



## **NEBRASKA LEGISLATIVE BILL 610 (2015)**

**Title of Bill:** Legislative Bill 610

**Objective:** Gradual state gas tax increase to 6 cents-per-gallon, to be divided between the Nebraska Department of Roads and cities and counties for the purpose of road and bridge maintenance and construction.

**Status of Legislation:** Passed May 14, 2015 by an override of the Governor's veto of the original bill.

Nebraska LB 610 Veto Override May 14, 2015	
FOR	30
AGAINST	16

### **Background**

#### *State Gas Tax Rate*

Since 1995, Nebraska's state gas tax was calculated by combining three components: a 10.3 cents-per-gallon flat excise tax; a 5 percent tax on the average wholesale price of fuel (charged to producers, suppliers, distributors, wholesalers, importers and retailers of motor fuels); and a variable rate tax which is increased as needed by the state legislature to ensure adequate funding for transportation projects.

#### *Distribution*

The state gas tax was divided between the Nebraska Department of Roads and cities/counties within the state:

- Of the flat excise tax, 7.5 cents-per-gallon was distributed to the Department of Roads, and 2.8 cents-per-gallon to cities and counties for local roads and bridges; and
- 66 percent of the tax on the average wholesale price of fuel goes to the Department of Roads, and 17 percent goes to each city and county.

Other sources of transportation funding, such as revenue generated by motor vehicle registration fees and sales tax on vehicle purchases, are split so that the Department of Roads receives 53 1/3 percent and cities and counties receive 23 1/3 percent.

A March 2014 fact sheet from the Nebraska Department of Local Roads<sup>i</sup> showed 86,779 miles of local rural paved, rural unpaved, municipal paved, and municipal unpaved roads, compared to 9,946 state highway paved and unpaved roads. While much greater in mileage, local roads carry only 13.8 percent

of state vehicle-miles traveled. The state highway system carries 63.9 percent of state vehicle-miles traveled, with 85.5 percent of that travel consisting of heavy trucks.

### *Transportation Investment Gap*

Leading up to the 2015 legislative session, Nebraska's Department of Roads had identified in a 2014 State Highway Needs Report<sup>ii</sup> a \$10.2 billion 20-year need, increasing to \$14.6 when factoring in inflation at 5 percent for FY 2016 and 2017, and 3 percent for the next 18 years. Several areas were identified as challenges that state transportation funding was struggling to meet.

- *Bridges:* Nebraska has roughly 15,000 bridges greater than 20 feet. 3,500 are state owned, and more than 90 percent of those are considered "structurally sufficient, structurally adequate, or functionally adequate". In the county road and bridge system, there are 7,700 bridges considered "fair to excellent", 3,094 considered "poor", and 307 bridges that are closed. Altogether, counties would need over \$700 million to address these needs.<sup>iii</sup>
- *Pavement:* In order to maintain the pavement on state roads in good condition, the Department of Local Roads needs to resurface roughly 5 percent (500 miles) of the system per year. The 2014 State Roads Needs Report shows that pavement restoration comprises 65 percent of the 20-year needs plan.
- *Insufficient Appropriations:* 2013 requests included \$15 million per year for maintenance and heavy equipment fleet, of which only \$13 million was approved by the Appropriations Committee. The request for buildings appropriations was \$5 million annually, with \$3 million given. Commenting on the inadequate funds, former Director Randy Peters of the Nebraska Department of Roads said, "You defer maintenance on some of the yards that we intended to and continue to hold them together."
- *Uncertainty over long-term federal investment:* With 50 percent of the budget consisting of federal investment, Nebraska's long-term planning had been impacted by the series of short-term extensions to the federal Highway Trust Fund and transportation funding programs.

