

AMENDMENTS TO LB542

Introduced by Revenue.

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

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

16           Sec. 2. Upon the recommendation of the Department of Transportation  
17 and the commission, the commission acting for and on behalf of the state  
18 may issue from time to time bonds under the Nebraska Highway Bond Act in  
19 such principal amounts as determined by the commission for the purpose of  
20 accelerating completion of the highway construction projects identified  
21 and to be identified for funding under the Build Nebraska Act. The  
22 principal amounts, interest rates, maturities, redemption provisions,  
23 sale prices, and other terms of the bonds so authorized to be issued  
24 shall be in accordance with terms or conditions established by the  
25 commission. No bonds shall be issued after June 30, 2027, except for  
26 refunding bonds issued in accordance with the Nebraska Highway Bond Act.  
27 The proceeds from the sale of any bonds issued, net of costs of issuance,

1 capitalized interest, and necessary or appropriate reserve funds, shall  
2 be deposited in the State Highway Capital Improvement Fund for use  
3 pursuant to the Build Nebraska Act. The commission is hereby granted all  
4 powers necessary or convenient to carry out the purposes and exercise the  
5 powers granted by the Nebraska Highway Bond Act. Bonds shall be paid off  
6 by June 30, 2040.

7       Sec. 3. The bonds issued pursuant to section 2 of this act shall be  
8 special obligations of the state payable solely and only from the State  
9 Highway Capital Improvement Fund and any other funds specifically pledged  
10 by the commission for such purpose, and neither the members of the  
11 commission nor any person executing the bonds shall be liable thereon.  
12 Such bonds shall not be a general obligation or debt of the state, and  
13 they shall contain on the face thereof a statement to such effect. Such  
14 bonds are declared to be issued for an essential public and governmental  
15 purpose and, together with interest thereon and income therefrom, shall  
16 be exempt from state income taxes.

17       Sec. 4. Section 39-2205, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

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

31       If short-term bonds are issued in anticipation of the issuance of

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

15 Sec. 5. Section 39-2209, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 39-2209 Any resolution or resolutions of the commission authorizing  
18 any bonds or any issue thereof may contain provisions, consistent with  
19 the Nebraska Highway Bond Act and not in derogation or limitation of such  
20 act, which shall be a part of the contract with the holders thereof, as  
21 to:

22 (1) Pledging all or any part of the money in the fund, the State  
23 Highway Capital Improvement Fund, or the ~~or~~ bond fund, as the case may  
24 be, to secure the payment of the bonds, subject to such agreements with  
25 the bondholders as may then prevail;

26 (2) The use and disposition of money in the fund, the State Highway  
27 Capital Improvement Fund, or the ~~or~~ bond fund;

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

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

1 (5) Limitations on the issuance of additional bonds and on the  
2 retirement of outstanding or other bonds pursuant to the Nebraska Highway  
3 Bond Act;

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

8 (7) Vesting in a bank or trust company as paying agent such rights,  
9 powers, and duties as the commission may determine, vesting in a trustee  
10 appointed by the bondholders pursuant to the Nebraska Highway Bond Act  
11 such rights, powers, and duties as the commission may determine, and  
12 limiting or abrogating the right of the bondholders to appoint a trustee  
13 under such act or limiting the rights, powers, and duties of such  
14 trustee;

15 (8) Providing for a municipal bond insurance policy, surety bond,  
16 letter of credit, or other credit support facility or liquidity facility;  
17 and

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

20 Sec. 6. Section 39-2211, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 39-2211 In addition to the powers conferred upon the commission to  
23 secure the bonds in the Nebraska Highway Bond Act, the commission shall  
24 have power in connection with the issuance of bonds to enter into such  
25 agreements, consistent with the act and not in derogation or limitation  
26 of the act, as it may deem necessary, convenient, or desirable concerning  
27 the use or disposition of the money in the fund, the State Highway  
28 Capital Improvement Fund, or the ~~or~~ bond fund including the pledging or  
29 creation of any security interest in such money and the doing of or  
30 refraining from doing any act which the commission would have the right  
31 to do to secure the bonds in the absence of such agreements. The

1 commission shall have the power to enter into amendments of any such  
2 agreements, consistent with the Nebraska Highway Bond Act and not in  
3 derogation or limitation of the act, within the powers granted to the  
4 commission by the act and to perform such agreements. The provisions of  
5 any such agreements may be made a part of the contract with the holders  
6 of the bonds.

