

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	See Below	See Below	See Below	See Below
FEDERAL FUNDS				
OTHER FUNDS		See Below		See Below
TOTAL FUNDS	See Below	See Below	See Below	See Below

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

LB68 would create the Aid to Municipalities Act which would be administered by the Nebraska Department of Economic Development (DED). This act would provide state-aid to municipalities for infrastructure projects such as:

- 1) Solid waste management facilities;
- 2) Waste, storm, and water treatment plants;
- 3) Water distribution facilities;
- 4) Hazardous waste disposal systems;
- 5) Resource recovery systems;
- 6) Airports/Port facilities;
- 7) Buildings/capital equipment used by municipalities to provide constituent services;
- 8) Convention/tourism facilities; and
- 9) Mass transit/parking facilities, etc.

The grant funds are to be used exclusively for:

- 1) The acquisition, construction, and equipping of infrastructure projects; or
- 2) Paying the principal, interest, premiums, and costs of the issuance on bonds which had been issued by the municipality for infrastructure projects.

LB68 would establish the Aid to Municipalities Fund, consisting of money from Legislative transfers, gifts, grants, or bequests from any source. This fund shall be used to pay grants for approved municipality applicants, with a cap of \$10,000,000 dollars per approved grant. The DED would manage this fund, review the applicants, and award the grants.

Beginning on and after January 1, 2025, LB68 would set a minimum floor for the average wholesale price of gasoline, at \$2.750 per gallon. This average wholesale price is used twice a year, on April 1st and October 1st, in the calculation process of setting the wholesale tax rate per gallon (which utilizes the average wholesale prices from the previous six-month period).

The wholesale tax rate, is one of the three components used in the calculation of the motor fuel tax rate per gallon. This wholesale tax rate varies based on the price of fuel. Whereas, the fixed tax rate is set by the Legislature; and the variable tax rate is adjusted twice yearly to pay for the transportation spending budgeted by the Legislature. All three components together, form the motor fuel tax. The current revenue from the motor fuel tax is split with 66% going to NDOT’s Highway Cash Fund, and 34% to the NDOT Highway Allocation Fund. Cities and counties split the Highway Allocation Fund distribution evenly 50% to cities and 50% to counties.

LB68 would instead set a requirement that 25% of the wholesale fuel tax proceeds, be credited to the new DED Aid to Municipalities Fund. The remaining 75% would be credited to the NDOT Highway Trust Fund for the split between NDOT (66%), and the cities and counties (34% split evenly in half). Additionally, this would require NDOT to spend at least 35% of their share to pay for surface transportation projects, as defined by 39-2702 (which does not include asset preservation projects).

This bill has an operative date of January 1, 2025.

Expenditures:

If the DED were to award a grant of \$10,000,000 in Cash Funds in both FY24/25 and again in FY25/26, there would be associated Cash Fund expenditures. This bill would require a Cash Fund appropriation for administrative costs (likely PSL) of this new grant program.

Revenues:

Setting the minimum average wholesale price of gasoline at \$2.750 per gallon, would be higher than the current rate of \$2.663 per gallon. This change, along with the modification of the current distribution of revenue received from the wholesale tax, would result in an increase in cash fund revenues to the DED Aid to Municipalities Fund of \$18,642,000 in FY24/25 and \$50,530,000 in FY25/26.

However, the wholesale gas tax revenues for transportation projects to NDOT, the cities, and the counties would decrease in both FY24/25 and FY25/26.

LB68	FY24/25	FY25/26
25% Aid to Municipalities Fund (Cities)	\$ 18,642,000	\$ 50,530,000
Impact to Roads and Bridges		
Highway Cash Fund (NDOT)	\$ 216,000	\$ (782,000)
Highway Allocation Fund (Cities)	\$ (3,215,000)	\$ (7,362,500)
Highway Allocation Fund (Counties)	\$ (3,215,000)	\$ (7,362,500)

To offset this reduction in revenue from the wholesale tax, NDOT would need the variable tax rate to increase by approximately 2.2¢ per gallon in FY24/25. In FY25/26, current estimates for the wholesale tax are 12.9¢ for the 1st half of FY25/26, and 13.6¢ for the 2nd half. Using the new minimum average wholesale price in LB68 (multiplied by 5% as provided in statute), will result in a minimum wholesale tax rate of 13.8¢. NDOT would need to utilize the variable rate, so that proceeds would generate sufficient revenue to meet the appropriation of the Highway Cash Fund set by the Legislature, for the construction and maintenance of the state highway system.

