

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 881

Introduced by Stuthman, 22.

Read first time January 11, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 39-2215, Revised Statutes Cumulative Supplement, 2006;
3 to impose an excise tax on ethanol and provide for its
4 use; to harmonize provisions; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) An excise tax is imposed on the production
2 of ethanol in this state. The tax shall be paid by the owner of the
3 ethanol production facility. The tax rate shall be three cents per
4 gallon of ethanol.

5 (2) The tax shall be remitted to the Department of
6 Revenue for credit to the Highway Trust Fund. Payment of the
7 tax shall be accompanied by a report setting forth the number of
8 gallons of ethanol produced at the facility during the reporting
9 period. The report shall be on a form prescribed by the department
10 and shall include such other information as the Tax Commissioner
11 deems necessary. The tax and report shall be remitted within thirty
12 days after the end of each quarter. Credits and refunds of such
13 tax shall be paid from the Highway Trust Fund. The balance of the
14 amount credited, after credits and refunds, shall be allocated as
15 follows:

16 (a) Fifty percent to the Highway Cash Fund for the
17 Department of Roads;

18 (b) Twenty-five percent to the Highway Allocation Fund
19 for allocation to the various counties for road purposes; and

20 (c) Twenty-five percent to the Highway Allocation Fund
21 for allocation to the various municipalities for street purposes.

22 (3) Any person violating this section shall be guilty of
23 a Class III misdemeanor.

24 (4) The Tax Commissioner shall adopt and promulgate rules
25 and regulations to carry out this section.

1 Sec. 2. Section 39-2215, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 39-2215 (1) There is hereby created in the state treasury
4 a special fund to be known as the Highway Trust Fund.

5 (2) All funds credited to the Highway Trust Fund pursuant
6 to sections 66-4,140, 66-4,147, and 66-6,108 and section 1 of this
7 act, and related penalties and interest, shall be allocated as
8 provided in such sections.

9 (3) All other motor vehicle fuel taxes, diesel fuel
10 taxes, compressed fuel taxes, and alternative fuel taxes related to
11 highway use retained by the state, all motor vehicle registration
12 fees retained by the state other than those fees credited to
13 the State Recreation Road Fund pursuant to subdivision (3) of
14 section 60-3,156, and other highway-user taxes imposed by state
15 law and allocated to the Highway Trust Fund, except for the
16 proceeds of the sales and use taxes derived from motor vehicles,
17 trailers, and semitrailers credited to the fund pursuant to section
18 77-27,132, are hereby irrevocably pledged for the terms of the
19 bonds issued prior to January 1, 1988, to the payment of the
20 principal, interest, and redemption premium, if any, of such bonds
21 as they mature and become due at maturity or prior redemption
22 and for any reserves therefor and shall, as received by the State
23 Treasurer, be deposited in the fund for such purpose.

24 (4) Of the money in the fund specified in subsection
25 (3) of this section which is not required for the use specified

1 in such subsection, (a) an amount equal to three dollars times
2 the number of motorcycles registered during the previous month
3 shall be placed in the Motorcycle Safety Education Fund, (b) an
4 amount to be determined annually by the Legislature through the
5 appropriations process may be transferred to the Motor Fuel Tax
6 Enforcement and Collection Cash Fund for use as provided in section
7 66-738 on a monthly or other less frequent basis as determined by
8 the appropriation language, (c) an amount to be determined annually
9 by the Legislature through the appropriations process shall be
10 transferred to the License Plate Cash Fund as certified by the
11 Director of Motor Vehicles, and (d) the remaining money may be
12 used for the purchase for retirement of the bonds issued prior to
13 January 1, 1988, in the open market.

14 (5) The State Treasurer shall monthly transfer, from the
15 proceeds of the sales and use taxes credited to the Highway Trust
16 Fund and any money remaining in the fund after the requirements of
17 subsections (2) through (4) of this section are satisfied, thirty
18 thousand dollars to the Grade Crossing Protection Fund.

19 (6) Except as provided in subsection (7) of this
20 section, the balance of the Highway Trust Fund shall be allocated
21 fifty-three and one-third percent, less the amount provided for
22 in section 39-847.01, to the Department of Roads, twenty-three
23 and one-third percent, less the amount provided for in section
24 39-847.01, to the various counties for road purposes, and
25 twenty-three and one-third percent to the various municipalities

1 for street purposes. If bonds are issued pursuant to subsection
2 (2) of section 39-2223, the portion allocated to the Department
3 of Roads shall be credited monthly to the Highway Restoration
4 and Improvement Bond Fund, and if no bonds are issued pursuant
5 to such subsection, the portion allocated to the department
6 shall be credited monthly to the Highway Cash Fund. The portions
7 allocated to the counties and municipalities shall be credited
8 monthly to the Highway Allocation Fund and distributed monthly as
9 provided by law. Vehicles accorded prorated registration pursuant
10 to section 60-3,198 shall not be included in any formula involving
11 motor vehicle registrations used to determine the allocation and
12 distribution of state funds for highway purposes to political
13 subdivisions.

14 (7) If it is determined by December 20 of any year that a
15 county will receive from its allocation of state-collected highway
16 revenue and from any funds relinquished to it by municipalities
17 within its boundaries an amount in such year which is less than
18 such county received in state-collected highway revenue in calendar
19 year 1969, based upon the 1976 tax rates for highway-user fuels and
20 registration fees, the Department of Roads shall notify the State
21 Treasurer that an amount equal to the sum necessary to provide such
22 county with funds equal to such county's 1969 highway allocation
23 for such year shall be transferred to such county from the Highway
24 Trust Fund. Such makeup funds shall be matched by the county as
25 provided in sections 39-2501 to 39-2510. The balance remaining in

1 the fund after such transfer shall then be reallocated as provided
2 in subsection (6) of this section.

3 (8) The State Treasurer shall disburse the money in the
4 Highway Trust Fund as directed by resolution of the commission.
5 All disbursements from the fund shall be made upon warrants drawn
6 by the Director of Administrative Services. Any money in the fund
7 available for investment shall be invested by the state investment
8 officer pursuant to the Nebraska Capital Expansion Act and the
9 Nebraska State Funds Investment Act and the earnings, if any,
10 credited to the fund.

11 Sec. 3. Original section 39-2215, Revised Statutes
12 Cumulative Supplement, 2006, is repealed.