

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 504**

Introduced by Campbell, 25.

Read first time January 18, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 66-489, 66-4,105, 66-4,145, 66-4,146, 66-6,107, and  
3 66-6,109, Reissue Revised Statutes of Nebraska; to change  
4 motor fuel tax rates; to provide an operative date; and  
5 to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 66-489, Reissue Revised Statutes of  
2 Nebraska, 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 66-489.02, 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 ~~seven and one-half~~  
8 eleven and three-tenths cents per gallon until October 1, 2012, and  
9 fifteen and one-tenth cents per gallon thereafter upon all motor  
10 fuels as shown by such return, except that there shall be no tax on  
11 the motor fuels reported if (a) the required taxes on the motor fuels  
12 have been paid, (b) the motor fuels have been sold to a licensed  
13 exporter exclusively for resale or use in another state, (c) the  
14 motor fuels have been sold from a Nebraska barge line terminal,  
15 pipeline terminal, refinery, or ethanol or biodiesel facility,  
16 including motor fuels stored offsite in bulk, by a licensed producer  
17 or supplier to a licensed distributor, (d) the motor fuels have been  
18 sold by a licensed distributor or licensed importer to a licensed  
19 distributor or to a licensed wholesaler and the seller acquired  
20 ownership of the motor fuels directly from a licensed producer or  
21 supplier at or from a refinery, barge, barge line, pipeline terminal,  
22 or ethanol or biodiesel facility, including motor fuels stored  
23 offsite in bulk, in this state or was the first importer of such fuel  
24 into this state, or (e) as otherwise provided in this section. Such  
25 producer, supplier, distributor, wholesaler, or importer shall remit

1 such tax to the department.

2 (2) As part of filing the return required by section  
3 66-488, each producer of ethanol shall, in addition to other taxes  
4 imposed by the motor fuel laws, pay an excise tax of one and one-  
5 quarter cents per gallon through December 31, 2004, and commencing  
6 January 1, 2010, and two and one-half cents per gallon commencing  
7 January 1, 2005, through December 31, 2009, on natural gasoline  
8 purchased for use as a denaturant by the producer at an ethanol  
9 facility. All taxes, interest, and penalties collected under this  
10 subsection shall be remitted to the State Treasurer for credit to the  
11 Agricultural Alcohol Fuel Tax Fund, except that commencing January 1,  
12 2005, through December 31, 2009, one and one-quarter cents per gallon  
13 of such excise tax shall be credited to the Ethanol Production  
14 Incentive Cash Fund. For fiscal years 2007-08 through 2011-12, if the  
15 total receipts from the excise tax authorized in this subsection and  
16 designated for deposit in the Agricultural Alcohol Fuel Tax Fund  
17 exceed five hundred fifty thousand dollars, the State Treasurer shall  
18 deposit amounts in excess of five hundred fifty thousand dollars in  
19 the Ethanol Production Incentive Cash Fund.

20 (3)(a) Motor fuels, methanol, and all blending agents or  
21 fuel expanders shall be exempt from the taxes imposed by this section  
22 and sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and 66-4,146,  
23 when the fuels are used for buses equipped to carry more than seven  
24 persons for hire and engaged entirely in the transportation of  
25 passengers for hire within municipalities or within a radius of six

1 miles thereof.

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

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

15 (4) Natural gasoline purchased for use as a denaturant by  
16 a producer at an ethanol facility as defined in section 66-1333 shall  
17 be exempt from the motor fuels tax imposed by subsection (1) of this  
18 section as well as the tax imposed pursuant to sections 66-489.02,  
19 66-4,140, 66-4,145, and 66-4,146.

20 (5) Unless otherwise provided by an agreement entered  
21 into between the State of Nebraska and the governing body of any  
22 federally recognized Indian tribe within the State of Nebraska, motor  
23 fuels purchased on a Nebraska Indian reservation where the purchaser  
24 is a Native American who resides on the reservation shall be exempt  
25 from the motor fuels tax imposed by this section as well as the tax

1 imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and  
2 66-4,146.

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

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

16 (8) The changes made to this section by ~~Laws 2008, LB~~  
17 ~~846, this legislative bill~~ apply for tax periods beginning on and  
18 after ~~July 1, 2009.~~ October 1, 2011.

