

LEGISLATIVE BILL 1160

Approved by the Governor April 18, 1994

Introduced by Warner, 25

AN ACT relating to fuel tax; to amend sections 39-2216, 66-1510, and 87-411, Reissue Revised Statutes of Nebraska, 1943, sections 3-149, 39-2215, 39-2215.01, 66-483, 66-484, 66-485, 66-486, 66-487, 66-488, 66-489, 66-491, 66-492, 66-496, 66-4,104, 66-4,105, 66-4,106, 66-4,107, 66-4,108, 66-4,109, 66-4,110, 66-4,111, 66-4,112, 66-4,113, 66-4,122, 66-4,131, 66-4,132, 66-4,140, 66-4,141, 66-4,143, 66-4,144, 66-4,145, 66-4,146, 66-4,147, 66-633, 66-713, 66-715, 66-716, 66-717, 66-726, 66-731, 66-733, 66-734, 66-735, 66-736, 66-737, 66-738, 66-739, 66-1216, 66-1414, 66-1501, 66-1503, 66-1521, and 77-381, Revised Statutes Supplement, 1992, and sections 52-1401, 60-302, 60-312, 66-482, 66-490, 66-493, 66-4,142, 66-501, 66-502, 66-503, 66-505, 66-512, 66-712, 66-720, 66-727, 66-740, 66-1345, and 77-2704.05, Revised Statutes Supplement, 1993; to adopt the Diesel Fuel Tax Act and Alternative Fuel Tax Act; to define and redefine terms; to change provisions relating to motor vehicle fuel; to rename a fund; to provide penalties; to eliminate the Special Fuel Tax Act; to eliminate certain collection provisions; to eliminate a shrinkage allowance which expired and a definition; to harmonize provisions; to provide duties for the Revisor of Statutes; to provide operative dates; to provide severability; to repeal the original sections, and also sections 66-635, 66-647, and 66-648, Reissue Revised Statutes of Nebraska, 1943, sections 66-495, 66-497, 66-601, 66-601.01, 66-605 to 66-605.06, 66-606.01, 66-608, 66-609, 66-612, 66-613, 66-616 to 66-620, 66-629, 66-632, 66-634.01, 66-638, 66-641 to 66-645, 66-646.01, and 66-1505, Revised Statutes Supplement, 1992, sections 66-602, 66-605.07, and 66-607, Revised Statutes Supplement, 1993, and section 66-633, Revised Statutes Supplement, 1992, as amended by this legislative bill; and to declare an emergency.

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

Section 1. Sections 1 to 34 of this act shall be known and may be cited as the Diesel Fuel Tax Act.

Sec. 2. The purpose of the Diesel Fuel Tax Act is to supplement the provisions of the tax upon motor vehicle fuel set forth in Chapter 66, article 4, by imposing a tax upon all fuels suitable for the generation of power for diesel-powered motor vehicles registered for operation upon the highways of this state.

Sec. 3. For purposes of the Diesel Fuel Tax Act, the definitions found in sections 4 to 16 of this act shall be used.

Sec. 4. Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue.

Sec. 5. Diesel fuel shall mean all combustible liquids suitable for the generation of power for diesel-powered motor vehicles registered for operation upon the highways of this state, except that it shall not include diesel fuel which contains a concentration of sulphur in excess of five-hundredths percent by weight or which fails to meet a cetane index minimum of forty and has been indelibly dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545 or kerosene as defined in section 11 of this act.

Sec. 6. Distributor shall mean any person who acquires ownership of diesel fuel directly from a supplier at or from a barge, barge line, or pipeline terminal in this state.

Sec. 7. Exporter shall mean any person who acquires ownership of diesel fuel from any licensed supplier, distributor, wholesaler, or importer exclusively for use or resale in another state.

Sec. 8. Gross gallons shall mean measured gallons without correction or adjustment for temperature or barometric pressure.

Sec. 9. Highway shall mean every way or place generally open to the use of the public for the purpose of vehicular travel, even though such way or place may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction.

Sec. 10. Importer shall mean any person who owns diesel fuel at the time such fuel enters the State of Nebraska by any means other than barge, barge line, or pipeline. Importer shall not include a person who imports

diesel fuel in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected.

Sec. 11. Kerosene shall mean kerosene meeting the specifications as found in the American Society For Testing and Materials publication D3699 entitled Standard Specifications for Kerosene.

Sec. 12. Motor vehicle shall have the same definition as in section 60-301.

Sec. 13. Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine or imprisonment is prescribed or imposed in the Diesel Fuel Tax Act, the word person as applied to a partnership, a limited liability company, or an association shall mean the partners or members thereof.

Sec. 14. Retailer shall mean any person who acquires diesel fuel from a supplier, distributor, wholesaler, or importer for resale to consumers of such fuel.

Sec. 15. Supplier shall mean any person who owns diesel fuel imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state and any person who refines and stores diesel fuel at a refinery in this state.

Sec. 16. Wholesaler shall mean any person, other than a supplier, distributor, or importer, who acquires diesel fuel for resale.

Sec. 17. (1) Before engaging in business as a supplier, distributor, wholesaler, importer, or exporter, the person shall obtain a license to transact such business in the State of Nebraska. An application for a supplier's, distributor's, wholesaler's, importer's, or exporter's license shall be made to the department together with a fee of ten dollars to cover the cost of issuing the license. The application shall be filed on a form prepared and furnished by the department. The application shall contain such information as the department deems necessary. All fees collected shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

(2) After reviewing an application received in proper form, the department may issue to the applicant a supplier's, distributor's, wholesaler's, importer's, or exporter's license. The department may refuse to issue such licenses to any person according to section 66-729. Each supplier's, distributor's, wholesaler's, importer's, or exporter's license issued under the Diesel Fuel Tax Act shall be valid until suspended or revoked for cause or otherwise canceled and shall not be transferable.

Sec. 18. The department, for the first year of a new license or whenever it deems it necessary to insure compliance with the Diesel Fuel Tax Act, may require any supplier, distributor, wholesaler, or importer subject to the act to place with the department such security as it determines. The amount and duration of the security shall be fixed by the department and shall be approximately three times the estimated average monthly tax liability payable by such supplier, distributor, wholesaler, or importer pursuant to the act. Such security shall consist of a surety bond executed by a surety company duly licensed and authorized to do business within this state in the amount specified by the department. Such security shall run to the department and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such supplier, distributor, wholesaler, or importer is liable, whether such liability was incurred prior to or after such security is filed.

Sec. 19. (1) In addition to the tax imposed pursuant to section 66-4.142 and sections 20 and 21 of this act, there is hereby levied and imposed an excise tax of ten and one-half cents per gallon on all diesel fuel as shown by the return required by section 26 of this act, except that there shall be no tax on the diesel fuel reported if: (a) The diesel fuel has been indelibly dyed and chemically marked in accordance with regulations issued by the Secretary of the Treasury of the United States under 26 U.S.C. 4082; (b) the required taxes on the diesel fuel have been paid; (c) the diesel fuel has been sold to a licensed exporter exclusively for use or resale in another state; (d) the diesel fuel has been sold from a Nebraska barge line terminal, pipeline terminal, or refinery by a licensed supplier to a licensed distributor; or (e) the diesel fuel has been sold by a licensed distributor or licensed importer to a licensed distributor or to a licensed wholesaler and the seller acquired ownership of the diesel fuel directly from a licensed supplier at or from a refinery, barge, barge line, or pipeline terminal in this state or was the first importer of such fuel into this state. Suppliers, distributors, wholesalers, or importers shall remit such tax to the department.

(2) Kerosene and other blending agents or fuel expanders shall be exempt from the taxes imposed under this section, section 66-4.142, and

sections 20 and 21 of this act unless and until such kerosene, blending agents, or fuel expanders are placed directly into a motor vehicle or blended with diesel fuel. Any kerosene, blending agent, or fuel expander that is blended with diesel fuel shall become subject to the taxes imposed under this section, section 66-4.142, and sections 20 and 21 of this act at the same time as the diesel fuel with which it is blended becomes subject to such taxes or upon blending if such taxes have already been paid on the diesel fuel.

Sec. 20. Each supplier, distributor, wholesaler, or importer shall, in addition to all other taxes provided by law, pay an excise tax at a rate set pursuant to section 66-4.144 for diesel fuel subject to taxation pursuant to section 19 of this act. All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated to the Highway Restoration and Improvement Bond Fund if bonds are issued pursuant to subsection (2) of section 39-2223 and to the Highway Cash Fund if no bonds are issued pursuant to such subsection.

Sec. 21. In addition to the tax imposed by sections 19 and 20 of this act, each supplier, distributor, wholesaler, or importer shall pay an excise tax of two cents per gallon on all diesel fuel subject to taxation under section 19 of this act.

Sec. 22. (1) No diesel fuel tax shall be collected with respect to diesel fuel imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state or refined and stored at a refinery in this state.

(2) The person owning and operating such refinery, barge, barge line terminal, or pipeline terminal shall make and file such verified reports of operations within the state, which reports may include reporting all fuel loaded within this state for delivery in another state and such other information as shall be required by the department.

Sec. 23. (1) Diesel fuel shall be exempt from the taxes imposed by section 66-4.142 and sections 19 to 21 of this act when the fuel is used for:

(a) Agricultural, quarrying, industrial, or other nonhighway use;

(b) Buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles thereof.

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

(3) The department shall refund tax paid on diesel fuel used for an exempt purpose.

Sec. 24. (1) A purchaser of diesel fuel that has not been indelibly dyed that is being delivered into a diesel fuel storage facility may present an exemption certificate to the seller when the purchaser uses the fuel exclusively for agricultural uses or if the purchaser is a state, county, municipality, or other political subdivision.

(2) The seller of undyed diesel fuel may in good faith accept the exemption certificate and sell undyed diesel fuel without collecting the tax. The seller may accept an exemption certificate for multiple purchases. Such a certificate shall be renewed annually. If the seller is a supplier, distributor, wholesaler, or importer, the seller may deduct the number of gallons sold without the tax from the return for the period during which the fuel was sold or for a subsequent period. If the seller is not a supplier, distributor, wholesaler, or importer, the seller may provide a monthly exemption certificate to the distributor, wholesaler, or importer or other supplier of the taxed diesel fuel for the total number of gallons of undyed diesel fuel sold without tax during the prior month.

(3) Receipt of an exemption certificate taken in good faith shall be conclusive proof for the seller that the sale was exempt.

(4) Any person who wrongfully claims an exemption and presents an exemption certificate shall be liable for the tax on the diesel fuel. The department shall, on the basis of information available, determine the tax that would have been due on such transaction and assess the tax against such person.

(5) Any person who unlawfully issues an exemption certificate shall

be subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

Sec. 25. (1) There is hereby levied and imposed an excise tax of ten and one-half cents per gallon, increased by the amounts imposed or determined under section 66-4.142 and sections 20 and 21 of this act, upon the use of all diesel fuel used in this state. Users of diesel fuel subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement, other than the commission provided under section 29 of this act, as are authorized and permitted to suppliers, distributors, wholesalers, or importers by the Diesel Fuel Tax Act.

(2) Every person using diesel fuel subject to taxation on the use thereof under section 24 of this act and this section shall become licensed and pay the excise tax and file a return concerning the tax to the department in like manner and form as is required by section 26 of this act for suppliers, distributors, wholesalers, or importers, except that the returns and tax payments required under this section shall be filed quarterly.

(3) For purposes of this section, use shall mean the consumption of diesel fuel in a motor vehicle registered for operation upon the highways of this state.

Sec. 26. Each supplier, distributor, wholesaler, importer, and exporter shall file with the department, on forms prescribed by the department, a monthly tax return. The return shall contain a declaration by the person making the return to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the return and shall be in lieu of such verification. The return shall show such information as the department reasonably requires for the proper administration and enforcement of the Diesel Fuel Tax Act. The supplier, distributor, wholesaler, importer, or exporter shall file the return on or before the twentieth day of the next succeeding calendar month following the monthly period to which it relates. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such return shall be considered filed on time if mailed in an envelope properly addressed to the department, postage paid, and postmarked before midnight of the final filing date.

Sec. 27. (1) The tax imposed by section 19 of this act shall be computed by each supplier, distributor, wholesaler, or importer by multiplying the tax rate per gallon established in section 19 of this act by the number of gross gallons of undyed diesel fuel sold for which an exemption certificate has not been obtained.

(2) The monthly tax return shall be accompanied by remittance covering the tax due pursuant to sections 19 to 21 of this act on diesel fuel sold during the preceding month.

Sec. 28. All taxes, interest, and penalties collected under the Diesel Fuel Tax Act shall be remitted to the State Treasurer for credit to the Highway Trust Fund or Highway Cash Fund as appropriate.

Sec. 29. (1) In lieu of the expense of remitting the diesel fuel tax pursuant to the Diesel Fuel Tax Act and complying with the statutes and rules and regulations related thereto, every supplier, distributor, wholesaler, or importer shall be entitled to deduct and withhold a commission of two percent upon the first five thousand dollars and one-half of one percent upon all amounts in excess of five thousand dollars remitted each month.

(2) In consideration of receiving the commission provided under subsection (1) of this section, the supplier, distributor, wholesaler, or importer shall be deemed to be ultimately responsible for payment of the taxes imposed under the Diesel Fuel Tax Act except as provided in section 25 of this act, and such supplier, distributor, wholesaler, or importer shall not be entitled to any deductions, credits, or refunds arising out of such supplier's, distributor's, wholesaler's, or importer's failure or inability to collect any such taxes from any subsequent purchaser of diesel fuel.

Sec. 30. Returns required by the Diesel Fuel Tax Act, excluding schedules, itemized statements, and other supporting evidence annexed thereto, shall at all reasonable times be open to the public. Nothing in this section shall prohibit the use of information on such returns by a collection agency pursuant to sections 77-377.01 to 77-377.04. Nothing in this section shall prohibit the department from disclosing any information contained on such returns, schedules, itemized statements, and other supporting evidence annexed thereto as reasonably necessary to enforce the act.

