

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 401**

Introduced by Friend, 10; McCoy, 39; Pankonin, 2.

Read first time January 16, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to highways and roads; to amend sections  
2 39-1110, 39-2201, 39-2203, 39-2212, 39-2213, 39-2215,  
3 39-2215.01, 39-2222, and 39-2223, Reissue Revised  
4 Statutes of Nebraska, and sections 66-4,100 and 66-4,144,  
5 Revised Statutes Cumulative Supplement, 2008; to adopt  
6 the High Priority Surface Transportation Development  
7 Act and the Surface Transportation Revolving Fund Act;  
8 to authorize issuance of highway bonds; to change  
9 highway funding provisions; to create funds; to harmonize  
10 provisions; to repeal the original sections; and to  
11 declare an emergency.

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

1           Section 1. Sections 1 to 5 of this act shall be known  
2 and may be cited as the High Priority Surface Transportation  
3 Development Act.

4           Sec. 2. The Legislature finds that a modern surface  
5 transportation system is essential to economic well-being and the  
6 protection of public health and safety. The Legislature further  
7 finds that projects facilitating the acquisition, construction,  
8 reconstruction, resurfacing, rehabilitation, restoration, and  
9 equipping of a modern and efficient surface transportation system  
10 are essential to protecting and improving the state's economy  
11 and public health and safety, that modern and efficient surface  
12 transportation is an issue of concern to all citizens of the state,  
13 that fostering development of surface transportation projects to  
14 enhance and expand the surface transportation system are essential  
15 to economic growth and development and to public health and safety,  
16 and that assistance necessary for advancement of high priority  
17 projects can be provided for through the funds created by the High  
18 Priority Surface Transportation Development Act.

19           The Legislature finds and determines that funding for  
20 such purposes may consist of money from state or federal sources  
21 and that such funding can be augmented and additional needed  
22 surface transportation projects can be undertaken in a more  
23 expeditious manner through the issuance of revenue bonds by the  
24 State Highway Commission.

25           The Legislature finds and determines that the issuance

1 of revenue bonds for financing surface transportation projects  
2 serves a public purpose by assisting in the provision and  
3 improvement of highways, roads, streets, bridges, and other  
4 modes of surface transportation and thereby providing modern and  
5 efficient transportation to the citizens of the state, promoting  
6 the health and safety and well-being of the citizens, and assisting  
7 in the economic growth and development of the state. The full faith  
8 and credit and the taxing power of the state are not and may not be  
9 pledged to the payment of such bonds or the interest thereon.

10           Sec. 3. For purposes of the High Priority Surface  
11 Transportation Development Act:

12           (1) Commission means the State Highway Commission;

13           (2) Council means the Surface Transportation High  
14 Priority Project Council;

15           (3) Government unit means any political subdivision of  
16 the state and any interlocal entity of two or more political  
17 subdivisions established in accordance with law;

18           (4) Project means a highway, a road, a street, a bridge,  
19 or any other mode of surface transportation, or any combination  
20 thereof, the total cost of constructing which is at least thirty  
21 million dollars, and which the council has determined to be a high  
22 priority surface transportation project; and

23           (5) Revolving fund bonds means bonds authorized to be  
24 issued under the Surface Transportation Revolving Fund Act.

25           Sec. 4. (1) (a) The Surface Transportation High Priority

1 Project Council is hereby created.

2 (b) The council shall consist of seven members as  
3 follows:

4 (i) The chairperson of the State Highway Commission as an  
5 ex officio member; and

6 (ii) Six members appointed by the Governor, one of whom  
7 the Governor shall designate as the chairperson of the council and  
8 who shall hold such office at the pleasure of the Governor.

9 (c) The Governor shall appoint the members provided for  
10 in subdivision (1)(b)(ii) of this section within ninety days after  
11 July 1, 2009.

12 (d) The Department of Roads shall provide staff  
13 assistance, office space, and office services to the council. The  
14 council shall pay or reimburse the department for the costs of  
15 such staff assistance, office space, and office services from its  
16 application, issuance, and administration fees as authorized under  
17 subdivision (1)(e) of this section or from appropriations by the  
18 Legislature for such purpose. The council shall not employ its own  
19 staff or engage providers of services or consultants not otherwise  
20 in the employ of the state.

21 (e) The council shall fix by rule and regulation  
22 the following fees for the purpose of defraying the costs of  
23 administration and operation of the council in the exercise of  
24 its duties and responsibilities under the High Priority Surface  
25 Transportation Development Act: An application fee to be paid

1 by each applicant for funding of a project; an origination  
2 fee, which shall be a percentage of the principal amount of  
3 the bonds or revolving fund bonds issued by the commission and  
4 shall be collected by the commission from the proceeds upon the  
5 issuance thereof and transferred to the administration account as  
6 provided by subdivision (1)(f) of this section; and an annual  
7 administration fee, which shall be a percentage of the outstanding  
8 principal amount of each issue of bonds or revolving fund bonds  
9 and shall be collected by the commission from the bond fund in  
10 the case of bonds and from the funds created under the Surface  
11 Transportation Revolving Fund Act in the case of revolving fund  
12 bonds and transferred to the administration account as provided by  
13 subdivision (1)(f) of this section.

14 (f) The application fee, the origination fee, and the  
15 administration fee shall constitute public funds of the state,  
16 which shall be deposited into the administration account of the  
17 Surface Transportation High Priority Project Construction Fund. The  
18 council shall apply the amounts on deposit in the administration  
19 account, together with investment earnings, to pay the operating  
20 expenses incurred by the council in the performance of its  
21 statutory duties, which expenses shall include, but not be limited  
22 to, the reimbursement of the department for the staff assistance,  
23 office space, and office services provided to the council pursuant  
24 to subdivision (1)(d) of this section.

25 (2) Members appointed as provided by subdivisions

1 (1) (b) (ii) through (iv) of this section shall serve for terms of  
2 four years. All appointments pursuant to such subdivisions shall be  
3 subject to confirmation by the Legislature when initially made. Any  
4 person appointed to fill a vacancy shall be appointed in the same  
5 manner as the original appointee for the remainder of the unexpired  
6 term. Members whose terms have expired shall continue to serve  
7 until their successors have been appointed and confirmed in the  
8 same manner as their predecessors. All members shall be citizens  
9 and residents of the State of Nebraska.

10 (3) Members may be removed by the Governor for  
11 inefficiency, neglect of duty, or misconduct in office but  
12 only after delivering to the member, the Speaker of the  
13 Legislature, the chairperson of the Committee on Transportation and  
14 Telecommunications of the Legislature, and the Attorney General a  
15 copy of the charges and affording him or her an opportunity to be  
16 publicly heard in person or by counsel, in his or her own defense,  
17 upon not less than ten days notice. Such hearing shall be held  
18 before the Governor. When a member is removed, the Governor shall  
19 file, in the office of the Secretary of State, a complete statement  
20 of all charges made against such member and the findings thereon,  
21 together with a complete record of the proceedings.

