

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 329**

Introduced by Wayne, 13.

Read first time January 13, 2021

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 66-6,109.02, Reissue Revised Statutes of Nebraska, and section
- 3 66-489.02, Revised Statutes Cumulative Supplement, 2020; to change
- 4 provisions relating to certain taxes imposed on the average
- 5 wholesale price of gasoline; to provide for the use of certain tax
- 6 proceeds; to provide an operative date; to repeal the original
- 7 sections; and to declare an emergency.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-489.02, Revised Statutes Cumulative  
2 Supplement, 2020, 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, 2021, 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  
21 Department of Environment and Energy and shall be an average wholesale  
22 price per gallon of gasoline sold in the state over the previous six-  
23 month period, excluding any state or federal excise tax or environmental  
24 fees, except that in no case shall the average wholesale price of  
25 gasoline be less than the minimum amount required under this subsection.  
26 The change in the average wholesale price between two six-month periods  
27 shall be adjusted so that the increase or decrease in the tax provided  
28 for in this section or section 66-6,109.02 does not exceed one cent per  
29 gallon.

30 (3) All sums of money received under this section shall be credited  
31 to the Highway Trust Fund. Credits and refunds of such tax allowed to

1 producers, suppliers, distributors, wholesalers, or importers shall be  
2 paid from the Highway Trust Fund. The balance of the amount credited,  
3 after credits and refunds, shall be allocated as follows:

4 (a) Sixty-six percent to the Highway Cash Fund for the Department of  
5 Transportation. The department shall use at least thirty-five percent of  
6 the amount allocated under this subdivision to pay for surface  
7 transportation projects, as defined in section 39-2702, of the highest  
8 priority as determined by the department;

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

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

13 Sec. 2. Section 66-6,109.02, Reissue Revised Statutes of Nebraska,  
14 is amended to read:

15 66-6,109.02 (1) For tax periods beginning on and after July 1, 2009,  
16 at the time of filing the return required by section 66-6,110, the  
17 retailer shall, in addition to the other taxes provided for by law, pay a  
18 tax at the rate of five percent of the average wholesale price of  
19 gasoline calculated pursuant to section 66-489.02 for the gallons of the  
20 compressed fuel as shown by the return, except that there shall be no tax  
21 on the compressed fuel reported if it is otherwise exempted by the  
22 Compressed Fuel Tax Act.

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

28 (a) Sixty-six percent to the Highway Cash Fund for the Department of  
29 Transportation. The department shall use at least thirty-five percent of  
30 the amount allocated under this subdivision to pay for surface  
31 transportation projects, as defined in section 39-2702, of the highest

1 priority as determined by the department;

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

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

6 Sec. 3. This act becomes operative on July 1, 2021.

7 Sec. 4. Original section 66-6,109.02, Reissue Revised Statutes of  
8 Nebraska, and section 66-489.02, Revised Statutes Cumulative Supplement,  
9 2020, are repealed.

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