Sec. 31. Every supplier, distributor, wholesaler, importer,

exporter, and retailer shall prepare and maintain such records as the department reasonably requires with respect to inventories, receipts, purchases, and sales or other dispositions of diesel fuel. The records required by this section shall be retained for a minimum period of three years or for five years if the required returns or reports are not filed and shall be available at all reasonable times for audit and examination by the department to determine liability for the payment of the taxes and penalties under the Diesel Fuel Tax Act.

Sec. 32. (1) Except as provided in subsection (4) of this section, no motor vehicle licensed in the State of Nebraska using diesel fuel shall be operated on any highway of this state unless, when it is refueled while in this state, it is refueled with undyed diesel fuel that has been taxed.

(2) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or ordinances of any city or village or any carrier enforcement officer who has reasonable grounds to believe that a vehicle is being operated in violation of this section may inspect the fuel in the fuel supply tank of such motor vehicle to determine compliance with this section. Fuel inspections may also be conducted in the course of safety or other vehicle inspections authorized by law.

(3) Any person who operates a motor vehicle in violation of this section shall be guilty of a Class IV misdemeanor and, in lieu of the taxes imposed by the Diesel Fuel Tax Act, shall be subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(4) Any motor vehicle owned or leased by any state, county, municipality, or other political subdivision may be operated on the highways of this state with dyed diesel fuel, except diesel fuel dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545, if the taxes imposed by the act have been paid.

Sec. 33. (1) There is hereby imposed a floor-stocks tax on diesel fuel owned by any person on July 1, 1994, if:

(a) No tax was imposed on such fuel under the Special Fuel Tax Act as it existed on June 30, 1994; and

(b) Tax would have been imposed on such fuel by the Diesel Fuel Tax Act had it been in effect for periods prior to July 1, 1994.

(2) The rate of the tax imposed by this section shall be the amount of tax imposed under the Special Fuel Tax Act on June 30, 1994.

(3) Any person owning diesel fuel on July 1, 1994, to which the tax imposed by this section applies shall be liable for such tax. The tax imposed by this section shall be paid on or before December 31, 1994, and shall be paid in such manner as the department prescribes.

Sec. 34. The department shall enforce the Diesel Fuel Tax Act and the rules and regulations adopted pursuant to the act. The department may adopt and promulgate rules and regulations to carry out the act.

Sec. 35. Sections 35 to 47 of this act shall be known as the Alternative Fuel Tax Act.

Sec. 36. The purpose of the Alternative Fuel Tax Act is to supplement the provisions of the tax upon motor vehicle fuel set forth in Chapter 66, article 4, and diesel fuel set forth in the Diesel Fuel Tax Act by requiring any person who operates on the highways of this state a motor vehicle powered by alternative fuel to purchase an alternative fuel user permit to pay such person's estimated fuel use tax liability.

Sec. 37. For purposes of the Alternative Fuel Tax Act:

(1) Alternative fuel shall include compressed natural gas, liquified petroleum gas, liquified natural gas, electricity, and any other source of energy used to power a motor vehicle. The term shall not include motor vehicle fuel as defined in section 66-482 or diesel fuel as defined in section 5 of this act;

(2) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue;

(3) Motor vehicle shall have the same definition as in section 60-301; and

(4) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision.

Sec. 38. Every person registering a motor vehicle propelled by alternative fuel shall obtain an annual alternative fuel user permit for each motor vehicle propelled by alternative fuel. A person shall obtain all required alternative fuel user permits within thirty days of becoming an alternative fuel user. An alternative fuel user may fuel any motor vehicle

registered by such user, to which is attached a valid alternative fuel user permit, without having to pay any taxes otherwise required under the motor fuel tax laws.

Sec. 39. The department shall prescribe the form of the application which shall require the applicant to provide the following information: (1) The name and address of the owner or person registering the motor vehicle; (2) a description of the motor vehicle which shall include the mileage on the motor vehicle as of the date of application; and (3) such other information as may be necessary for the proper implementation of the Alternative Fuel Tax Act. A completed application and the fee required under section 40 of this act shall be submitted to the county treasurer each time the alternative-fuel-powered motor vehicle is registered. The county treasurer shall retain three percent of the fee for the cost of administration. The remainder of the fee collected shall be remitted quarterly in the same manner as the sales and use taxes under the Nebraska Revenue Act of 1967 and deposited in the Highway Trust Fund.

Sec. 40. (1)(a) The fee for an annual alternative fuel user permit shall be based on the type of motor vehicle being registered, an average miles per gallon rating for each motor vehicle type, the average Nebraska motor fuel tax rate, and a standard annual mileage of fifteen thousand miles.

(b) For purposes of determining the alternative fuel user permit fee: Motor vehicles registered as passenger cars shall be deemed to achieve twenty-five miles per gallon; motor vehicles registered as pickup trucks shall be deemed to achieve eighteen miles per gallon; and motor vehicles registered as buses or as trucks other than pickup trucks shall be deemed to achieve ten miles per gallon.

(c) The average Nebraska motor fuel tax rate shall be determined by adding the fuel tax rate for each quarter during the preceding July 1 through June 30 period and the sum divided by four.

(d) The fee for an annual alternative fuel user permit shall be determined by taking the standard annual mileage of fifteen thousand miles divided by the applicable miles per gallon figure as set forth in subdivision (1)(b) of this section and the result multiplied by the average Nebraska motor fuel tax rate determined according to subdivision (1)(c) of this section. The fee determined according to this section shall be rounded to the nearest dollar, with amounts ending in fifty cents or more rounded to the next highest dollar.

(2) The fee for a permit required by the Alternative Fuel Tax Act shall be calculated based on the number of unexpired months remaining in the registration year of the motor vehicle as measured from the date of the occurrence of the event requiring such permit.

Sec. 41. The alternative fuel user permit required by the Alternative Fuel Tax Act shall be a gummed sticker prepared and distributed to the county treasurers by the department. The permit shall be attached to the lower left corner of the windshield of the motor vehicle for which it was issued. The permit shall provide a space upon which shall be entered by the county treasurer the license number of the motor vehicle for which the permit is issued. The permit shall show the year for which it is issued and the date of expiration of the permit.

Sec. 42. An alternative fuel user permit shall not be transferable either to a new vehicle or to a new owner. Upon the transfer of ownership of any motor vehicle having an alternative fuel user permit, the transferor shall be credited with the number of unexpired months remaining in the registration period, except that when such a vehicle is transferred within the same month in which acquired, no credit for such month shall be allowed. If a transferor acquires another motor vehicle for which an alternative fuel user permit is required at the time of transfer, the credit provided by this section shall be applied toward payment of the alternative fuel user permit fee then due. Otherwise, such transferor shall file a claim for the amount of the credit with the county treasurer upon a form prescribed by the department. The county treasurer shall make payment of the claim from the undistributed alternative fuel user permit fees. No person shall be entitled to a refund if the amount of the credit is less than two dollars.

Sec. 43. Owners and operators of alternative-fuel-powered motor vehicles not registered in this state shall obtain a temporary permit before purchasing alternative fuel in this state. Temporary permits shall be issued for a fee of five dollars and shall be valid for a period of seventy-two hours. Such temporary permits shall be available at any alternative fuel retailer that chooses to sell alternative fuel for use in motor vehicles. The retailer shall be entitled to collect and retain an additional fee of five percent of the temporary permit fee collected pursuant to this section as reimbursement for the cost of administration. Any retailer opting to sell

alternative fuel for use in motor vehicles pursuant to this section shall obtain a supply of temporary permits from the department and shall remit to the department, on or before the fifteenth day of the month following the end of each calendar quarter, any fees collected during the preceding calendar quarter. The temporary permits supplied by the department shall be numbered in sequence and the retailer shall be accountable for all permits received. All temporary permit fees remitted to the department pursuant to this section shall be deposited in the Highway Trust Fund.

Sec. 44. (1) Before engaging in business as an alternative fuel retailer, a person shall obtain a license to transact such business in the State of Nebraska. An application for an alternative fuel retailer's license shall be made to the department on a form prepared and furnished by the department. The application shall contain such information as the department deems necessary.

(2) After reviewing an application received in proper form, the department may issue to the applicant an alternative fuel retailer's license. The department may refuse to issue such license to any person according to the provisions of section 66-729. Each alternative fuel retailer's license shall be valid until suspended or revoked for cause or otherwise canceled and shall not be transferable.

Sec. 45. No alternative-fuel-powered motor vehicle shall be fueled while in this state unless it has attached a valid alternative fuel user permit or a valid temporary permit as authorized by section 43 of this act. Any motor vehicle operator or alternative fuel retailer who violates this section shall be subject to an administrative penalty of one thousand dollars for each violation to be assessed and collected by the department.

Sec. 46. The department shall enforce the Alternative Fuel Tax Act and rules and regulations adopted pursuant to the act. The department shall adopt and promulgate rules and regulations to carry out the act.

Sec. 47. (1) The department shall refund the total fee paid for a special fuel user permit purchased after January 1, 1994, for a diesel-powered motor vehicle. The department shall refund a portion of the fee paid for a special fuel user permit purchased prior to January 1, 1994, for a diesel-powered motor vehicle based upon the number of unexpired months remaining in the registration period for the motor vehicle as measured from January 1, 1994. Any special fuel user permit purchased prior to July 1, 1994, for a motor vehicle powered by alternative fuel shall be deemed to be an alternative fuel user permit for purposes of the Alternative Fuel Tax Act through the months remaining in the registration period of the motor vehicle.

(2) The refunds provided for by this section shall be claimed by purchasers of special fuel user permits by filing a claim with the department on forms prepared and furnished by the department. The refund claim shall be accompanied by the permit, proof of payment of the special fuel user permit fee, and such other documentation as the department deems necessary. All refunds issued under this section shall be paid from the Highway Trust Fund.

Sec. 48. That section 3-149, Revised Statutes Supplement, 1992, be amended to read as follows:

3-149. The suppliers, distributors, wholesalers, and importers defined in Chapter 66, article 4, shall collect the tax as prescribed in section 3-148, keep an account thereof separately from other fuel tax, and remit the tax collected accordingly to the Tax Commissioner. The Tax Commissioner shall remit the tax to the State Treasurer in the same manner as is provided by law for the collection and remittance of motor vehicle fuel tax. No other or different tax shall be imposed for fuel bought for and used in aircraft. Such tax shall be used for the purposes set forth in the State Aeronautics Department Act. The penalty for violation of the provisions of this section relating to the collection and remittance of the tax shall be the same as set forth for the violation of the law with reference to the motor fuel tax contained in Chapter 66, article 7, and the right of enforcement and the penalties shall be likewise applicable as set forth therein.

Sec. 49. That section 39-2215, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(2) All funds credited to the Highway Trust Fund pursuant to sections 66-4,140, and 66-4,147, and 66-605.02 and section 20 of this act shall be allocated as provided in such sections. The State Treasurer shall make the transfer to the General Fund required by section 66-499.

(3) All other motor fuel taxes and ~~special diesel fuel~~ alternative fuel taxes related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund pursuant to section 60-302, and other

highway-user taxes imposed by state law and allocated to the Highway Trust Fund, except for the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers credited to the fund pursuant to section 77-27,132, are hereby irrevocably pledged for the terms of the bonds issued prior to January 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose.

(4) Of the money in the fund specified in subsection (3) of this section which is not required for the use specified in such subsection, (a) an amount equal to three dollars times the number of motorcycles registered during the previous month shall be placed in the Motorcycle Safety Education Fund, (b) an amount to be determined annually by the Legislature through the appropriations process may be transferred to the Motor Fuel Tax Enforcement and Collection Cash Fund for use as provided in section 66-738 on a monthly or other less frequent basis as determined by the appropriation language, (c) an amount to be determined annually by the Legislature through the appropriations process shall be transferred to the License Plate Cash Fund as needed to meet the current obligations associated with the manufacture of license plates and stickers or tabs provided for in sections 60-311, 60-311.02, and 60-1804, as certified by the Director of Motor Vehicles, and (d) the remaining money may be used for the purchase for retirement of the bonds issued prior to January 1, 1988, in the open market.

(5) The State Treasurer shall monthly transfer, from the proceeds of the sales and use taxes credited to the Highway Trust Fund and any money remaining in the fund after the requirements of subsections (2) through (4) of this section are satisfied, (a) thirty thousand dollars to the Grade Crossing Protection Fund and (b) the amount calculated pursuant to section 13-1210 for financing the operating costs of public transportation systems to the Highway Cash Fund.

(6) Except as provided in subsection (7) of this section, the balance of the Highway Trust Fund shall be allocated fifty-three and one-third percent, less the amount provided for in section 39-847.01, to the Department of Roads, twenty-three and one-third percent, less the amount provided for in section 39-847.01, to the various counties for road purposes, and twenty-three and one-third percent to the various municipalities for street purposes. If bonds are issued pursuant to subsection (2) of section 39-2223, the portion allocated to the Department of Roads shall be credited monthly to the Highway Restoration and Improvement Bond Fund, and if no bonds are issued pursuant to such subsection, the portion allocated to the department shall be credited monthly to the Highway Cash Fund. The portions allocated to the counties and municipalities shall be credited monthly to the Highway Allocation Fund and distributed monthly as provided by law. Vehicles accorded prorated registration pursuant to section 60-305.09 shall not be included in any formula involving motor vehicle registrations used to determine the allocation and distribution of state funds for highway purposes to political subdivisions.

(7) If it is determined by December 20 of any year that a county will receive from its allocation of state-collected highway revenue and from any funds relinquished to it by municipalities within its boundaries an amount in such year which is less than such county received in state-collected highway revenue in calendar year 1969, based upon the 1976 tax rates for highway-user fuels and registration fees, the Department of Roads shall notify the State Treasurer that an amount equal to the sum necessary to provide such county with funds equal to such county's 1969 highway allocation for such year shall be transferred to such county from the Highway Trust Fund. Such makeup funds shall be matched by the county as provided in sections 39-2501 to 39-2510. The balance remaining in the fund after such transfer shall then be reallocated as provided in subsection (6) of this section.