22 (4) The council shall elect from its members a  
23 vice-chairperson, who shall hold office at the pleasure of the  
24 council. The vice-chairperson shall serve as chairperson in case  
25 of the absence or disability of the chairperson. The chairperson

1 of the State Highway Commission shall serve as secretary of the  
2 council and shall keep all records of meetings of and actions taken  
3 by the council. He or she shall be promptly advised as to such  
4 actions by the chairperson of the council.

5 (5) The members of the council, while engaged in the  
6 performance of their official duties, shall receive reimbursement  
7 for their actual and necessary expenses as provided in sections  
8 81-1174 to 81-1177.

9 (6) Regular meetings of the council shall be held upon  
10 call of the chairperson, but not less than four times per year.  
11 Special meetings may be held upon call of the chairperson or  
12 pursuant to a call signed by three other members, of which the  
13 chairperson shall have three days written notice.

14 (7) All regular meetings of the council shall be held  
15 in suitable offices to be provided in Lincoln, Nebraska, unless a  
16 majority of the members deem it necessary to hold a regular meeting  
17 at another location within this state. Members of the council may  
18 participate by telephone conference call or videoconference as long  
19 as the chairperson or vice-chairperson conducts the meeting in an  
20 open forum where the public is able to participate by attendance at  
21 the scheduled meeting. Written notice of the time and place of all  
22 meetings shall be mailed in advance to the office of each member of  
23 the council by the chairperson or his or her delegate. A majority  
24 of the members of the council shall constitute a quorum. Every act  
25 of a majority of the members of the council shall be deemed to be

1 the act of the council. All meetings of the council shall be open  
2 to the public and shall be conducted in accordance with the Open  
3 Meetings Act.

4 (8)(a) For the purpose of identifying, selecting, and  
5 assisting in the financing of projects necessary for the promotion  
6 of the public health, safety, and well-being of the residents  
7 of the state, the council shall adopt and promulgate rules  
8 and regulations in accordance with the Administrative Procedure  
9 Act establishing policies, procedures, eligibility criteria, and  
10 requirements for applications by government units for assistance  
11 with the financing of projects from the proceeds of bonds and the  
12 identification and classification of projects as being of high  
13 priority. Such policies, procedures, eligibility criteria, and  
14 requirements may be made for application to the state as a whole  
15 or to any designated area of the state and shall be made with  
16 special reference to effects on the efficiency, cost-effectiveness,  
17 convenience, reduction of congestion, and safety of surface  
18 transportation; business, commercial, and recreational travel;  
19 economic development, including facilitation of job creation and  
20 private investment; social factors; and the physical effects of a  
21 project on right-of-way and appurtenant property. Such rules and  
22 regulations may be amended as and when determined necessary by the  
23 council in accordance with the Administrative Procedure Act.

24 (b) In adopting the project eligibility criteria, the  
25 council shall expressly consider and recognize the purposes



1 enumerated in section 39-1320 for the construction of state  
2 highways, and such eligibility criteria shall be in furtherance  
3 of such purposes as shall pertain to the specific project and  
4 shall take into account whether federal grants or other funding is  
5 available for a particular project or projects. In addition, the  
6 council shall consider:

7 (i) The local support of the project, expressed in  
8 resolutions by the government units in the areas in which the  
9 project will be located;

10 (ii) Maximum economic benefit, enhancement of mobility,  
11 enhancement of public safety, acceleration of project completion,  
12 and enhancement of transportation services;

13 (iii) The ability of the applicant to repay a loan  
14 according to the terms and conditions established pursuant to the  
15 Surface Transportation Revolving Fund Act, consideration of which  
16 may include, at the option of the council, the existence of current  
17 investment grade rating on existing debt of the applicant secured  
18 by the same revenue to be pledged to secure repayment under the  
19 loan repayment agreement;

20 (iv) The financial or in-kind contributions to the  
21 project;

22 (v) Greater weighting in recommending priorities for  
23 eligible projects to areas of the state experiencing demonstrable  
24 transportation-related economic impediments, including high  
25 unemployment; and

1           (vi) Whether the governing bodies of the government units  
2 in which the project is to be located provide to the council a  
3 resolution or other official action which makes a finding that  
4 the project is essential to economic development in the government  
5 units, or the council receives an opinion from the Department of  
6 Economic Development that the project is essential to economic  
7 development in the state, or both.

8           (c) As a condition of filing an application to the  
9 council for financing assistance from the proceeds of bonds with  
10 respect to a project, the applying government unit shall agree  
11 to be responsible for and shall have taken irrevocable official  
12 action in accordance with law to obligate itself with respect  
13 to at least twenty-five percent of the cost of the project,  
14 such that the state's share of the costs of the project shall  
15 not exceed seventy-five percent of the cost of the project. The  
16 council shall be authorized to accept pecuniary or in-kind matches,  
17 or a combination of each, and shall establish by its rules and  
18 regulations standards for determining whether an in-kind match is a  
19 reasonable and fairly-valued equivalent of a pecuniary match. The  
20 council may modify the minimum project eligibility cost if, under  
21 its rules and regulations, it finds that the project is necessary  
22 to mitigate an emergency. The council may also modify or waive  
23 the matching requirement if, under its rules and regulations, it  
24 finds that the project is necessary to mitigate an emergency and  
25 that the applying government does not have the resources necessary

1 to fully provide the pecuniary or in-kind contribution required by  
2 this section.

3 (d) If a government unit fails to remit payment or  
4 otherwise satisfy its obligation under subdivision (8)(c) of this  
5 section, the council shall notify the commission and the State  
6 Treasurer, who shall withhold all or a portion of the funds of  
7 the state and all funds administered by the state or its agencies,  
8 boards, and instrumentalities allotted, allocated, or appropriated  
9 to the government unit and apply an amount necessary to the  
10 payment of the amount due. Nothing in this subdivision mandates the  
11 withholding of funds allocated to a government unit which would  
12 violate contracts to which the state is a party, the requirements  
13 of federal law imposed on the state, or judgments of a court  
14 binding on the state.

15 (9) The council shall submit at least annually to the  
16 commission written directions identifying the projects to be funded  
17 with the proceeds of bonds to be issued by the commission by  
18 authority of subsection (3) of section 39-2223, which directions  
19 shall be binding upon the commission.

20 (10) Following the close of each fiscal year, the council  
21 shall submit an annual report of its activities for the preceding  
22 year to the Governor and to the Legislature.

23 Sec. 5. The High Priority Surface Transportation  
24 Development Act shall be liberally construed to effect the purposes  
25 of the act.

1           Sec. 6. Sections 6 to 21 of this act shall be known and  
2 may be cited as the Surface Transportation Revolving Fund Act.

3           Sec. 7. The Legislature finds that a modern surface  
4 transportation system is essential to economic well-being and the  
5 protection of public health and safety. The Legislature further  
6 finds that projects facilitating the acquisition, construction,  
7 reconstruction, resurfacing, rehabilitation, restoration, and  
8 equipping of a modern and efficient surface transportation system  
9 are essential to protecting and improving the state's economy  
10 and public health and safety, that modern and efficient surface  
11 transportation is an issue of concern to all citizens of the state,  
12 that fostering development of surface transportation projects to  
13 enhance and expand the surface transportation system are essential  
14 to economic growth and development and to public health and safety,  
15 and that assistance to local governments necessary for advancement  
16 of such projects can be provided for through the funds created by  
17 the Surface Transportation Revolving Fund Act.

