

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1320**

Introduced by Hartnett, 45

Read first time January 19, 2000

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to highway funds; to amend sections 39-2120,  
2 39-2121, 39-2215, 39-2501, 39-2508, 39-2509, 39-2519,  
3 66-4,101, and 66-4,148, Reissue Revised Statutes of  
4 Nebraska; to provide for distributions to sanitary and  
5 improvement districts; and to repeal the original  
6 sections.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 39-2120, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   39-2120. The Auditor of Public Accounts and the Board of  
4 Public Roads Classifications and Standards shall develop and  
5 schedule for implementation a standardized system of annual  
6 reporting to the board by the department and by counties, sanitary  
7 and improvement districts, and municipalities, which system shall  
8 include:

9                   (1) A procedure for documenting and certifying that  
10 standards of design, construction, and maintenance of roads and  
11 streets have been met;

12                   (2) A procedure for documenting and certifying that all  
13 tax revenue for road or street purposes has been expended in  
14 accordance with approved plans and standards, to include county,  
15 sanitary and improvement district, and municipal tax revenue, as  
16 well as highway-user revenue allocations made by the state;

17                   (3) A uniform system of accounting which clearly  
18 indicates, through a system of reports, a comparison of receipts  
19 and expenditures to approved budgets and programs;

20                   (4) A system of budgeting which reflects uses and sources  
21 of funds in terms of programs and accomplishments;

22                   (5) An approved system of reporting an inventory of  
23 machinery, equipment, and supplies; and

24                   (6) An approved system of cost accounting of the  
25 operation of equipment.

26                   Sec. 2. Section 39-2121, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28                   39-2121. (1) The department and each county, sanitary

1 and improvement district, and municipality shall make the reports  
2 provided for by section 39-2120.

3 (2) If any county, sanitary and improvement district, or  
4 municipality or the Department of Roads fails to file such report  
5 on or before its due date, the Board of Public Roads  
6 Classifications and Standards shall so notify the local governing  
7 board, the Governor, and the State Treasurer who shall suspend  
8 distribution of any highway-user revenue allocated to such county,  
9 sanitary and improvement district, or municipality or the  
10 Department of Roads until the report has been filed. Such funds  
11 shall be held in escrow for six months until the county, sanitary  
12 and improvement district, or municipality complies. If the county,  
13 sanitary and improvement district, or municipality complies within  
14 the six-month period it shall receive the money in escrow, but  
15 after six months, if the county, sanitary and improvement district,  
16 or municipality fails to comply, the money in the escrow account  
17 shall be lost to the county, sanitary and improvement district, or  
18 municipality.

19 (3) If any county, sanitary and improvement district, or  
20 municipality either (a) files a materially false report or (b)  
21 constructs any highway, road, or street below the minimum standards  
22 developed under section 39-2113, without having received prior  
23 approval thereof, such county's, sanitary and improvement  
24 district's, or municipality's share of highway-user revenue  
25 allocated during the following calendar year shall be reduced by  
26 ten percent and the amount of any such reduction shall be  
27 distributed among the other counties, sanitary and improvement  
28 districts, or municipalities, as appropriate, in the manner

1 provided by law for allocation of highway-user revenue. The  
2 penalty for filing a materially false report and the penalty for  
3 constructing a highway, road, or street below established minimum  
4 standards without prior approval shall be assessed by the board  
5 only after a review of the facts involved in such case and the  
6 holding of a public hearing on the matter. The decision thereafter  
7 rendered by the board may be appealed, and the appeal shall be in  
8 accordance with the Administrative Procedure Act.

9           Sec. 3. Section 39-2215, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           39-2215. (1) There is hereby created in the state  
12 treasury a special fund to be known as the Highway Trust Fund.

13           (2) All funds credited to the Highway Trust Fund pursuant  
14 to sections 66-4,140, 66-4,147, 66-669, and 66-6,108 shall be  
15 allocated as provided in such sections. The State Treasurer shall  
16 make the transfer to the General Fund required by section 66-499.