(8) The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. All disbursements from the fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276 and the earnings, if any, credited to the fund.

Sec. 50. That section 39-2215.01, Revised Statutes Supplement, 1992, be amended to read as follows:

39-2215.01. (1) There is hereby created in the state treasury a fund to be known as the Highway Restoration and Improvement Bond Fund.

(2) If bonds are issued pursuant to subsection (2) of section 39-2223, all motor vehicle fuel taxes, ~~special diesel fuel and alternative fuel taxes~~ related to highway use, motor vehicle registration fees, and other

highway-user taxes which are retained by the state and allocated to the bond fund from the Highway Trust Fund shall be hereby irrevocably pledged for the terms of the bonds issued after July 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited directly in the bond fund for such purpose. Of the money in the bond fund not required for such purpose, such remaining money may be used for the purchase for retirement of the bonds in the open market or for any other lawful purpose related to the issuance of bonds, and the balance, if any, shall be transferred monthly to the Highway Cash Fund for such use as may be provided by law.

(3) The State Treasurer shall disburse the money in the bond fund as directed by resolution of the commission. All disbursements from the bond fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the bond fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 51. That section 39-2216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2216. The Legislature hereby irrevocably pledges and agrees with the holders of the bonds issued under the Nebraska Highway Bond Act that so long as such bonds remain outstanding and unpaid it shall not repeal, diminish, or apply to any other purposes the motor fuel taxes and ~~special diesel fuel and alternative~~ fuel taxes related to highway use, motor vehicle registration fees, and such other highway-user taxes which may be imposed by state law and allocated to the fund or bond fund, as the case may be, if to do so would result in fifty percent of the amount deposited in the fund or bond fund in each year being less than the amount equal to the maximum annual principal and interest requirements of such bonds.

Sec. 52. That section 52-1401, Revised Statutes Supplement, 1993, be amended to read as follows:

52-1401. As used in sections 52-1401 to 52-1411, unless the context otherwise requires:

(1) Agricultural chemical shall mean a fertilizer or agricultural chemical which is applied to crops or land which is used for the raising of crops;

(2) Feed shall mean a commercial feed, a feed ingredient, a mineral feed, a drug, an animal health product, or a customer-formula feed which is used for the feeding of livestock;

(3) Petroleum product shall mean motor fuel, oil, grease, propane, and ~~special diesel or alternative~~ fuel which is used in the production of crops and livestock;

(4) Seed shall mean agricultural seed which is used in the production of crops;

(5) Electricity shall mean electrical energy which is used in the production of crops and livestock;

(6) Labor shall mean labor performed in the application, delivery, or preparation of a product defined in subdivisions (1) through (4) of this section;

(7) Person shall mean an individual, partnership, limited liability company, corporation, company, cooperative, society, or association;

(8) Lender shall mean a person in the business of lending money identified in a lien-notification statement;

(9) Letter of commitment shall mean a binding, irrevocable, and unconditional agreement by a lender to honor drafts or other demands for payment upon the supplier presenting invoices signed by the purchaser or other proof of delivery; and

(10) Agricultural production input shall mean any agricultural chemical, feed, seed, petroleum product, electricity, or labor used in preparing the land for planting, cultivating, growing, producing, harvesting, drying, and storing crops or crop products or for feeding, producing, or delivering livestock.

Sec. 53. That section 60-302, Revised Statutes Supplement, 1993, be amended to read as follows:

60-302. (1) No motor vehicle, trailer, semitrailer, or cabin trailer, unless otherwise expressly provided, shall be operated or parked on the highways of this state unless such vehicle is registered in accordance with Chapter 60, article 3. There shall be a rebuttable presumption that any vehicle stored and kept more than thirty days in the state is being operated or parked on the highways of this state and shall be registered in accordance with Chapter 60, article 3. Every owner of a vehicle required to be registered shall make application for registration to the county treasurer of

the county in which the vehicle has tax situs as defined in section 77-1238. The application shall be a copy of a certificate of title or, in the case of a renewal of a registration, the application shall be the previous registration period's certificate. A salvage certificate of title as defined in section 60-129 and a nontransferable certificate of title provided for in section 60-131 shall not be valid for registration purposes.

(2) All applications for registration of motor vehicles shall be accompanied by proof of financial responsibility. Proof of financial responsibility shall be evidenced by a copy of proof of financial responsibility filed pursuant to subdivision (2), (3), or (4) of section 60-528 bearing the seal of the Department of Motor Vehicles or by a certificate or policy of insurance. Such certificate or policy of insurance shall be written by an insurance carrier duly authorized to do business in this state and shall certify that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate or policy shall give the effective dates of such motor vehicle liability policy, which dates shall be evidence that the coverage is in effect on and following the date of registration, and shall designate, by explicit description or by appropriate reference, all motor vehicles covered thereby.

(3) Any nonresident owner who desires to register a vehicle or vehicles in this state shall register in the county where the vehicle is domiciled or where the owner conducts a bona fide business.

(4) Each new application shall contain, in addition to such other information as may be required by the department, the name and post office address of the applicant and a description of the vehicle, including the color, the manufacturer, the identification number, and the weight of the vehicle required by Chapter 60, article 3. With such application and proof of financial responsibility, the applicant shall pay the proper registration fee as provided in sections 60-305.08 to 60-339 and shall state whether the vehicle is propelled by ~~electricity~~, motor vehicle fuel as defined in section 66-482, ~~or special fuel as defined in section 66-602, and if special diesel fuel as defined in section 5 of this act, or alternative fuel as defined in section 37 of this act and, if alternative fuel~~, the type of fuel. The form shall also contain a notice that bulk ~~special or diesel~~ fuel purchasers may be subject to federal excise tax liability. The department shall prescribe a form, containing such notice, for supplying the information for vehicles to be registered. The county assessor shall include the form in each mailing made pursuant to section 77-1240.01.

(5) The county treasurer or his or her agent shall collect, in addition to the registration fees, one dollar and fifty cents for each and every certificate issued and shall remit one dollar and fifty cents of each additional fee collected to the State Treasurer for credit to the Department of Motor Vehicles Computerization and Operations Fund.

(6) The county treasurer or his or her agent shall collect, in addition to other registration fees, the sum of one dollar and fifty cents for each and every certificate issued, which fee shall be remitted by the county treasurer to the State Treasurer for credit to the State Recreation Road Fund.

(7) If a citation is issued to an owner of a vehicle for a violation of this section and the owner, within ten days of issuance of the citation, properly registers and licenses the vehicle not in compliance, pays all taxes and fees due, and provides proof of such registration to the prosecuting attorney, no prosecution for the offense cited shall occur.

(8) If a county board consolidates services under the office of a designated county official other than the county treasurer pursuant to section 23-186, the powers and duties of the county treasurer relating to registration under sections 60-301 to 60-347 shall be performed by the designated county official.

Sec. 54. That section 60-312, Revised Statutes Supplement, 1993, be amended to read as follows:

60-312. The county treasurer or designated county official as provided in section 60-302 shall furnish each applicant for registration and on each renewal of registration, a certificate of registration which shall contain upon the face thereof the following data: The name of the registered owner of the motor vehicle, his or her post office address, a description of the vehicle as set forth in the application for registration, and the type of fuel used to propel the motor vehicle, whether ~~electricity~~, motor vehicle fuel, ~~or special diesel fuel, or alternative fuel~~ and, if ~~special~~ alternative fuel, the type of fuel. It shall have and contain the identical registration number denoted on the number plate, in connection with which such certificate shall be issued. It shall be valid only for the registration period for which it is issued.

Sec. 55. That section 66-482, Revised Statutes Supplement, 1993, be amended to read as follows:

66-482. For purposes of sections 66-482 to 66-4,149:

(1) Motor vehicle shall have the same definition as in section 60-301;

(2) Motor vehicle fuel shall include all products and fuel commonly or commercially known as gasoline, including casing head or natural gasoline, benzol, naphtha, and benzine with an initial boiling point under two hundred degrees Fahrenheit and shall include any other liquid and such other volatile and inflammable liquids as may be produced, compounded, or used for the purpose of or as may be used for operating or propelling motor vehicles, motor boats, or aircraft or as an ingredient in the manufacture of such fuel. Agricultural ethyl alcohol produced for use as a motor vehicle fuel shall be considered a motor vehicle fuel. Motor vehicle fuel shall not include the products commonly known as kerosene oil, kerosene distillate, crude petroleum, naphtha, and benzine with a boiling point over two hundred degrees Fahrenheit, residuum gas oil, smudge oil, and any petroleum product with an initial boiling point under two hundred degrees Fahrenheit, a ninety-five percent distillation (recovery) temperature in excess of four hundred sixty-four degrees Fahrenheit, an American Society of Testing Materials research method octane number less than seventy, and an end or dry point of distillation of five hundred seventy degrees Fahrenheit maximum;

(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced from cereal grains or agricultural commodities grown within the continental United States, and for the purpose of such sections, the purity of the ethyl alcohol shall be determined excluding denaturant and the volume of alcohol blended with gasoline for motor vehicle fuel shall include the volume of any denaturant required pursuant to law;

(4) Alcohol blend shall mean a blend of agricultural ethyl alcohol in gasoline or other motor vehicle fuel, such blend to contain not less than five percent by volume of alcohol;

(5) Supplier shall mean any person who owns motor vehicle fuel imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state and any person who refines and stores motor vehicle fuel at a refinery in this state;

(6) Distributor shall mean any person who acquires ownership of motor vehicle fuel directly from a supplier at or from a barge, barge line, or pipeline terminal in this state;

(7) Wholesaler shall mean any person, other than a supplier, distributor, or importer, who acquires motor vehicle fuel for resale;

(8) Retailer shall mean any person who acquires motor vehicle fuel from a supplier, distributor, wholesaler, or importer for resale to consumers of such fuel;

(9) Importer shall mean any person who owns motor vehicle fuel at the time such fuel enters the State of Nebraska by any means other than barge, barge line, or pipeline. Importer shall not include a person who imports motor vehicle fuel in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected;

(10) Exporter shall mean any person who acquires ownership of motor vehicle fuel from any licensed supplier, distributor, wholesaler, or importer exclusively for use or resale in another state; importer shall include (a) any person who imports or causes to be imported into the State of Nebraska motor vehicle fuel; (b) any person who produces, refines, manufactures, or compounds motor vehicle fuel; and (c) any person who purchases for sale motor vehicle fuel from an importer described in subdivision (5)(a) or (b) of this section, if any part of such motor vehicle fuel is for use, distribution, sale, or delivery in the State of Nebraska. The person who imports or causes to be imported motor vehicle fuel shall be the seller or buyer who is transporting the fuel or is directly responsible to the person transporting the fuel for the costs of transportation;

(6) (11) Gross gallons shall mean measured gallons without adjustment or correction for temperature or barometric pressure;

(7) ~~Special~~ (12) Diesel fuel shall mean any fuel defined as ~~special diesel fuel in section 66-602 5 of this act;~~

(8) (13) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision; and

(9) (14) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue.

Sec. 56. That section 66-483, Revised Statutes Supplement, 1992, be amended to read as follows:

66-483. Before engaging in business as an a supplier, distributor, wholesaler, importer, or exporter, a person shall file an application together with a fee of ten dollars with the department. The application shall be filed upon a form prepared and furnished by the department. The application shall contain such information as the department deems necessary. The department shall remit the fees to the State Treasurer for credit to the Highway Cash Fund.

Sec. 57. That section 66-484, Revised Statutes Supplement, 1992, be amended to read as follows:

66-484. Before engaging in business as an a supplier, distributor, wholesaler, importer, or exporter, a person shall procure a license from the department permitting him or her to transact such business within the State of Nebraska. After reviewing the application required in section 66-483, the department may issue a license as provided in this section.

Sec. 58. That section 66-485, Revised Statutes Supplement, 1992, be amended to read as follows:

66-485. The department, for the first year of a new license or whenever it deems it necessary to insure compliance with sections 66-482 to 66-4,149, may require any supplier, distributor, wholesaler or importer subject to such sections to place with the department such security as it determines. The amount and duration of the security shall be fixed by the department and shall be approximately three times the total estimated average monthly tax liability payable by such supplier, distributor, wholesaler or importer pursuant to such sections. Such security shall consist of a surety bond executed by a surety company duly licensed and authorized to do business within this state in the amount specified by the department. Such security shall run to the Department of Revenue and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such supplier, distributor, wholesaler, or importer is liable, whether such liability was incurred prior to or after such security is filed.

Sec. 59. That section 66-486, Revised Statutes Supplement, 1992, be amended to read as follows:

66-486. (1) In lieu of the expense of collecting and remitting the gasoline tax and furnishing the security pursuant to Chapter 66, article 4, and complying with the statutes and rules and regulations related thereto, the supplier, distributor, wholesaler, or importer shall be entitled to deduct and withhold a commission of two percent upon the first five thousand dollars and one-half of one percent upon all amounts in excess of five thousand dollars remitted each month until December 31, 1992, and a commission of five percent on the first five thousand dollars and two and one-half percent upon all amounts above five thousand dollars remitted each month, after such date.

(2) In consideration of receiving the commission, the supplier, distributor, wholesaler, or importer shall be deemed to be ultimately responsible for payment of the taxes imposed under Chapter 66, article 4, and such supplier, distributor, wholesaler, or importer shall not be entitled to any deductions, credits, or refunds arising out of such supplier's, distributor's, wholesaler's, or importer's failure or inability to collect any such taxes from any subsequent purchaser of motor vehicle fuel.

