

AMENDMENTS TO LB1092

Introduced by Revenue

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. The Legislature finds that safe and modern  
4 highway infrastructure is of great importance to Nebraska's  
5 residents, agricultural economy, business economy, and future  
6 economic growth. Furthermore, the Legislature finds that it is  
7 in the interest of Nebraska taxpayers to leverage historically  
8 low interest rates to offset the challenges that construction  
9 inflation and uncertain federal highway funding pose to adequately  
10 financing the state's infrastructure needs. It is the intent  
11 of the Legislature to conservatively utilize bond financing by  
12 issuing bonds, not to exceed two hundred million dollars in the  
13 aggregate principal amount with a maturity on or before July 1,  
14 2033, in order to accelerate completion of the highway construction  
15 projects identified and to be identified for funding under the  
16 Build Nebraska Act.

17           Sec. 2. Upon the recommendation of the Department of  
18 Roads, the commission acting for and on behalf of the state may  
19 issue from time to time bonds under the Nebraska Highway Bond  
20 Act in such principal amounts as determined by the commission for  
21 the purpose of accelerating completion of the highway construction  
22 projects identified and to be identified for funding under the  
23 Build Nebraska Act. The principal amounts, fixed interest rates,

1 maturities, redemption provisions, sale prices, and other terms of  
2 the bonds so authorized to be issued shall be in accordance with  
3 terms or conditions established by the commission. No bonds shall  
4 be issued with a variable interest rate or with a fixed interest  
5 rate exceeding five percent. No bonds shall be issued after June  
6 30, 2017, except for refunding bonds issued in accordance with  
7 the Nebraska Highway Bond Act. The proceeds from the sale of any  
8 bonds issued, net of costs of issuance, capitalized interest, and  
9 necessary or appropriate reserve funds, shall be deposited in the  
10 State Highway Capital Improvement Fund for use pursuant to the  
11 Build Nebraska Act. The commission is hereby granted all powers  
12 necessary or convenient to carry out the purposes and exercise the  
13 powers granted by the Nebraska Highway Bond Act. Bonds shall be  
14 paid off by July 1, 2033.

15           Sec. 3. The bonds issued pursuant to section 2 of  
16 this act shall be special obligations of the state payable from  
17 any lawfully available funds of the state and any other funds  
18 specifically pledged by the commission for such purpose, and  
19 neither the members of the commission nor any person executing the  
20 bonds shall be liable thereon. Such bonds shall not be a general  
21 obligation debt of the state, and they shall contain on the face  
22 thereof a statement to such effect. Such bonds are declared to  
23 be issued for an essential public and governmental purpose and,  
24 together with interest thereon and income therefrom, shall be  
25 exempt from state income taxes.

26           Sec. 4. Section 39-2203, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   39-2203 The commission acting for and on behalf of the  
2 state may issue from time to time bonds in such principal amounts  
3 as shall be necessary to provide sufficient funds to defray any or  
4 all of the cost of construction of highways. The principal amount  
5 of the bonds so authorized to be issued shall not exceed, in the  
6 aggregate, the total amount authorized by the Legislature from time  
7 to time for such purpose. The proceeds from the sale of any bonds  
8 issued under the Nebraska Highway Bond Act shall be deposited in  
9 the state treasury to the credit of the Highway Cash Fund or the  
10 State Highway Capital Improvement Fund and shall be used only to  
11 finance or to refinance through the issuance of refunding bonds the  
12 construction of highways in this state as authorized by law. The  
13 commission is hereby granted all powers necessary or convenient to  
14 carry out the purposes and exercise the powers granted by such act.

15                   Sec. 5. Section 39-2205, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   39-2205 Bonds may be issued under the Nebraska Highway  
18 Bond Act only to the extent that the annual aggregate principal  
19 and interest requirements, in the calendar year in which such  
20 bonds are issued and in each calendar year thereafter until the  
21 scheduled maturity of such bonds, on such bonds and on all other  
22 bonds theretofore issued and to be outstanding and unpaid upon the  
23 issuance of such bonds shall not exceed the amount which is equal  
24 to fifty percent of the money deposited in the fund, the Highway  
25 Cash Fund, or the bond fund, as the case may be, from which such  
26 bonds shall be secured or paid during the calendar year preceding  
27 the issuance of the bonds proposed to be issued. This section shall

1 not apply to the first issuance of each series of bonds authorized  
2 by the Legislature.