17           (3) All other motor vehicle fuel taxes, diesel fuel  
18 taxes, compressed fuel taxes, and alternative fuel taxes related to  
19 highway use retained by the state, all motor vehicle registration  
20 fees retained by the state other than those fees credited to the  
21 State Recreation Road Fund pursuant to section 60-302, and other  
22 highway-user taxes imposed by state law and allocated to the  
23 Highway Trust Fund, except for the proceeds of the sales and use  
24 taxes derived from motor vehicles, trailers, and semitrailers  
25 credited to the fund pursuant to section 77-27,132, are hereby  
26 irrevocably pledged for the terms of the bonds issued prior to  
27 January 1, 1988, to the payment of the principal, interest, and  
28 redemption premium, if any, of such bonds as they mature and become

1 due at maturity or prior redemption and for any reserves therefor  
2 and shall, as received by the State Treasurer, be deposited in the  
3 fund for such purpose.

4 (4) Of the money in the fund specified in subsection (3)  
5 of this section which is not required for the use specified in such  
6 subsection, (a) an amount equal to three dollars times the number  
7 of motorcycles registered during the previous month shall be placed  
8 in the Motorcycle Safety Education Fund, (b) an amount to be  
9 determined annually by the Legislature through the appropriations  
10 process may be transferred to the Motor Fuel Tax Enforcement and  
11 Collection Cash Fund for use as provided in section 66-738 on a  
12 monthly or other less frequent basis as determined by the  
13 appropriation language, (c) an amount to be determined annually by  
14 the Legislature through the appropriations process shall be  
15 transferred to the License Plate Cash Fund as needed to meet the  
16 current obligations associated with the manufacture of license  
17 plates and stickers or tabs provided for in sections 60-311,  
18 60-311.02, and 60-1804, as certified by the Director of Motor  
19 Vehicles, and (d) the remaining money may be used for the purchase  
20 for retirement of the bonds issued prior to January 1, 1988, in the  
21 open market.

22 (5) The State Treasurer shall monthly transfer, from the  
23 proceeds of the sales and use taxes credited to the Highway Trust  
24 Fund and any money remaining in the fund after the requirements of  
25 subsections (2) through (4) of this section are satisfied, (a)  
26 thirty thousand dollars to the Grade Crossing Protection Fund and  
27 (b) the amount calculated pursuant to section 13-1210 for financing  
28 the operating costs of public transportation systems to the Highway

1 Cash Fund.

2 (6) Except as provided in subsection (7) of this section,  
3 the balance of the Highway Trust Fund shall be allocated  
4 fifty-three and one-third percent, less the amount provided for in  
5 section 39-847.01, to the Department of Roads, twenty-three and  
6 one-third percent, less the amount provided for in section  
7 39-847.01, to the various counties and sanitary and improvement  
8 districts for road purposes, and twenty-three and one-third percent  
9 to the various municipalities for street purposes. If bonds are  
10 issued pursuant to subsection (2) of section 39-2223, the portion  
11 allocated to the Department of Roads shall be credited monthly to  
12 the Highway Restoration and Improvement Bond Fund, and if no bonds  
13 are issued pursuant to such subsection, the portion allocated to  
14 the department shall be credited monthly to the Highway Cash Fund.  
15 The portions allocated to the counties, sanitary and improvement  
16 districts, and municipalities shall be credited monthly to the  
17 Highway Allocation Fund and distributed monthly as provided by law.  
18 Vehicles accorded prorated registration pursuant to section  
19 60-305.09 shall not be included in any formula involving motor  
20 vehicle registrations used to determine the allocation and  
21 distribution of state funds for highway purposes to political  
22 subdivisions.

