

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 796

Introduced by Stuthman, 22.

Read first time January 08, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 39-2215, 66-489, 66-489.01, 66-495.01, 66-4,105,  
3 66-4,114, 66-4,145, 66-4,146, 66-697, 66-6,107, 66-6,109,  
4 66-6,111, and 66-726, Reissue Revised Statutes of  
5 Nebraska; to change fuel tax provisions; to impose a fuel  
6 tax for completion of the state expressway system; to  
7 provide a duty for the Revisor of Statutes; to provide an  
8 operative date; and to repeal the original sections.

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

1           Section 1. Section 39-2215, Reissue Revised Statutes of  
2 Nebraska, 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 66-489.02, 66-499, 66-4,140, 66-4,147, 66-6,108, and  
7 66-6,109.02, and sections 9 and 11 of this act, and related  
8 penalties and interest, shall be allocated as provided in such  
9 sections.

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

25           (4) Of the money in the fund specified in subsection

1 (3) of this section which is not required for the use specified  
2 in such subsection, (a) an amount equal to three dollars times  
3 the number of motorcycles registered during the previous month  
4 shall be placed in the Motorcycle Safety Education Fund, (b) an  
5 amount to be determined annually by the Legislature through the  
6 appropriations process may be transferred to the Motor Fuel Tax  
7 Enforcement and Collection Cash Fund for use as provided in section  
8 66-738 on a monthly or other less frequent basis as determined by  
9 the appropriation language, (c) an amount to be determined annually  
10 by the Legislature through the appropriations process shall be  
11 transferred to the License Plate Cash Fund as certified by the  
12 Director of Motor Vehicles, and (d) the remaining money may be  
13 used for the purchase for retirement of the bonds issued prior to  
14 January 1, 1988, in the open market.

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

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

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

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

1 provided in sections 39-2501 to 39-2510. The balance remaining in  
2 the fund after such transfer shall then be reallocated as provided  
3 in subsection (6) of this section.

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

12 Sec. 2. Section 66-489, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 66-489 (1) At the time of filing the return required by  
15 section 66-488, such producer, supplier, distributor, wholesaler,  
16 or importer shall, in addition to the tax imposed pursuant to  
17 sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and section 9  
18 of this act and in addition to the other taxes provided for by  
19 law, pay a tax of seven and one-half cents per gallon upon all  
20 motor fuels as shown by such return, except that there shall be  
21 no tax on the motor fuels reported if (a) the required taxes on  
22 the motor fuels have been paid, (b) the motor fuels have been sold  
23 to a licensed exporter exclusively for resale or use in another  
24 state, (c) the motor fuels have been sold from a Nebraska barge  
25 line terminal, pipeline terminal, refinery, or ethanol or biodiesel

1 facility, including motor fuels stored offsite in bulk, by a  
2 licensed producer or supplier to a licensed distributor, (d) the  
3 motor fuels have been sold by a licensed distributor or licensed  
4 importer to a licensed distributor or to a licensed wholesaler  
5 and the seller acquired ownership of the motor fuels directly from  
6 a licensed producer or supplier at or from a refinery, barge,  
7 barge line, pipeline terminal, or ethanol or biodiesel facility,  
8 including motor fuels stored offsite in bulk, in this state or  
9 was the first importer of such fuel into this state, or (e)  
10 as otherwise provided in this section. Such producer, supplier,  
11 distributor, wholesaler, or importer shall remit such tax to the  
12 department.

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

1 2007-08 through 2011-12, if the total receipts from the excise  
2 tax authorized in this subsection and designated for deposit in  
3 the Agricultural Alcohol Fuel Tax Fund exceed five hundred fifty  
4 thousand dollars, the State Treasurer shall deposit amounts in  
5 excess of five hundred fifty thousand dollars in the Ethanol  
6 Production Incentive Cash Fund.