18           The Legislature finds and determines that funding for  
19 such purposes may consist of money from state or federal sources  
20 and that such funding can be augmented and additional needed  
21 surface transportation projects can be undertaken in a more  
22 expeditious manner through the issuance of revenue bonds by the  
23 State Highway Commission and the deposit of the proceeds thereof  
24 into the Surface Transportation High Priority Loan Fund or the  
25 Local Project Loan Fund.

1           The Legislature finds and determines that the issuance  
2 of revenue bonds for financing the funds serves a public purpose  
3 by assisting state and local governments in the provision and  
4 improvement of highways, roads, streets, bridges, and other  
5 modes of surface transportation and thereby providing modern and  
6 efficient transportation to the citizens of the state, promoting  
7 the health and safety and well-being of the citizens, and assisting  
8 in the economic growth and development of the state. The full faith  
9 and credit and the taxing power of the state are not and may not be  
10 pledged to the payment of such bonds or the interest thereon.

11           Sec. 8. For purposes of the Surface Transportation  
12 Revolving Fund Act:

13           (1) Construction means any of the following: Preliminary  
14 planning to determine the feasibility of a transportation  
15 project for a government unit; engineering, architectural,  
16 legal, fiscal, or economic investigations or studies; surveys,  
17 designs, plans, working drawings, specifications, procedures, or  
18 other necessary preliminary actions; acquisition, construction,  
19 resurfacing, restoring, rehabilitation, reconstruction, equipping  
20 and improvement, or extension of transportation projects; or the  
21 inspection or supervision of any of such items;

22           (2) Council means the Surface Transportation High  
23 Priority Project Council created pursuant to section 4 of this act;

24           (3) Department means the Department of Roads;

25           (4) Director means the Director-State Engineer;

1           (5) Government unit means any political subdivision of  
 2 the state and any interlocal entity of two or more political  
 3 subdivisions established in accordance with law;

4           (6) Operate and maintain means all necessary activities,  
 5 including the normal repair, maintenance, resurfacing, and  
 6 replacement of components or appurtenances to assure the safe,  
 7 dependable, and economical function of a transportation project in  
 8 accordance with its intended purpose; and

9           (7) Transportation project means any state or local  
 10 highway, road, street, or bridge, any other transit or surface  
 11 transportation facility or equipment and any related facility.

12           Sec. 9. (1) The Surface Transportation High Priority Loan  
 13 Fund is created. The fund shall be held as a trust fund for the  
 14 purposes and uses described in the Surface Transportation Revolving  
 15 Fund Act.

16           (2) The fund shall consist of grants, state  
 17 appropriations, proceeds of bond issues credited to the  
 18 fund, repayments of principal and interest on loans, and other  
 19 money designated for the fund. The director may make loans from the  
 20 fund pursuant to the Surface Transportation Revolving Fund Act and  
 21 may conduct activities related to financial administration of the  
 22 fund, administration, or provision of technical assistance through  
 23 transportation project assessment programs.

24           (3) The department may create or direct the creation  
 25 of accounts within the fund as the department determines to be

1 appropriate and useful in administering the fund and in providing  
2 for the security, investment, and repayment of bonds.

3 (4) The fund and the assets thereof may be used to pay or  
4 to secure the payment of bonds and the interest thereon. The fund  
5 and assets thereof may be used to fund subdivisions (8) and (9) of  
6 section 15 of this act.

7 (5) Any money in the fund available for investment  
8 shall be invested by the state investment officer pursuant to  
9 the Nebraska Capital Expansion Act and the Nebraska State Funds  
10 Investment Act, except that any bond proceeds in the fund shall  
11 be invested in accordance with the terms of the documents under  
12 which the bonds are issued. The state investment officer may direct  
13 that the bond proceeds shall be deposited with the bond trustee for  
14 investment. Investment earnings shall be credited to the fund.

15 Sec. 10. (1) The Local Project Loan Fund is created. The  
16 fund shall be held as a trust for the purposes and uses described  
17 in the Surface Transportation Revolving Fund Act.

18 (2) The fund shall consist of grants, state  
19 appropriations, proceeds of bond issues credited to the  
20 fund, repayments of principal and interest on loans, and other  
21 money designated for the fund. The director may make loans from the  
22 fund pursuant to the Surface Transportation Revolving Fund Act.

23 (3) The department may create or direct the creation  
24 of accounts within the fund as the department determines to be  
25 appropriate and useful in administering the fund and in providing

1 for security, investment, and repayment of bonds.

2 (4) The fund and assets thereof may be used to pay or  
3 secure the payment of bonds and the interest thereon. The fund and  
4 assets thereof may be used to fund subdivisions (8) and (9) of  
5 section 15 of this act. The director may transfer any money in the  
6 Local Project Loan Fund to the Surface Transportation High Priority  
7 Loan Fund.

8 (5) Any money in the fund available for investment  
9 shall be invested by the state investment officer pursuant to  
10 the Nebraska Capital Expansion Act and the Nebraska State Funds  
11 Investment Act, except that any bond proceeds in the fund shall  
12 be invested in accordance with the terms of the documents under  
13 which the bonds are issued. The state investment officer may direct  
14 that the bond proceeds shall be deposited with the bond trustee for  
15 investment. Investment earnings shall be credited to the fund.

16 Sec. 11. (1) There is hereby created the Surface  
17 Transportation Administration Fund. Any funds available for  
18 administering loans or fees collected pursuant to the Surface  
19 Transportation Revolving Fund Act shall be remitted to the State  
20 Treasurer for credit to such fund. The fund shall be administered  
21 by the department for the purposes of the act.

22 (2) The fund and assets thereof may be used to fund  
23 subdivisions (8) and (9) of section 15 of this act. The director  
24 may transfer any money in the Surface Transportation Administration  
25 Fund to the Surface Transportation High Priority Loan Fund or the



1 Local Project Loan Fund.

2 (3) Any money in the fund available for investment  
3 shall be invested by the state investment officer pursuant to  
4 the Nebraska Capital Expansion Act and the Nebraska State Funds  
5 Investment Act. Investment earnings shall be credited to the fund.

6 Sec. 12. If funds are loaned to or otherwise credited to  
7 the Surface Transportation High Priority Loan Fund or the Local  
8 Project Loan Fund with an obligation to repay such loan or credit,  
9 the obligation to repay the amount of the loan or credit and  
10 the interest thereon shall, upon authorization by the council and  
11 execution and delivery by the department of an agreement to repay  
12 the loan or credit, be a valid and binding obligation of such funds  
13 or either fund or portions thereof and payable in accordance with  
14 the terms of the agreement executed by the department.

15 Sec. 13. Any pledge of the Surface Transportation High  
16 Priority Loan Fund or the Local Project Loan Fund or any part  
17 thereof or any pledge of the assets of such funds made by the  
18 department as authorized by the council shall be valid and binding  
19 from the time the pledge is made. The revenue, money, or assets  
20 so pledged and received by such funds shall immediately be subject  
21 to a lien of such pledge without any physical delivery thereof or  
22 further act, and the lien shall be valid and binding as against all  
23 parties having claims of any kind in tort, contract, or otherwise  
24 against such funds or the assets thereof, regardless of whether the  
25 parties have notice of the lien. Neither the action by the council,

1 the pledge agreement executed by the department, nor any other  
2 instrument by which a pledge is created need be recorded.