23 (7) If it is determined by December 20 of any year that a  
24 county and its sanitary and improvement districts will receive from  
25 its allocation of state-collected highway revenue and from any  
26 funds relinquished to it by municipalities within its boundaries an  
27 amount in such year which is less than such county and its sanitary  
28 and improvement districts received in state-collected highway

1 revenue in calendar year 1969, based upon the 1976 tax rates for  
2 highway-user fuels and registration fees, the Department of Roads  
3 shall notify the State Treasurer that an amount equal to the sum  
4 necessary to provide such county and its sanitary and improvement  
5 districts with funds equal to such county's 1969 highway allocation  
6 for such year shall be transferred to such county and its sanitary  
7 and improvement districts from the Highway Trust Fund. Such makeup  
8 funds shall be matched by the county and its sanitary and  
9 improvement districts as provided in sections 39-2501 to 39-2510.  
10 The balance remaining in the fund after such transfer shall then be  
11 reallocated as provided in subsection (6) of this section.

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

20 Sec. 4. Section 39-2501, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 39-2501. Before making distribution of funds allocated  
23 to the counties and sanitary and improvement districts for road  
24 purposes, incentive payments shall first be made as provided in  
25 sections 39-2502 to 39-2505.

26 Sec. 5. Section 39-2508, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28 39-2508. The Department of Roads shall compute the

1 amount allocated to each county under each of the factors listed in  
2 section 39-2507 and shall then compute the total allocation to each  
3 such county. The Department of Roads shall, with regard to each  
4 county, compute the total miles of roads and streets within each  
5 sanitary and improvement district within the county. The  
6 department shall calculate the ratio between the number of miles of  
7 streets and roads within each sanitary and improvement district and  
8 the total number of miles of roads in the county and compute the  
9 allocation to each sanitary and improvement district from the  
10 county's allocation, allocating to each sanitary and improvement  
11 district a sum equivalent to the ratio calculated. The department  
12 shall and transmit such information to the local governing board of  
13 the county, the boards of trustees of each sanitary and improvement  
14 district, and the State Treasurer, who shall disburse funds  
15 accordingly.

16           Sec. 6.     Section 39-2509, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           39-2509. (1) Each county shall be entitled to one-half  
19 of the amount allocated to it exclusive of the funds allocated to  
20 the sanitary and improvement districts located within its  
21 boundaries each year under sections 39-2507 and 39-2508 with no  
22 requirement for providing funds locally, but shall be required to  
23 match the second one-half on the basis of one dollar for each two  
24 dollars it receives with any available funds.

25           (2) Commencing in 1972, each county which, during the  
26 preceding fiscal year, failed to provide locally the minimum  
27 required by subsection (1) of this section shall forfeit one dollar  
28 for each dollar which it fails to so provide locally, except that

1 any county which certifies to the State Treasurer by resolution  
2 that it has reached its constitutional levy limitation as a result  
3 of the requirement by law of providing its share of the cost of  
4 caring for mental health patients and is therefor unable to meet  
5 its highway revenue matching requirements shall have its unmet  
6 highway allocation held in escrow until July 1, 1973. The State  
7 Treasurer shall invest such escrow funds in short-term obligations  
8 of the United States Government and the interest therefrom shall be  
9 added to the counties' share of the Highway Allocation Fund for the  
10 month in which the interest is received. Any amounts otherwise  
11 forfeited under the provisions of this subsection first shall be  
12 made available to the incorporated municipalities, as determined by  
13 the county board, within the county which forfeits the funds, such  
14 funds to be matched by the incorporated municipalities in the same  
15 manner as would have been required of the county had it not  
16 forfeited the funds, and if not so used, then shall be allocated  
17 among and distributed to the counties that have complied with the  
18 requirements of subsection (1) of this section. The amounts so  
19 distributed shall not be counted as part of the total allocation to  
20 the county subject to distribution to the sanitary and improvement  
21 districts within the county. Such distribution shall be made as  
22 provided in sections 39-2507 and 39-2508, except that any county  
23 having levied its constitutional maximum and not levied sufficient  
24 funds to fully match its share of the second half of the  
25 highway-user funds allocated to that county may apply to the Board  
26 of Public Roads Classifications and Standards for exemption from  
27 that part of the local matching requirement that it cannot match.  
28 The board may grant such exemption if, in its judgment, the county

1 has not unnecessarily increased its expenditures for other than  
2 road purposes after receiving its allocation for roads in previous  
3 years.

