

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 552**

Introduced by Hartnett, 45

Read first time January 21, 2003

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to roads; to amend sections 39-2223, 39-2224,  
2 and 66-4,100, Reissue Revised Statutes of Nebraska, and  
3 section 66-4,144, Revised Statutes Supplement, 2002; to  
4 change provisions relating to the Highway Cash Fund and  
5 road bonds; to reallocate certain sales tax revenue; to  
6 provide an operative date; and to repeal the original  
7 sections.

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

1                   Section 1. Section 39-2223, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   39-2223. (1) Under the authority granted by Article  
4 XIII, section 1, of the Constitution of Nebraska, the Legislature  
5 hereby authorizes the issuance of bonds in the principal amount of  
6 twenty million dollars in 1969 and in the principal amount of  
7 twenty million dollars on or before June 30, 1977, with the  
8 proceeds thereof to be used for the construction of highways in  
9 this state, the Legislature expressly finding that the need for  
10 such construction requires such action. Such bonds shall in all  
11 respects comply with the provisions of Article XIII, section 1, of  
12 the Constitution of Nebraska.

13                   (2) Under the authority granted by Article XIII, section  
14 1, of the Constitution of Nebraska, the Legislature hereby  
15 authorizes after July 1, 1988, the issuance of bonds in a principal  
16 amount to be determined by the commission, not to exceed one  
17 hundred fifty million dollars. The outstanding principal amount of  
18 such bonds may exceed such limit if and to the extent that the  
19 commission determines that the issuance of advance refunding bonds  
20 under section 39-2226 in a principal amount greater than the bonds  
21 to be refunded would reduce the aggregate bond principal and  
22 interest requirements payable from the bond fund. The proceeds of  
23 such issues shall be used exclusively (a) for the construction,  
24 resurfacing, reconstruction, rehabilitation, and restoration of  
25 highways in this state, the Legislature expressly finding that the  
26 need for such construction and reconstruction work and the vital  
27 importance of the highway system to the welfare and safety of all  
28 Nebraskans requires such action, or (b) to eliminate or alleviate

1 cash-flow problems relating to such activities. ~~resulting from the~~  
2 ~~receipt of federal funds.~~ Such bonds shall in all respects comply  
3 with the provisions of Article XIII, section 1, of the Constitution  
4 of Nebraska.

5 Sec. 2. Section 39-2224, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

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

12 (2) The proceeds of the sale of bonds authorized by  
13 subsection (2) of section 39-2223 are hereby appropriated to the  
14 Highway Cash Fund of the Department of Roads for expenditure for  
15 highway construction, resurfacing, reconstruction, rehabilitation,  
16 and restoration and for the elimination or alleviation of cash-flow  
17 problems ~~resulting from the receipt of federal funds~~ relating to  
18 such activities.

19 Sec. 3. Section 66-4,100, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 66-4,100. The Highway Cash Fund and the Roads Operations  
22 Cash Fund are hereby created. If bonds are issued pursuant to  
23 subsection (2) of section 39-2223, the balance of the share of the  
24 Highway Trust Fund allocated to the Department of Roads and  
25 deposited into the Highway Restoration and Improvement Bond Fund as  
26 provided in subsection (6) of section 39-2215 and the balance of  
27 the money deposited in the Highway Restoration and Improvement Bond  
28 Fund as provided in section 39-2215.01 shall be transferred by the

1 State Treasurer, on or before the last day of each month, to the  
2 Highway Cash Fund. If no bonds are issued pursuant to subsection  
3 (2) of section 39-2223, the share of the Highway Trust Fund  
4 allocated to the Department of Roads shall be transferred by the  
5 State Treasurer on or before the last day of each month to the  
6 Highway Cash Fund. The State Treasurer shall, on or before the  
7 last day of each month through September 30, 2004, transfer from  
8 the Highway Cash Fund to the General Fund an amount equal to the  
9 sales and use taxes derived from motor vehicles, trailers, and  
10 semitrailers included in the share of the Highway Trust Fund  
11 allocated to the Department of Roads.

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

1 state, county, township, municipal, federal, and all other roads in  
2 the state and for incidental costs in connection with the  
3 federal-aid grade crossing program for roads not on state highways,  
4 (5) for tests and research by the department or proportionate costs  
5 of membership, tests, and research of highway organizations when  
6 participated in by the highway departments of other states, and (6)  
7 for the payment of expenses and costs of the Board of Examiners for  
8 County Highway and City Street Superintendents as set forth in  
9 section 39-2310.