3           Sec. 14. The council shall have the following powers and  
4 duties, in addition to those set forth in section 4 of this act:

5           (1) To adopt and promulgate rules and regulations to  
6 govern eligible transportation projects and application procedures  
7 and requirements for making loans under the Surface Transportation  
8 Revolving Fund Act;

9           (2) To adopt an intended use plan which shall include  
10 the funding priorities established in section 4 of this act. The  
11 intended use plan shall be reviewed annually by the council;

12           (3) To adopt a system of establishing interest rates to  
13 be charged on loans;

14           (4) To approve criteria for defining disadvantaged  
15 communities;

16           (5) To create an administrative fee to be assessed on a  
17 loan for the purpose of administering the Surface Transportation  
18 Revolving Fund Act; and

19           (6) To obligate the Surface Transportation High Priority  
20 Loan Fund or the Local Project Loan Fund and the assets thereof, in  
21 whole or in part, to repay with interest loans to or credits into  
22 such funds, including bonds, the proceeds of which are credited to  
23 such funds.

24           Sec. 15. The department shall have the following powers  
25 and duties, in addition to those otherwise provided by law:

1           (1) To establish a program to make loans to government  
2 units, individually or jointly, for construction or modification  
3 of transportation projects in accordance with the Surface  
4 Transportation Revolving Fund Act and the rules and regulations of  
5 the council adopted and promulgated pursuant to the act;

6           (2) If so authorized by the council pursuant to section  
7 14 of this act, to execute and deliver documents obligating the  
8 Surface Transportation High Priority Loan Fund or the Local Project  
9 Loan Fund and the assets thereof to repay, with interest, loans to  
10 or credits into such funds and to execute and deliver documents  
11 pledging all or part of such funds and assets to secure, directly  
12 or indirectly, the loans or credits;

13           (3) To prepare an annual report for the Governor and the  
14 Legislature;

15           (4) To establish fiscal controls and accounting  
16 procedures sufficient to assure proper accounting during  
17 appropriate accounting periods, including the following:

18           (a) Accounting from the State Highway Commission for the  
19 costs associated with the issuance of bonds pursuant to the act;

20           (b) Accounting for payments or deposits received by the  
21 funds;

22           (c) Accounting for disbursements made by the funds; and

23           (d) Balancing the funds at the beginning and end of the  
24 accounting period;

25           (5) To establish financial capability requirements

1 that assure sufficient revenue to operate and maintain the  
2 transportation facilities for their useful life and to repay the  
3 loan for such facilities;

4 (6) To determine the rate of interest to be charged on  
5 a loan in accordance with the rules and regulations adopted and  
6 promulgated by the council;

7 (7) To develop an intended use plan or a priority ranking  
8 for adoption by the council;

9 (8) To provide emergency funding to government units with  
10 transportation projects which have been damaged or destroyed by  
11 natural disaster or other unanticipated actions or circumstances.  
12 Such funding shall not be used for routine repair or maintenance of  
13 transportation facilities;

14 (9) To provide financial assistance, consistent with the  
15 intended use plan described in subdivision (7) of this section, for  
16 completion of engineering studies, research projects to investigate  
17 low-cost options for achieving compliance with safety standards,  
18 preliminary engineering reports, regional transportation planning,  
19 local highway and road planning, and other studies for the purpose  
20 of enhancing the ability of communities to meet transportation  
21 needs and to transportation projects undertaken by government  
22 units with populations of ten thousand or fewer inhabitants which  
23 demonstrate serious financial hardships. The department may enter  
24 into agreements for up to ninety percent of the eligible project  
25 cost. Such agreements shall contain a provision that payment

1 of the amount obligated is conditional upon the availability of  
2 appropriated funds; and

3 (10) Such other powers as may be necessary and  
4 appropriate for the exercise of the duties created under the  
5 Surface Transportation Revolving Fund Act.

6 Sec. 16. Loans shall be made only under the Surface  
7 Transportation Revolving Fund Act to eligible government units for  
8 eligible transportation projects.

9 Sec. 17. All loans made under the Surface Transportation  
10 Revolving Fund Act shall be made only to owners of transportation  
11 projects that:

12 (1) Meet the requirements of financial, technical, and  
13 managerial capability set by the department;

14 (2) Pledge sufficient revenue sources for the repayment  
15 of the loan if such revenue may by law be pledged for that purpose;

16 (3) Agree to maintain financial records according to  
17 generally accepted government accounting principles and to conduct  
18 an audit of the financial records according to generally accepted  
19 government auditing standards; and

20 (4) Agree to operate and maintain the transportation  
21 project so that it will function properly over the structural and  
22 material design life.

23 Sec. 18. Loan terms for loans made under the Surface  
24 Transportation Revolving Fund Act shall include, but not be limited  
25 to, the following:

1           (1) The term of the loan shall not exceed thirty years;

2           (2) The interest rate shall be at or below market  
3 interest rates;

4           (3) The annual principal and interest payment shall  
5 commence not later than one year after completion of any  
6 transportation project; and

7           (4) The loan recipient shall immediately repay any loan  
8 when a grant has been received which covers costs provided for by  
9 such loan.

10           If a government unit fails to make any payment pursuant  
11 to a loan within sixty days of the date due, such payment shall  
12 be deducted from the amount of aid to municipalities, counties,  
13 or natural resources districts to which the municipality, county,  
14 or natural resources district is entitled under sections 77-27,136  
15 to 77-27,137.02 and Highway Allocation Fund payments to such  
16 government unit. Such amount shall be paid directly to the fund  
17 from which the loan was made.

18           Sec. 19. The commission acting for and on behalf of the  
19 state may issue from time to time bonds in such principal amounts  
20 as determined by the commission for the purpose of funding or  
21 capitalizing the Surface Transportation High Priority Loan Fund or  
22 the Local Project Loan Fund and for financing loans to government  
23 units for transportation projects. The principal amount of the  
24 bonds so authorized to be issued shall not exceed the amount  
25 for which principal and interest may be paid when due by revenue

1 projected to be available from the Surface Transportation High  
2 Priority Loan Fund, the Local Project Loan Fund, and any other  
3 funds pledged by the commission for such purpose. The principal  
4 amounts, interest rates, maturities, redemption provisions, sale  
5 prices, and other terms of the bonds so authorized to be issued  
6 shall be in accordance with terms or parameters established by  
7 the commission. The proceeds from the sale of any bonds issued  
8 under the Surface Transportation Revolving Fund Act, net of costs  
9 of issuance, capitalized interest, and necessary or appropriate  
10 reserve funds, shall be deposited in the Surface Transportation  
11 High Priority Loan Fund or the Local Project Loan Fund and shall  
12 be used to finance loans to government units for transportation  
13 projects. The commission is hereby granted all powers necessary  
14 or convenient to carry out the purposes and exercise the powers  
15 granted by the act.