4 (3) For ~~the~~ purposes of this section, providing locally  
5 shall include, but not be limited to, providing money for road  
6 purposes through the following, except that there shall not be  
7 duplication in the following in the determination of the total:

8 (a) Property taxes levied by action of county and  
9 township boards for construction, improvement, maintenance, and  
10 repair of roads, bridges, culverts, and drainage structures, for  
11 curbs, for snow removal, for grading of dirt and gravel roads, for  
12 traffic signs and signals, and for construction of storm sewers  
13 directly related to roads and property taxes levied for the payment  
14 of the principal and interest on general obligation bonds for any  
15 of the foregoing;

16 (b) Contributions received for county road purposes;

17 (c) Local costs in the acquisition of road right-of-way,  
18 including incidental expenses directly related to such acquisition;  
19 and

20 (d) Inheritance taxes allocated for county road purposes.

21 Sec. 7. Section 39-2519, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 39-2519. (1) Each city of the metropolitan or primary  
24 class shall be entitled to the first one-third of its annual  
25 allocation with no requirement of matching, but shall be required  
26 to match the second one-third, on the basis of one dollar for each  
27 dollar it receives, with funds provided locally for street  
28 purposes, and shall be required to match the final one-third, on

1 the basis of one dollar for each two dollars it receives, with  
2 funds so provided. Each city of the first or second class or  
3 village shall be entitled to one-half of its annual allocation with  
4 no requirement of matching, but shall be required to match the  
5 second one-half on the basis of one dollar for each two dollars it  
6 receives, with any available funds. Any municipality which during  
7 the preceding fiscal year failed to provide the matching funds  
8 required by this subsection shall, except as provided in subsection  
9 (2) or (3) of this section, forfeit so much of its allocation as it  
10 fails to match. Any amount so forfeited shall be reallocated and  
11 distributed to the municipalities which have met the full matching  
12 provisions of this subsection. Such reallocation shall be made in  
13 the manner provided in sections 39-2517 and 39-2518.

14 (2) Any municipality may accumulate and invest any  
15 portion or all of the money it receives for a period not to exceed  
16 four years so as to provide funds for one or more specific street  
17 improvement projects. Any municipality so accumulating funds shall  
18 certify to the State Treasurer that the required matching funds are  
19 being accumulated and invested each year of the accumulation.

20 (3) Any municipality may, for any year, certify to the  
21 State Treasurer that it relinquishes, to the county in which it is  
22 situated in whole or in part, all or a part of the state funds  
23 allocated to it for that year. The amount so relinquished shall be  
24 available for distribution to such county subject to the same  
25 matching as would have been required of the municipality had it not  
26 relinquished such funds and without regard to the provisions of  
27 sections 39-2501 to 39-2510. The amount so relinquished shall not  
28 be counted as part of the total allocation to the county subject to

1 distribution to the sanitary and improvement districts within the  
2 county. Any amount so distributed to the county shall be used  
3 exclusively for road purposes within the trade area of the  
4 relinquishing municipality as may be agreed upon by the county and  
5 municipal governing bodies.

6 (4) Any municipality may certify to the State Treasurer  
7 that it relinquishes, to the county in which it is situated in  
8 whole or in part, all or a part of the state funds allocated to it  
9 for not to exceed three years. The amount so relinquished shall be  
10 available for distribution to such county subject to the same  
11 matching as would have been required of the municipality had it not  
12 relinquished such funds and without regard to the provisions of  
13 sections 39-2501 to 39-2510. The amount so relinquished shall not  
14 be counted as part of the total allocation to the county subject to  
15 distribution to the sanitary and improvement districts within the  
16 county. Any relinquishment under this subsection shall be made  
17 pursuant to an agreement between the relinquishing municipality and  
18 the county, to which other political subdivisions may also be  
19 parties, which provides for the accumulation and investment by the  
20 county of the amount relinquished for not to exceed three years so  
21 as to provide funds for one or more specific road improvement  
22 projects.

