

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 935**

Introduced by Beutler, 28; Foley, 29; Hudkins, 21; Kruse, 13;  
Landis, 46; Price, 26; Raikes, 25; Schimek, 27

Read first time January 6, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to streets and roads; to amend section  
2 77-27,132, Reissue Revised Statutes of Nebraska, section  
3 66-4,100, Revised Statutes Cumulative Supplement, 2004,  
4 and section 39-2215, Revised Statutes Supplement, 2005;  
5 to change distribution of certain sales and use tax  
6 proceeds; to provide an operative date; and to repeal the  
7 original sections.

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

1           Section 1. Section 39-2215, Revised Statutes Supplement,  
2 2005, is amended to read:

3           39-2215 (1) There is hereby created in the state treasury  
4 a special fund to be known as the Highway Trust Fund.

5           (2) All funds credited to the Highway Trust Fund pursuant  
6 to sections 66-4,140, 66-4,147, and 66-6,108, and related penalties  
7 and interest, shall be allocated as provided in such sections.

8           (3) All other motor vehicle fuel taxes, diesel fuel  
9 taxes, compressed fuel taxes, and alternative fuel taxes related to  
10 highway use retained by the state, all motor vehicle registration  
11 fees retained by the state other than those fees credited to  
12 the State Recreation Road Fund pursuant to subdivision (3) of  
13 section 60-3,156, and other highway-user taxes imposed by state  
14 law and allocated to the Highway Trust Fund, except for the  
15 proceeds of the sales and use taxes derived from motor vehicles,  
16 trailers, and semitrailers credited to the fund pursuant to section  
17 77-27,132, are hereby irrevocably pledged for the terms of the  
18 bonds issued prior to January 1, 1988, to the payment of the  
19 principal, interest, and redemption premium, if any, of such bonds  
20 as they mature and become due at maturity or prior redemption  
21 and for any reserves therefor and shall, as received by the State  
22 Treasurer, be deposited in the fund for such purpose.

23           (4) Of the money in the fund specified in subsection  
24 (3) of this section which is not required for the use specified  
25 in such subsection, (a) an amount equal to three dollars times

1 the number of motorcycles registered during the previous month  
2 shall be placed in the Motorcycle Safety Education Fund, (b) an  
3 amount to be determined annually by the Legislature through the  
4 appropriations process may be transferred to the Motor Fuel Tax  
5 Enforcement and Collection Cash Fund for use as provided in section  
6 66-738 on a monthly or other less frequent basis as determined by  
7 the appropriation language, (c) an amount to be determined annually  
8 by the Legislature through the appropriations process shall be  
9 transferred to the License Plate Cash Fund as certified by the  
10 Director of Motor Vehicles, and (d) the remaining money may be  
11 used for the purchase for retirement of the bonds issued prior to  
12 January 1, 1988, in the open market.

13 (5) The State Treasurer shall monthly transfer, from the  
14 proceeds of the sales and use taxes credited to the Highway Trust  
15 Fund and any money remaining in the fund after the requirements of  
16 subsections (2) through (4) of this section are satisfied, thirty  
17 thousand dollars to the Grade Crossing Protection Fund.

18 (6) The State Treasurer shall monthly distribute the  
19 proceeds equal to a sales tax rate of one-half percent derived from  
20 motor vehicles, trailers, and semitrailers from the proceeds of  
21 sales and use taxes credited to the Highway Trust Fund as follows:  
22 (a) One-half of such amount shall be distributed to the various  
23 counties and municipal counties for road construction purposes  
24 on a per-capita basis calculated using the most recent federal  
25 census figures certified by the Tax Commissioner as provided

1 in section 77-3,119; and (b) one-half of such amount shall be  
2 distributed to the various municipalities and municipal counties  
3 for road construction purposes on a per-capita basis calculated  
4 using the most recent federal census figures certified by the Tax  
5 Commissioner as provided in section 77-3,119.

6 (7) Except as provided in subsection ~~(7)~~ (8) of this  
7 section, the balance of the Highway Trust Fund shall be allocated  
8 fifty-three and one-third percent, less the amount provided for  
9 in section 39-847.01, to the Department of Roads, twenty-three  
10 and one-third percent, less the amount provided for in section  
11 39-847.01, to the various counties for road purposes, and  
12 twenty-three and one-third percent to the various municipalities  
13 for street purposes. If bonds are issued pursuant to subsection  
14 (2) of section 39-2223, the portion allocated to the Department  
15 of Roads shall be credited monthly to the Highway Restoration  
16 and Improvement Bond Fund, and if no bonds are issued pursuant  
17 to such subsection, the portion allocated to the department  
18 shall be credited monthly to the Highway Cash Fund. The portions  
19 allocated to the counties and municipalities shall be credited  
20 monthly to the Highway Allocation Fund and distributed monthly as  
21 provided by law. Vehicles accorded prorated registration pursuant  
22 to section 60-3,198 shall not be included in any formula involving  
23 motor vehicle registrations used to determine the allocation and  
24 distribution of state funds for highway purposes to political  
25 subdivisions.