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

18 Sec. 4. Section 66-4,144, Revised Statutes Supplement,  
19 2002, is amended to read:

20 66-4,144. (1) In order to insure that an adequate  
21 balance in the Highway Restoration and Improvement Bond Fund is  
22 maintained to meet the debt service requirements of bonds to be  
23 issued by the commission under subsection (2) of section 39-2223,  
24 the Director-State Engineer shall certify to the department the  
25 excise tax rate to be imposed by sections 66-4,140, 66-669, and  
26 66-6,108 for each year during which such bonds are outstanding  
27 necessary to provide in each such year money equal in amount to not  
28 less than one hundred twenty-five percent of such year's bond

1 principal and interest payment requirements. The department shall  
2 adjust the rate as certified by the Director-State Engineer. Such  
3 rate shall be in addition to the rate of excise tax set pursuant to  
4 subsection (2) of this section. Each such rate shall be effective  
5 from July 1 of a stated year through June 30 of the succeeding year  
6 or during such other period not longer than one year as the  
7 Director-State Engineer certifies to be consistent with the  
8 principal and interest requirements of such bonds. Such excise tax  
9 rates set pursuant to this subsection may be increased, but such  
10 excise tax rates shall not be subject to reduction or elimination  
11 unless the Director-State Engineer has received from the State  
12 Highway Commission notice of reduced principal and interest  
13 requirements for such bonds, in which event the Director-State  
14 Engineer shall certify the new rate or rates to the department. The  
15 new rate or rates, if any, shall become effective on the first day  
16 of the following semiannual period.

17 (2) In order to insure that there is maintained an  
18 adequate Highway Cash Fund balance to meet expenditures from such  
19 fund as appropriated by the Legislature, by June 15 or five days  
20 after the adjournment of the regular legislative session each year,  
21 whichever is later, the Director-State Engineer shall certify to  
22 the department the excise tax rate to be imposed by sections  
23 66-4,140, 66-669, and 66-6,108. The department shall adjust the  
24 rate as certified by the Director-State Engineer to be effective  
25 from July 1 through June 30 of the succeeding year. The rate of  
26 excise tax for a given July 1 through June 30 period set pursuant  
27 to this subsection shall be in addition to and independent of the  
28 rate or rates of excise tax set pursuant to subsection (1) of this

1 section for such period. The Director-State Engineer shall  
2 determine the cash and investment balances of the Highway Cash Fund  
3 at the beginning of each fiscal year under consideration and the  
4 estimated receipts to the Highway Cash Fund from each source which  
5 provides at least one million dollars annually to such fund. ~~The~~  
6 Except as provided in subsection (6) of this section, the rate of  
7 excise tax shall be an amount sufficient to meet the appropriations  
8 made from the Highway Cash Fund by the Legislature. Such rate shall  
9 be set in increments of one-tenth of one percent.

10 (3) The Department of Roads shall provide to the  
11 Legislative Fiscal Analyst a copy of the information that is  
12 submitted to the Department of Revenue and used to set or adjust  
13 the excise tax rate.

14 (4) Except as provided in subsection (6) of this section,  
15 if ~~if~~ the actual receipts received to date added to any projections  
16 or modified projections of deposits to the Highway Cash Fund for  
17 the current fiscal year are less than ninety-nine percent or  
18 greater than one hundred two percent of the appropriation for the  
19 current fiscal year, the Director-State Engineer shall certify to  
20 the department the adjustment in rate necessary to meet the  
21 appropriations made from the Highway Cash Fund by the Legislature.  
22 The department shall adjust the rate as certified by the  
23 Director-State Engineer to be effective on the first day of the  
24 following semiannual period.

25 (5) Nothing in this section shall be construed to  
26 abrogate the duties of the Department of Roads or attempt to change  
27 any highway improvement program schedule.

28 (6) Notwithstanding the provisions of subsections (2) and

1 (4) of this section, the rate of the excise tax set pursuant to  
2 such subsections shall not be increased to compensate for any sums  
3 transferred from the Highway Cash Fund to the General Fund by  
4 action of the Legislature.

5           Sec. 5. This act becomes operative on October 1, 2003.

6           Sec. 6.       Original sections 39-2223, 39-2224, and  
7 66-4,100, Reissue Revised Statutes of Nebraska, and section  
8 66-4,144, Revised Statutes Supplement, 2002, are repealed.