7 (3)(a) Motor fuels, methanol, and all blending agents  
8 or fuel expanders shall be exempt from the taxes imposed by this  
9 section and sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and  
10 66-4,146 and section 9 of this act, when the fuels are used  
11 for buses equipped to carry more than seven persons for hire  
12 and engaged entirely in the transportation of passengers for hire  
13 within municipalities or within a radius of six miles thereof.

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

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

1 this section.

2 (4) Natural gasoline purchased for use as a denaturant  
3 by a producer at an ethanol facility as defined in section 66-1333  
4 shall be exempt from the motor fuels tax imposed by subsection (1)  
5 of this section as well as the tax imposed pursuant to sections  
6 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and section 9 of this  
7 act.

8 (5) Unless otherwise provided by an agreement entered  
9 into between the State of Nebraska and the governing body of any  
10 federally recognized Indian tribe within the State of Nebraska,  
11 motor fuels purchased on a Nebraska Indian reservation where the  
12 purchaser is a Native American who resides on the reservation shall  
13 be exempt from the motor fuels tax imposed by this section as  
14 well as the tax imposed pursuant to sections 66-489.02, 66-4,140,  
15 66-4,145, and 66-4,146 and section 9 of this act.

16 (6) Motor fuels purchased for use by the United States  
17 Government or its agencies shall be exempt from the motor fuels  
18 tax imposed by this section as well as the tax imposed pursuant to  
19 sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and section 9  
20 of this act.

21 (7) In the case of diesel fuel, there shall be no tax on  
22 the motor fuels reported if (a) the diesel fuel has been indelibly  
23 dyed and chemically marked in accordance with regulations issued by  
24 the Secretary of the Treasury of the United States under 26 U.S.C.  
25 4082 or (b) the diesel fuel contains a concentration of sulphur



1 in excess of five-hundredths percent by weight or fails to meet  
2 a cetane index minimum of forty and has been indelibly dyed in  
3 accordance with regulations promulgated by the Administrator of the  
4 Environmental Protection Agency pursuant to 42 U.S.C. 7545.

5 ~~(8) The changes made to this section by Laws 2008, LB~~  
6 ~~846, apply for tax periods beginning on and after July 1, 2009.~~

7 Sec. 3. Section 66-489.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 66-489.01 Methanol, benzine, benzol, naphtha, kerosene,  
10 and any other volatile, flammable, or combustible liquid suitable  
11 for use as a motor fuels blending agent or fuel expander shall  
12 be exempt from the taxes imposed under sections 66-489, 66-489.02,  
13 66-4,105, 66-4,140, 66-4,145, and 66-4,146 and section 9 of this  
14 act unless and until such methanol, benzine, benzol, naphtha,  
15 kerosene, or other blending agent or fuel expander is blended with  
16 motor fuels or placed directly into the supply tank of a licensed  
17 motor vehicle. Any person blending such products with motor fuels  
18 or placing such products into the supply tank of a licensed motor  
19 vehicle shall pay the taxes imposed under such sections directly  
20 to the department on forms provided by the department at the same  
21 time as the motor fuels with which it is blended become subject  
22 to taxation or, if the tax imposed on the motor fuels has already  
23 been paid, upon blending. The taxes imposed by this section shall  
24 not apply to fuel additives which are used to enhance engine  
25 performance or prevent fuel line freezing or clogging when placed

1 directly into the supply tank of a motor vehicle in quantities of  
2 one quart or less.

3           Sec. 4. Section 66-495.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           66-495.01 (1) Except as provided in subsection (5) of  
6 this section, the fuel supply tank of a motor vehicle registered  
7 or required to be registered for operation on the highway shall  
8 not contain or be used with undyed diesel fuel that has not been  
9 taxed or diesel fuel which contains any evidence of the dye or  
10 chemical marker added pursuant to the regulations promulgated under  
11 26 U.S.C. 4082 or 42 U.S.C. 7545 indicating untaxed low-sulphur or  
12 high-sulphur diesel fuel.