16           Sec. 20. The bonds issued pursuant to the Surface  
17 Transportation Revolving Fund Act shall be special obligations  
18 of the commission payable solely and only from the Surface  
19 Transportation High Priority Loan Fund and the Local Project  
20 Loan Fund, as the case may be, and any other funds specifically  
21 pledged by the commission for such purpose, and neither the members  
22 of the commission nor any person executing the bonds shall be  
23 liable thereon. Such bonds shall not be a general obligation or  
24 debt of the state and they shall contain on the face thereof a  
25 statement to such effect.

1           Sec. 21. The Surface Transportation Revolving Fund Act  
2 shall be liberally construed to effect the purposes specified in  
3 the act.

4           Sec. 22. Section 39-1110, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           39-1110 (1) It shall be the duty of the State Highway  
7 Commission:

8           (a) To conduct studies and investigations and to act  
9 in an advisory capacity to the Director-State Engineer in the  
10 establishment of broad policies for carrying out the duties and  
11 responsibilities of the Department of Roads;

12           (b) To advise the public regarding the policies,  
13 conditions, and activities of the Department of Roads;

14           (c) To hold hearings, make investigations, studies, and  
15 inspections, and do all other things necessary to carry out the  
16 duties imposed upon it by law;

17           (d) To advance information and advice conducive to  
18 providing adequate and safe highways in the state;

19           (e) To accept and implement written directions received  
20 from the Surface Transportation High Priority Project Council with  
21 respect to surface transportation high priority projects to be  
22 funded with the proceeds of highway special obligation bonds issued  
23 by the State Highway Commission under the Nebraska Highway Bond  
24 Act;

25           (f) To provide full cooperation and assistance to the



1 council, and to direct the Department of Roads to provide such  
2 technical and professional advice, staffing, and office services as  
3 the council shall request;

4 ~~(e)~~ (g) When called upon by the Governor, to advise him  
5 or her relative to the appointment of the Director-State Engineer;  
6 and

7 ~~(f)~~ (h) To submit to the Governor its written advice  
8 regarding the feasibility of each relinquishment or abandonment of  
9 a fragment of a route, section of a route, or a route on the  
10 state highway system proposed by the department. The chairperson of  
11 the commission shall designate one or more of the members of the  
12 commission, prior to submitting such advice, to personally inspect  
13 the fragment of a route, section of a route, or a route to be  
14 relinquished or abandoned, who shall take into consideration the  
15 following factors: Cost to the state for maintenance, estimated  
16 cost to the state for future improvements, whether traffic  
17 service provided is primarily local or otherwise, whether other  
18 facilities provide comparable service, and the relationship to  
19 an integrated state highway system. The department shall furnish  
20 to the commission all needed assistance in making its inspection  
21 and study. If the commission, after making such inspection and  
22 study, shall fail to reach a decision as to whether or not the  
23 fragment of a route, section of a route, or a route should be  
24 relinquished or abandoned, it may hold a public hearing on such  
25 proposed relinquishment or abandonment. The commission shall give

1 a written notice of the time and place of such hearing, not less  
2 than two weeks prior to the time of the hearing, to the political  
3 or governmental subdivisions or public corporations wherein such  
4 portion of the state highway system is proposed to be relinquished  
5 or abandoned. The commission shall submit to the Governor, within  
6 two weeks after such hearing, its written advice upon such proposed  
7 relinquishment or abandonment.

8 (2) All funds rendered available by law to the Department  
9 of Roads, including funds already collected for such purposes,  
10 may be used by the State Highway Commission in administering  
11 and effecting such purposes, to be paid upon approval by the  
12 Director-State Engineer.

13 (3) All data and information of the Department of Roads  
14 shall be available to the State Highway Commission.

15 (4) The State Highway Commission may issue bonds under  
16 the Nebraska Highway Bond Act and revolving fund bonds under the  
17 Surface Transportation Revolving Fund Act.

18 Sec. 23. Section 39-2201, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 39-2201 As used in the Nebraska Highway Bond Act, unless  
21 the context otherwise requires:

22 (1) Bond fund ~~shall mean~~ means the Highway Restoration  
23 and Improvement Bond Fund created in section 39-2215.01;

24 (2) Bonds ~~shall mean~~ means the bonds authorized to be  
25 issued under the Nebraska Highway Bond Act and ~~shall include~~

1 includes notes or other similar evidences of indebtedness;

2 (3) Commission ~~shall mean~~ means the State Highway  
3 Commission;

4 (4) Construction ~~shall mean and include~~ means and  
5 includes acquisition, construction, resurfacing, restoring,  
6 rehabilitation, and reconstruction necessary to plan, build,  
7 improve, replace, or extend a highway, and to construct ~~shall~~  
8 ~~mean and include~~ means and includes to acquire, to construct,  
9 to resurface, to restore, to rehabilitate, and to reconstruct as  
10 necessary to plan, build, improve, replace, or extend a highway;

11 (5) Construction fund means the Surface Transportation  
12 High Priority Project Construction Fund created in section 29 of  
13 this act.

14 ~~(5)~~ (6) Cost of construction ~~shall mean and include~~  
15 means and includes obligations to contractors and builders  
16 for construction and for the restoration of property damaged  
17 or destroyed in connection with such construction, the cost  
18 of acquiring land, property rights, rights-of-way, franchises,  
19 easements, and other interests deemed necessary or convenient  
20 for construction, the cost of acquiring any property, real  
21 or personal, tangible or intangible, or any interest therein,  
22 deemed necessary or convenient for construction, the interest  
23 requirements upon any bonds prior to, during, and for a period  
24 of eighteen months after completion of construction, fees and  
25 expenses of paying agents and other agents appointed by the

1 commission for such bonds during any such period, the costs and  
2 expenses of preliminary investigations to determine the feasibility  
3 or practicability of such construction, the fees and expenses  
4 of engineers for making preliminary studies, surveys, reports,  
5 estimates of costs and of revenue, and other estimates and for  
6 preparing plans and specifications and supervising construction as  
7 well as for the performance of all other duties of engineers in  
8 relation to such construction or the issuance of bonds therefor,  
9 expenses of administration during construction, legal expenses and  
10 fees, financing charges, municipal bond insurance or surety bond  
11 premiums, credit facility fees, costs of audits, costs of preparing  
12 and issuing such bonds, and all other items of expense incident to  
13 such construction, the financing thereof, and the acquisition of  
14 land and property therefor;

15 ~~(6)~~ (7) Fund shall mean means the Highway Trust Fund  
16 which is created by section 39-2215; and

17 ~~(7)~~ (8) Highway shall mean and include means and includes  
18 any public road, bridge, or other surface transportation system,  
19 now or at any time hereafter classified by the Legislature as the  
20 responsibility of the state to construct or to assist a political  
21 subdivision in constructing, and any related facility, the cost of  
22 which is financed in whole or in part by the issuance of bonds  
23 under the Nebraska Highway Bond Act.

24 The Legislature hereby reserves the right to vary  
25 and change by law the definitions of construction, cost of

1 construction, and highway contained in this section.

