

Revised to reflect AM1248, AM1554, FA108and AM1563

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2023-24</b>		<b>FY 2024-25</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$247,172	(\$767,000)	\$217,494	(\$1,867,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$247,172</b>	<b>(\$767,000)</b>	<b>\$217,494</b>	<b>(\$1,867,000)</b>

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB562 as amended by AM1248 does the following:

- Creates the E-15 Access Standard Act;
- Sets the purpose and definitions under the Act;
- Sets an enacting date for the Act for January 1, 2024;
- Requires retail dealers constructing a new motor fuel site or replacing more than 80% of their storage and dispensing infrastructure to advertise and sell E-15 gasoline from at least 50% of all the motor fuel dispensers;
- If the statewide blend rate for 2027 is below 14% then all remaining retail dealers would be required to advertise and sell E-15 gasoline from at least one fuel dispenser, with the following exemptions;
  - o A waiver has been issued declaring the site is not compatible with the sale of E-15;
  - o Sites that are listed with the State Fire Marshall within one of the following categories:
    - Not constructed of fiberglass installed prior to 1985;
    - Constructed of fiberglass and installed during or prior to 1991 for double-wall storage tanks and prior to 1996 for single-wall tanks;
  - o Sites that qualify as a small retail motor fuel site as defined under the Act;
  - o Allows for exemptions during the process of temporarily maintaining, repairing, installing, or converting storage and dispensing infrastructure.
- Allows for the Governor to issue or renew executive orders temporarily suspending the Act based on E-15 gasoline supply or based upon market price of E-15 being found to cause hardship;
- Requires the Department of Agriculture to publish on its website the number of statements filed pertaining to small retail motor fuel sites and the total number of retail motor fuel sites;
- Requires the Department of Revenue and the Department of Environment and Energy to annually issue a joint report on the statewide ethanol blend rate and describes the report;
- Allows the Department of Agriculture to suspend or revoke permits to retail dealers not in compliance with the act;
- Expands the eligibility for the Nebraska Higher Blend Tax Credit and creates the following tax credit schedule:
  - o For 2024 – equal to eight cents times the total number of gallons of E-15 sold by the taxpayer;
  - o For 2025 – equal to nine cents times the total number of gallons of E-15 sold by the taxpayer;
  - o For 2026 – equal to eight cents times the total number of gallons of E-15 sold by the taxpayer;
  - o For 2027 – equal to seven cents times the total number of gallons of E-15 sold by the taxpayer;
  - o For 2028 – equal to five cents times the total number of gallons of E-15 sold by the taxpayer;
  - o There is a cap on the total tax credits issued of \$5,000,000 per year.

The Department of Agriculture’s estimate for administrative cost appears reasonable.

No basis to disagree with the Department of Revenue’s estimates for revenue loss resulting from use of tax credits.

**AM1554 as amended by FA108**

- Amends 58-242 to allow for the Nebraska Investment Finance Authority Act to make loans for agricultural projects to persons whose net worth exceeds one million dollars;
- Changes the definition of farm under the act Beginning Farmer Tax Credit Act;
- Changes the definition of a qualified beginning farmer under the Beginning Farmer Tax Credit Act to a farmer or livestock producer who has a net worth of not more than \$750,000 and is of legal age to enter into a binding contract or lease;
- Excludes pensions, retirement, or other types of deferred benefits from consideration of net worth by the Beginning Farmer Board;
- Strikes the requirement to be a renting farmer for the eligibility to receive an income tax credit under 77-5209.01;
- Sets an annual credit cap of \$2,000,000 per year.

No basis to disagree with the Department’s estimate for revenue loss resulting from use of the Beginning Farmer credit.

**AM1563**

AM1563 amends the Nebraska Pure Food Act in the following ways:

- Creates a definition for guidance document;
- Allows for political subdivisions under the Interlocal Cooperation Act to grant reciprocity for local licensing of mobile food establishments;
  - o Creates a reporting requirement for political subdivisions that enter into an agreement with the Department of Agriculture;
  - o Describes the report;
- Requires the Department of Agriculture to create and maintain the Mobile Food Establishment Ordinance Registry and describes the registry;
- Requires the Department of Agriculture to develop and maintain a guidance document for mobile food establishment operators.

