

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS		See Below		See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See Below		See Below

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

Nebraska currently imposes a five percent (5%) tax on the average wholesale price of a gallon of gasoline. The average wholesale price of gasoline is calculated each April and October 1st, respectively, using wholesale prices for the previous six (6) month period. These average wholesale prices are used to determine the tax amount for the six month period that starts two months later (July and January). The process for, and rates used, are the same for compressed fuel. LB329 would require the minimum average wholesale price to be \$2.44 per gallon for the purposes of determining the tax rate per gallon for the tax periods beginning on and after the period starting July 1, 2021. Lastly, the bill would also require at least 35 percent of all wholesale tax proceeds received by the Department of Transportation (DOT) to be used to pay for surface transportation projects, as defined by 39-2702, that are the highest priority as defined by the DOT.

The changes in the bill would result in an increase in revenue generated from the wholesale tax in the amount of \$52,545,251 in F22, and \$61,674,324 in FY23 (see below for detail). No costs to implement the bill are present.

Based on data provided by the DOT for the FY22 and FY23 tax periods, the average projected wholesale price for FY22 is \$1.532 and \$1.575 for FY23. Based upon these projected prices, the anticipated increase in revenue was calculated by determining the difference between the projected prices and the minimum wholesale price under LB 329 (\$2.44) and making the following assumptions based on data/information available from the DOT:

- For FY22, a one (1) cent motor fuel tax results in \$14,012,067 in annual revenue.
- For FY23, a one (1) cent motor fuel tax results in \$14,342,866 in annual revenue.
- The revenue increase in FY22 needs to be adjusted to account for a two (2) month lag in collections.

The table below provides calculated total increases based on the above assumptions and data provided from the DOT:

LB329 Revenue Increase Estimates	FY22	FY23
Estimated Wholesale Price/Gallon	\$1.532	\$1.575
LB 329 Minimum Required Price/Gallon	\$2.44	
Difference per Gallon	\$0.908	\$0.865
Increased Tax Per Gallon (Diff. x 5%)	\$0.045	\$0.043
Amount \$0.01/Gallon Tax Generates Annually	\$14,012,067	\$14,342,866
Increased Revenue	\$52,545,251	\$61,674,324

Department of Transportation (DOT)

The DOT receives 66 percent of the wholesale tax revenue pursuant to R.R.S. 66-489(3)(a). This share is remitted the Highway Cash Fund (HCF). After applying the 66 percent rate to the total increased revenue totals, the HCF would see an increase in revenue from the wholesale tax in the amount of \$34,679,866 in FY22 and \$40,705,054 in FY23.

Without a change in the HCF appropriation to the Roads Operations Cash Fund, the additional revenue will be offset by a decrease in the variable fuel tax, for a net revenue increase to the DOT of close to zero. If the intent is to have the overall appropriation of the DOT increase in a manner that mirrors the estimated revenue increases, the HCF appropriation to the Roads Operations Cash Fund (ROCF) will need to be increased via an A-bill.

(continued)

Cities and Counties

Pursuant to R.R.S. 66-489(3)(b) & (c), 34 percent of the revenue from the wholesale gasoline tax is allocated to the Highway Allocation Fund (HAF) to be split evenly between cities and counties (17% each). After applying the 17 percent rate to the total increased revenue totals, cities and counties would see an increase, respectively, in revenue from the wholesale tax in the amount of \$8,932,693 in FY22 and \$10,482,635 in FY23.

Agency Fiscal Notes

The fiscal note provided by the DOT estimates there will be a net revenue increase to the HCF in the amount of \$229,257 in FY22 and \$551,242 in FY23. The net revenue increase is due to the statutory requirement that the variable tax rate be set in increments of one-tenth of one percent, meaning a decrease of one-tenth of one percent would result in the anticipated revenue not meeting the required appropriation level. For perspective, the current (FY21) HCF appropriation to the ROCF is \$459 million.

The Department of Revenue provided a fiscal note which reflects an overall increase in funding that would flow to the Highway Cash Fund. They also indicate the overall increase does consider the impact of a partial reduction in the variable rate that will be determined by the DOT. Because the variable rate is established in the month of June (for July-December tax period) and reassessed in December (for January-June tax period), a net result of close to zero increase in revenue to the Highway Cash Fund will occur without an increase in the HCF appropriation to the ROCF.

The Department of Administrative Services provided a fiscal note which indicates they will see an increase in expenditures due to the increase in the wholesale tax. As stated above, an increase in the overall gas tax will not occur unless there is an increase in the HCF appropriation to the ROCF.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 329	AM:	AGENCY/POLT. SUB: Nebraska Department of Transportation
REVIEWED BY: Lucas Martin	DATE: 03/02/2021	PHONE: (402) 471-4181
COMMENTS: No basis to disagree with the Department of Transportation's assessment of fiscal impact.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 329	AM:	AGENCY/POLT. SUB: Nebraska Department of Revenue
REVIEWED BY: Lucas Martin	DATE: 03/02/2021	PHONE: (402) 471-4181
COMMENTS: No basis to disagree with the Department of Revenue's assessment of fiscal impact.		