Sec. 60. That section 66-487, Revised Statutes Supplement, 1992, be amended to read as follows:

66-487. (1) Every licensed supplier, distributor, wholesaler, and importer shall keep a complete and accurate record of all gallonage of motor vehicle fuel, to be based on gross gallons, received, purchased, or obtained and imported by such supplier, distributor, wholesaler, or importer, which record shall show the name and address of the person from whom each transfer or purchase of motor vehicle fuel so received or imported was made, the point from which shipped or delivered, the point at which received, the method of delivery, the quantity of each transfer or purchase, and a complete and accurate record of the number of gallons, to be based on gross gallons, of motor vehicle fuel imported, produced, refined, manufactured, or compounded and the date of importation, production, refining, manufacturing, or compounding. If any licensed supplier, distributor, wholesaler, or importer sells to another licensed supplier, distributor, wholesaler, importer, or exporter any motor vehicle fuel, on which a tax has not been paid pursuant to section 66-489, such seller shall keep as part of its records the name, address, and license number of the supplier, distributor, wholesaler, importer, or exporter to whom the motor vehicle fuel was sold along with the date, quantity, and location where the motor vehicle fuel was sold.

(2) Every licensed supplier, distributor, wholesaler, and importer shall include the information prescribed in subsection (1) of this section with the monthly return required by section 66-488.

(3) The records required by this section shall be retained and be

available for audit and examination by the department or its authorized agents during regular business hours for a period of three years following the date of filing fuel tax reports supported by such records or for a period of five years if the required reports are not filed.

Sec. 61. That section 66-488, Revised Statutes Supplement, 1992, be amended to read as follows:

66-488. Every supplier, distributor, wholesaler, importer, and exporter who engages in the sale, distribution, delivery, and use of motor vehicle fuel shall render and have on file with the department by the twentieth day of each calendar month, on forms prescribed by the department, a return reporting the number of gallons of motor vehicle fuel, based on gross gallons, received, or imported, or exported and unloaded and emptied or caused to be received, or imported, or exported and unloaded and emptied by such supplier, distributor, wholesaler, or importer in the State of Nebraska and the number of gallons of motor vehicle fuel produced, refined, manufactured, blended, or compounded by such supplier, distributor, wholesaler, or importer within the State of Nebraska, during the preceding calendar month, and defining the nature of such motor vehicle fuel. The return shall contain a declaration, by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the return and shall be in lieu of such verification. The return shall be considered filed on time if mailed in an envelope properly addressed to the department, postage prepaid, and postmarked before midnight of the final filing date. The return shall be signed by the supplier, distributor, wholesaler, importer, or exporter or a principal officer, general agent, managing agent, attorney in fact, chief accountant, or other responsible representative of the supplier, distributor, wholesaler, importer, or exporter, and such return shall be entitled to be received in evidence in all courts of this state and shall be prima facie evidence of the facts therein stated. If the final filing date for such return falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date.

Sec. 62. That section 66-489, Revised Statutes Supplement, 1992, be amended to read as follows:

66-489. (1) At the time of filing the return required by section 66-488, such supplier, distributor, wholesaler, or importer shall, in addition to the tax imposed pursuant to sections 66-4,140, 66-4,142, 66-4,145, and 66-4,146 and in addition to the other taxes provided for by law, pay a tax of ten and one-half cents per gallon upon all motor vehicle fuel as shown by such return, except that there shall be no tax on the motor vehicle fuel reported if (a) the required taxes on the motor vehicle fuel have been paid, (b) the motor vehicle fuel has been sold to a licensed exporter exclusively for resale or use in another state, (c) the motor vehicle fuel has been sold from a Nebraska barge line terminal, pipeline terminal, or refinery by a licensed supplier to a licensed distributor, (d) the motor vehicle fuel has been sold by a licensed distributor or licensed importer to a licensed distributor or to a licensed wholesaler and the seller acquired ownership of the motor vehicle fuel directly from a licensed supplier at or from a refinery, barge, barge line, or pipeline terminal in this state or was the first importer of such fuel into this state, or (e) as otherwise provided in this section, or if the motor vehicle fuel has been sold to a licensed importer and the seller was a licensed importer described in subdivision (5)(a) or (b) of section 66-482 and was the importer or first receiver of such fuel in this state. Through December 31, 1992, gasoline sold in Nebraska which contains a minimum of ten percent blend of an agricultural ethyl alcohol the purity of which is at least ninety-nine percent alcohol shall be subject to a state motor fuel tax which is two cents per gallon less than gasoline which does not contain such a blend. Such supplier, distributor, wholesaler, or importer importers shall remit such tax to the department.

(2) Agricultural ethyl alcohol shall be exempt from the taxes imposed under this section and sections 66-4,140, 66-4,142, 66-4,145, and 66-4,146 and any other taxes provided for by law until the agricultural ethyl alcohol is (a) sold to any person who is not a Nebraska licensed motor vehicle fuels supplier, distributor, wholesaler, or importer, (b) placed directly into a motor vehicle, or (c) blended with gasoline. Agricultural ethyl alcohol that is blended with gasoline shall become subject to the taxes imposed under this section and sections 66-4,140, 66-4,142, 66-4,145, and 66-4,146 and any other taxes provided for by law at the same time as the gasoline with which it is blended becomes subject to such taxes or upon blending if such taxes have already been paid on the gasoline.

Sec. 63. That section 66-490, Revised Statutes Supplement, 1993, be

amended to read as follows:

66-490. The purpose of sections 66-490 to 66-494 is to provide an additional method of collecting motor vehicle fuel taxes and ~~special diesel~~ fuel taxes from interstate motor vehicle operators commensurate with their operations in Nebraska and to permit the department to suspend the collection as to transportation entering Nebraska from any other state when it appears that Nebraska tax revenue and interstate highway transportation moving out of Nebraska will not be unduly prejudiced thereby.

For purposes of such sections, (1) fuel used or consumed in operations shall include all fuel placed in the supply tanks and consumed in the engine of a qualified motor vehicle and (2) qualified motor vehicle shall mean a motor vehicle used, designed, or maintained for transportation of persons or property which (a) has two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, (b) has three or more axles regardless of weight, or (c) is used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle or registered gross vehicle weight. Qualified motor vehicle shall not include a recreational vehicle.

Sec. 64. That section 66-491, Revised Statutes Supplement, 1992, be amended to read as follows:

66-491. No person shall bring into this state in the fuel supply tanks of a qualified motor vehicle or in any other container, regardless of whether or not the supply tanks are connected to the motor of the vehicle, any motor vehicle fuel or ~~special diesel~~ fuel to be used in the operation of the vehicle in this state unless he or she has purchased a trip permit pursuant to subsection (4) of section 66-492 or paid or made arrangements in advance with the department for payment of Nebraska motor vehicle fuel taxes or ~~special diesel~~ fuel taxes on the gallonage consumed in operating the vehicle in this state.

Any person who brings into this state in the fuel supply tanks of a qualified motor vehicle motor vehicle fuel or ~~special diesel~~ fuel in violation of this section or the Interstate Motor Carriers Base State Fuel Tax Compact Act shall be subject to an administrative penalty of one hundred dollars for each violation to be assessed and collected by the department or another state agency which may be contracted with to act as the department's agent for such purpose. All such penalties collected shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Sec. 65. That section 66-492, Revised Statutes Supplement, 1992, be amended to read as follows:

66-492. (1) The advance arrangements referred to in section 66-491 shall include the procuring of a permit and the furnishing and maintaining of security as defined in section 66-485 in a sum to be fixed and determined by the department but not less than one thousand dollars to assure the required reporting, payment of tax, keeping of records, and payment of any penalties. The amount of security as fixed and determined by the department shall be a minimum of one thousand dollars and up to approximately two times the average liability for the reporting period of the permit holder. Such security shall run to the Department of Revenue and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such person is liable, whether such liability was incurred prior to or after such security is filed.

(2) Such permit may be obtained upon application to the department. The department shall charge a fee of ten dollars for each permit issued. The holder of a permit under this section shall have the privilege of bringing into this state in the fuel supply tanks of qualified motor vehicles any amount of motor vehicle fuel or ~~special diesel~~ fuel to be used in the operation of the vehicles and for that privilege shall pay Nebraska motor vehicle fuel or ~~special diesel~~ fuel taxes. The department may issue the permits required by this section in the form of gummed stickers or decals that expire on December 31.

(3) Each qualified motor vehicle operated into or through Nebraska in interstate operations using motor vehicle fuel or ~~special diesel~~ fuel acquired in any other state shall carry in or on each vehicle a duplicate of the permit required in this section. If the department issues the permits in the form of gummed stickers or decals, each vehicle shall have affixed an unexpired gummed sticker or decal. All fees collected shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

(4) In lieu of the permit and security required by subsection (1) of this section, the department shall provide for a trip permit to be issued. Such trip permits shall be issued for a fee of twenty dollars and shall be valid for a period of seventy-two hours. The carrier enforcement division designated under section 60-1303 shall act as an agent for the department in collecting the fees prescribed in this subsection and shall remit all such

fees collected to the State Treasurer for credit to the Highway Cash Fund. Such trip permits shall be available at weighing stations operated by the carrier enforcement division and at various vendor stations as determined appropriate by the carrier enforcement division. Trip permits shall be obtained at the first available location, whether that is a weighing station or a vendor station. The vendor stations shall be entitled to collect and retain an additional fee of ten percent of the fee collected pursuant to this subsection as reimbursement for the clerical work of issuing the permits.

Sec. 66. That section 66-493, Revised Statutes Supplement, 1993, be amended to read as follows:

66-493. Tax liability under sections 66-490 to 66-494 shall be computed on the total number of gross gallons of each kind of motor vehicle fuel and ~~special diesel~~ fuel consumed in the operation in Nebraska of motor vehicles subject to such sections at the same rate for each kind of fuel as would be applicable thereto if taxed under section 66-489, 66-4,105, 66-4,140, 66-4,145, or 66-4,146, 66-605, 66-605.02, or 66-605.03 or the Diesel Fuel Tax Act. Credit against the tax liability so computed shall be allowed in the amount of fuel taxes paid under such sections or act on motor vehicle fuel and ~~special diesel~~ fuel used in qualified motor vehicles the operation of which is subject to the provisions of such sections or act. Notwithstanding any provision in sections 66-490 to 66-494 to the contrary, the department upon application, supported by such proof as the department reasonably requires, shall issue a memorandum of credit for the amount of fuel tax paid on fuel in excess of the amount of fuel consumed by such vehicles in Nebraska which may be applied against subsequent fuel tax liability under such sections or, if the permit holder is no longer engaged in the operation of vehicles for which his or her permit was issued or has built up an excess of motor vehicle fuel tax credit amounting to twenty-five dollars or more with the state, the department may make proper refund to the permit holder.

To determine and collect the amount of taxes due under such sections and to prevent the evasion thereof, the department may require reports on forms prescribed by the department. The payment of taxes due shall be at the same time as the reports are required to be filed. These reports and tax payments may be required covering actual operation and fuel consumption in Nebraska for qualified motor vehicles the operation of which is subject to such sections or on a basis of their average consumption of fuel in Nebraska determined by dividing the total miles traveled in Nebraska by the average miles-per-gallon for such qualified motor vehicles traveling in Nebraska. Average miles-per-gallon shall be determined by dividing the total miles traveled by such qualified motor vehicles in all jurisdictions by the total gallons of motor vehicle fuel or ~~special diesel~~ fuel placed into the supply tanks of such qualified motor vehicles in all jurisdictions.

Each person shall file the report on or before the last day of the next succeeding calendar month following the end of the calendar quarter to which it relates. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed on time if mailed in an envelope properly addressed to the department and postmarked before midnight of the final filing date.

Sec. 67. That section 66-496, Revised Statutes Supplement, 1992, be amended to read as follows:

66-496. (1) No tax shall be collected with respect to motor vehicle fuel imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state or refined at a refinery in this state and stored thereat until the motor vehicle fuel is withdrawn for sale or use in this state or is loaded at the terminal or refinery into transportation equipment for shipment or delivery to a destination in this state.

(2) When motor vehicle fuel is withdrawn or loaded as provided in this section, the ~~importer or the refiner~~ supplier or distributor in this state, as the case may be, shall be liable for payment of the motor vehicle fuel tax.

(3) The person owning and operating such refinery, barge, barge line terminal, or pipeline terminal shall make and file such verified reports of operations within the state which may include reporting all fuel loaded within this state for delivery in another state and such other information as shall be required by the department.

Sec. 68. That section 66-4,105, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,105. There is hereby levied and imposed an excise tax of ten and one-half cents per gallon, increased by the amounts imposed or determined under sections 66-4,140, 66-4,142, 66-4,145, and 66-4,146, upon the use of all motor vehicle fuel used in this state and due the State of Nebraska under

section 66-489, ~~7~~ except that through December 31, 1992, such excise tax shall be two cents per gallon less on motor vehicle fuel containing a minimum of ten percent blend of agricultural ethyl alcohol the purity of which is at least ninety-nine percent alcohol than on motor vehicle fuel which does not contain such a blend. Users of motor vehicle fuel subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by Chapter 66, article 4. For purposes of this section and section 66-4,106, use shall mean the purchase or consumption of motor vehicle fuel in this state.

Sec. 69. That section 66-4,106, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,106. Every person using motor vehicle fuel subject to taxation on the use thereof under sections 66-4,105 and 66-4,114 shall pay the excise taxes and make a report concerning the same to the department in like manner, form, and time as is required by sections 66-488 and 66-489 for suppliers, distributors, wholesalers, or importers of motor vehicle fuel. No such payment of tax or report shall be required if such tax has been paid and the report has been made for such user by any supplier, distributor, wholesaler, or importer licensed under section 66-484. Importers Suppliers, distributors, wholesalers, or importers or other persons having paid such tax or liable for its payment shall collect the amount thereof from any person to whom such motor vehicle fuel is sold in this state along with the selling price thereof.

Sec. 70. That section 66-4,122, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,122. (1) Every person who desires to be eligible to receive gasoline tax credits and who desires to be classified for that purpose as a purchaser and claimant as defined in section 66-4,124 shall, before purchasing any tax credit gasoline and before making any claim for a credit, make application upon a form prescribed by the department for such classification and for a permit to purchase such gasoline and obtain such credits. The application for classification and permit shall contain the name of the applicant, his or her address, his or her occupation, the uses to which the applicant intends to put such gasoline or motor fuel upon which he or she will claim a tax credit, the make, horsepower, and other mechanical description of machinery in which the same is to be used, and such other information as may be deemed necessary by the department. Upon investigation by the department, if the statements contained in the application are found to be true, the department shall thereupon issue to the applicant a permit which shall be valid unless canceled for a period of three years or until the next triennial permit renewal date as set forth in subsection (2) of this section, whichever is shorter. The permit so issued shall contain a number to be given to each applicant and shall be in such form as may be prescribed by the department.