2           Sec. 24. Section 39-2203, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           39-2203 The commission acting for and on behalf of the  
5 state may issue from time to time bonds in such principal amounts  
6 as shall be necessary to provide sufficient funds to defray any or  
7 all of the cost of construction of highways. The principal amount  
8 of the bonds so authorized to be issued shall not exceed, in the  
9 aggregate, the total amount authorized by the Legislature from time  
10 to time for such purpose. The proceeds from the sale of any bonds  
11 issued under the Nebraska Highway Bond Act shall be deposited in  
12 the state treasury to the credit of the ~~Highway Cash Fund~~ highway  
13 high priority projects account of the construction fund and shall  
14 be used only to finance or to refinance through the issuance of  
15 refunding bonds the construction of highways in this state as  
16 authorized by law. The commission is hereby granted all powers  
17 necessary or convenient to carry out the purposes and exercise the  
18 powers granted by such act.

19           Sec. 25. Section 39-2212, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           39-2212 Any pledge or security instrument made by the  
22 commission shall be valid and binding from the time when the  
23 pledge or security instrument is made. The money in the fund, the  
24 construction fund, or the bond fund so pledged and entrusted shall  
25 immediately be subject to the lien of such pledge or security

1 instrument upon the deposit thereof in the fund without any  
2 physical delivery thereof or further act. The lien of any such  
3 pledge or security instrument shall be valid and binding as against  
4 all parties having subsequently arising claims of any kind in tort,  
5 contract, or otherwise, irrespective of whether such parties have  
6 notice thereof. Neither the resolution nor any security instrument  
7 or other instrument by which a pledge or other security is created  
8 need be recorded or filed and the commission shall not be required  
9 to comply with any of the provisions of the Uniform Commercial  
10 Code.

11           Sec. 26. Section 39-2213, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           39-2213 The bonds shall be special obligations of the  
14 state payable solely and only from the fund, the construction fund,  
15 or the bond fund, as the case may be, and neither the members of  
16 the commission nor any person executing the bonds shall be liable  
17 thereon. Such bonds shall not be a general obligation debt of this  
18 state and they shall contain on the face thereof a statement to  
19 such effect.

20           Sec. 27. Section 39-2215, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           39-2215 (1) There is hereby created in the state treasury  
23 a special fund to be known as the Highway Trust Fund.

24           (2) All funds credited to the Highway Trust Fund pursuant  
25 to sections 66-489.02, 66-499, 66-4,140, 66-4,147, 66-6,108, and

1 66-6,109.02, and related penalties and interest, shall be allocated  
2 as provided in such sections.

3 (3) All other motor vehicle fuel taxes, diesel fuel  
4 taxes, compressed fuel taxes, and alternative fuel taxes related to  
5 highway use retained by the state, all motor vehicle registration  
6 fees retained by the state other than those fees credited to  
7 the State Recreation Road Fund pursuant to subdivision (3) of  
8 section 60-3,156, and other highway-user taxes imposed by state  
9 law and allocated to the Highway Trust Fund, except for the  
10 proceeds of the sales and use taxes derived from motor vehicles,  
11 trailers, and semitrailers credited to the fund pursuant to section  
12 77-27,132, are hereby irrevocably pledged for the terms of the  
13 bonds issued prior to January 1, 1988, to the payment of the  
14 principal, interest, and redemption premium, if any, of such bonds  
15 as they mature and become due at maturity or prior redemption  
16 and for any reserves therefor and shall, as received by the State  
17 Treasurer, be deposited in the fund for such purpose.

18 (4) Of the money in the fund specified in subsection  
19 (3) of this section which is not required for the use specified  
20 in such subsection, (a) an amount equal to three dollars times  
21 the number of motorcycles registered during the previous month  
22 shall be placed in the Motorcycle Safety Education Fund, (b) an  
23 amount to be determined annually by the Legislature through the  
24 appropriations process may be transferred to the Motor Fuel Tax  
25 Enforcement and Collection Cash Fund for use as provided in section

1 66-738 on a monthly or other less frequent basis as determined by  
2 the appropriation language, (c) an amount to be determined annually  
3 by the Legislature through the appropriations process shall be  
4 transferred to the License Plate Cash Fund as certified by the  
5 Director of Motor Vehicles, and (d) the remaining money may be  
6 used for the purchase for retirement of the bonds issued prior to  
7 January 1, 1988, in the open market.

8 (5) The State Treasurer shall monthly transfer, from the  
9 proceeds of the sales and use taxes credited to the Highway Trust  
10 Fund and any money remaining in the fund after the requirements of  
11 subsections (2) through (4) of this section are satisfied, thirty  
12 thousand dollars to the Grade Crossing Protection Fund.

13 (6) Except as provided in subsection (7) of this  
14 section, the balance of the Highway Trust Fund shall be allocated  
15 fifty-three and one-third percent, less the amount provided for  
16 in section 39-847.01, to the Department of Roads, twenty-three  
17 and one-third percent, less the amount provided for in section  
18 39-847.01, to the various counties for road purposes, and  
19 twenty-three and one-third percent to the various municipalities  
20 for street purposes. If bonds are issued pursuant to subsection (2)  
21 or (3) of section 39-2223, the portion allocated to the Department  
22 of Roads shall be credited monthly to the Highway Restoration and  
23 Improvement Bond Fund, and if and to the extent that the aggregate  
24 amount of such portion allocated to the Department of Roads for  
25 each bond year, as the commission by resolution shall designate,



1 of each series of bonds exceeds the debt service requirements of  
2 such series of bonds for such bond year, the remaining portion  
3 allocated to the department with respect to such series of bonds  
4 shall be credited at the conclusion of such bond year to the  
5 Surface Transportation High Priority Loan Fund and, if not used  
6 as provided by law within ninety days after such credit, shall be  
7 credited to the Highway Cash Fund. If no bonds are issued pursuant  
8 to either such subsection, the portion allocated to the department  
9 shall be credited monthly to the Highway Cash Fund. The portions  
10 allocated to the counties and municipalities shall be credited  
11 monthly to the Highway Allocation Fund and distributed monthly as  
12 provided by law. Vehicles accorded prorated registration pursuant  
13 to section 60-3,198 shall not be included in any formula involving  
14 motor vehicle registrations used to determine the allocation and  
15 distribution of state funds for highway purposes to political  
16 subdivisions.

17 (7) If it is determined by December 20 of any year that a  
18 county will receive from its allocation of state-collected highway  
19 revenue and from any funds relinquished to it by municipalities  
20 within its boundaries an amount in such year which is less than  
21 such county received in state-collected highway revenue in calendar  
22 year 1969, based upon the 1976 tax rates for highway-user fuels and  
23 registration fees, the Department of Roads shall notify the State  
24 Treasurer that an amount equal to the sum necessary to provide such  
25 county with funds equal to such county's 1969 highway allocation

1 for such year shall be transferred to such county from the Highway  
2 Trust Fund. Such makeup funds shall be matched by the county as  
3 provided in sections 39-2501 to 39-2510. The balance remaining in  
4 the fund after such transfer shall then be reallocated as provided  
5 in subsection (6) of this section.