7 Sec. 7. Section 39-2212, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 39-2212 Any pledge or security instrument made by the commission  
10 shall be valid and binding from the time when the pledge or security  
11 instrument is made. The money in the fund, the State Highway Capital  
12 Improvement Fund, or the ~~or~~ bond fund so pledged and entrusted shall  
13 immediately be subject to the lien of such pledge or security instrument  
14 upon the deposit thereof in the fund without any physical delivery  
15 thereof or further act. The lien of any such pledge or security  
16 instrument shall be valid and binding as against all parties having  
17 subsequently arising claims of any kind in tort, contract, or otherwise,  
18 irrespective of whether such parties have notice thereof. Neither the  
19 resolution nor any security instrument or other instrument by which a  
20 pledge or other security is created need be recorded or filed and the  
21 commission shall not be required to comply with any of the provisions of  
22 the Uniform Commercial Code.

23 Sec. 8. Section 39-2213, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 39-2213 The bonds shall be special obligations of the state payable  
26 solely and only from the fund, the State Highway Capital Improvement  
27 Fund, or the ~~or~~ bond fund, as the case may be, and neither the members of  
28 the commission nor any person executing the bonds shall be liable  
29 thereon. Such bonds shall not be a general obligation debt of this state  
30 and they shall contain on the face thereof a statement to such effect.

31 Sec. 9. Section 39-2216, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 39-2216 The Legislature hereby irrevocably pledges and agrees with  
3 the holders of the bonds issued under the Nebraska Highway Bond Act that  
4 so long as such bonds remain outstanding and unpaid it shall not repeal,  
5 diminish, or apply to any other purposes the motor vehicle fuel taxes,  
6 diesel fuel taxes, compressed fuel taxes, and alternative fuel fees  
7 related to highway use, motor vehicle registration fees, sales and use  
8 taxes, and such other highway-user taxes which may be imposed by state  
9 law and allocated to the fund, the State Highway Capital Improvement  
10 Fund, or the ~~or~~ bond fund, as the case may be, if to do so would result  
11 in fifty percent of the amount deposited in the fund, the State Highway  
12 Capital Improvement Fund, or the ~~or~~ bond fund in each year being less  
13 than the amount equal to the maximum annual principal and interest  
14 requirements of such bonds.

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

17 39-2222 Sections 39-2201 to 39-2226 and sections 1 to 3 of this act  
18 shall be known and may be cited as the Nebraska Highway Bond Act.

19 Sec. 11. Section 39-2223, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

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

30 (2) Under the authority granted by Article XIII, section 1, of the  
31 Constitution of Nebraska, the Legislature hereby authorizes after July 1,

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

17 (3) Under the authority granted by Article XIII, section 1, of the  
18 Constitution of Nebraska, the Legislature hereby authorizes after July 1,  
19 2021, in addition to the authority granted in subsections (1) and (2) of  
20 this section, the issuance of bonds in one or more series in an aggregate  
21 principal amount to be determined by the commission, not to exceed four  
22 hundred fifty million dollars. The outstanding principal amount of such  
23 bonds may exceed such limit if and to the extent that the commission  
24 determines that the issuance of advance refunding bonds under section  
25 39-2226 in a principal amount greater than the bonds to be refunded would  
26 reduce the aggregate bond principal and interest requirements payable  
27 from the State Highway Capital Improvement Fund. The proceeds of such  
28 issues shall be used exclusively for purposes of the Build Nebraska Act,  
29 the Legislature expressly finding that the need for such construction and  
30 reconstruction work and the vital importance of the highway system to the  
31 welfare and safety of all Nebraskans requires such action. Such bonds

1 shall in all respects comply with the provisions of Article XIII, section  
2 1, of the Constitution of Nebraska.