Peters stated, "Nebraska, like most other states, reached the point where system preservation, including bridges, consumed virtually all of our construction funding. Planned major capital improvement projects languished year after year."<sup>iv</sup>

### **Summary of Legislation**

Legislative Bill 610, sponsored by Senator Jim Smith (District 14, Papillion), was introduced in the Nebraska Assembly on January 21, 2015 for the purpose of gradually increasing the state gas tax by 1.5 cents-per-gallon over the course of four years, for a total increase of 6 cents-per-gallon.

LB 610 first came up for Final Reading within the legislature on May 7, 2015. The bill was passed with a vote of 26-15-8 [pg. 9] and sent to Governor Pete Ricketts (R), who promptly vetoed the bill that same day.

In his veto message, Governor Ricketts stated, “I remain committed to addressing our state and local infrastructure needs. This is an area that is vital to our continued economic growth. I cannot, however, support raising taxes as the first solution to this issue.”<sup>v</sup>

In order to override a Governor’s veto, the Nebraska Legislature requires a minimum of 30 votes. At the time the bill passed, lawmakers were four votes shy of being able to achieve a veto override. Eight legislators had abstained from voting with the initial passage.

On May 14, 2015, one week after the initial vote, lawmakers achieved a veto override of LB 610 with 30 votes in favor (the minimum amount required for a veto override), 16 against, and 3 abstaining. [pg. 10]

Three Senators who were previously undecided chose to support the gas tax increase, including: Senators Matt Hansen (District 26), Bob Krist (District 10), and Heath Mello (District 5). One Senator—Senator Al Davis (District 43)—changed his vote from against to being in favor of the veto override for a gas tax increase. Senator Davis stated that strong support for increased transportation funding from his constituents—particularly for projects in his region, including the Heartland Expressway and bridges over the Niobrara River—led to his change in stance.

“People drive long distances in my district, and they need good roads to do it,” Davis stated.<sup>vi</sup>

In an op-ed written by Senator Davis the next day, he continued:

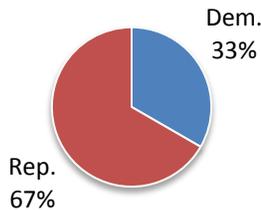
“Surprisingly, 10 of the 18 freshmen senators voted to support the gasoline tax increase, despite their close relationships with the governor. I can’t speak for them, but I assume they know the needs of their district and felt that the needs were so great that they would go against the governor’s wishes to serve their districts.

Gov. Ricketts made some excellent points in opposing the gasoline tax increase, but our infrastructure is constantly decaying and upkeep is costly but necessary. If we want good roads, safe bridges, and divided highways, we must be able to access resources.

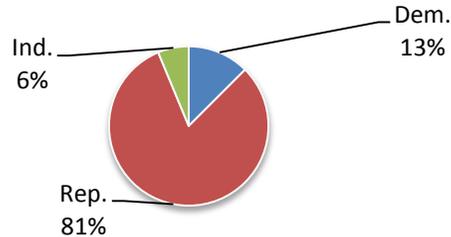
I believe residents of my district deserve good highways to travel the long distances which are a part of life in a sparsely populated region of the state, and that’s largely why I ultimately voted to support the gas tax.”<sup>xi</sup>

The initial 1.5 cents-per-gallon increase will begin January 1, 2016. The 6 cents-per-gallon total increase will be divided, with 2 cents-per-gallon dedicated to the Department of Roads and 4 cents-per-gallon for cities and counties. A Fiscal Note conducted by Legislative Fiscal Analyst Mike Lovelace on February 27, 2015 estimated the bill would generate \$25.4 million for the Department of Roads by Fiscal Year 2019-2020, and an additional \$50.8 million for cities and counties.<sup>vii</sup>