No basis to disagree with the Department’s estimate that legislation can be administered with current resources.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 562	AM: 1248, 1554, FA 108	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Jacob Leaver	DATE: 5/15/2023	PHONE: (402) 471-4173	
COMMENTS: No basis to dispute the Department of Revenue’s estimated fiscal impact to the agency as a result of LB 562 AM 1248, 1554, 108.			

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 562	AM: 1248	AGENCY/POLT. SUB: Department of Agriculture	
REVIEWED BY: Jacob Leaver	DATE: 5/10/2023	PHONE: (402) 471-4173	
COMMENTS: Concur with the Department of Agriculture’s estimated fiscal impact to the agency as a result of LB 562 AM 1248.			

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 562	AM: 1248	AGENCY/POLT. SUB: Department of Environment and Energy	
REVIEWED BY: Jacob Leaver	DATE: 5/10/2023	PHONE: (402) 471-4173	
COMMENTS: Concur with the Department of Environment and Energy’s estimate of no fiscal impact to the agency as a result of LB 562 AM 1248.			

**State Agency Estimate**

State Agency Name: Department of Revenue

Date Due LFO:

Approved by: Glen White

Date Prepared: 05/15/2023

Phone: 471-5896

	<b>FY 2023-2024</b>		<b>FY 2024-2025</b>		<b>FY 2025-2026</b>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$169,172	\$(767,000)	\$86,394	\$(1,867,000)	\$87,794	\$(3,352,000)
Cash Funds						
Federal Funds						
Other Funds						
<b>Total Funds</b>	<b>\$169,172</b>	<b>\$(767,000)</b>	<b>\$86,394</b>	<b>\$(1,867,000)</b>	<b>\$87,794</b>	<b>\$(3,352,000)</b>

LB 562 amended by AM 1248 creates the E-15 Access Standard Act, administered by the Department of Agriculture (NDA), to increase consumer access to E-15 gasoline.

Beginning January 1, 2024, E-15 gasoline must be sold from at least 50% of all qualifying motor fuel dispensers located at the retail motor fuel site of a new retail motor fuel sites or an existing retail motor fuel site that replaces more than 80% of the motor fuel storage and dispensing infrastructure. NDA may allow a small retail motor fuel site to file for exception from the requirement. Licensed motor fuel retailers must file a quarterly return with the Department of Revenue (DOR) reporting the number of motor fuel gallons sold and the percentage of ethanol in the fuel sold for each location.

If the statewide ethanol blend rate is less than 14% for 2027, then beginning in 2028, if a retail dealer is not subject to the exception, the retail dealer must sell E-15 from at least one qualifying motor fuel dispenser. In certain circumstances, the Governor may issue or renew an executive order that temporarily suspends the E-15 access standard.

NDA may request DOR to determine whether a particular retail motor fuel site’s average annual gasoline gallonage from January 1, 2021, through December 31, 2023 was 300,000 gallons or less, based on motor fuels tax returns filed with DOR by the retail dealer. The information is confidential and shall be used for the limited purposes of evaluating a retail dealer’s compliance. DOR may adopt and promulgate rules and regulations.

Starting in 2025, DOR and the Department of Environment and Energy (NDEE) will annually issue a joint report, beginning in 2025, identifying the statewide ethanol blend rate, which is the average percentage of ethanol contained in each gallon of motor fuel sold in this state.

AM 1248 also amends the Nebraska Higher Blend Tax Credit Act (HBTC) to redefine E-15 as blended gasoline with more than 10% but no more than 15% ethanol.

**Major Objects of Expenditure**

<u>Class Code</u>	<u>Classification Title</u>	<u>23-24 FTE</u>	<u>24-25 FTE</u>	<u>25-26 FTE</u>	<u>23-24 Expenditures</u>	<u>24-25 Expenditures</u>	<u>25-26 Expenditures</u>
R29222	Revenue Agent	0.5	1.0	1.0	\$21,200	\$44,500	\$45,600
	Benefits.....				\$7,000	\$14,700	\$15,000
	Operating Costs.....				\$135,972	\$27,194	\$27,194
	Travel.....						
	Capital Outlay.....				\$5,000	\$0	\$0
	Capital Improvements.....						
	<b>Total.....</b>				<b>\$169,172</b>	<b>\$86,394</b>	<b>\$87,794</b>

For each gallon E-15 or higher blended gasoline sold by a retail dealer, HBTC credits will equal 8 cents for calendar year 2024, 9 cents for 2025, 8 cents for 2026, 7 cents for 2027, and 5 cents for 2028. The credit cap for calendar years 2024 to 2028 is increased from \$4 million to \$5 million.