13           (2) No retailer of diesel fuel shall sell or offer  
14 to sell diesel fuel that contains any evidence of the dye or  
15 chemical marker added pursuant to the regulations promulgated under  
16 26 U.S.C. 4082 or 42 U.S.C. 7545 indicating untaxed low-sulphur  
17 or high-sulphur diesel fuel unless the fuel dispensing device is  
18 clearly marked with a notice that the fuel is dyed or chemically  
19 marked.

20           (3) Any law enforcement officer, any carrier enforcement  
21 officer, or any agent of the department who has reasonable grounds  
22 to suspect a violation of this section may inspect the fuel in  
23 the fuel supply tank of any motor vehicle or the fuel storage  
24 facilities and dispensing devices of any diesel fuel retailer  
25 to determine compliance with this section. Fuel inspections may

1 also be conducted in the course of safety or other inspections  
2 authorized by law.

3 (4) Any person who violates any provision of this section  
4 or who refuses to permit an inspection authorized by this section  
5 shall be guilty of a Class IV misdemeanor and shall be subject  
6 to an administrative penalty of two hundred fifty dollars for the  
7 first such violation. If the person had another violation under  
8 this section within the last five years, the person shall be  
9 subject to an administrative penalty of one thousand dollars for  
10 the current violation. If the person had two or more violations  
11 under this section within the last five years, the person shall be  
12 subject to an administrative penalty of two thousand five hundred  
13 dollars for the current violation. All such penalties shall be  
14 assessed against the owner of the vehicle as of the date of the  
15 violation. The penalty shall be assessed and collected by the  
16 department. All such penalties collected shall be remitted to the  
17 State Treasurer for credit to the Highway Trust Fund.

18 (5) Any motor vehicle owned or leased by any state,  
19 county, municipality, or other political subdivision may be  
20 operated on the highways of this state with dyed diesel fuel,  
21 except high-sulphur diesel fuel dyed in accordance with regulations  
22 promulgated by the Administrator of the Environmental Protection  
23 Agency pursuant to 42 U.S.C. 7545, if the taxes imposed by sections  
24 66-482 to 66-4,149 are paid to the department by the state, county,  
25 municipality, or other political subdivision. The state, county,

1 municipality, or other political subdivision shall pay the tax and  
2 file a return concerning the tax to the department in like manner  
3 and form as is required under sections 66-489.02, 66-4,105, and  
4 66-4,106 and section 9 of this act.

5 (6) For purposes of this section:

6 (a) Owner means registered owner, titleholder, lessee  
7 entitled to possession of the motor vehicle, or anyone otherwise  
8 maintaining a possessory interest in the motor vehicle, but does  
9 not include anyone who, without participating in the use or  
10 operation of the motor vehicle and otherwise not engaged in the  
11 purpose for which the motor vehicle is being used, holds indicia  
12 of ownership primarily to protect his or her security interest in  
13 the motor vehicle or who acquired ownership of the motor vehicle  
14 pursuant to a foreclosure of a security interest in the motor  
15 vehicle; and

16 (b) Use means to operate, fuel, or otherwise employ.

17 Sec. 5. Section 66-4,105, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 66-4,105 There is hereby levied and imposed an excise tax  
20 of seven and one-half cents per gallon, increased by the amounts  
21 imposed or determined under sections 66-489.02, 66-4,140, 66-4,145,  
22 and 66-4,146 and section 9 of this act, upon the use of all motor  
23 fuels used in this state and due the State of Nebraska under  
24 section 66-489. Users of motor fuels subject to taxation under  
25 this section shall be allowed the same exemptions, deductions,

1 and rights of reimbursement as are authorized and permitted by  
2 Chapter 66, article 4, other than any commissions provided under  
3 such article. For purposes of this section and section 66-4,106 and  
4 section 9 of this act, use shall mean the purchase or consumption  
5 of motor fuels in this state. ~~The changes made to this section by~~  
6 ~~Laws 2008, LB 846, apply for tax periods beginning on and after~~  
7 ~~July 1, 2009.~~