23 (5) For purposes of this section, provided locally shall  
24 include, but not be limited to, money provided for street purposes  
25 through the following, except that there shall not be duplication  
26 in the following in the determination of the total:

27 (a) Local motor vehicle or wheel fees or taxes;

28 (b) Property taxes levied by action of the local

1 governing body for construction, improvement, maintenance, and  
2 repair of streets and bridges, curbs, snow removal, street  
3 cleaning, grading of dirt and gravel streets and roads, traffic  
4 signs and signals, construction of storm sewers directly related to  
5 streets, offstreet public parking owned by the municipality, and  
6 the payment of the principal and interest on general obligation  
7 bonds for any of the foregoing;

8 (c) Special assessments levied for street paving or  
9 improvement districts and offstreet public parking owned by the  
10 municipality;

11 (d) Local costs in the acquisition of street right-of-way  
12 including incidental expenses directly related to such acquisition;  
13 and

14 (e) Any other funds provided solely for street purposes.

15 Sec. 8. Section 66-4,101, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 66-4,101. Any county may by resolution of the county  
18 board, any sanitary and improvement district may by resolution of  
19 the board of trustees, any city may by ordinance of the mayor and  
20 city council, and any village may by ordinance of the chairperson  
21 and board of trustees issue bonds for the construction of roads of  
22 the county, streets of the sanitary and improvement district, and  
23 street and state highway or federal-aid routes of cities and  
24 villages and to pay the interest on and to retire any such bonds by  
25 pledging funds received from the Highway Allocation Fund. Any city  
26 of the primary class may by ordinance of the mayor and city council  
27 issue bonds for the construction of offstreet parking facilities of  
28 such city and to pay the interest on and to retire any such bonds

1 by pledging funds received from the Highway Allocation Fund.

2           The issuance of bonds by any county, sanitary and  
3 improvement district, city, or village under the authority of this  
4 section shall not be subject to any charter or statutory  
5 limitations of indebtedness or be subject to any restrictions  
6 imposed upon or conditions precedent to the exercise of the powers  
7 of counties, sanitary and improvement districts, cities, and  
8 villages to issue bonds or evidences of indebtedness which may be  
9 contained in such charters or other statutes. Any county, sanitary  
10 and improvement district, city, or village which has heretofore or  
11 may hereafter issue bonds under the authority of this section shall  
12 levy property taxes upon all the taxable property in such county,  
13 sanitary and improvement district, city, or village issuing such  
14 bonds at such rate or rates within any applicable charter,  
15 statutory, or constitutional limitations as will provide funds  
16 which, together with receipts from the Highway Allocation Fund  
17 pledged to the payment of such bonds and any other money made  
18 available and used for that purpose, will be sufficient to pay the  
19 principal of and interest on such bonds as they severally mature.

20           Sec. 9. Section 66-4,148, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           66-4,148.       (1) The State Treasurer shall monthly  
23 distribute the receipts accruing to the Highway Allocation Fund  
24 pursuant to section 66-4,147. One-half of such receipts shall be  
25 distributed to the various counties and sanitary and improvement  
26 districts for road purposes and one-half of such receipts shall be  
27 distributed to the various municipalities for street purposes.

28           (2) The distribution of funds to the respective cities,

1 ~~and~~ counties, and sanitary and improvement districts under  
2 subsection (1) of this section shall be based on the provisions of  
3 Chapter 39, article 25.

4           Sec. 10. Original sections 39-2120, 39-2121, 39-2215,  
5 39-2501, 39-2508, 39-2509, 39-2519, 66-4,101, and 66-4,148, Reissue  
6 Revised Statutes of Nebraska, are repealed.