AM 1248 amended by AM 1554 to change the Beginning Farmer Tax Credit Act (Act). AM 1554 amends the definition of farm to mean any improved or unimproved tract of land used for or devoted to the commercial production of farm products. The three individuals currently engaged in farming or livestock production who must be members of the board are no longer required to be from each congressional district.

The definition of qualified beginning farmer or livestock producer is changed in two ways. Along with the other requirements, the individual must (1) have a net worth of no more than \$750,000 (increased from \$200,000) and (2) be of legal age to enter into and be legally responsible for a binding contract or lease as provided under Neb. Rev. Stat. § 43-2101.

AM 1554 updates the net worth thresholds to be adjusted annually beginning October 1, 2023, and each October 1 thereafter, by taking the average Producer Price Index for all commodities, published by the U.S. Department of Labor Statistics, for the most recent 12 available periods divided by the Producer Price Index for 2022 and multiplying the result by the farmer’s or livestock producer’s net worth threshold.

AM 1554 will require the board to exclude from the net worth determination of the beginning farmer or livestock producer any pension, retirement, or other types of deferred benefit accounts owned by the beginning farmer or livestock producer, including such accounts owned by a spouse or dependent.

AM 1554 provides that the one-time refundable income tax credit for the cost of participating in the financial management program as required under the Act is no longer only allowed to beginning farmers or livestock producers who are in the first, second, or third year of a qualifying three-year rental agreement. The bill also changes the board review of three-year rental agreements from a semiannual basis to an annual basis.

A \$2 million annual cap is imposed on the owner of agricultural assets under FA 108. The cap is based on the application year rather than the tax year claimed credits are claimed. The sunset date is extended to December 31, 2027.

DOR estimates the impact to the General Fund revenues as follows:

	FY2023-24	FY2024-25	FY2025-26	FY2026-27
HBTC	\$ -	\$ (1,137,000)	\$ (2,661,000)	\$ (2,006,000)
Beginning Farmers	\$ (767,000)	\$ (730,000)	\$ (691,000)	\$ (652,000)
<b>Total</b>	<b>\$ (767,000)</b>	<b>\$ (1,867,000)</b>	<b>\$ (3,352,000)</b>	<b>\$ (2,658,000)</b>

DOR will need to hire 0.5 FTE revenue agent for FY23-24 and 1.0 FTE for the following years. The OCIO also will require a one-time programming charge of \$135,972 to build a new system to be added to the NebFile and need \$27,194 to maintain the new system for the subsequent years.

The operative date for this bill is three months after adjournment.

Please complete ALL (5) blanks in the first three lines.

**2023**

**LB<sup>(1)</sup> 562 AM1248**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Agriculture

Prepared by: <sup>(3)</sup> Ashley Dempsey Date Prepared: <sup>(4)</sup> 4/13/2023 Phone: <sup>(5)</sup> 402-429-2487

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$78,000		\$131,100	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<u>\$78,000</u>		<u>\$131,100</u>	

Explanation of Estimate:

AM1248 does not change the estimated fiscal impact of LB562.

A 1.0 FTE Program Manager will be required to develop rules and regulations, certify professional retail motor fuel site installers, publish quarterly information to the website and implement the program. A 0.5 FTE Attorney II will be required to provide legal advice on the granting of waivers and issuing of administrative orders, as well as any enforcement actions taken under the Weights and Measures Act for violations related to the potential suspension or revocation of a permit issued under §89-187.01 as described in the bill.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Agriculture Program Manager	1.0	1.0	\$53,000	\$55,650
Attorney II		0.5		\$30,450
Benefits.....			\$20,000	\$30,000
Operating.....			\$5,000	\$15,000
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<u>\$78,000</u>	<u>\$131,100</u>

Please complete ALL (5) blanks in the first three lines.

**2023**

**LB<sup>(1)</sup> 562 AM1248**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Department of Environment and Energy

Prepared by: <sup>(3)</sup> Kevin Stoner Date Prepared: <sup>(4)</sup> April 13, 2023 Phone: <sup>(5)</sup> 402 471-2186

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

**Explanation of Estimate:**

NDEE does not believe there would be a fiscal impact for LB562 AM1248.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____