3           If short-term bonds are issued in anticipation of the  
4 issuance of long-term refunding bonds and such short-term bonds are  
5 secured by insurance or a letter of credit or similar guarantee  
6 issued by a financial institution rated by a national rating agency  
7 in one of the two highest categories of bond ratings, then, for  
8 the purposes of the Nebraska Highway Bond Act, when determining  
9 the amount of short-term bonds that may be issued and the amount  
10 of taxes, fees, or other money to be deposited in any fund for  
11 the payment of bonds issued under the act, the annual aggregate  
12 principal and interest payments on the short-term bonds shall be  
13 deemed to be such payments thereon, except that the final principal  
14 payment shall not be that specified in the short-term bonds but  
15 shall be the principal and all interest payments required to  
16 reimburse the issuer of the insurance policy or letter of credit or  
17 similar guarantee pursuant to the reimbursement agreement between  
18 the commission and such issuer.

19           Sec. 6. Section 39-2209, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           39-2209 Any resolution or resolutions of the commission  
22 authorizing any bonds or any issue thereof may contain provisions,  
23 consistent with the Nebraska Highway Bond Act and not in derogation  
24 or limitation of such act, which shall be a part of the contract  
25 with the holders thereof, as to:

26           (1) Pledging all or any part of the money in the fund,  
27 the Highway Cash Fund, or bond fund, as the case may be, to secure

1 the payment of the bonds, subject to such agreements with the  
2 bondholders as may then prevail;

3 (2) The use and disposition of money in the fund, the  
4 Highway Cash Fund, the State Highway Capital Improvement Fund, or  
5 the ~~ex~~ bond fund;

6 (3) The setting aside of reserves, sinking funds, or  
7 arbitrage rebate funds and the funding, regulation, and disposition  
8 thereof;

9 (4) Limitations on the purpose to which the proceeds from  
10 the sale of bonds may be applied;

11 (5) Limitations on the issuance of additional bonds and  
12 on the retirement of outstanding or other bonds pursuant to the  
13 Nebraska Highway Bond Act;

14 (6) The procedure by which the terms of any agreement  
15 with bondholders may be amended or abrogated, the amount of bonds  
16 the holders of which must consent thereto, and the manner in which  
17 such consent may be given;

18 (7) Vesting in a bank or trust company as paying agent  
19 such rights, powers, and duties as the commission may determine,  
20 vesting in a trustee appointed by the bondholders pursuant to the  
21 Nebraska Highway Bond Act such rights, powers, and duties as the  
22 commission may determine, and limiting or abrogating the right of  
23 the bondholders to appoint a trustee under such act or limiting the  
24 rights, powers, and duties of such trustee;

25 (8) Providing for a municipal bond insurance policy,  
26 surety bond, letter of credit, or other credit support facility or  
27 liquidity facility; and

1           (9) Any other matters, of like or different character,  
2 which in any way affect the security or protection of the bonds.

3           Sec. 7. Section 39-2211, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           39-2211 In addition to the powers conferred upon the  
6 commission to secure the bonds in the Nebraska Highway Bond Act,  
7 the commission shall have power in connection with the issuance  
8 of bonds to enter into such agreements, consistent with the  
9 act and not in derogation or limitation of the act, as it may  
10 deem necessary, convenient, or desirable concerning the use or  
11 disposition of the money in the fund, the Highway Cash Fund,  
12 the State Highway Capital Improvement Fund, or the ~~ex~~ bond fund  
13 including the pledging or creation of any security interest in such  
14 money and the doing of or refraining from doing any act which the  
15 commission would have the right to do to secure the bonds in the  
16 absence of such agreements. The commission shall have the power to  
17 enter into amendments of any such agreements, consistent with the  
18 Nebraska Highway Bond Act and not in derogation or limitation of  
19 the act, within the powers granted to the commission by the act and  
20 to perform such agreements. The provisions of any such agreements  
21 may be made a part of the contract with the holders of the bonds.

22           Sec. 8. Section 39-2212, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           39-2212 Any pledge or security instrument made by the  
25 commission shall be valid and binding from the time when the pledge  
26 or security instrument is made. The money in the fund, Highway  
27 Cash Fund, or bond fund so pledged and entrusted shall immediately

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

12           Sec. 9. Section 39-2213, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

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

21           Sec. 10. Section 39-2216, Revised Statutes Cumulative  
22 Supplement, 2012, is amended to read:

23           39-2216 The Legislature hereby irrevocably pledges and  
24 agrees with the holders of the bonds issued under the Nebraska  
25 Highway Bond Act that so long as such bonds remain outstanding  
26 and unpaid it shall not repeal, diminish, or apply to any  
27 other purposes the motor vehicle fuel taxes, diesel fuel taxes,

1 compressed fuel taxes, and alternative fuel fees related to highway  
2 use, motor vehicle registration fees, and such other highway-user  
3 taxes which may be imposed by state law and allocated to the fund,  
4 the Highway Cash Fund, or bond fund, as the case may be, if to do  
5 so would result in fifty percent of the amount deposited in the  
6 fund, the Highway Cash Fund, or bond fund in each year being less  
7 than the amount equal to the maximum annual principal and interest  
8 requirements of such bonds.