(2) Effective January 1, 1995, all tax credit gasoline permits issued by the department prior to such date shall be canceled unless renewed in accordance with subsection (1) of this section. On and after January 1, 1995, every permit issued under this section shall be renewed on or before January 1 of each third calendar year thereafter.

Sec. 71. That section 66-4,131, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,131. No claim for gasoline tax credit shall be allowed on motor vehicle fuel used in any registered or licensed motor vehicle, ~~nor in any motor vehicle which, if operated on the public highways, would require registration and licensing under the provisions of the laws of this state.~~

Sec. 72. That section 66-4,132, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,132. The department shall make rules and regulations for the keeping of records of the sale, distribution, and use of credit motor vehicle fuel. Such records shall be kept by importers, sellers, and service station operators retailers who deal in motor vehicle fuel for a period of three years.

Sec. 73. That section 66-4,140, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,140. (1) Each supplier, distributor, wholesaler, or importer required by section 66-489 to pay motor vehicle fuel taxes shall, in addition to all other taxes provided by law, pay an excise tax at a rate set pursuant to section 66-4,144 for motor vehicle fuel received, imported, produced, refined, manufactured, blended, or compounded by such supplier, distributor, wholesaler, or importer within the State of Nebraska as a motor vehicle fuel suitable for retail sale. All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after

credits and refunds, shall be allocated to the Highway Restoration and Improvement Bond Fund if bonds are issued pursuant to subsection (2) of section 39-2223 and to the Highway Cash Fund if no bonds are issued pursuant to such subsection.

(2) ~~Importers, Suppliers, distributors, wholesalers, and importers of motor vehicle fuel~~ subject to taxation under subsection (1) of this section shall pay such excise tax and shall make a report concerning the tax in like manner, form, and time and be allowed the same exemptions, deductions, and rights of reimbursement as are authorized suppliers, distributors, wholesalers, or importers for taxes paid pursuant to Chapter 66, article 4.

Sec. 74. That section 66-4,141, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,141. (1) The department shall implement, administer, collect, and audit the tax imposed by sections 66-4,140, 66-4,142, 66-4,145, and 66-4,146, ~~66-605-02, and 66-605-03 and sections 20 and 21 of this act~~ in an efficient and effective manner. Upon receipt of the cost figures required by section 66-4,143, the department shall determine the statewide average cost by dividing the total amount paid for motor vehicle fuel and ~~special diesel~~ fuel by the State of Nebraska, excluding any state and federal taxes, by the total number of gallons of motor vehicle fuel and ~~special diesel~~ fuel purchased during the reporting period.

(2) After computing the statewide average cost as required in subsection (1) of this section, the department shall multiply such statewide average cost by the tax rate established pursuant to section 66-4,144.

(3) In making the computations required by subsections (1) and (2) of this section, gallonage reported shall be rounded to the nearest gallon and total costs shall be rounded to the nearest dollar. All other computations shall be made with three decimal places, except that after all computations have been made the tax per gallon shall be rounded to the nearest one-tenth of one cent.

(4) The tax rate per gallon computed pursuant to this section shall be distributed to all licensed motor vehicle fuel ~~suppliers, distributors, wholesalers, and importers,~~ special diesel fuel suppliers, distributors, wholesalers, and importers, and interstate motor vehicle operators who choose to be subject to sections 66-490 to 66-494 at least five days prior to the first day of any calendar quarter during which the tax is to be adjusted. Such tax rate shall be utilized in computing the tax due for the period specified by the department.

Sec. 75. That section 66-4,142, Revised Statutes Supplement, 1993, be amended to read as follows:

66-4,142. (1) The department shall at the end of each calendar quarter determine the total amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credit provided in section 66-1344 and due to any exemption provided in sections 66-489 and 66-4,105 less the amount transferred to the Highway Trust Fund from the Ethanol Production Incentive Cash Fund pursuant to section 66-1345.

(2) If the amount determined in subsection (1) of this section is at least equal to the amount of revenue raised in the same period by one-tenth of one cent of the fuel tax imposed by sections 66-489, ~~and 66-4,105, and 66-605 and section 19 of this act,~~ the department shall for the next succeeding calendar quarter adjust the rate of the fuel tax imposed by such sections in an amount which the department estimates, based on the estimates provided to the State Board of Equalization and Assessment pursuant to section 66-4,144, will raise sufficient revenue to meet and not exceed the amount so determined, except that all such adjustments shall be in increments of one-tenth of one cent per gallon.

Sec. 76. That section 66-4,143, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,143. (1) The materiel administrator of the Department of Administrative Services shall on or before the tenth day of the second calendar month following the end of a calendar quarter submit to the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue a report providing the total cost and number of gallons of motor vehicle fuel and ~~special diesel~~ fuel purchased by the State of Nebraska during the preceding month. In providing such information, the materiel administrator shall total only those purchases which were fifty or more gallons and shall separately identify the amount of any state or federal tax which was included in the price paid.

(2) The department shall provide any assistance the materiel administrator may need in performing his or her duties under this section.

Sec. 77. That section 66-4,144, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,144. (1) In order to insure that an adequate balance in the Highway Restoration and Improvement Bond Fund is maintained to meet the debt service requirements of bonds to be issued by the commission under subsection (2) of section 39-2223, the Governor may call a meeting of the State Board of Equalization and Assessment at any time in advance of the issuance of such bonds. At such meeting, the board shall set the rate of the excise tax imposed by ~~sections~~ section 66-4,140 and 66-605-02 section 20 of this act for each year during which such bonds are outstanding to provide in each such year money equal in amount to not less than one hundred twenty-five percent of such year's bond principal and interest payment requirements. Such rate shall be in addition to the rate of excise tax set pursuant to subsection (2) of this section. Each such rate shall be effective from July 1 of a stated year through June 30 of the succeeding year or during such other period not longer than one year as the board determines to be consistent with the principal and interest requirements of such bonds. Such excise tax rates set pursuant to this subsection may be increased, but such excise tax rates shall not be subject to reduction or elimination unless the board has received from the Nebraska Highway Bond Commission notice of reduced principal and interest requirements for such bonds, in which event the Governor may call a meeting of the board to determine whether the rate or rates shall be changed. The new rate or rates, if any, set by the board shall become effective on the first day of the following calendar quarter.

(2) In order to insure that there is maintained an adequate Highway Cash Fund balance to meet expenditures from such fund as appropriated by the Legislature, within fifteen days after the adjournment of each regular session of the Legislature, the board shall set the rate of the excise tax imposed by ~~sections~~ section 66-4,140 and 66-605-02 section 20 of this act which will be effective from July 1 through June 30 of the succeeding year. The rate of excise tax for a given July 1 through June 30 period set pursuant to this subsection shall be in addition to and independent of the rate or rates of excise tax set pursuant to subsection (1) of this section for such period.

(3) The Department of Roads, with assistance from the Department of Revenue, shall prepare and provide the necessary information to each member of the board at least five days before each meeting. Such information shall include, but not be limited to, the unobligated balance in the Highway Cash Fund anticipated on the subsequent June 30, monthly estimates of anticipated receipts to the Highway Cash Fund for the subsequent fiscal year, and the appropriations made from the Highway Cash Fund for the subsequent fiscal year.

(4) The board shall determine the cash and investment balances of the Highway Cash Fund at the beginning of each fiscal year under consideration and the estimated receipts to the Highway Cash Fund from each source which provides at least one million dollars annually to such fund. The board shall then fix the rate of excise tax in an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature. Such rate shall be set in increments of one-tenth of one percent.

(5) On or before the fifteenth day of each month, the Department of Roads shall provide to each member of the board and the Clerk of the Legislature a report reflecting a comparison of the Highway Cash Fund deposits for the preceding calendar month and fiscal year to date against the projections for the same periods and the limitations of information contained in such report. The projections in the report shall be those last used by the board in setting the excise tax rate for the periods being reviewed. The report shall contain a comparison of actual receipts received to date added to any modified projections of deposits to the Highway Cash Fund for the remainder of the current fiscal year, as supplied by the Department of Roads to the board, against the appropriation for the current fiscal year. If the accumulative total deposits to the Highway Cash Fund under Chapter 66, articles 4 and 6, for the fiscal year are at any time less than ninety-eight percent or greater than one hundred four percent of the projected deposits for such period or if the actual receipts received to date added to any modified projections of deposits to the Highway Cash Fund for the current fiscal year, as supplied by the Department of Roads to the board, are less than ninety-eight percent or greater than one hundred four percent of the appropriation for the current fiscal year, the Governor may call a meeting of the board to determine whether the rate shall be changed. If such a change is required, the board shall set the new rate which shall become effective on the first day of the following calendar quarter.

(6) Nothing in this section shall be construed to abrogate the duties of the Department of Roads or attempt to change any highway improvement program schedule.

Sec. 78. That section 66-4,145, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,145. In addition to the tax imposed by sections 66-489 and 66-4,140, each supplier, distributor, wholesaler, and importer required by section 66-489 to pay motor vehicle fuel taxes shall pay an excise tax of two cents per gallon on all motor vehicle fuel received, imported, produced, refined, manufactured, blended, or compounded by such supplier, distributor, wholesaler, or importer within the State of Nebraska.

Sec. 79. That section 66-4,146, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,146. In addition to the tax imposed by sections 66-489, 66-4,140, and 66-4,145, each supplier, distributor, wholesaler, and importer required by section 66-489 to pay motor vehicle fuel taxes shall pay an excise tax of two cents per gallon on all motor vehicle fuel or ~~special~~ diesel fuel used in the State of Nebraska.

Sec. 80. That section 66-4,147, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,147. The receipts from the tax established under sections 66-4,145, ~~and 66-4,146, and 66-605-03~~ and section 21 of this act shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to suppliers, distributors, wholesalers, and importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated to the Highway Allocation Fund.

Sec. 81. That section 66-501, Revised Statutes Supplement, 1993, be amended to read as follows:

66-501. Sections 66-501 to 66-512 and sections 83 and 87 to 93 of this act are for the purpose of aiding in the administration and enforcement of the motor fuel laws of this state. Such sections shall not be construed to apply to any person transporting motor vehicle fuel or ~~special~~ diesel fuel within the State of Nebraska if such fuel is for such person's own agricultural, quarrying, industrial, or other nonhighway use.

Sec. 82. That section 66-502, Revised Statutes Supplement, 1993, be amended to read as follows:

66-502. The Department of Revenue shall issue a liquid fuel carriers license to the owner and lessee of every car, automobile, truck, trailer, vehicle, or other means of transportation using the highways for the transportation of motor vehicle fuel or ~~special~~ diesel fuel into, within, or out of the State of Nebraska. Such licenses shall be issued by the department on receipt of applications from owners and lessees of such vehicles on forms provided by the department. Such licenses may be denied according to the provisions of section 66-729. The applicant for a liquid fuel carriers license shall pay to the Department of Revenue an application fee of ten dollars, and all amounts so received by the department shall be remitted to the State Treasurer for credit to the Highway Cash Fund. The liquid fuel carriers license shall be valid until suspended, revoked for cause, or otherwise canceled and shall not be transferable.

Sec. 83. Any motor vehicle that is equipped with a cargo tank for the purpose of transporting motor vehicle fuel or diesel fuel shall be equipped with a suitable fuel supply tank and shall not have a fuel connection of any nature running from the cargo tank to the fuel supply tank or to the carburetor of such motor vehicle with which to draw fuel from the cargo tank.

Sec. 84. That section 66-503, Revised Statutes Supplement, 1993, be amended to read as follows:

66-503. (1) Every person in charge of any vehicle in which motor vehicle fuel or ~~special~~ diesel fuel is carried into, within, or out of the State of Nebraska shall have and keep a copy of the liquid fuel carriers license with him or her during the entire transportation and also a copy of the bill of sale, bill of lading, manifest, purchase order, sales invoice or delivery ticket, or similar documentation covering all such motor vehicle fuel or ~~special~~ diesel fuel which is individually numbered and dated and shows the kind and amount of the motor vehicle fuel or ~~special~~ diesel fuel, where obtained and of whom, the destination state or delivery location, and the name and address of the owner and of the consignee or purchaser, if applicable. Such person shall exhibit every such paper or document, immediately upon demand, to the department, any employee thereof, or any peace officer of this state.

(2)(a) Any person importing motor vehicle fuel or ~~special~~ diesel fuel into the State of Nebraska for the purpose of delivery in this state who does not have in his or her possession an original unaltered bill of sale, bill of lading, or manifest identifying Nebraska as the destination state shall obtain a motor fuel delivery permit number from the Nebraska State Patrol prior to delivering such fuel. A separate motor fuel delivery permit number shall be required each time such person enters Nebraska for the purpose of delivering motor vehicle fuel or ~~special~~ diesel fuel in Nebraska. Prior to

issuing a motor fuel delivery permit number, the Nebraska State Patrol shall require such person to provide his or her Nebraska liquid fuel carriers license number, the type and amount of fuel being imported, where obtained, the destination, the original bill of sale, bill of lading, or manifest number, if applicable, and such other information as the Department of Revenue deems necessary. On or before the twentieth day of each calendar month, the Nebraska State Patrol shall provide the department with a listing of all motor fuel delivery permit numbers issued during the preceding calendar month accompanied by the information required by this section.

(b) Any person obtaining motor vehicle fuel or ~~special diesel~~ fuel from a bulk fuel storage facility located in this state, other than a pipeline terminal, barge line terminal, or refinery, who exits this state and returns with all or any portion of such fuel remaining shall not be deemed to be importing such remaining fuel and shall not be required to obtain a motor fuel delivery permit number if such person maintains the documents and papers required by subsection (1) of this section establishing that such remaining fuel was obtained from a bulk fuel storage facility located in this state.