## Legislators Voting For Veto Override and Gas Tax Increase

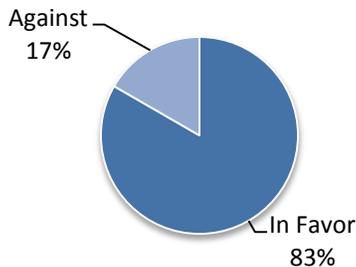


## Legislators Voting Against Veto Override and Gas Tax Increase

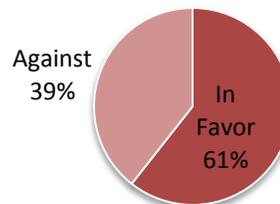


Since 1934, Nebraska's legislature has been nonpartisan. However, state legislators can identify their political party affiliation in their biographies published in the *Nebraska Blue Book*<sup>viii</sup>. Thirteen Nebraska lawmakers identify as Democrat, with 10 of them voting in favor of overriding the Governor's veto of LB 610, two opposed, and one abstaining. Thirty-three Nebraska lawmakers identify as Republican, with 20 of them voting in favor of overriding the Governor's veto of LB 610, thirteen opposed, and two abstaining. One Nebraska lawmakers identifies as Independent, and voted against the override.

## Democrat Votes



## Republican Votes



An additional bill linked to LB 610, LB610A, was introduced by Senator Smith on March 16, 2015 to make appropriations for transportation projects listed in LB 610. LB 610A was approved by the legislature on May 7, 2015 with a vote of 27-12-10 and vetoed by Governor Ricketts the same day. It was passed by a veto override vote 30-13-6 on May 14<sup>ix</sup>.

## Supporters of LB 610

### Arguments:

- Loss of purchasing power due to inflation.

Senator Smith: "If you look at the rising cost of concrete, asphalt and steel, we are just not buying as much for our dollars anymore. The need is there. Roads are absolutely critical to the lifeblood of Nebraska."<sup>x</sup>

- Economic development for areas currently without access to highway corridor commerce.<sup>xi</sup>
- Importance of good roads for the transport of goods and agriculture.
- Fair tax for users of the roads, and a way to collect taxes from out-of-state drivers.

#### Key Players:

Senator Jim Smith (District 14), chairman of the Transportation and Telecommunications Committee and sponsor of LB 610.

*Verbal testimony presented to the Revenue Committee on March 6, 2015<sup>xii</sup>:*

- Richard Reiser, Nebraska Trucking Association
- Pam Dingman, Lancaster County Engineering, Lancaster County
- Larry Hudkins, Nebraska Farm Bureau
- Dan Thiele, Professional Engineers Coalition
- Mark Lutjeharms, American Council of Engineering Companies/Nebraska
- Katie Wilson, Nebraska Chapter of the Associated General Contractors of America
- Dennis Schardt, Pawnee County Commissioner
- Jerry Radke, Deuel County Commissioner
- Larry Dix, NACO
- Marlene Johnson, League of Nebraska Municipalities, City of West Point
- Larry Johnson, Nebraska Trucking Association
- Loran Schmit, ANEEP
- John Hansen, Nebraska Farmers Union

#### **Opponents of LB 610**

##### Arguments:

- Other transportation-funding alternatives should be explored before a gas tax increase, including restructuring the Department of Roads.
- Low-income residents cannot afford to pay additional taxes.
- The tax unfairly burdens rural drivers, who must drive longer distances.
- Volatility of flat gas taxes.

##### Key Players:

Governor Pete Ricketts (R)

"The Legislature's decision to raise the gas tax hurts hardworking Nebraskans who can least afford a tax hike. When I travel the state, Nebraskans tell me that they need tax relief, not

tax increases. Our state already has the 13th-highest property taxes, the 15th-highest income taxes, and this tax hike makes our gas tax rate the 16th-highest in the nation. This tax increase will not only hurt Nebraska's hardworking families, but it will only make it more difficult to grow Nebraska because of our state's burdensome tax climate."<sup>xiii</sup>

*Verbal testimony presented to the Revenue Committee on March 6, 2015:* <sup>xii</sup>

- Matt Litt Americans for Prosperity-Nebraska
- John Dilsaver Nebraska Petroleum Marketers
- Richard Halvorsen

### **Why did it fail/succeed?**

*Strong Political Leadership in the Legislature.*

Bill sponsor Senator Jim Smith was an early and enthusiastic advocate of increased transportation funding for Nebraska. Facing strong opposition from Governor Ricketts, Senator Smith and his coalition were able to rally enough support to push forward a successful veto override.

