

LEGISLATURE OF NEBRASKA  
 ONE HUNDREDTH LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 41**

Introduced By: Hudkins, 21;  
 Read first time: January 4, 2007  
 Committee: Revenue

A BILL

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

1           Section 1. Section 66-489 Revised Statutes Cumulative  
2 Supplement, 2006, 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, or  
5 importer shall, in addition to the tax imposed pursuant to sections  
6 66-4,140, 66-4,145, and 66-4,146 and in addition to the other taxes  
7 provided for by law, pay a tax of ~~ten~~ eleven and one-half cents  
8 per gallon upon all motor fuels as shown by such return, except that  
9 there shall be no tax on the motor fuels reported if (a) the required  
10 taxes on the motor fuels have been paid, (b) the motor fuels have been  
11 sold to a licensed exporter exclusively for resale or use in another  
12 state, (c) the motor fuels have been sold from a Nebraska barge line  
13 terminal, pipeline terminal, refinery, or ethanol or biodiesel  
14 facility, including motor fuels stored offsite in bulk, by a licensed  
15 producer or supplier to a licensed distributor, (d) the motor fuels  
16 have been sold by a licensed distributor or licensed importer to a  
17 licensed distributor or to a licensed wholesaler and the seller  
18 acquired ownership of the motor fuels directly from a licensed  
19 producer or supplier at or from a refinery, barge, barge line,  
20 pipeline terminal, or ethanol or biodiesel facility, including motor  
21 fuels stored offsite in bulk, in this state or was the first importer  
22 of such fuel into this state, or (e) as otherwise provided in this  
23 section. Such producer, supplier, distributor, wholesaler, or importer  
24 shall remit such tax to the department.

25           (2) As part of filing the return required by section 66-488,  
26 each producer of ethanol shall, in addition to other taxes imposed by  
27 the motor fuel laws, pay an excise tax of one and one-quarter cents

1 per gallon through December 31, 2004, and commencing January 1, 2010,  
2 and two and one-half cents per gallon commencing January 1, 2005,  
3 through December 31, 2009, on natural gasoline purchased for use as a  
4 denaturant by the producer at an ethanol facility. All taxes,  
5 interest, and penalties collected under this subsection shall be  
6 remitted to the State Treasurer for credit to the Agricultural Alcohol  
7 Fuel Tax Fund, except that commencing January 1, 2005, through  
8 December 31, 2009, one and one-quarter cents per gallon of such excise  
9 tax shall be credited to the Ethanol Production Incentive Cash Fund.

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

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

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

1           (4) Natural gasoline purchased for use as a denaturant by a  
2 producer at an ethanol facility as defined in section 66-1333 shall be  
3 exempt from the motor fuels tax imposed by subsection (1) of this  
4 section as well as the tax imposed pursuant to sections 66-4,140,  
5 66-4,145, and 66-4,146.

6           (5) Unless otherwise provided by an agreement entered into  
7 between the State of Nebraska and the governing body of any federally  
8 recognized Indian tribe within the State of Nebraska, motor fuels  
9 purchased on a Nebraska Indian reservation where the purchaser is a  
10 Native American who resides on the reservation shall be exempt from  
11 the motor fuels tax imposed by this section as well as the tax imposed  
12 pursuant to sections 66-4,140, 66-4,145, and 66-4,146.

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

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

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

1           66-4,105. There is hereby levied and imposed an excise tax  
2 of ~~ten~~ eleven and one-half cents per gallon, increased by the  
3 amounts imposed or determined under sections 66-4,140, 66-4,145, and  
4 66-4,146, upon the use of all motor fuels used in this state and due  
5 the State of Nebraska under section 66-489. Users of motor fuels  
6 subject to taxation under this section shall be allowed the same  
7 exemptions, deductions, and rights of reimbursement as are authorized  
8 and permitted by Chapter 66, article 4, other than any commissions  
9 provided under such article. For purposes of this section and section  
10 66-4,106, use shall mean the purchase or consumption of motor fuels in  
11 this state.

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

14           66-4,145. In addition to the tax imposed by sections 66-489  
15 and 66-4,140, each producer, supplier, distributor, wholesaler, and  
16 importer required by section 66-489 to pay motor fuels taxes shall pay  
17 an excise tax of ~~two~~ four cents per gallon on all motor fuels  
18 received, imported, produced, refined, manufactured, blended, or  
19 compounded by such producer, supplier, distributor, wholesaler, or  
20 importer within the State of Nebraska.

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

23           66-4,146. In addition to the tax imposed by sections 66-489,  
24 66-4,140, and 66-4,145, each producer, supplier, distributor,  
25 wholesaler, and importer required by section 66-489 to pay motor fuels  
26 taxes shall pay an excise tax of ~~two~~ four cents per gallon on all  
27 motor fuels used in the State of Nebraska.

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

3           66-4,148. (1) The State Treasurer shall monthly distribute  
4 the receipts accruing to the Highway Allocation Fund pursuant to  
5 section 66-4,147. One-half of such receipts shall be distributed to  
6 the various counties and municipal counties for road purposes and  
7 one-half of such receipts shall be distributed to the various  
8 municipalities ~~and municipal counties~~ for street purposes.

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

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

14           66-6,107. In addition to the tax imposed pursuant to  
15 sections 66-6,108 and 66-6,109, an excise tax of ~~ten~~ eleven and  
16 one-half cents per gallon or gallon equivalent is levied and imposed  
17 on all compressed fuel sold for use in registered motor vehicles.

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

20           66-6,109. In addition to the tax imposed by sections  
21 66-6,107 and 66-6,108, each retailer shall pay an excise tax of ~~two~~  
22 four cents per gallon or gallon equivalent on all compressed fuel  
23 sold for use in registered motor vehicles.

24           Sec. 8. Section 77-27,132 Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           77-27,132. (1) There is hereby created a fund to be  
27 designated the Revenue Distribution Fund which shall be set apart and

1 maintained by the Tax Commissioner. Revenue not required to be  
2 credited to the General Fund or any other specified fund may be  
3 credited to the Revenue Distribution Fund. Credits and refunds of such  
4 revenue shall be paid from the Revenue Distribution Fund. The balance  
5 of the amount credited, after credits and refunds, shall be allocated  
6 as provided by the statutes creating such revenue.

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

20 Sec. 9. This act becomes operative on October 1, 2007.

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