9           Sec. 11. Section 39-2222, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           39-2222 Sections 39-2201 to 39-2226 and sections 1 to 3  
12 of this act shall be known and may be cited as the Nebraska Highway  
13 Bond Act.

14           Sec. 12. Section 39-2223, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

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

26           (2) Under the authority granted by Article XIII, section  
27 1, of the Constitution of Nebraska, the Legislature hereby



1 authorizes after July 1, 1988, the issuance of bonds in a principal  
2 amount to be determined by the commission, not to exceed fifty  
3 million dollars. The outstanding principal amount of such bonds  
4 may exceed such limit if and to the extent that the commission  
5 determines that the issuance of advance refunding bonds under  
6 section 39-2226 in a principal amount greater than the bonds  
7 to be refunded would reduce the aggregate bond principal and  
8 interest requirements payable from the bond fund. The proceeds of  
9 such issues shall be used exclusively (a) for the construction,  
10 resurfacing, reconstruction, rehabilitation, and restoration of  
11 highways in this state, the Legislature expressly finding that the  
12 need for such construction and reconstruction work and the vital  
13 importance of the highway system to the welfare and safety of all  
14 Nebraskans requires such action, or (b) to eliminate or alleviate  
15 cash-flow problems resulting from the receipt of federal funds.  
16 Such bonds shall in all respects comply with the provisions of  
17 Article XIII, section 1, of the Constitution of Nebraska.

18 (3) Under the authority granted by Article XIII, section  
19 1, of the Constitution of Nebraska, the Legislature hereby  
20 authorizes after July 1, 2014, in addition to the authority  
21 granted in subsections (1) and (2) of this section, the issuance  
22 of bonds in one or more series in an aggregate principal amount to  
23 be determined by the commission, not to exceed two hundred million  
24 dollars. The outstanding aggregate principal amount of such bonds  
25 may exceed such limit if and to the extent that the commission  
26 determines that the issuance of advance refunding bonds under  
27 section 39-2226 in a principal amount greater than the bonds to

1 be refunded would reduce the aggregate bond principal and interest  
2 requirements. No advanced refunding bonds shall be issued with a  
3 variable interest rate or with a fixed interest rate exceeding  
4 five percent. The proceeds of such issues shall be used exclusively  
5 for purposes of the Build Nebraska Act, the Legislature expressly  
6 finding that the need for such construction and reconstruction work  
7 and the vital importance of the highway system to the welfare and  
8 safety of all Nebraskans requires such action. Such bonds shall in  
9 all respects comply with the provisions of Article XIII, section 1,  
10 of the Constitution of Nebraska.

11           Sec. 13. Section 39-2224, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           39-2224 (1) The proceeds of the sale of bonds authorized  
14 by subsection (1) of section 39-2223 are hereby appropriated to  
15 the Highway Cash Fund of the Department of Roads, for the biennium  
16 ending June 30, 1977, for expenditure for the construction of  
17 highways.

18           (2) The proceeds of the sale of bonds authorized by  
19 subsection (2) of section 39-2223 are hereby appropriated to the  
20 Highway Cash Fund of the Department of Roads for expenditure for  
21 highway construction, resurfacing, reconstruction, rehabilitation,  
22 and restoration and for the elimination or alleviation of cash-flow  
23 problems resulting from the receipt of federal funds.

24           (3) The proceeds of the sale of bonds authorized by  
25 subsection (3) of section 39-2223 shall be deposited in the State  
26 Highway Capital Improvement Fund for use as provided under the  
27 Build Nebraska Act.