(3) Any person transporting motor vehicle fuel or ~~special diesel~~ fuel shall be deemed to have given his or her consent to submit to an inspection of licenses and permits required for the transportation of fuel and the documents and papers required by this section for the purpose of determining compliance with the motor fuel laws. The issuance of a motor fuel delivery permit number under this section shall be deemed to be the issuance of a permit for purposes of enforcing the motor fuel laws.

(4) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or ordinances of any city or village or any carrier enforcement officer who has reasonable grounds to believe that a vehicle is transporting motor vehicle fuel or ~~special diesel~~ fuel may require the operator of such vehicle to display any or all licenses and permits required for the transportation of fuel and the documents and papers required by this section. Such law enforcement officer or carrier enforcement officer may make a record of any of the information contained on the licenses or permits or any of the information from the bill of sale, bill of lading, manifest, or other documents and papers required by sections 66-501 to 66-512 and sections 83 and 87 to 93 of this act.

(5) The Legislature declares that it does not intend to place any burden upon the transportation of motor vehicle fuel or ~~special diesel~~ fuel in interstate commerce under such circumstances as federal law and the Constitution of the United States preclude.

Sec. 85. That section 66-505, Revised Statutes Supplement, 1993, be amended to read as follows:

66-505. Every vehicle used in transporting motor vehicle fuel or ~~special diesel~~ fuel subject to sections 66-501 to 66-512 and sections 83 and 87 to 93 of this act shall have the name and address of the owner of the vehicle displayed in the form and manner required by 49 C.F.R. 390.21. The Department of Revenue shall adopt, promulgate, and enforce such rules and regulations as it deems proper and necessary for the proper administration and enforcement of such sections.

Sec. 86. That section 66-512, Revised Statutes Supplement, 1993, be amended to read as follows:

66-512. It shall be unlawful for any person (1) to transport any motor vehicle fuel or ~~special diesel~~ fuel within, into, or across this state in violation of any of the provisions of sections 66-501 to 66-512 and sections 83 and 87 to 93 of this act. (2) to fail to comply with any of the provisions of such sections or of the rules, regulations, or requirements of the Department of Revenue to which he or she is subject, (3) to falsify any bill of sale, bill of lading, manifest, invoice, purchase order, or report, (4) to make, exhibit, or deliver to the department any false bill of sale, bill of lading, manifest, invoice, purchase order, or report, (5) to make, carry, or display any false document or paper referred to in this section, (6) to unlawfully evade, assist, or abet any other person in unlawfully evading any motor vehicle fuel or ~~special diesel~~ fuel taxes imposed by the state, or (7) to deliver motor vehicle fuel or ~~special diesel~~ fuel to a destination state not on an original unaltered bill of sale, bill of lading, or manifest carried by such person except when a motor fuel delivery permit number has been obtained or as otherwise provided in section 66-503.

Sec. 87. That section 66-4,104, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,104. The department shall require every railroad or railroad company, motor truck or motor truck transportation company, water transportation company, pipeline company, and other person transporting or bringing into the State of Nebraska or transporting from a refinery, pipeline,

pipeline terminal, or barge terminal within the State of Nebraska for the purpose of delivery within or export from this state any motor vehicle fuel or ~~special diesel~~ diesel fuel which is or may be produced and compounded for the purpose of operating or propelling any motor vehicle, to furnish a return on forms prescribed by the department to be delivered and on file in the office of the department by the twentieth day of each month, showing all quantities of such motor vehicle fuel or ~~special diesel~~ diesel fuel delivered at points in Nebraska transported during the preceding calendar month for which the report is made, giving the name of the consignee, the point at which delivery was made, the date of delivery, the method of delivery, the quantity of each such shipment, and such other information as the department requires.

Sec. 88. That section 66-4,107, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,107-~~ Any car, automobile, truck, pipeline, airplane, vehicle, or means of transportation which is engaged in or used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel is declared a common nuisance, and there shall be no property rights of any kind whatsoever in any car, automobile, truck, pipeline, airplane, vehicle, or other means of transportation which is engaged in or used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel except as provided in sections ~~66-4,108 to 66-4,112~~ 89 to 93 of this act.

Sec. 89. That section 66-4,108, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,108-~~ Any peace officer or agent of the department, having probable cause to believe that a vehicle is being used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel, shall make a search thereof with or without a warrant, and in every case when a search is made with or without a warrant and it appears that any provision of sections ~~66-4,107 to 66-4,112~~ 66-501 to 66-512 and sections 83 and 88 to 93 of this act has been violated, the peace officer or agent shall take such fuel being unlawfully transported, the vehicle, and the person in charge thereof into custody, a complaint shall be filed within thirty days of the seizure against such party, fuel, and vehicle, a warrant shall issue, and such party, fuel, and vehicle shall be held for trial as in a criminal action. The vehicle and the fuel so seized shall not be taken from the possession of any officer or agent seizing and holding them by writ of replevin or other proceedings.

Sec. 90. That section 66-4,109, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,109-~~ Final judgment of conviction in a criminal action brought under section ~~66-4,108~~ 89 of this act shall be in all cases a bar to any suits for the recovery of the fuel transported thereby or other personal property actually and directly used in connection therewith, or the value of the same, or for damages alleged to arise by reason of the seizing of such vehicle and the fuel contained therein, and upon conviction judgment shall be entered directing that the fuel transported and other personal property actually and directly used in connection with such violation may be put to official use by the confiscating agency for a period of not more than two years or shall be ordered sold by the court at public sale on ten days' notice, and the remaining proceeds, after the motor vehicle fuel or ~~special diesel~~ diesel fuel tax and cost of collection have been remitted to the appropriate fund or person, shall be remitted into the school fund as in the case of fines and forfeitures. The purchaser of such fuel or property shall take title thereto free and clear of all rights, title, and interest of all persons claiming to be owners thereof or claiming to have liens thereon.

Sec. 91. That section 66-4,110, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,110-~~ The court, upon conviction of the person so arrested, unless good cause to the contrary is shown by the owner or lienor, shall order a sale by public auction of the vehicle seized or the vehicle may be put to official use by the confiscating agency for a period of not more than two years. The officer making the sale, after deducting the expenses of keeping the vehicle, the fee for the seizure, and the cost of sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at such hearing or in other proceedings brought for such purpose, as being bona fide and having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel and shall pay the balance of the proceeds into the school fund as in the case of fines and forfeitures. Notice of the hearing upon the proceedings for the forfeiture and confiscation of such vehicle shall be given all interested parties by publication in one issue of a legal newspaper published in the county or, if such newspaper is not published in the county, in a legal newspaper of general

circulation in the county at least ten days prior to the date of hearing.

Sec. 92. That section 66-4,111, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,111.~~ If the person operating the vehicle used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel is not apprehended or arrested, the officer or agent shall take the vehicle and fuel into custody, a complaint shall be filed charging that the vehicle was so unlawfully used, and the court shall fix a time for hearing upon the complaint. Notice of the hearing shall be given to all persons interested by publication at least ten days before the hearing in a legal newspaper published in such county or, if none is published in the county, in a legal newspaper of general circulation in the county. If the court finds at such hearing that such vehicle was used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel, judgment shall be entered directing that the fuel conveyed and any other personal property actually and directly used in connection with such violation shall be ordered sold by the court at a public sale on ten days' notice. The remaining proceeds, after the state motor vehicle fuel or ~~special diesel~~ diesel fuel tax and cost of collection have been remitted to the appropriate fund or person, shall be paid into the school fund as in the case of fines and forfeitures, and like proceedings shall be had against the vehicle as provided in section ~~66-4,110~~ 91 of this act where the person in charge is arrested and convicted.

Sec. 93. That section 66-4,112, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,112.~~ When it appears that any undue delay will result in the disposition of the criminal proceedings against the person or persons arrested, the owner or lienor of any vehicle seized as provided in sections ~~66-4,108 to 66-4,111~~ 89 to 92 of this act may be proceeded against in the manner prescribed in section ~~66-4,111~~ 92 of this act. The court shall not allow the claim or lien of any person or persons who, prior to the time the vehicle was seized, knew, should have known, or had good cause to believe that the vehicle was being used or would be or was likely to be used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel. In all cases the burden of proof shall be on such claimants to show that they did not know, should not have known, and did not have good cause to believe that such vehicle was being used or would be or was likely to be used for the unlawful transportation of motor vehicle fuel or ~~special diesel~~ diesel fuel.

Sec. 94. That section 66-633, Revised Statutes Supplement, 1992, be amended to read as follows:

66-633. Returns required by the Special Fuel Tax Act, excluding schedules, itemized statements, and other supporting evidence annexed thereto, shall at all reasonable times be open to the public. Nothing in this section shall prohibit the use of information on such returns by a collection agency pursuant to sections 77-377.01 to 77-377.04. Nothing in this section shall prohibit the department from disclosing any information contained on such returns, schedules, itemized statements, and other supporting evidence annexed thereto as reasonably necessary to enforce the act.

Sec. 95. That section 66-712, Revised Statutes Supplement, 1993, be amended to read as follows:

66-712. For purposes of Chapter 66, articles 4, 5, and 6, and sections 66-712 to 66-737 and section 112 of this act:

(1) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue;

(2) Motor fuel shall mean any fuel defined as motor vehicle fuel in section 66-482 and any fuel defined as ~~special diesel~~ diesel fuel in section 66-602 5 of this act;

(3) Motor fuel laws shall mean the provisions of Chapter 66, articles 4, 5, and 6 and sections 66-712 to 66-737 and section 112 of this act; and

(4) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-737 and section 112 of this act, the word person as applied to a partnership, a limited liability company, or an association shall mean the partners or members thereof.

Sec. 96. That section 66-713, Revised Statutes Supplement, 1992, be amended to read as follows:

66-713. (1) Any person operating as a retailer of motor vehicle fuel or ~~special diesel~~ diesel fuel in this state shall obtain a license from the department. A separate license shall be issued for each retail location operated by such person.

(2)(a) Every retailer shall keep a complete and accurate record of

all motor vehicle fuel, to be based on gross gallons, received, purchased, or obtained, which record shows the name and address of the person from whom each transfer or purchase of motor vehicle fuel was made, the point from which shipped or delivered, the point at which received, the method of delivery, the quantity of each transfer or purchase, and the total amount of motor vehicle fuel sold at retail during the month.

(b) The retailer shall also record all sales of nonhighway use motor vehicle fuel to include the date of sale, the quantity sold, the identity of the purchaser, and the license number of the purchaser.

(3) The retailer shall maintain separate records containing the information required in subdivision (2)(a) of this section for special diesel fuel. The records shall also include all exempt sales of special diesel fuel, the date of sale, the quantity sold, and the identity of the purchaser.

(4) The retailer shall file a monthly report containing all or a portion of the information in this section as required by the department. The report shall be due on the twentieth day of the following month.

Sec. 97. That section 66-715, Revised Statutes Supplement, 1992, be amended to read as follows:

66-715. (1) The Department of Agriculture shall issue a seal for all dispensing devices used for the retail sale of motor vehicle fuel or special diesel fuel.

(2) Whenever the Department of Agriculture inspects a dispensing device for the retail sale of motor fuel, the person making the inspection shall record the totalizer readings from the device.

(3) The Department of Agriculture shall report to the Department of Revenue the sales of motor fuel by type for each retail location based on the change in the totalizer readings of all dispensing devices at the retail location.

(4) The Department of Agriculture shall adopt and promulgate rules and regulations to carry out this section.

Sec. 98. That section 66-716, Revised Statutes Supplement, 1992, be amended to read as follows:

66-716. (1) Any person owning or possessing motor fuel in this state, including motor fuel stored at a pipeline terminal or barge terminal, for distribution, sale, or delivery in this state shall obtain a license from the department unless such person is already licensed under other sections of the motor fuel laws and is reporting all transactions involving any motor fuel.

(2) Every person licensed under subsection (1) of this section shall keep a complete and accurate record of all motor vehicle fuel, to be based on gross gallons, (a) received, purchased, or obtained, which record shall show the name and address of the person from whom each transfer or purchase of motor vehicle fuel was made, the point from which shipped or delivered, the point at which received, the method of delivery, and the quantity of each transfer or purchase, and (b) delivered or sold, which record shall show the name of the person to whom each transfer or sale of motor vehicle fuel was made, the point from which shipped or delivered, the point at which received, the method of delivery, and the quantity of each transfer or sale.

(3) Every person licensed under subsection (1) of this section shall keep a complete and accurate record of all special diesel fuel to include the same information required in subsection (2) of this section and the sales of exempt special diesel fuel showing the identity of the purchaser and the quantity sold. The sales of exempt special diesel fuel shall include the total exempt sales during the month to each retailer accepting exemption certificates from his or her customers.

Sec. 99. That section 66-717, Revised Statutes Supplement, 1992, be amended to read as follows:

66-717. (1) All suppliers, distributors, wholesalers, and importers and other persons selling motor fuel for resale that have been taxed under the motor fuel laws shall include on all invoices or other billing documents for the motor fuel the amount of the fuel tax or a statement that the Nebraska fuel taxes have been paid on the motor fuel.

(2) If the invoice or other billing document does not contain the amount of the tax or the statement that the Nebraska fuel taxes have been paid, the motor fuel shall be presumed to be untaxed and the purchaser shall be considered the importer of liable for the tax on such fuel.

(3) Any licensed supplier, distributor, wholesaler, or importer who has recorded his or her liability for the tax on the motor fuel with the intent to remit the tax on the next return that is due may make the statement required by this section.

