

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 98

Introduced by Fischer, 43; Heidemann, 1.

Read first time January 06, 2011

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to highways and roads; to amend sections 39-1307
2 and 66-4,100, Reissue Revised Statutes of Nebraska; to
3 provide powers relating to federal-aid transportation
4 funds; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 39-1307, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 39-1307 The department, on behalf of the state, and any
4 political or governmental subdivision or public corporation of this
5 state shall have the authority to enter into agreements with each
6 other respecting the planning, designating, financing, establishing,
7 constructing, improving, maintaining, using, altering, relocating,
8 regulating, or vacating of highways, roads, streets, connecting
9 links, rights-of-way, including but not limited to, canals, ditches,
10 or power, telephone, water, gas, sewer and other service lines owned
11 by such political or governmental subdivision or public corporation.
12 Such agreements may, in the discretion of the parties, include
13 provision for indemnification of, or sharing of, any liability of the
14 parties for future damages occurring to other persons or property and
15 which may arise under the terms of the contract authorized by this
16 section.

17 The department, on behalf of the state, and any political
18 or governmental subdivision or public corporation of this state shall
19 have the authority to enter into agreements with each other whereby
20 the department purchases from any such entity the federal-aid
21 transportation funds made available to such entity. Such funds may be
22 purchased at a discount rate determined by the department to be in
23 its best interest. Such agreements shall provide that the funds
24 obtained from such sale by the political or governmental subdivision
25 or public corporation be expended for cost of construction,

1 reconstruction, maintenance, and repair of public highways, streets,
2 roads, or bridges and facilities, appurtenances, and structures
3 deemed necessary in connection therewith. All entities which sell
4 federal-aid transportation funds to the department shall provide
5 proof to the department that the proceeds of the sale were expended
6 for the described purposes. The manner in which the proof shall be
7 provided and the time at which proof shall be made shall be in the
8 discretion of the department and shall be set forth in the agreement.

9 When the installation, repair, or modification of an
10 electric generating facility necessitates increased use of a street
11 or road the department may (1) temporarily or permanently provide for
12 the construction and maintenance of such street or road, (2)
13 cooperate with the county or township to maintain such street or
14 road, or (3) designate the street or road as part of the state
15 highway system as provided in section 39-1309. The department shall
16 consider whether improving or maintaining the street or road will
17 benefit the general public, the present condition of the street or
18 road, and the actual or potential traffic volume of such street or
19 road.

20 Sec. 2. Section 66-4,100, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 66-4,100 The Highway Cash Fund and the Roads Operations
23 Cash Fund are hereby created. If bonds are issued pursuant to
24 subsection (2) of section 39-2223, the balance of the share of the
25 Highway Trust Fund allocated to the Department of Roads and deposited

1 into the Highway Restoration and Improvement Bond Fund as provided in
2 subsection (6) of section 39-2215 and the balance of the money
3 deposited in the Highway Restoration and Improvement Bond Fund as
4 provided in section 39-2215.01 shall be transferred by the State
5 Treasurer, on or before the last day of each month, to the Highway
6 Cash Fund. If no bonds are issued pursuant to subsection (2) of
7 section 39-2223, the share of the Highway Trust Fund allocated to the
8 Department of Roads shall be transferred by the State Treasurer on or
9 before the last day of each month to the Highway Cash Fund.

10 The Legislature may direct the State Treasurer to
11 transfer funds from the Highway Cash Fund to the Roads Operations
12 Cash Fund. Both funds shall be expended by the department (1) for
13 acquiring real estate, road materials, equipment, and supplies to be
14 used in the construction, reconstruction, improvement, and
15 maintenance of state highways, (2) for the construction,
16 reconstruction, improvement, and maintenance of state highways,
17 including grading, drainage, structures, surfacing, roadside
18 development, landscaping, and other incidentals necessary for proper
19 completion and protection of state highways as the department shall,
20 after investigation, find and determine shall be for the best
21 interests of the highway system of the state, either independent of
22 or in conjunction with federal-aid money for highway purposes, (3)
23 for the share of the department of the cost of maintenance of state
24 aid bridges, (4) for planning studies in conjunction with federal
25 highway funds for the purpose of analyzing traffic problems and

1 financial conditions and problems relating to state, county,
2 township, municipal, federal, and all other roads in the state and
3 for incidental costs in connection with the federal-aid grade
4 crossing program for roads not on state highways, (5) for tests and
5 research by the department or proportionate costs of membership,
6 tests, and research of highway organizations when participated in by
7 the highway departments of other states, (6) for the payment of
8 expenses and costs of the Board of Examiners for County Highway and
9 City Street Superintendents as set forth in section 39-2310, ~~and~~ (7)
10 for support of the public transportation assistance program
11 established under section 13-1209 and the intercity bus system
12 assistance program established under section 13-1213, and (8) for
13 purchasing from political or governmental subdivisions or public
14 corporations, pursuant to section 39-1307, any federal-aid
15 transportation funds available to such entities.

16 Any money in the Highway Cash Fund and the Roads
17 Operations Cash Fund not needed for current operations of the
18 department shall, as directed by the Director-State Engineer to the
19 State Treasurer, be invested by the state investment officer pursuant
20 to the Nebraska Capital Expansion Act and the Nebraska State Funds
21 Investment Act, subject to approval by the board of each investment.
22 All income received as a result of such investment shall be placed in
23 the Highway Cash Fund.

24 Sec. 3. Original sections 39-1307 and 66-4,100, Reissue
25 Revised Statutes of Nebraska, are repealed.