1           Sec. 14. Section 39-2704, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           39-2704 The fund shall be used as follows:

4           (1) If directed by the State Highway Commission, for  
5 repayment of bonds issued pursuant to subsection (3) of section  
6 39-2223;

7           (2) If bonds are issued pursuant to subsection (3) of  
8 section 39-2223 and proceeds are credited to the fund pursuant to  
9 subsection (3) of section 39-2224, at least twenty-five percent  
10 of the proceeds shall be used, as determined by the department,  
11 for construction of the expressway system and federally designated  
12 high priority corridors and the remaining proceeds shall be used to  
13 pay for surface transportation projects of the highest priority as  
14 determined by the department;

15           (3) At least twenty-five percent of the money credited  
16 to the fund pursuant to section 77-27,132 each fiscal year, and  
17 remaining after repayment of bonds issued pursuant to subsection  
18 (3) of section 39-2223, shall be used, as determined by the  
19 department, for construction of the expressway system and federally  
20 designated high priority corridors; and

21           ~~(1) At least twenty-five percent of the money credited~~  
22 ~~to the fund pursuant to section 77-27,132 each fiscal year shall~~  
23 ~~be used, as determined by the department, for construction of the~~  
24 ~~expressway system and federally designated high priority corridors;~~  
25 ~~and~~(2) (4) The remaining money credited to in the fund pursuant to  
26 section 77-27,132 each fiscal year shall be used to pay for surface  
27 transportation projects of the highest priority as determined by

1 the department.

2 Sec. 15. Section 66-4,100, Revised Statutes Cumulative  
3 Supplement, 2012, is amended to read:

4 66-4,100 The Highway Cash Fund and the Roads Operations  
5 Cash Fund are hereby created. If bonds are issued pursuant to  
6 subsection (2) of section 39-2223, the balance of the share of  
7 the Highway Trust Fund allocated to the Department of Roads and  
8 deposited into the Highway Restoration and Improvement Bond Fund  
9 as provided in subsection (6) of section 39-2215 and the balance  
10 of the money deposited in the Highway Restoration and Improvement  
11 Bond Fund as provided in section 39-2215.01 shall be transferred  
12 by the State Treasurer, on or before the last day of each month,  
13 to the Highway Cash Fund. If no bonds are issued pursuant to  
14 subsection (2) of section 39-2223, the share of the Highway Trust  
15 Fund allocated to the Department of Roads shall be transferred by  
16 the State Treasurer on or before the last day of each month to the  
17 Highway Cash Fund.

18 If bonds are issued pursuant to subsection (3) of  
19 section 39-2223, all motor vehicle fuel taxes, diesel fuel taxes,  
20 compressed fuel taxes, and alternative fuel fees related to highway  
21 use, motor vehicle registration fees, and other highway-user taxes  
22 in the Highway Cash Fund shall be and are hereby irrevocably  
23 pledged for any bonds issued after July 1, 2014, to the payment of  
24 the principal, interest, and redemption premium, if any, of such  
25 bonds as they mature and become due at maturity or prior redemption  
26 and for any reserves for such bonds.

27 The Legislature may direct the State Treasurer to

1 transfer funds from the Highway Cash Fund to the Roads Operations  
2 Cash Fund. Both funds shall be expended by the department (1) for  
3 acquiring real estate, road materials, equipment, and supplies  
4 to be used in the construction, reconstruction, improvement,  
5 and maintenance of state highways, (2) for the construction,  
6 reconstruction, improvement, and maintenance of state highways,  
7 including grading, drainage, structures, surfacing, roadside  
8 development, landscaping, and other incidentals necessary for  
9 proper completion and protection of state highways as the  
10 department shall, after investigation, find and determine shall  
11 be for the best interests of the highway system of the state,  
12 either independent of or in conjunction with federal-aid money for  
13 highway purposes, (3) for the share of the department of the cost  
14 of maintenance of state aid bridges, (4) for planning studies in  
15 conjunction with federal highway funds for the purpose of analyzing  
16 traffic problems and financial conditions and problems relating to  
17 state, county, township, municipal, federal, and all other roads  
18 in the state and for incidental costs in connection with the  
19 federal-aid grade crossing program for roads not on state highways,  
20 (5) for tests and research by the department or proportionate costs  
21 of membership, tests, and research of highway organizations when  
22 participated in by the highway departments of other states, (6)  
23 for the payment of expenses and costs of the Board of Examiners  
24 for County Highway and City Street Superintendents as set forth  
25 in section 39-2310, (7) for support of the public transportation  
26 assistance program established under section 13-1209 and the  
27 intercity bus system assistance program established under section

1 13-1213, and (8) for purchasing from political or governmental  
2 subdivisions or public corporations, pursuant to section 39-1307,  
3 any federal-aid transportation funds available to such entities.

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

12           Sec. 16. Original sections 39-2203, 39-2205, 39-2209,  
13 39-2211, 39-2212, 39-2213, 39-2222, 39-2223, and 39-2224, Reissue  
14 Revised Statutes of Nebraska, and sections 39-2216, 39-2704,  
15 and 66-4,100, Revised Statutes Cumulative Supplement, 2012, are  
16 repealed.

17           Sec. 17. Since an emergency exists, this act takes effect  
18 when passed and approved according to law.