*Bipartisan support.*

While Nebraska lawmakers are expected to be nonpartisan, they are permitted to broadcast affiliation with a party through the annual *Nebraska Blue Book*. Based off of the information provided in this publication, 61 percent of Republicans and 83 percent of Democrats in the state legislature supported the veto override and gas tax increase.

*Campaign Strategies and Messaging Focused on Economic Benefits*

In other states, the rural/urban divide has been used as an argument against state gas tax increases. In Nebraska's debate on LB 610, several lawmakers voiced concern that the tax unfairly burdened rural residents who often drive longer distances in their daily lives than urban residents.

However, as an agricultural state, many Nebraskans rely heavily on transportation infrastructure to move food and goods from the farms to the markets. Supporters of LB 610 emphasized the importance of good roads and bridges in order to support commerce, as well as the negative consequences that bad roads and deficient bridges would have on business.

*National Momentum*

With passage of LB 610, Nebraska became the sixth state in 2015 to increase or revamp the state gas tax in order to generate new revenue for transportation projects, joining [Idaho](#), [Iowa](#), [Georgia](#), [South Dakota](#) and [Utah](#). In the two years prior, eight other states increased their state gas tax.

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# About the Transportation Investment Advocacy Center

The Transportation Investment Advocacy Center™ (TIAC) is a first-of-its kind, dynamic education program and internet-based information resource designed to help private citizens, legislators, organizations and businesses successfully grow transportation investment at the state and local levels through the legislative and ballot initiative processes.

The TIAC website, [www.transportationinvestment.org](http://www.transportationinvestment.org), was created so transportation investment advocates do not have to “re-invent the wheel” to mount successful campaigns. It exists to put in one place—and promote the sharing of—strategies... sample political and communications tools... legislative and ballot initiative language... and information on where to obtain professional campaign advice, research and help. To subscribe to at no cost—and receive via email—the regularly updated TIAC blog, visit the website.

In addition to the website, the TIAC program includes an annual workshop in Washington, D.C., and ongoing webinars for transportation investment advocates featuring case studies, best practices, and the latest in political and media strategies. State and local chamber of commerce executives, state legislators, state and local transportation officials, “Better Roads & Transportation” group members, industry and labor executives, and leaders of state and local chapters of national organizations who have an interest in transportation development programs are welcomed to participate.

The TIAC is a project of the American Road and Transportation Builders Association’s “Transportation Makes America Work!”™ (TMAW) program ([www.tmaw.org](http://www.tmaw.org)) and funded through voluntary contributions and sponsorships. To become a sponsor or to make a contribution, visit the ARTBA store or contact TIAC Manager Carolyn Kramer at [ckramer@artba.org](mailto:ckramer@artba.org) or 202-289-4434. Also contact Ms. Kramer if you have questions or comments about any reports or case studies published through the TIAC.

# Appendix

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## I. Nebraska Legislative Bill 610 (2015) Final Reading Passage (May 7, 2015)<sup>xiv</sup>

Votes: 26-15-8

### Legislators voting to approve the 6 cents-per-gallon gas tax increase:

Roy Baker (District 30)	Rick Kolowski (District 31)
Patty Pansing Brooks (District 28)	Mark Kolterman (District 24)
Kathy Campbell (District 25)	John Kuehn (District 38)
Colby Coash (District 27)	Brett Lindstrom (District 20)
Sue Crawford (District 45)	John McCollister (District 20)
Curt Friesen (District 34)	Adam Morfeld (District 46)
Mike Gloor (District 35)	Jeremy Nordquist (District 7)
Ken Haar (District 21)	Jim Scheer (District 19)
Galen Hadley (District 37)	Paul Schumacher (District 22)
Burke Harr (District 8)	Les Seiler (District 33)
Sara Howard (District 9)	Jim Smith (District 14)
Dan Hughes (District 44)	John Stinner (District 48)
Jerry Johnson (District 23)	Matt Williams (District 36)

