

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 338**

Introduced by Wayne, 13.

Read first time January 16, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to the motor vehicle fuel tax; to amend  
2 sections 66-489.02 and 66-4,101, Reissue Revised Statutes of  
3 Nebraska; to change the calculation of the tax on the average  
4 wholesale price of gasoline as prescribed; to provide restrictions  
5 on use of tax proceeds as prescribed; to provide an operative date;  
6 to repeal the original sections; and to declare an emergency.

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

1 Section 1. Section 66-489.02, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 66-489.02 (1) For tax periods beginning on and after July 1, 2009,  
4 at the time of filing the return required by section 66-488, the  
5 producer, supplier, distributor, wholesaler, or importer shall, in  
6 addition to the other taxes provided for by law, pay a tax at the rate of  
7 five percent of the average wholesale price of gasoline for the gallons  
8 of the motor fuels as shown by the return, except that there shall be no  
9 tax on the motor fuels reported if they are otherwise exempted by  
10 sections 66-482 to 66-4,149.

11 (2) The minimum average wholesale price of gasoline to be used to  
12 calculate the tax under subsection (1) of this section for tax periods  
13 beginning on and after July 1, 2019, shall be two dollars and forty-four  
14 cents. The department shall calculate the average wholesale price of  
15 gasoline ~~on April 1, 2009, and on each April 1 and October 1~~ and April 1  
16 thereafter. The average wholesale price on ~~October~~ April 1 shall apply to  
17 returns for the tax periods beginning on and after January ~~July~~ 1, and  
18 the average wholesale price on ~~April~~ October 1 shall apply to returns for  
19 the tax periods beginning on and after July ~~January~~ 1. The average  
20 wholesale price shall be determined using data available from the State  
21 Energy Office and shall be an average wholesale price per gallon of  
22 gasoline sold in the state over the previous six-month period, excluding  
23 any state or federal excise tax or environmental fees. The change in the  
24 average wholesale price between two six-month periods shall be adjusted  
25 so that the increase or decrease in the tax provided for in this section  
26 or section 66-6,109.02 does not exceed one cent per gallon.

27 (3) All sums of money received under this section shall be credited  
28 to the Highway Trust Fund. Credits and refunds of such tax allowed to  
29 producers, suppliers, distributors, wholesalers, or importers shall be  
30 paid from the Highway Trust Fund. The balance of the amount credited,  
31 after credits and refunds, shall be allocated as follows:

1 (a) Sixty-six percent to the Highway Cash Fund for the Department of  
2 Transportation;

3 (b) Seventeen percent to the Highway Allocation Fund for allocation  
4 to the various counties for road purposes; and

5 (c) Seventeen percent to the Highway Allocation Fund for allocation  
6 to the various municipalities for street purposes.

7 Sec. 2. Section 66-4,101, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 66-4,101 (1)(a) Any county may by resolution of the county board,  
10 any city may by ordinance of the mayor and city council, and any village  
11 may by ordinance of the chairperson and board of trustees issue bonds for  
12 the construction of roads of the county and street and state highway or  
13 federal-aid routes of cities and villages and to pay the interest on and  
14 to retire any such bonds by pledging funds received from the Highway  
15 Allocation Fund.

16 (b) Any city of the primary class may by ordinance of the mayor and  
17 city council issue bonds for the construction of offstreet parking  
18 facilities of such city and to pay the interest on and to retire any such  
19 bonds by pledging funds received from the Highway Allocation Fund.

20 (c) Any city of the metropolitan class shall use the funds received  
21 from the Highway Allocation Fund, including any bonds issued with such  
22 funds pledged for payment of the bonds, for purposes of improving streets  
23 within the city, giving priority to unimproved streets which do not have  
24 the standard type of pavement and may be considered substandard roads.

25 (2) The issuance of bonds by any county, city, or village under the  
26 authority of this section shall not be subject to any charter or  
27 statutory limitations of indebtedness or be subject to any restrictions  
28 imposed upon or conditions precedent to the exercise of the powers of  
29 counties, cities, and villages to issue bonds or evidences of  
30 indebtedness which may be contained in such charters or other statutes.  
31 Any county, city, or village which has heretofore or may hereafter issue

1 bonds under the authority of this section shall levy property taxes upon  
2 all the taxable property in such county, city, or village issuing such  
3 bonds at such rate or rates within any applicable charter, statutory, or  
4 constitutional limitations as will provide funds which, together with  
5 receipts from the Highway Allocation Fund pledged to the payment of such  
6 bonds and any other money made available and used for that purpose, will  
7 be sufficient to pay the principal of and interest on such bonds as they  
8 severally mature.

9       Sec. 3. This act becomes operative on July 1, 2019.

10       Sec. 4. Original sections 66-489.02 and 66-4,101, Reissue Revised  
11 Statutes of Nebraska, are repealed.

12       Sec. 5. Since an emergency exists, this act takes effect when  
13 passed and approved according to law.