Additionally, NDOT uses these state revenues to match Federal Aid, for construction for expansion, replacement and preservation for highways and bridges. The language of this bill, would not allow the use of 35% of the wholesale tax revenues or approximately \$38,000,000, for asset preservation. This is because of the surface transportation definition within 39-2702. If \$38,000,000 of state revenues are not available for asset preservation, such a limitation may put at risk NDOT's ability to match \$152,000,000 of existing Federal Aid, which is planned to support \$190,000,000 of construction.

The Nebraska Department of Environment and Energy has indicated no fiscal impact. There is no basis to disagree.

No fiscal note was received from the DED, before the deadline for publishing. If a future fiscal note is received, with additional pertinent fiscal impact, a revised fiscal note will be issued.

Technical Note: With a January 1, 2025 effective date the minimum average wholesale price would not be in effect at the time of the fuel tax setting which must be completed prior to the beginning of January to allow fuel retailers to reset their systems.

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

2024

LB⁽¹⁾ 68

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Environment and Energy

Prepared by: ⁽³⁾ Kevin Stoner Date Prepared: ⁽⁴⁾ July 29, 2024 Phone: ⁽⁵⁾ 402 471-2186

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

No fiscal impact.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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

2024

LB⁽¹⁾ 68

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Transportation

Prepared by: ⁽³⁾ Jenessa Boynton Date Prepared: ⁽⁴⁾ 7/30/24 Phone: ⁽⁵⁾ 402-479-4692

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	See below	_____	See below
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	See below	_____	See below
TOTAL FUNDS	=====	See below	=====	See below

Explanation of Estimate:

LB 68 changes the calculation of the fuel tax by setting a statutory floor for the average wholesale price of gasoline. Starting with the calculation of the tax for periods beginning on and after January 1, 2025, the minimum average wholesale price used in the calculation shall be two dollars and seventy-five cents. The bill would create the Aid to Municipalities Fund to be administrated by the Department of Economic Development and would direct twenty-five percent of money received from the wholesale tax to be credited to the new fund that could include non-transportation related expenditures with the remaining seventy-five percent allocated to the Highway Trust Fund.

As proposed the bill would require Nebraska Department of Transportation (NDOT) to use at least thirty-five percent of the amount allocated to pay for surface transportation projects, as defined in section 39-2702, which does not include asset preservation projects. NDOT uses state revenues to match Federal Aid for construction for expansion, replacement and preservation for highways and bridges. Language of this bill would not allow the use of 35% of the wholesale tax revenues (approx. \$38 million) for asset preservation because of the surface transportation definition within 39-2702. If \$38 million of state revenues are not available for asset preservation, such a limitation may put at risk NDOT's ability to match \$152 million of existing Federal aid planned to support \$190 million of construction.

The modification in the distribution of the monies received from the wholesale tax will reduce wholesale gas tax revenues available to NDOT, cities and counties for transportation projects. To offset the reduction in revenue received by NDOT from the wholesale tax, the variable tax rate would be increased by approximately 2.2¢ per gallon in FY25. The minimum average wholesale price would apply to FY26, current estimates for the wholesale tax are 12.9¢ for the 1st half of FY26 and 13.6¢ for the 2nd half of the fiscal year. Using the new minimum average wholesale price provided by the bill and taking it times 5% as provided by statute, would result in a minimum wholesale tax rate of 13.8¢. NDOT would utilize the variable rate to generate sufficient revenue to meet the Highway Cash Fund appropriation. It is estimated that cities and counties would experience reduced revenue for transportation.

If enacted, impacts to the Highway Cash Fund, Highway Allocation Fund, and Aid to Municipalities would be as follows:

	FY2024-25	FY2025-26
25% Aid to Municipalities Fund (Cities)	\$18,642,000	\$50,530,000
Impact to Roads and Bridges		
Highway Cash Fund (NDOT)	\$216,000	(\$782,000)
Highway Allocation Fund (Cities)	(\$3,215,000)	(\$7,362,500)
Highway Allocation Fund (Counties)	(\$3,215,000)	(\$7,362,500)

With a January 1, 2025 effective date the minimum average wholesale price would not be in effect at the time of the fuel tax setting which must be completed prior to the beginning of January to allow fuel retailers to reset their systems.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....			_____	_____
Operating.....			_____	_____
Travel.....			_____	_____
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			_____	_____