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2021

LB⁽¹⁾ 329

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jenessa Boynton Date Prepared: ⁽⁴⁾ 3/1/2021 Phone: ⁽⁵⁾ 402-479-4691

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	\$229,257	_____	\$551,242
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	\$229,257	=====	\$551,242

Explanation of Estimate:

LB 329 changes the calculation of the gasoline tax by setting a statutory floor for the average wholesale price. Starting with the calculation of the tax for periods beginning on and after July 1, 2021, the minimum average wholesale price used in the calculation shall be two dollars and forty-four cents.

Current statute provides that the average wholesale price between two six-month periods shall be adjusted so that the increase/decrease in the wholesale tax provided does not exceed 1¢ per gallon. This fiscal note assumes this existing statutory limitation does not apply to the initial setting of the \$2.44 minimum whole price and the resulting change in the wholesale rate per gallon.

The current estimated wholesale tax rate per gallon for July 1, 2021 is 7.5¢. Using the new minimum average wholesale price provided by the bill and taking it times 5% as provided by statute, the wholesale tax rate per gallon would be 12.2¢, which represents a 4.7¢ increase compared to the current law estimate. In terms of NDOT revenue, setting a lower variable rate to generate approximately the same amount of revenue as is estimated under current law based on the currently proposed Highway Cash Fund appropriation, other estimated factors and statutory provisions, results in a net impact of \$229,257 for FY21-22 and \$551,242 for FY22-23.

It is estimated that cities and counties will experience an increase in gas tax revenue via the Highway Allocation Fund as presented below.

Estimated gas tax revenue under current law:

	<u>Total</u>	<u>NDOT</u>	<u>Cities/Counties</u>
FY21-22	\$411,213,394	\$279,187,165	\$132,026,229
FY22-23	\$418,062,571	\$282,212,786	\$135,849,785

Estimated gas tax revenue under LB329 wholesale price increase to \$2.44 and estimated variable rate per gallon reduced by 3.1¢ (eff. 7/1/21) compared to current law

	<u>Total</u>	<u>NDOT</u>	<u>Cities/Counties</u>
FY21-22	\$430,702,362	\$279,416,422	\$151,285,940
FY22-23	\$439,275,194	\$282,764,028	\$156,511,166

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

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2021

LB⁽¹⁾ 329

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS) - Transportation Services Bureau (TSB)

Prepared by: ⁽³⁾ Mike Moerer Date Prepared: ⁽⁴⁾ 01/20/2021 Phone: ⁽⁵⁾ 402-471-2897

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	<u>\$27,750</u>	<u>\$27,750</u>	<u>\$27,750</u>	<u>\$27,750</u>
TOTAL FUNDS	<u>\$27,750</u>	<u>\$27,750</u>	<u>\$27,750</u>	<u>\$27,750</u>

Explanation of Estimate:

LB329, as introduced, would set a minimum price of \$2.44 for the average wholesale price of gasoline. This minimum price is used to calculate the tax rate applied to the wholesale tax portion of the semiannual Motor Fuels Tax Rate in the event the actual wholesale price is less than \$2.44.

The Wholesale Fuel Tax Rate for the period of January 1 to June 30, 2021 is \$0.085. The bill as introduced would set the minimum rate, beginning with the July 1 to December 31, 2021 period, at \$0.122.

$$\$2.44 \times .05 (5\%) = \$0.122$$

With the current tax rate of \$0.085, the difference would be a net increase of \$0.037 per gallon.

$$\$0.122 - \$0.085 = \$0.037$$

The Department of Administrative Services (DAS) Transportation Services Bureau TSB), on average, purchases 750,000 gallons per year, based on the historical fuel usage of the last 5 years. The estimated increase would be \$27,750.

$$750,000 \text{ gallons} \times \$0.037 = \$27,750$$

This change would require an increase to the program's revolving fund appropriation and an increase in the mileage rate charged to agencies, boards, and commissions for leased vehicles and short-term rentals.

The table below summarizes the estimated impact by fund type of any mileage increase. The allocation by fund type below is based on an average of Travel expenditures over a four-year period (2017-2020).

Fund Type	Expenditures – FY21-22	Expenditures – FY22-23
General Fund	\$12,338	\$12,338
Cash Fund	\$8,405	\$8,405
Federal Fund	\$6,541	\$6,541
Revolving Fund	\$466	\$466
Total	\$27,750	\$27,750

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>21-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....			\$27,750	\$27,750
Travel.....				
Capital outlay.....				
Capital improvements.....				
TOTAL.....			\$27,750	\$27,750