8           Sec. 6. Section 66-4,114, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           66-4,114 Motor fuels in the supply tank of any qualified  
11 motor vehicle as defined in section 66-1416 which is regularly  
12 connected with the carburetor of the engine of any such vehicle and  
13 which is brought into this state shall be liable for the payment  
14 of the tax imposed by this state upon motor fuels under sections  
15 66-489, 66-489.02, and 66-4,105 and section 9 of this act except  
16 when a trip permit is used as provided in the International Fuel  
17 Tax Agreement Act.

18           Sec. 7. Section 66-4,145, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           66-4,145 In addition to the tax imposed by sections  
21 66-489, 66-489.02, and 66-4,140 and section 9 of this act, each  
22 producer, supplier, distributor, wholesaler, and importer required  
23 by section 66-489 to pay motor fuels taxes shall pay an excise  
24 tax of two and eight-tenths cents per gallon on all motor fuels  
25 received, imported, produced, refined, manufactured, blended, or

1 compounded by such producer, supplier, distributor, wholesaler, or  
2 importer within the State of Nebraska. ~~The changes made to this~~  
3 ~~section by Laws 2008, LB 846, apply for tax periods beginning on~~  
4 ~~and after July 1, 2009.~~

5 Sec. 8. Section 66-4,146, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 66-4,146 In addition to the tax imposed by sections  
8 66-489, 66-489.02, 66-4,140, and 66-4,145 and section 9 of this  
9 act, each producer, supplier, distributor, wholesaler, and importer  
10 required by section 66-489 to pay motor fuels taxes shall pay an  
11 excise tax of two and eight-tenths cents per gallon on all motor  
12 fuels used in the State of Nebraska. ~~The changes made to this~~  
13 ~~section by Laws 2008, LB 846, apply for tax periods beginning on~~  
14 ~~and after July 1, 2009.~~

15 Sec. 9. (1) For tax periods beginning on and after  
16 October 1, 2010, at the time of filing the return required by  
17 section 66-488, the producer, supplier, distributor, wholesaler, or  
18 importer shall, in addition to the other taxes provided for by law,  
19 pay a tax of five cents per gallon upon all motor fuels as shown  
20 by such return.

21 (2) For tax periods beginning on and after October 1,  
22 2010, there is levied and imposed an excise tax of five cents  
23 per gallon, increased by the amounts imposed or determined under  
24 sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the  
25 use of all motor fuels used in this state and due the State of

1 Nebraska under section 66-489. Users of motor fuels subject to  
2 taxation under this section shall be allowed the same exemptions,  
3 deductions, and rights of reimbursement as are authorized and  
4 permitted by Chapter 66, article 4, other than any commissions  
5 provided under such article.

6 (3) All sums of money received under this section shall  
7 be credited to the Highway Trust Fund. Credits and refunds of such  
8 tax allowed to producers, suppliers, distributors, wholesalers, or  
9 importers shall be paid from the Highway Trust Fund. The balance of  
10 the amount credited, after credits and refunds, shall be allocated  
11 for completion of the state expressway system.

12 (4) For purposes of this section, state expressway system  
13 means those roads included on the map entitled "NEBRASKA EXPRESSWAY  
14 SYSTEM" on page 33 of the 2006 State Highway Needs Assessment,  
15 prepared by the Department of Roads, and on file with the  
16 Clerk of the Legislature. The adoption by reference of the map  
17 includes the roads designated as Original (Programmed), Planned  
18 (Not Programmed), and Planned (Programmed).

19 (5) This section terminates on the first day of the tax  
20 period immediately following completion of the state expressway  
21 system.

22 Sec. 10. Section 66-697, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 66-697 Sections 66-697 to 66-6,116 and section 11 of this  
25 act shall be known and may be cited as the Compressed Fuel Tax Act.