3 Sec. 12. Section 39-2224, Revised Statutes Cumulative Supplement,  
4 2020, is amended to read:

5 39-2224 (1) The proceeds of the sale of bonds authorized by  
6 subsection (1) of section 39-2223 are hereby appropriated to the Highway  
7 Cash Fund of the Department of Transportation, for the biennium ending  
8 June 30, 1977, for expenditure for the construction of highways.

9 (2) The proceeds of the sale of bonds authorized by subsection (2)  
10 of section 39-2223 are hereby appropriated to the Highway Cash Fund of  
11 the Department of Transportation for expenditure for highway  
12 construction, resurfacing, reconstruction, rehabilitation, and  
13 restoration and for the elimination or alleviation of cash-flow problems  
14 resulting from the receipt of federal funds.

15 (3) The proceeds of the sale of bonds authorized by subsection (3)  
16 of section 39-2223 are hereby appropriated to the State Highway Capital  
17 Improvement Fund of the Department of Transportation for use pursuant to  
18 the Build Nebraska Act.

19 Sec. 13. Section 39-2703, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 39-2703 (1) The State Highway Capital Improvement Fund is created.  
22 The fund shall consist of money credited to the fund pursuant to section  
23 77-27,132, proceeds of bonds issued pursuant to subsection (3) of section  
24 39-2223, and any other money as determined by the Legislature.

25 (2) The department may create or direct the creation of accounts  
26 within the fund as the department determines to be appropriate and useful  
27 in administering the fund.

28 (3) Any money in the fund available for investment shall be invested  
29 by the state investment officer pursuant to the Nebraska Capital  
30 Expansion Act and the Nebraska State Funds Investment Act. Investment  
31 earnings from investment of money in the fund shall be credited to the



1 fund.

2 Sec. 14. Section 39-2704, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 39-2704 (1) The money credited to the fund pursuant to section  
5 77-27,132 shall be used for repayment of bonds issued pursuant to  
6 subsection (3) of section 39-2223. If any of the money credited to the  
7 fund pursuant to section 77-27,132 remains after repayment of such bonds,  
8 such money shall be used as follows:

9 (a) ~~(1)~~ At least twenty-five percent of the money credited to the  
10 fund pursuant to section 77-27,132 each fiscal year shall be used, as  
11 determined by the department, for construction of the expressway system  
12 and federally designated high priority corridors; and

13 (b) ~~(2)~~ The remaining money credited to the fund pursuant to section  
14 77-27,132 each fiscal year shall be used to pay for surface  
15 transportation projects of the highest priority as determined by the  
16 department.

17 (2) The proceeds of bonds issued pursuant to subsection (3) of  
18 section 39-2223 which are credited to the fund shall be used as follows:

19 (a) At least seventy-five percent of the proceeds from such bonds  
20 shall be used, as determined by the department, for construction of the  
21 expressway system and federally designated high priority corridors; and

22 (b) The remaining proceeds shall be used to pay for surface  
23 transportation projects of the highest priority as determined by the  
24 department.

25 Sec. 15. Original sections 39-2205, 39-2209, 39-2211, 39-2212,  
26 39-2213, 39-2216, 39-2222, 39-2223, 39-2703, and 39-2704, Reissue Revised  
27 Statutes of Nebraska, and section 39-2224, Revised Statutes Cumulative  
28 Supplement, 2020, are repealed.

29 Sec. 16. Since an emergency exists, this act takes effect when  
30 passed and approved according to law.