### Legislators voting against a gas tax increase:

Dave Bloomfield (District 17)	Mike Groene (District 42)
Kate Bolz (District 29)	Bill Kintner (District 2)
Lydia Brasch (District 16)	Tyson Larson (District 40)
Ernie Chambers (District 11)	Beau McCoy (District 39)
Joni Craighead (District 6)	John Murante (District 49)
Laura Ebke (District 32)	Kate Sullivan (District 41)
Al Davis (District 43)	Dan Watermeier (District 1)
Tommy Garrett (District 3)	

### Legislators not voting:

Tanya Cook (District 13)	Heath Mello (District 5)
Matt Hansen (District 26)	Merv Riepe (District 12)
Robert Hilkemann (District 4)	Ken Schilz (District 47)
Bob Krist (District 10)	David Schnoor (District 15)

**II. Nebraska Legislative Bill 610 (2015) Veto Override Votes (May 14, 2015)<sup>xv</sup>**

Votes: 30-16-3

Legislators voting to override the Governor's veto and institute a gas tax increase:

Roy Baker (District 30)	Rick Kolowski (District 31)
Patty Pansing Brooks (District 28)	Mark Kolterman (District 24)
Kathy Campbell (District 25)	Bob Krist (District 10)
Colby Coash (District 27)	John Kuehn (District 38)
Sue Crawford (District 45)	Brett Lindstrom (District 20)
Al Davis (District 43)	John McCollister (District 20)
Curt Friesen (District 34)	Heath Mello (District 5)
Mike Gloor (District 35)	Adam Morfeld (District 46)
Ken Haar (District 21)	Jeremy Nordquist (District 7)
Galen Hadley (District 37)	Jim Scheer (District 19)
Matt Hansen (District 26)	Paul Schumacher (District 22)
Burke Harr (District 8)	Les Seiler (District 33)
Sara Howard (District 9)	Jim Smith (District 14)
Dan Hughes (District 44)	John Stinner (District 48)
Jerry Johnson (District 23)	Matt Williams (District 36)

Legislators voting to maintain the Governor's veto and not institute a gas tax increase:

Dave Bloomfield (District 17)	Robert Hilkemann (District 4)
Kate Bolz (District 29)	Bill Kintner (District 2)
Lydia Brasch (District 16)	Tyson Larson (District 40)
Ernie Chambers (District 11)	Beau McCoy (District 39)
Joni Craighead (District 6)	John Murante (District 49)
Laura Ebke (District 32)	Merv Riepe (District 12)
Tommy Garrett (District 3)	Kate Sullivan (District 41)
Mike Groene (District 42)	Dan Watermeier (District 1)

Nonvoting legislators:

Tanya Cook (District 13)  
Ken Schilz (District 47)  
David Schnoor (District 15)