1           Sec. 11. (1) For tax periods beginning on and after  
2 October 1, 2010, at the time of filing the return required by  
3 section 66-6,110, the retailer shall, in addition to the other  
4 taxes provided for by law, pay a tax of five cents per gallon or  
5 gallon equivalent on all compressed fuel sold for use in registered  
6 motor vehicles.

7           (2) All sums of money received under this section shall  
8 be credited to the Highway Trust Fund. Credits and refunds of such  
9 tax allowed to retailers shall be paid from the Highway Trust Fund.  
10 The balance of the amount credited, after credits and refunds,  
11 shall be allocated for completion of the state expressway system.

12           (3) For purposes of this section, state expressway system  
13 means those roads included on the map entitled "NEBRASKA EXPRESSWAY  
14 SYSTEM" on page 33 of the 2006 State Highway Needs Assessment,  
15 prepared by the Department of Roads, and on file with the  
16 Clerk of the Legislature. The adoption by reference of the map  
17 includes the roads designated as Original (Programmed), Planned  
18 (Not Programmed), and Planned (Programmed).

19           (4) This section terminates on the first day of the tax  
20 period immediately following completion of the state expressway  
21 system.

22           Sec. 12. Section 66-6,107, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           66-6,107 In addition to the tax imposed pursuant to  
25 sections 66-6,108, 66-6,109, and 66-6,109.02 and section 11 of this



1 act, an excise tax of seven and one-half cents per gallon or gallon  
2 equivalent is levied and imposed on all compressed fuel sold for  
3 use in registered motor vehicles. ~~The changes made to this section~~  
4 ~~by Laws 2008, LB 846, apply for tax periods beginning on and after~~  
5 ~~July 1, 2009.~~

6           Sec. 13. Section 66-6,109, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           66-6,109 In addition to the tax imposed by sections  
9 66-6,107, 66-6,108, and 66-6,109.02 and section 11 of this act,  
10 each retailer shall pay an excise tax of two and eight-tenths cents  
11 per gallon or gallon equivalent on all compressed fuel sold for use  
12 in registered motor vehicles. ~~The changes made to this section by~~  
13 ~~Laws 2008, LB 846, apply for tax periods beginning on and after~~  
14 ~~July 1, 2009.~~

15           Sec. 14. Section 66-6,111, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           66-6,111 The taxes imposed by sections 66-6,107,  
18 66-6,108, and 66-6,109 and section 11 of this act shall be computed  
19 by each retailer by multiplying the tax rate established in  
20 sections 66-6,107, 66-6,108, and 66-6,109 and section 11 of this  
21 act by the number of gallons or gallon equivalents of compressed  
22 fuel sold for use in registered motor vehicles.

23           Sec. 15. Section 66-726, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           66-726 (1) The department may adjust all errors in

1 payment, refund tax paid on motor fuel destroyed, refund tax  
2 overpaid on motor fuel, and refund an amount equal to the  
3 per-gallon tax imposed by this state on sales of motor fuel  
4 on which tax was paid in this state but which was sold in a state  
5 other than Nebraska.

6 (2) (a) Motor fuels shall be exempt from the taxes imposed  
7 by sections 66-489, 66-489.02, 66-4,105, 66-4,140, 66-4,145, and  
8 66-4,146 and section 9 of this act when the fuels are used for  
9 agricultural, quarrying, industrial, or other nonhighway use.

10 (b) The department shall refund tax paid on motor fuels  
11 used for an exempt purpose. The purchaser of tax-paid motor fuels  
12 used for an exempt purpose shall file a claim for refund with the  
13 department on forms prescribed by the department and shall provide  
14 such documentation and maintain such records as the department  
15 reasonably requires to substantiate that the fuels were used for  
16 exempt purposes.

