes Cumulative Supplement, 2004, are repealed.

20 Sec. 5. Since an emergency exists, this act takes effect
21 when passed and approved according to law.