Sec. 100. That section 66-720, Revised Statutes Supplement, 1993, be amended to read as follows:

66-720. (1) Any license or permit issued by the department under the motor fuel laws may be suspended for the following reasons:

- (a) Cancellation of security;
- (b) Failure to provide additional security as required;
- (c) Failure to file any report or return, filing an incomplete report or return, or not filing electronically, within the time provided;
- (d) Failure to pay taxes due within the time provided;
- (e) Filing of any false report, return, statement, or affidavit, knowing it to be false;
- (f) Delivering motor fuel to a Nebraska destination if Nebraska is not listed as the destination state ~~not~~ on the original bill of sale, bill of lading, or manifest except as authorized under section 66-503;
- (g) Failure to remain in compliance with requirements of the State Fire Marshal regarding underground storage tanks;
- (h) Failure to remain in compliance with requirements of the Department of Agriculture regarding weights and measures and sealing of dispensing equipment;
- (i) Using tax credit gasoline in a motor vehicle;
- (j) Using exempt special fuel in a motor vehicle without a special fuel user permit or placing dyed diesel fuel in a motor vehicle except as authorized under section 32 of this act;

(k) No longer being eligible to obtain a license or permit; or
(l) Any other violation of the motor fuel laws or the rules and regulations.

(2) The department shall mail notice of suspension of any license or permit.

(3) The licensee or permitholder may, within thirty days after the mailing of the notice of such suspension, petition the Department of Revenue in writing for a hearing and reconsideration of such suspension. If a petition is filed, the department shall, within ten days of receipt of the petition, set a hearing date at which the licensee or permitholder may show cause why his or her suspended license or permit should not be canceled. The department shall give the licensee or permitholder reasonable notice of the time and place of such hearing. Within a reasonable time after the conclusion of the hearing, the department shall issue an order either reinstating or canceling such license or permit.

(4) If a petition is not filed within the thirty-day period, the suspended license or permit shall be canceled by the department at the expiration of the period.

(5) The department shall not issue a new permit or license to the same person for one year from the date of cancellation. Any reissuance of a permit or license to the same person within three years from the date of cancellation shall require a reinstatement fee of one hundred dollars to be submitted to the department. The department shall remit the fee to the State Treasurer for credit to the Highway Cash Fund.

(6) Suspension or cancellation of a license or permit issued by the department shall not relieve any person from making or filing the reports or returns required by the motor fuel laws in the manner or within the time required.

Sec. 101. That section 66-726, Revised Statutes Supplement, 1992, be amended to read as follows:

66-726. (1) The department may adjust all errors in payment, refund tax paid on motor vehicle fuel or ~~special diesel~~ fuel destroyed, refund tax paid on motor vehicle fuel or ~~special diesel~~ fuel used and consumed by the United States Government or its agencies, refund tax overpaid on motor vehicle fuel or ~~special diesel~~ fuel, and refund an amount equal to the per-gallon tax imposed by this state on sales of motor vehicle fuel or ~~special diesel~~ fuel on which tax was paid in this state but which was sold in a state other than Nebraska.

(2) The department shall refund the tax paid on motor vehicle fuel or ~~special diesel~~ fuel purchased on a Nebraska Indian reservation if the purchaser is a Native American who resides on the reservation.

(3) No refund shall be allowed unless a claim is filed setting forth the circumstances by reason of which refund should be allowed. Such claim shall be filed with the department within three years from the date of the payment of the tax.

(4) No refund shall be made in any amount less than two dollars.

Sec. 102. That section 66-727, Revised Statutes Supplement, 1993, be amended to read as follows:

66-727. (1) It shall be unlawful for any person to:

(a) Knowingly import any motor vehicle fuel or ~~special diesel~~ fuel into the State of Nebraska without remitting the full amount of tax imposed by

the provisions of the motor fuel laws, ~~except as provided in sections 66-489, 66-605, and 66-605-04;~~

(b) Refuse or knowingly and intentionally fail to make and file any return, report, or statement required by the motor fuel laws in the manner or within the time required;

(c) Knowingly and with intent to evade or to aid or abet any other person in the evasion of the tax imposed by the motor fuel laws (i) make any false or incomplete report, return, or statement, (ii) conceal any material fact in any record, report, return, or affidavit provided for in the motor fuel laws, or (iii) improperly claim any exemption from tax imposed by the motor fuel laws;

(d) Knowingly conduct any activities requiring a license under the provisions of the Petroleum Release Remedial Action Act, the ~~Special Diesel Fuel Tax Act~~, ~~the Alternative Fuel Tax Act~~, and Chapter 66, articles 4, 5, and 7, without a license or after a license has been surrendered, suspended, or canceled;

(e) Knowingly conduct any activities requiring a license under the Interstate Motor Carriers Base State Fuel Tax Compact Act or any activities requiring a permit under the provisions of the motor fuel laws without such license or permit or after such license or permit has been surrendered, suspended, or canceled;

(f) Knowingly assign or attempt to assign a license or permit;

(g) Knowingly fail to keep and maintain books and records required by the motor fuel laws;

(h) Knowingly fail or refuse to pay a fuel tax when due;

(i) Knowingly make any false statement in connection with an application for the refund of any money or tax; or

(j) ~~Fail or refuse to produce for inspection any license or permit issued under the motor fuel laws; or~~

(k) Knowingly violate any of the motor fuel laws or any rule or regulation under the motor fuel laws.

(2) Any person who violates subdivision (1)(b), (f), (h), or ~~(j)~~ (k) of this section shall be guilty of a Class IV felony. Failing to report or pay taxes due shall constitute a separate offense for each reporting period.

(3) Any person who violates subdivision (1)(a), (c), (d), (g), or (i) of this section shall be guilty of a Class IV felony if the amount of tax involved is less than five thousand dollars and a Class III felony if the amount of tax is five thousand dollars or more. Failing to report or pay taxes due shall constitute a separate offense for each reporting period.

(4) Any person who violates subdivision (1)(e) or (j) of this section shall be guilty of a separate Class IV misdemeanor for each day of operation.

Sec. 103. That section 66-731, Revised Statutes Supplement, 1992, be amended to read as follows:

66-731. (1) The department shall develop, implement, and maintain a computer system for the automated recording and analysis of the motor vehicle fuel tax, the ~~special diesel~~ fuel tax, and related information. The system shall be capable of directly accepting and recording data filed by magnetic media.

(2) The department shall develop, implement, and maintain a shared data base for motor fuel use, tax collection, and related information with the Department of Agriculture, the State Fire Marshal, and the Nebraska State Patrol. The information shall be made available to these agencies and to any other state, federal, or local agency with a valid need for the information as determined by the Department of Revenue.

(3) ~~The department may forward to any agency in this state, to the officials to whom are entrusted the enforcement of the motor fuel tax laws of any other state, the District of Columbia, the United States, its territories and possessions, and the provinces or the Dominion of Canada, or to any other person any information which the department may have relative to the receipt, storage, delivery, sale, use, or other disposition of motor fuel.~~

(4) ~~The department may forward to any person statistical information, lists of licensees or permit holders, or totals for any licensee or permit holder.~~

Sec. 104. That section 66-733, Revised Statutes Supplement, 1992, be amended to read as follows:

66-733. (1) All licensed ~~special diesel~~ fuel suppliers, distributors, wholesalers, and importers shall jointly furnish a cash bond to the state to secure the payment of all ~~special diesel~~ fuel taxes.

(2) All motor vehicle fuel suppliers, distributors, wholesalers, and importers licensed under section 3-149 or 66-484 shall jointly furnish a cash bond to the state to secure the payment of all fuel taxes other than ~~special~~

diesel fuel.

(3) The cash bonds shall be held by the State Treasurer in a special diesel fuel importers trust fund, which fund is hereby created, and in a motor vehicle fuel importers trust fund, which fund is hereby created, for the benefit of such suppliers, distributors, wholesalers, and importers. No supplier, distributor, wholesaler, or importer shall have any claim or rights against the funds as a separate person.

(4) All funds in the trust funds available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276 and may be pooled with other funds for the purposes of section 72-1267.

Sec. 105. That section 66-734, Revised Statutes Supplement, 1992, be amended to read as follows:

66-734. (1) The contribution for the cash bonds required in section 66-733 shall be collected by the department each tax period with the tax return for all such periods beginning on and after September 30, 1985. The amount due shall be deemed to be tax for the purpose of collection or refund.

(2) The amount collected each tax period from the special diesel fuel suppliers, distributors, wholesalers, and importers shall be the portion of the commission allowed which equals one-fourth of one percent of the total tax due.

(3) The amount collected each period from the motor vehicle fuel suppliers, distributors, wholesalers, and importers shall be the portion of the commission allowed which equals one-fourth of one percent of the total tax due.

(4) The contributions from the special diesel fuel suppliers, distributors, wholesalers, and importers shall continue to be collected until the amount in their trust fund, including interest earned, is equal to one-half of one percent of the total special diesel fuel tax collected during the preceding year. The contributions shall resume whenever the amount is less than one-fourth of one percent of the special diesel fuel tax collected during the preceding year.

(5) The contributions from the motor vehicle fuel suppliers, distributors, wholesalers, and importers shall continue to be collected until the amount in their trust fund, including interest earned, is equal to one-half of one percent of the total fuel tax collected, other than special diesel fuel tax, during the preceding year. The contributions shall resume whenever the amount is less than one-fourth of one percent of the fuel taxes, other than special diesel fuel taxes, collected during the preceding year.

(6) The department shall notify the appropriate suppliers, distributors, wholesalers, and importers whenever it is necessary for the contributions for either fund to resume. The contributions shall begin with the first tax return that is due at least thirty days after notice is provided by the department.

Sec. 106. That section 66-735, Revised Statutes Supplement, 1992, be amended to read as follows:

66-735. (1) Money in the trust funds created pursuant to section ~~66-733~~ 66-733 shall be used solely for the purpose of preventing a loss to the state for fuel taxes that are not paid.

(2) Whenever the department determines that fuel tax has been delinquent for ninety days, it shall certify the delinquent amount of tax and the interest due thereon to the State Treasurer. The certification shall include the specific fund into which the tax would have been deposited if received and which cash bond is liable for the tax and interest.

(3) Upon receipt of the certification, the State Treasurer shall transfer the amount to the fund identified.

(4) Such transfer shall not affect the liability of the supplier, distributor, wholesaler, or importer to the state.

Sec. 107. That section 66-736, Revised Statutes Supplement, 1992, be amended to read as follows:

66-736. (1) A refund of the contributions made pursuant to section 66-734 shall be made only when there is a refund of the tax on which the contribution is calculated or when there was an error in the calculation.

(2) If the cash bonds are abolished, the money in the trust funds shall be returned to the suppliers, distributors, wholesalers, and importers who are then licensed by increasing the commission or the shrinkage until January 1, 1993, by the amount specified for the contributions. The reduction in collections because of the additional amount allowed to the suppliers, distributors, wholesalers, and importers shall be replaced by a transfer from the cash bonds to the appropriate highway fund.

Sec. 108. That section 66-737, Revised Statutes Supplement, 1992, be amended to read as follows:

66-737. (1) The department shall appoint a committee to oversee the operation of the trust funds created in section 66-733. The committee shall consist of five members. Two of the members shall be special diesel fuel suppliers, distributors, wholesalers, or importers and two members shall be motor vehicle fuel suppliers, distributors, wholesalers, or importers. Members shall be appointed for terms of four years, except that of the initial appointees appointed after the operative date of this section the term of one of the diesel fuel suppliers, distributors, wholesalers, or importers and one of the motor vehicle fuel suppliers, distributors, wholesalers, or importers shall expire two years from the date of appointment. The terms of all current members shall expire December 31, 1994, and the department shall appoint a new committee as provided in this section.

(2) The committee shall have access to information concerning any transfers occurring from the trust funds, the collection efforts of the department to collect from the person owing the tax, and the management of the trust funds.

(3) Members of the committee shall be considered employees of the department solely for the purpose of the disclosure of confidential information and the imposition of penalties for the unauthorized disclosure of such information.

(4) The committee may receive confidential information only for the purpose of determining the effectiveness of the department in collecting the amounts transferred from the cash bonds collected pursuant to section 66-734.

Sec. 109. That section 66-738, Revised Statutes Supplement, 1992, be amended to read as follows:

66-738. The Motor Fuel Tax Enforcement and Collection Division is hereby created within the Department of Revenue. The division shall be funded by a separate appropriation program within the department. All provisions of Chapter 66, articles 4, 5, 6, 12, and 14, and sections 66-712 to 66-737 and section 112 of this act and the provisions of Chapter 3, article 1, and Chapter 66, article 15, pertaining to the Department of Revenue, the Tax Commissioner, or the division shall be entirely and separately undertaken and enforced by the division, except that the division may utilize services provided by other programs of the Department of Revenue in functional areas known on July 1, 1991, as the budget subprograms designated revenue operations and administration. Appropriations for the division that are used to fund costs allocated for such functional operations shall be expended by the division in an appropriate pro rata share and shall be subject to biennial audit by the State Auditor of Public Accounts, which audit shall be provided to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst by October 1 of each even-numbered year. Audit information useful to other divisions of the Department of Revenue may be shared by the Motor Fuel Tax Enforcement and Collection Division with the other divisions, but audits shall not be considered as a functional operation for purposes of this section. Except for staff performing in functional areas, staff funded from the separate appropriation program shall only be utilized to carry out the provisions of such articles and sections. The auditors and field investigators in the division shall be adequately trained for the purposes of motor fuel tax enforcement and collection. The Tax Commissioner shall hire for or assign to the division sufficient staff to carry out the responsibility of the division for the enforcement of the motor fuel laws.

Funds appropriated to the division may also be used to contract with the Department of Agriculture to aid in enforcing section 66-715, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.

Funds appropriated to the division may also be used to contract with the Nebraska State Patrol to aid in the issuance of motor fuel delivery permit numbers as provided in subsection (2) of section 66-503, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.