17 (c) The refund claim shall include: (i) The name  
18 of claimant; (ii) the make, horsepower, and other mechanical  
19 description of machinery in which the motor fuels were used; (iii)  
20 a statement as to the source or place of business where such  
21 motor fuels, used solely for agricultural, quarrying, industrial,  
22 or other nonhighway uses, were acquired; that no part of such motor  
23 fuels were used in propelling licensed motor vehicles; and that  
24 the motor fuels for which refund of the tax thereon is claimed  
25 were used solely for agricultural, quarrying, industrial, or other

1 nonhighway uses; and (iv) any other information deemed necessary by  
2 the department.

3 (d) The department shall deduct (i) from each claim for  
4 refund of tax paid on purchases of motor vehicle fuels under this  
5 subsection two and one-quarter cents per gallon through December  
6 31, 2004, and commencing January 1, 2010, and three and one-half  
7 cents per gallon commencing January 1, 2005, through December 31,  
8 2009, of the tax paid and (ii) from each claim for refund of tax  
9 paid on purchases of diesel fuel under this subsection one cent per  
10 gallon of the tax paid.

11 (e) The department shall transmit monthly to the State  
12 Treasurer a report of the number of gallons of motor vehicle fuel  
13 for which refunds have been approved under this subsection. Through  
14 December 31, 2004, and commencing January 1, 2010, the State  
15 Treasurer shall thereupon transfer from the Highway Trust Fund to  
16 the Agricultural Alcohol Fuel Tax Fund one and one-quarter cents  
17 per gallon approved for refund, and commencing January 1, 2005,  
18 through December 31, 2009, the State Treasurer shall thereupon  
19 transfer from the Highway Trust Fund (a) to the Ethanol Production  
20 Incentive Cash Fund one and one-quarter cents per gallon approved  
21 for refund and (b) to the Agricultural Alcohol Fuel Tax Fund one  
22 and one-quarter cents per gallon approved for refund.

23 (3) No refund shall be allowed unless a claim is filed  
24 setting forth the circumstances by reason of which refund should be  
25 allowed. Such claim shall be filed with the department within three

1 years from the date of the payment of the tax.

2 (4) In each calendar year, no claim for refund related to  
3 motor vehicle fuel, diesel fuel, aircraft fuel, or compressed fuel  
4 can be for an amount less than twenty-five dollars.

5 (5) The department shall administer and enforce this  
6 section. The department may call to its aid when necessary any  
7 member of the Nebraska State Patrol, any police officer, any county  
8 attorney, or the Attorney General. The employees of the department  
9 are empowered to stop and inspect motor vehicles, to inspect  
10 premises, and temporarily to impound motor vehicles or motor fuels  
11 when necessary to administer this section.

12 (6) The department may adopt and promulgate such rules  
13 and regulations as are necessary for the prompt and effective  
14 enforcement of this section.

15 (7) Any claimant for refund of motor fuels tax under this  
16 section who is unable to produce the original copy of any invoice  
17 to substantiate the refund for the reason that the same has been  
18 lost, mutilated, or destroyed may make proof of his or her claim  
19 by affidavit and such other evidence as may be required by the  
20 department, and if such claim is verified by investigation, such  
21 claim may be allowed.

22 (8) The changes made to this section by Laws 2004, LB  
23 983, apply to motor fuels purchased during any tax year ending  
24 or deemed to end on or after January 1, 2005, under the Internal  
25 Revenue Code.

1                   Sec. 16. The Revisor of Statutes shall assign section 9  
2 of this act within Chapter 66, article 4.

3                   Sec. 17. This act becomes operative on October 1, 2010.

4                   Sec. 18. Original sections 39-2215, 66-489, 66-489.01,  
5 66-495.01, 66-4,105, 66-4,114, 66-4,145, 66-4,146, 66-697,  
6 66-6,107, 66-6,109, 66-6,111, and 66-726, Reissue Revised Statutes  
7 of Nebraska, are repealed.