6 (8) The State Treasurer shall disburse the money in the  
7 Highway Trust Fund as directed by resolution of the commission.  
8 All disbursements from the fund shall be made upon warrants drawn  
9 by the Director of Administrative Services. Any money in the fund  
10 available for investment shall be invested by the state investment  
11 officer pursuant to the Nebraska Capital Expansion Act and the  
12 Nebraska State Funds Investment Act and the earnings, if any,  
13 credited to the fund.

14 Sec. 28. Section 39-2215.01, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 39-2215.01 (1) There is hereby created in the state  
17 treasury a fund to be known as the Highway Restoration and  
18 Improvement Bond Fund.

19 (2) If bonds are issued pursuant to subsection (2) or  
20 (3) of section 39-2223, all motor vehicle fuel taxes, diesel  
21 fuel taxes, compressed fuel taxes, and alternative fuel taxes  
22 related to highway use, motor vehicle registration fees, and other  
23 highway-user taxes which are retained by the state and allocated  
24 to the bond fund from the Highway Trust Fund shall be hereby  
25 irrevocably pledged for the terms of the bonds issued after July

1 1, 1988, to the payment of the principal, interest, and redemption  
2 premium, if any, of such bonds as they mature and become due at  
3 maturity or prior redemption and for any reserves therefor and  
4 shall, as received by the State Treasurer, be deposited directly  
5 in the bond fund for such purpose. Of the money in the bond fund  
6 not required for such purpose, such remaining money may be used  
7 for the purchase for retirement of the bonds in the open market  
8 or for any other lawful purpose related to the issuance of bonds,  
9 and the balance, if any, shall be transferred ~~monthly~~ as provided  
10 in subsection (6) of section 39-2215 to the Surface Transportation  
11 High Priority Loan Fund and to the Highway Cash Fund for such use  
12 as may be provided by law.

13 (3) The State Treasurer shall disburse the money in  
14 the bond fund as directed by resolution of the commission. All  
15 disbursements from the bond fund shall be made upon warrants  
16 drawn by the Director of Administrative Services. Any money in the  
17 bond fund available for investment shall be invested by the state  
18 investment officer pursuant to the Nebraska Capital Expansion Act  
19 and the Nebraska State Funds Investment Act.

20 Sec. 29. (1) There is hereby created in the state  
21 treasury a special fund to be known as the Surface Transportation  
22 High Priority Project Construction Fund, and therein special  
23 accounts to be known as the highway high priority projects account  
24 and the administration account.

25 (2) If bonds are issued pursuant to subsection (3)

1 of section 39-2223, all proceeds of such bonds, as received  
2 by the State Treasurer, shall be deposited directly in the  
3 highway high priority projects account of the construction  
4 fund, and into such subaccounts thereof as the commission  
5 shall establish by resolution, for such purposes as shall be  
6 set out by resolution of the commission, which purposes may  
7 include the acquisition, construction, resurfacing, reconstruction,  
8 rehabilitation, restoration, and equipping of high priority highway  
9 projects, the establishment of bond reserve funds therefor, the  
10 refunding of such bonds, the costs of liquidity and credit support  
11 facilities, and the payment of the expenses of issuing such bonds.  
12 Of the money in the highway high priority projects account of the  
13 construction fund not required for such purposes, such remaining  
14 money may be used for the purchase for retirement of the bonds in  
15 the open market or for any other lawful purpose related to the  
16 issuance of bonds. Any money remaining on deposit in the highway  
17 high priority projects account of the construction fund after such  
18 bonds no longer remain outstanding and unpaid shall be transferred  
19 to the Highway Cash Fund.

20 (3) The State Treasurer shall disburse the money in the  
21 construction fund as directed by resolution of the commission.  
22 All disbursements from the construction fund shall be made upon  
23 warrants drawn by the Director of Administrative Services. Any  
24 money in the construction fund available for investment shall be  
25 invested by the state investment officer pursuant to the Nebraska

1 Capital Expansion Act and the Nebraska State Funds Investment Act.

2           Sec. 30. Section 39-2222, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           39-2222 Sections 39-2201 to 39-2226 and section 29 of  
5 this act shall be known and may be cited as the Nebraska Highway  
6 Bond Act.

7           Sec. 31. Section 39-2223, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           39-2223 (1) Under the authority granted by Article XIII,  
10 section 1, of the Constitution of Nebraska, the Legislature hereby  
11 authorizes the issuance of bonds in the principal amount of twenty  
12 million dollars in 1969 and in the principal amount of twenty  
13 million dollars on or before June 30, 1977, with the proceeds  
14 thereof to be used for the construction of highways in this  
15 state, the Legislature expressly finding that the need for such  
16 construction requires such action. Such bonds shall in all respects  
17 comply with the provisions of Article XIII, section 1, of the  
18 Constitution of Nebraska.

19           (2) Under the authority granted by Article XIII, section  
20 1, of the Constitution of Nebraska, the Legislature hereby  
21 authorizes after July 1, 1988, the issuance of bonds in a principal  
22 amount to be determined by the commission, not to exceed fifty  
23 million dollars on or before June 30, 2009. The outstanding  
24 principal amount of such bonds may exceed such limit if and  
25 to the extent that the commission determines that the issuance

1 of advance refunding bonds under section 39-2226 in a principal  
2 amount greater than the bonds to be refunded would reduce the  
3 aggregate bond principal and interest requirements payable from the  
4 bond fund. The proceeds of such issues shall be used exclusively  
5 (a) for the acquisition, construction, resurfacing, reconstruction,  
6 rehabilitation, and restoration, and equipping of highways in this  
7 state, the Legislature expressly finding that the need for such  
8 construction and reconstruction work and the vital importance of  
9 the highway system to the welfare and safety of all Nebraskans  
10 requires such action, or (b) to eliminate or alleviate cash-flow  
11 problems resulting from the receipt of federal funds. Such bonds  
12 shall in all respects comply with the provisions of Article XIII,  
13 section 1, of the Constitution of Nebraska.

14 (3) Under the authority granted by Article XIII, section  
15 1, of the Constitution of Nebraska, the Legislature hereby  
16 authorizes after July 1, 2009, the issuance of bonds in one or more  
17 series in an aggregate principal amount to be determined by the  
18 commission, not to exceed two hundred fifty million dollars. The  
19 outstanding principal amount of such bonds may exceed such limit if  
20 and to the extent that the commission determines that the issuance  
21 of advance refunding bonds under section 39-2226 in a principal  
22 amount greater than the bonds to be refunded would reduce the  
23 aggregate bond principal and interest requirements payable from the  
24 bond fund. The proceeds of such issues shall be used exclusively  
25 (a) for the acquisition, construction, resurfacing, reconstruction,

1 rehabilitation, restoration, and equipping of highways in this  
2 state, the Legislature expressly finding that the need for such  
3 construction and reconstruction work and the vital importance of  
4 the highway system to the welfare and safety of all Nebraskans  
5 requires such action, or (b) to eliminate or alleviate cash-flow  
6 problems resulting from the receipt of federal funds. Such bonds  
7 shall in all respects comply with the provisions of Article XIII,  
8 section 1, of the Constitution of Nebraska.