19 Sec. 2. Section 66-4,105, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 66-4,105 There is hereby levied and imposed an excise tax  
22 of ~~seven and one-half~~ eleven and three-tenths cents per gallon until  
23 October 1, 2012, and fifteen and one-tenth cents per gallon  
24 thereafter, increased by the amounts imposed or determined under  
25 sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of

1 all motor fuels used in this state and due the State of Nebraska  
2 under section 66-489. Users of motor fuels subject to taxation under  
3 this section shall be allowed the same exemptions, deductions, and  
4 rights of reimbursement as are authorized and permitted by Chapter  
5 66, article 4, other than any commissions provided under such  
6 article. For purposes of this section and section 66-4,106, use shall  
7 mean the purchase or consumption of motor fuels in this state. The  
8 changes made to this section by ~~Laws 2008, LB 846, this legislative~~  
9 ~~bill~~ apply for tax periods beginning on and after ~~July 1, 2009.~~  
10 October 1, 2011.

11 Sec. 3. Section 66-4,145, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 66-4,145 In addition to the tax imposed by sections  
14 66-489, 66-489.02, and 66-4,140, each producer, supplier,  
15 distributor, wholesaler, and importer required by section 66-489 to  
16 pay motor fuels taxes shall pay an excise tax of ~~two and eight-tenths~~  
17 four cents per gallon until October 1, 2012, and five and two-tenths  
18 cents per gallon thereafter on all motor fuels received, imported,  
19 produced, refined, manufactured, blended, or compounded by such  
20 producer, supplier, distributor, wholesaler, or importer within the  
21 State of Nebraska. The changes made to this section by ~~Laws 2008, LB~~  
22 ~~846, this legislative bill~~ apply for tax periods beginning on and  
23 after ~~July 1, 2009.~~ October 1, 2011.

24 Sec. 4. Section 66-4,146, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           66-4,146 In addition to the tax imposed by sections  
2 66-489, 66-489.02, 66-4,140, and 66-4,145, each producer, supplier,  
3 distributor, wholesaler, and importer required by section 66-489 to  
4 pay motor fuels taxes shall pay an excise tax of ~~two and eight-tenths~~  
5 four cents per gallon until October 1, 2012, and five and two-tenths  
6 cents per gallon thereafter on all motor fuels used in the State of  
7 Nebraska. The changes made to this section by ~~Laws 2008, LB 846, this~~  
8 legislative bill apply for tax periods beginning on and after ~~July 1,~~  
9 2009. October 1, 2011.

10           Sec. 5. Section 66-6,107, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           66-6,107 In addition to the tax imposed pursuant to  
13 sections 66-6,108, 66-6,109, and 66-6,109.02, an excise tax of ~~seven~~  
14 ~~and one-half~~ eleven and three-tenths cents per gallon or gallon  
15 equivalent until October 1, 2012, and fifteen and one-tenth cents per  
16 gallon or gallon equivalent thereafter is levied and imposed on all  
17 compressed fuel sold for use in registered motor vehicles. The  
18 changes made to this section by ~~Laws 2008, LB 846, this legislative~~  
19 bill apply for tax periods beginning on and after ~~July 1, 2009.~~  
20 October 1, 2011.

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

23           66-6,109 In addition to the tax imposed by sections  
24 66-6,107, 66-6,108, and 66-6,109.02, each retailer shall pay an  
25 excise tax of ~~two and eight-tenths~~ four cents per gallon or gallon

1 equivalent until October 1, 2012, and five and two-tenths cents per  
2 gallon or gallon equivalent thereafter on all compressed fuel sold  
3 for use in registered motor vehicles. The changes made to this  
4 section by ~~Laws 2008, LB 846,~~ this legislative bill apply for tax  
5 periods beginning on and after ~~July 1, 2009.~~ October 1, 2011.

6           Sec. 7. This act becomes operative on October 1, 2011.

7           Sec. 8. Original sections 66-489, 66-4,105, 66-4,145,  
8 66-4,146, 66-6,107, and 66-6,109, Reissue Revised Statutes of  
9 Nebraska, are repealed.