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- <sup>i</sup> “Some Facts and Figures from the Nebraska Department of Roads”  
<http://www.transportation.nebraska.gov/docs/facts-roads.pdf>
- <sup>ii</sup> “2014 State Highway Needs Assessment”  
[http://uniweb.legislature.ne.gov/FloorDocs/103/PDF/Agencies/Roads\\_Department\\_of/47\\_20141112-093043.pdf](http://uniweb.legislature.ne.gov/FloorDocs/103/PDF/Agencies/Roads_Department_of/47_20141112-093043.pdf)
- <sup>iii</sup> Appropriations Committee and Transportation and Telecommunications Committee: November 10, 2014  
<http://www.nebraskalegislature.gov/FloorDocs/103/PDF/Transcripts/SpecialCommittees/Appropriations%20and%20Transportation%20Committees%2011-10-14.pdf>
- <sup>iv</sup> “Report: \$10.2B needed for roads over 20 years” by GRANT SCHULTE - Associated Press - Monday, November 10, 2014.  
<http://www.washingtontimes.com/news/2014/nov/10/report-102b-needed-for-roads-over-20-years/?page=all>
- <sup>v</sup> Governor Pete Ricketts Veto Message, May 7 2015:  
<https://governor.nebraska.gov/sites/governor.nebraska.gov/files/doc/press/LB610%20Veto%20Message.pdf>
- <sup>vi</sup> “In a defeat for Gov. Ricketts, Nebraska’s gas tax will be going up” by Kent Sievers for *The World-Herald*, May 15 2015.  
[http://www.omaha.com/news/legislature/in-a-defeat-for-gov-ricketts-nebraska-s-gas-tax/article\\_fee7547a-fa73-11e4-9214-97066e91f6f9.html](http://www.omaha.com/news/legislature/in-a-defeat-for-gov-ricketts-nebraska-s-gas-tax/article_fee7547a-fa73-11e4-9214-97066e91f6f9.html)
- <sup>vii</sup> LB 610 Fiscal Note: Legislative Fiscal Analyst Estimate, preparing by Mike Lovelace on February 27, 2015.  
[http://nebraskalegislature.gov/FloorDocs/Current/PDF/FN/LB610\\_20150305-104502.pdf](http://nebraskalegislature.gov/FloorDocs/Current/PDF/FN/LB610_20150305-104502.pdf)
- <sup>viii</sup> 2014-2015 Nebraska Blue Book, State Legislative Branch (pages 288-312)  
<http://nebraskalegislature.gov/pdf/bluebook/269-407.pdf>
- <sup>ix</sup> Nebraska Legislature LB610A- Appropriation Bill (2015)  
[http://nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=26523](http://nebraskalegislature.gov/bills/view_bill.php?DocumentID=26523)
- <sup>x</sup> “Static gas tax rate curbs Nebraska’s buying power”, by Henry J. Cordes / World-Herald staff writer, April 27 2015.  
[http://www.omaha.com/news/legislature/static-gas-tax-rate-curbs-nebraska-s-buying-power/article\\_fc18cc30-62dc-5434-bf42-3cc70d162fc7.html](http://www.omaha.com/news/legislature/static-gas-tax-rate-curbs-nebraska-s-buying-power/article_fc18cc30-62dc-5434-bf42-3cc70d162fc7.html)
- <sup>xi</sup> “Davis at the Legislature: Support gas tax hike”, op-ed for the *North Platte Bulletin* by Senator Al Davis on May 15, 2015.  
<http://www2550.sslldomain.com/northplattebulletin/index.asp?show=news&action=readStory&storyID=30051&pageID=6&sectionID=5>
- <sup>xii</sup> ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION – 2015: COMMITTEE STATEMENT- LB610  
<http://nebraskalegislature.gov/FloorDocs/104/PDF/CS/LB610.pdf>
- <sup>xiii</sup> “Gov. Ricketts Comments on the Legislature’s Gas Tax Hike”  
<https://governor.nebraska.gov/press/gov-ricketts-comments-legislature%E2%80%99s-gas-tax-hike>
- <sup>xiv</sup> Nebraska Legislative Journal for the 2015 Legislative Session, 1500: Legislative Bill 610.  
<http://nebraskalegislature.gov/FloorDocs/104/PDF/Journal/r1journal.pdf#page=1500>

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<sup>xv</sup> Nebraska Legislative Journal for the 2015 Legislative Session, 1623: MOTION- Override Veto on LB610.  
<http://nebraskalegislature.gov/FloorDocs/104/PDF/Journal/r1journal.pdf#page=1623>