Sec. 110. That section 66-739, Revised Statutes Supplement, 1992, be amended to read as follows:

66-739. There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Motor Fuel Tax Enforcement and Collection Division created by section 66-738 and other related costs for the Department of Agriculture, the Nebraska State Patrol, and functional areas of the Department of Revenue as provided by such section. Any money in the fund

available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 111. That section 66-740, Revised Statutes Supplement, 1993, be amended to read as follows:

66-740. The motor fuel tax task force created pursuant to Laws 1989, LB 813, section 30, composed of representatives from the Department of Roads, the Department of Revenue, the Attorney General, the Nebraska State Patrol, the Department of Agriculture, and the State Fire Marshal, shall continue to function until June 30, 1996, to carry out the duties prescribed in this section. The task force shall meet at least quarterly to review the activities of the state agencies that are involved in motor vehicle fuel and ~~special diesel~~ fuel tax collection, prosecution, investigation, and information gathering. The task force shall study and assess the successes and problems associated with the passage of Laws 1991, LB 627, and make recommendations for further administrative, statutory, or budgetary improvements to the Appropriations Committee and Revenue Committee of the Legislature on December 1 of each year through 1995.

On June 30, 1996, the task force shall issue a final report to the committees. The report shall summarize for the period from January 1, 1992, until the date of the report: (1) The activities of the task force; (2) the total expenses of state agencies associated with the implementation of Laws 1991, LB 627; and (3) the estimated increases in motor vehicle fuel and ~~special diesel~~ fuel tax collection that are related to Laws 1991, LB 627, or any associated legislation.

The remaining balance of the amount reappropriated pursuant to Laws 1991, LB 627A, section 5, to support the activities of the task force shall be reappropriated for FY1993-94 and FY1994-95.

All state agencies shall cooperate, to the extent possible, with all national initiatives intended to enhance motor vehicle fuel and ~~special diesel~~ fuel tax collection at the federal and state levels. State activity in this area should include efforts to have Nebraska designated as a leading state in these initiatives, should the opportunity be made available.

Sec. 112. That section 66-4,113, Revised Statutes Supplement, 1992, be amended to read as follows:

~~66-4,113-~~ The department may pay to any person, other than a state officer or employee, who furnishes original information that any person has failed to file the reports required on motor vehicle fuel or ~~special diesel~~ fuel imported into the State of Nebraska or has failed to pay the tax on the sale or use of motor vehicle fuel or ~~special diesel~~ fuel as provided by the laws of this state, such a share of the tax and penalties recovered as the department may deem reasonable and just, not exceeding thirty percent, if it appears that the recovery was had in consequence of the information furnished.

Sec. 113. That section 66-1216, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1216. For purposes of the Petroleum Products Act, unless the context otherwise requires:

(1) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue or its authorized agents; and
(2) Motor fuel shall mean motor vehicle fuel as defined in section 66-482 and ~~special diesel~~ fuel as defined in section ~~66-602~~ 5 of this act.

Sec. 114. That section 66-1345, Revised Statutes Supplement, 1993, be amended to read as follows:

66-1345. (1) There is hereby created the Ethanol Production Incentive Cash Fund which shall be used by the board to pay the credits created in section 66-1344 to the extent provided in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. On or before September 1, 1993, the State Treasurer shall transfer to the Ethanol Production Incentive Cash Fund the entire balance of the Ethanol Authority and Development Cash Fund and thereafter shall transfer such additional money as shall be (a) appropriated to the Ethanol Production Incentive Cash Fund by the Legislature, (b) given as gifts, bequests, grants, or other contributions to the Ethanol Production Incentive Cash Fund from public or private sources, (c) made available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, (d) received as return on investment of the Ethanol Authority and Development Cash Fund, and (e) otherwise credited to the Ethanol Production Incentive Cash Fund from sources deemed appropriate by the Legislature.

(2) Commencing January 1, 1993, the Department of Revenue shall, at the end of each calendar quarter, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar quarter due to the credits provided in section 66-1344. The State Treasurer shall transfer

from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund an amount equal to such credits less the following amounts:

(a) For 1993, 1994, and 1995, the amount generated during the calendar quarter by a one-cent tax on motor fuel pursuant to ~~sections~~ section 66-489 and 66-605-07 section 19 of this act;

(b) For 1996, the amount generated during the calendar quarter by a three-quarters-cent tax on motor fuel pursuant to such sections;

(c) For 1997, the amount generated during the calendar quarter by a one-half-cent tax on motor fuel pursuant to such sections; and

(d) For 1998, 1999, and 2000, no reduction.

The amounts shall be transferred through December 31, 2000. For 1993 through 1997, if the amount generated pursuant to subdivisions (a), (b), and (c) of this subsection and the amount transferred pursuant to subsection (1) of this section are not sufficient to fund the credits provided in section 66-1344, then the credits shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund. For 1998, 1999, and 2000, the credits provided in such section shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund.

(3) On February 15, 2001, the State Treasurer shall transfer any unexpended and unobligated funds from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund.

Sec. 115. That section 66-1414, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1414. (1) Any fuel tax collected pursuant to the agreement shall be remitted to the State Treasurer for credit to the Highway Trust Fund for allocation as other motor fuel taxes and ~~special diesel~~ fuel taxes collected pursuant to sections 66-490 to 66-494, except that the State Treasurer shall first transfer such amounts to the Base State Fuels Tax Fund as the Tax Commissioner determines to be equal to the amounts required to be transferred to other states.

(2) There is hereby created a fund to be designated the Base State Fuels Tax Fund which shall be set apart and maintained by the State Treasurer for prompt payments of all money to be transferred to another state pursuant to a cooperative fuel tax agreement. Any money in the Base State Fuels Tax Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 116. That section 66-1501, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1501. Sections 66-1501 to 66-1530 and section 118 of this act shall be known and may be cited as the Petroleum Release Remedial Action Act.

Sec. 117. That section 66-1503, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1503. For purposes of the Petroleum Release Remedial Action Act, the definitions found in sections 66-1504 to 66-1515.01 and section 118 of this act shall be used.

Sec. 118. Supplier shall mean any person who owns petroleum products imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state.

Sec. 119. That section 66-1510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1510. Petroleum shall mean:

(1) Motor vehicle fuels as defined in section 66-482, except denatured agricultural ethyl alcohol that is not blended with motor vehicle fuels; and special fuels as defined in section 66-602 except combustible gases; and

(2) Diesel fuel as defined in section 5 of this act, including kerosene and diesel fuel which contains a concentration of sulphur in excess of five-hundredths percent by weight or which fails to meet a cetane index minimum of forty and has been indelibly dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545;

(3) Alternative fuel as defined in section 37 of this act except combustible gases or electricity; and

(4) A fraction of crude oil that is liquid at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute.

Sec. 120. That section 66-1521, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1521. (1) A petroleum release remedial action fee is hereby imposed upon the refiner, importer, or distributor supplier who first sells,

offers for sale, or uses petroleum within this state, except that the fee shall not be imposed on petroleum that is exported or packaged in individual containers of one hundred ten gallons or less and intended for sale or use in this state. The amount of the fee shall be three-tenths of one cent per gallon on motor vehicle fuels as defined in section 66-482 and one-tenth of one cent per gallon on petroleum other than such motor vehicle fuels plus any additional amount authorized by section 66-1522. The fee shall be paid by all refiners, importers, and ~~distributors~~ suppliers subject to the fee by filing a monthly return on or before the twentieth day of the calendar month following the monthly period to which it relates. The pertinent provisions, specifically including penalty provisions, of the ~~Special Fuel Tax Act and sections 66-712 to 66-737~~ motor fuel laws as defined in section 66-712 shall apply to the administration and collection of the fee. There shall be a refund allowed on any fee paid on petroleum which was taxed and then exported. The fee paid under this subsection shall not be eligible for the credit under section 66-4, 124.

(2) No refiner, importer, or ~~distributor~~ supplier shall sell, offer for sale, or use petroleum in this state without having first obtained a petroleum release remedial action license. Application for a license shall be made to the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue upon a form prepared and furnished by the division. Failure to obtain a license prior to such sale, offer for sale, or use of petroleum shall be a Class IV misdemeanor. The division may suspend or cancel the license of any refiner, importer, or ~~distributor~~ supplier who fails to pay the fee imposed by subsection (1) of this section in the same manner as licenses are suspended or canceled pursuant to section 66-720.

(3) The division shall adopt and promulgate rules and regulations necessary to carry out this section.

(4) The division shall deduct and withhold from the petroleum release remedial action fee collected pursuant to this section an amount sufficient to reimburse the direct costs of collecting and administering the petroleum release remedial action fee. Such costs shall not exceed twenty-eight thousand dollars for each fiscal year. The twenty-eight thousand dollars shall be prorated, based on the number of months the fee is collected, whenever the fee is collected for only a portion of a year. The amount deducted and withheld for costs shall be deposited in the Petroleum Release Remedial Action Collection Fund which is hereby created. The Petroleum Release Remedial Action Collection Fund shall be appropriated to the Department of Revenue. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 121. That section 77-381, Revised Statutes Supplement, 1992, be amended to read as follows:

77-381. For purposes of the Tax Expenditure Reporting Act, unless the context otherwise requires:

(1) Tax expenditure shall mean a revenue reduction that occurs in the tax base of the state or a political subdivision as the result of an exemption, deduction, exclusion, tax deferral, credit, or preferential rate introduced into the tax structure;

(2) Department shall mean the Department of Revenue;

(3) Income tax shall mean the tax imposed upon individuals and corporations under Chapter 77, article 27;

(4) Sales tax shall mean the tax imposed upon expenditures under Chapter 77, article 27;

(5) Property tax shall mean the tax imposed upon real and personal property under Chapter 77; and

(6) Miscellaneous tax shall mean revenue sources other than income, sales, and property taxes for state and local government including, but not limited to, motor vehicle and ~~diesel~~ special fuel taxes, liquor taxes, cigarette taxes, inheritance and estate taxes, generation-skipping transfer taxes, insurance premium taxes, and occupation taxes and fees or other taxes which generate state or local revenue annually in excess of two million dollars.

Sec. 122. That section 77-2704.05, Revised Statutes Supplement, 1993, be amended to read as follows:

77-2704.05. Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of motor vehicle fuels as defined, taxed, or exempted under Chapter 66, article 4, ~~special~~ special diesel and alternative fuels as taxed for use on the highways under Chapter 66, article 6, ~~special diesel and alternative~~ special diesel and alternative fuels used to provide motive power for railroad rolling stock, and ~~special diesel and alternative~~ special diesel and alternative fuels delivered into the fuel supply tanks of

other vehicles.

Sec. 123. That section 87-411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

87-411. (1) Any franchise agreement relating to the distribution or retail sale of motor fuels and ~~special diesel and alternative~~ fuels and any agreement for the lease of real or personal property which is part of any such franchise agreement shall terminate upon the death of the franchisee. However, a one-year trial lease and franchise agreement shall be granted by such franchisor to the franchisee's designated and qualified successor in interest if:

(a) The franchisee has provided the franchisor with written notice of the designation of a qualified successor in interest at least six months prior to the death of the franchisee. Such notice shall be on a form prescribed by the franchisor and made available to the franchisee at the franchisee's request; and

(b) The franchisee has been a franchisee of the same franchisor with whom he or she has a valid franchise agreement at the time of his or her death for a period of at least five consecutive years prior to his or her death.

(2) For purposes of sections 87-411 to 87-414, successor in interest shall be restricted to a surviving spouse, adult child, brother, sister, or parent of the franchisee who, at the time of the franchisee's death, meets reasonable qualifications then being required of franchisees by the franchisor.

(3) Unless otherwise specifically provided in this section, actions to be performed by the franchisor or by the successor in interest under sections 87-411 to 87-414 shall be performed within a reasonable time.

Sec. 124. The Revisor of Statutes shall assign sections 1 to 47 of this act to Chapter 66, article 6, and any reference to Chapter 66, article 6, shall be deemed to include such sections. The Revisor of Statutes shall assign sections 83 and 87 to 93 of this act to Chapter 66, article 5, and any reference to Chapter 66, article 5, shall be deemed to include such sections. The Revisor of Statutes shall assign section 112 of this act to Chapter 66, article 7, and any reference to Chapter 66, article 7, shall be deemed to include such section.

Sec. 125. Sections 94 and 128 of this act shall become operative on February 1, 1994. This section and sections 126 and 129 of this act shall become operative on their effective date. The other sections of this act shall become operative on July 1, 1994.

Sec. 126. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 127. That original sections 39-2216, 66-1510, and 87-411, Reissue Revised Statutes of Nebraska, 1943, sections 3-149, 39-2215, 39-2215.01, 66-483, 66-484, 66-485, 66-486, 66-487, 66-488, 66-489, 66-491, 66-492, 66-496, 66-4,104, 66-4,105, 66-4,106, 66-4,107, 66-4,108, 66-4,109, 66-4,110, 66-4,111, 66-4,112, 66-4,113, 66-4,122, 66-4,131, 66-4,132, 66-4,140, 66-4,141, 66-4,143, 66-4,144, 66-4,145, 66-4,146, 66-4,147, 66-713, 66-715, 66-716, 66-717, 66-726, 66-731, 66-733, 66-734, 66-735, 66-736, 66-737, 66-738, 66-739, 66-1216, 66-1414, 66-1501, 66-1503, 66-1521, and 77-381, Revised Statutes Supplement, 1992, and sections 52-1401, 60-302, 60-312, 66-482, 66-490, 66-493, 66-4,142, 66-501, 66-502, 66-503, 66-505, 66-512, 66-712, 66-720, 66-727, 66-740, 66-1345, and 77-2704.05, Revised Statutes Supplement, 1993, and also sections 66-635, 66-647, and 66-648, Reissue Revised Statutes of Nebraska, 1943, sections 66-495, 66-497, 66-601, 66-601.01, 66-605 to 66-605.06, 66-606.01, 66-608, 66-609, 66-612, 66-613, 66-616 to 66-620, 66-629, 66-632, 66-634.01, 66-638, 66-641 to 66-645, 66-646.01, and 66-1505, Revised Statutes Supplement, 1992, sections 66-602, 66-605.07, and 66-607, Revised Statutes Supplement, 1993, and section 66-633, Revised Statutes Supplement, 1992, as amended by this legislative bill, are repealed.

Sec. 128. That original section 66-633, Revised Statutes Supplement, 1992, is repealed.

Sec. 129. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.