9           Sec. 32. Section 66-4,100, Revised Statutes Cumulative  
10 Supplement, 2008, is amended to read:

11           66-4,100 The Highway Cash Fund and the Roads Operations  
12 Cash Fund are hereby created. If bonds are issued pursuant to  
13 subsection (2) or (3) of section 39-2223, the balance of the share  
14 of the Highway Trust Fund allocated to the Department of Roads and  
15 deposited into the Highway Restoration and Improvement Bond Fund  
16 and the Surface Transportation High Priority Loan Fund as provided  
17 in subsection (6) of section 39-2215 and the balance of the money  
18 deposited in the Highway Restoration and Improvement Bond Fund and  
19 the Surface Transportation High Priority Loan Fund as provided in  
20 section 39-2215.01 shall be transferred by the State Treasurer, on  
21 or before the last day of each month, to the Highway Cash Fund. If  
22 no bonds are issued pursuant to subsection (2) or (3) of section  
23 39-2223, the share of the Highway Trust Fund allocated to the  
24 Department of Roads shall be transferred by the State Treasurer on  
25 or before the last day of each month to the Highway Cash Fund.

1           The Legislature may direct the State Treasurer to  
2 transfer funds from the Highway Cash Fund to the Roads Operations  
3 Cash Fund. Both funds shall be expended by the department (1) for  
4 acquiring real estate, road materials, equipment, and supplies  
5 to be used in the construction, reconstruction, improvement,  
6 and maintenance of state highways, (2) for the construction,  
7 reconstruction, improvement, and maintenance of state highways,  
8 including grading, drainage, structures, surfacing, roadside  
9 development, landscaping, and other incidentals necessary for  
10 proper completion and protection of state highways as the  
11 department shall, after investigation, find and determine shall  
12 be for the best interests of the highway system of the state,  
13 either independent of or in conjunction with federal-aid money for  
14 highway purposes, (3) for the share of the department of the cost  
15 of maintenance of state aid bridges, (4) for planning studies in  
16 conjunction with federal highway funds for the purpose of analyzing  
17 traffic problems and financial conditions and problems relating to  
18 state, county, township, municipal, federal, and all other roads  
19 in the state and for incidental costs in connection with the  
20 federal-aid grade crossing program for roads not on state highways,  
21 (5) for tests and research by the department or proportionate costs  
22 of membership, tests, and research of highway organizations when  
23 participated in by the highway departments of other states, (6)  
24 for the payment of expenses and costs of the Board of Examiners  
25 for County Highway and City Street Superintendents as set forth in



1 section 39-2310, and (7) for support of the public transportation  
2 assistance program established under section 13-1209 and the  
3 intercity bus system assistance program established under section  
4 13-1213.

5 Any money in the Highway Cash Fund and the Roads  
6 Operations Cash Fund not needed for current operations of the  
7 department shall, as directed by the Director-State Engineer to  
8 the State Treasurer, be invested by the state investment officer  
9 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
10 State Funds Investment Act, subject to approval by the board of  
11 each investment. All income received as a result of such investment  
12 shall be placed in the Highway Cash Fund.

13 Sec. 33. Section 66-4,144, Revised Statutes Cumulative  
14 Supplement, 2008, is amended to read:

15 66-4,144 (1) In order to insure that an adequate balance  
16 in the Highway Restoration and Improvement Bond Fund is maintained  
17 to meet the debt service requirements of bonds to be issued by  
18 the commission under subsection (2) or (3) of section 39-2223,  
19 the Director-State Engineer shall certify to the department the  
20 excise tax rate to be imposed by sections 66-4,140 and 66-6,108  
21 for each year during which such bonds are outstanding necessary  
22 to provide in each such year money equal in amount to not less  
23 than one hundred twenty-five percent of such year's bond principal  
24 and interest payment requirements. The department shall adjust  
25 the rate as certified by the Director-State Engineer. Such rate

1 shall be in addition to the rate of excise tax set pursuant to  
2 subsection (2) of this section. Each such rate shall be effective  
3 from July 1 of a stated year through June 30 of the succeeding  
4 year or during such other period not longer than one year as  
5 the Director-State Engineer certifies to be consistent with the  
6 principal and interest requirements of such bonds. Such excise  
7 tax rates set pursuant to this subsection may be increased,  
8 but such excise tax rates shall not be subject to reduction  
9 or elimination unless the Director-State Engineer has received  
10 from the State Highway Commission notice of reduced principal  
11 and interest requirements for such bonds, in which event the  
12 Director-State Engineer shall certify the new rate or rates to the  
13 department. The new rate or rates, if any, shall become effective  
14 on the first day of the following semiannual period.

15 (2) In order to insure that there is maintained an  
16 adequate Highway Cash Fund balance to meet expenditures from such  
17 fund as appropriated by the Legislature, by June 15 or five days  
18 after the adjournment of the regular legislative session each year,  
19 whichever is later, the Director-State Engineer shall certify to  
20 the department the excise tax rate to be imposed by sections  
21 66-4,140 and 66-6,108. The department shall adjust the rate as  
22 certified by the Director-State Engineer to be effective from July  
23 1 through June 30 of the succeeding year. The rate of excise tax  
24 for a given July 1 through June 30 period set pursuant to this  
25 subsection shall be in addition to and independent of the rate or

1 rates of excise tax set pursuant to subsection (1) of this section  
2 for such period. The Director-State Engineer shall determine the  
3 cash and investment balances of the Highway Cash Fund at the  
4 beginning of each fiscal year under consideration and the estimated  
5 receipts to the Highway Cash Fund from each source which provides  
6 at least one million dollars annually to such fund. The rate of  
7 excise tax shall be an amount sufficient to meet the appropriations  
8 made from the Highway Cash Fund by the Legislature. Such rate shall  
9 be set in increments of one-tenth of one percent.

10 (3) The Department of Roads shall provide to the  
11 Legislative Fiscal Analyst a copy of the information that is  
12 submitted to the Department of Revenue and used to set or adjust  
13 the excise tax rate.

14 (4) If the actual receipts received to date added to any  
15 projections or modified projections of deposits to the Highway Cash  
16 Fund for the current fiscal year are less than ninety-nine percent  
17 or greater than one hundred two percent of the appropriation  
18 for the current fiscal year, the Director-State Engineer shall  
19 certify to the department the adjustment in rate necessary to  
20 meet the appropriations made from the Highway Cash Fund by the  
21 Legislature. The department shall adjust the rate as certified by  
22 the Director-State Engineer to be effective on the first day of the  
23 following semiannual period.

24 (5) Nothing in this section shall be construed to  
25 abrogate the duties of the Department of Roads or attempt to

1 change any highway improvement program schedule.

2           Sec. 34. Original sections 39-1110, 39-2201, 39-2203,  
3 39-2212, 39-2213, 39-2215, 39-2215.01, 39-2222, and 39-2223,  
4 Reissue Revised Statutes of Nebraska, and sections 66-4,100  
5 and 66-4,144, Revised Statutes Cumulative Supplement, 2008, are  
6 repealed.

7           Sec. 35. Since an emergency exists, this act takes effect  
8 when passed and approved according to law.