

## LEGISLATIVE BILL 98

Approved by the Governor March 10, 2011

Introduced by Fischer, 43; Heidemann, 1.

FOR AN ACT relating to highways and roads; to amend sections 39-1307 and 66-4,100, Reissue Revised Statutes of Nebraska; to provide powers relating to federal-aid transportation funds; and to repeal the original sections.

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

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

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

The department, on behalf of the state, and any political or governmental subdivision or public corporation of this state shall have the authority to enter into agreements with each other whereby the department purchases from any such entity the federal-aid transportation funds made available to such entity. Such funds may be purchased at a discount rate determined by the department to be in its best interest. Such agreements shall provide that the funds obtained from such sale by the political or governmental subdivision or public corporation be expended for cost of construction, reconstruction, maintenance, and repair of public highways, streets, roads, or bridges and facilities, appurtenances, and structures deemed necessary in connection therewith. All entities which sell federal-aid transportation funds to the department shall provide proof to the department that the proceeds of the sale were expended for the described purposes. The manner in which the proof shall be provided and the time at which proof shall be made shall be in the discretion of the department and shall be set forth in the agreement.

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

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

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

The Legislature may direct the State Treasurer to transfer funds from the Highway Cash Fund to the Roads Operations Cash Fund. Both funds shall be expended by the department (1) for acquiring real estate, road materials, equipment, and supplies to be used in the construction, reconstruction, improvement, and maintenance of state highways, (2) for the construction, reconstruction, improvement, and maintenance of state highways, including grading, drainage, structures, surfacing, roadside development, landscaping,

and other incidentals necessary for proper completion and protection of state highways as the department shall, after investigation, find and determine shall be for the best interests of the highway system of the state, either independent of or in conjunction with federal-aid money for highway purposes, (3) for the share of the department of the cost of maintenance of state aid bridges, (4) for planning studies in conjunction with federal highway funds for the purpose of analyzing traffic problems and financial conditions and problems relating to state, county, township, municipal, federal, and all other roads in the state and for incidental costs in connection with the federal-aid grade crossing program for roads not on state highways, (5) for tests and research by the department or proportionate costs of membership, tests, and research of highway organizations when participated in by the highway departments of other states, (6) for the payment of expenses and costs of the Board of Examiners for County Highway and City Street Superintendents as set forth in section 39-2310, ~~and~~ (7) for support of the public transportation assistance program established under section 13-1209 and the intercity bus system assistance program established under section 13-1213, and (8) for purchasing from political or governmental subdivisions or public corporations, pursuant to section 39-1307, any federal-aid transportation funds available to such entities.

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

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