1           ~~(7)~~ (8) If it is determined by December 20 of any year  
2 that a county will receive from its allocation of state-collected  
3 highway revenue and from any funds relinquished to it by  
4 municipalities within its boundaries an amount in such year which  
5 is less than such county received in state-collected highway  
6 revenue in calendar year 1969, based upon the 1976 tax rates for  
7 highway-user fuels and registration fees, the Department of Roads  
8 shall notify the State Treasurer that an amount equal to the sum  
9 necessary to provide such county with funds equal to such county's  
10 1969 highway allocation for such year shall be transferred to such  
11 county from the Highway Trust Fund. Such makeup funds shall be  
12 matched by the county as provided in sections 39-2501 to 39-2510.  
13 The balance remaining in the fund after such transfer shall then be  
14 reallocated as provided in subsection ~~(6)~~ (7) of this section.

15           ~~(8)~~ (9) The State Treasurer shall disburse the money in  
16 the Highway Trust Fund as directed by resolution of the commission.  
17 All disbursements from the fund shall be made upon warrants drawn  
18 by the Director of Administrative Services. Any money in the fund  
19 available for investment shall be invested by the state investment  
20 officer pursuant to the Nebraska Capital Expansion Act and the  
21 Nebraska State Funds Investment Act and the earnings, if any,  
22 credited to the fund.

23           Sec. 2. Section 66-4,100, Revised Statutes Cumulative  
24 Supplement, 2004, is amended to read:

25           66-4,100 The Highway Cash Fund and the Roads Operations

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

14           The Legislature may direct the State Treasurer to  
15 transfer funds from the Highway Cash Fund to the Roads Operations  
16 Cash Fund. Both funds shall be expended by the department (1) for  
17 acquiring real estate, road materials, equipment, and supplies  
18 to be used in the construction, reconstruction, improvement,  
19 and maintenance of state highways, (2) for the construction,  
20 reconstruction, improvement, and maintenance of state highways,  
21 including grading, drainage, structures, surfacing, roadside  
22 development, landscaping, and other incidentals necessary for  
23 proper completion and protection of state highways as the  
24 department shall, after investigation, find and determine shall  
25 be for the best interests of the highway system of the state,

1 either independent of or in conjunction with federal-aid money for  
2 highway purposes, (3) for the share of the department of the cost  
3 of maintenance of state aid bridges, (4) for planning studies in  
4 conjunction with federal highway funds for the purpose of analyzing  
5 traffic problems and financial conditions and problems relating to  
6 state, county, township, municipal, federal, and all other roads  
7 in the state and for incidental costs in connection with the  
8 federal-aid grade crossing program for roads not on state highways,  
9 (5) for tests and research by the department or proportionate costs  
10 of membership, tests, and research of highway organizations when  
11 participated in by the highway departments of other states, (6)  
12 for the payment of expenses and costs of the Board of Examiners  
13 for County Highway and City Street Superintendents as set forth in  
14 section 39-2310, and (7) for support of the public transportation  
15 assistance program established under section 13-1209 and the  
16 intercity bus system assistance program established under section  
17 13-1213.

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

1           Sec. 3. Section 77-27,132, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-27,132 (1) There is hereby created a fund to be  
4 designated the Revenue Distribution Fund which shall be set apart  
5 and maintained by the Tax Commissioner. Revenue not required to be  
6 credited to the General Fund or any other specified fund may be  
7 credited to the Revenue Distribution Fund. Credits and refunds of  
8 such revenue shall be paid from the Revenue Distribution Fund. The  
9 balance of the amount credited, after credits and refunds, shall be  
10 allocated as provided by the statutes creating such revenue.

11           (2) The Tax Commissioner shall pay to a depository bank  
12 designated by the State Treasurer all amounts collected under the  
13 Nebraska Revenue Act of 1967. The Tax Commissioner shall present  
14 to the State Treasurer bank receipts showing amounts so deposited  
15 in the bank, and of the amounts so deposited the State Treasurer  
16 shall credit to the Highway Trust Fund all of the proceeds of  
17 the sales and use taxes derived from motor vehicles, trailers, and  
18 semitrailers, ~~except that the proceeds equal to any sales tax~~  
19 ~~rate provided for in section 77-2701.02 that is in excess of five~~  
20 ~~percent derived from motor vehicles, trailers, and semitrailers~~  
21 ~~shall be credited to the General Fund.~~ The balance of all amounts  
22 collected under the Nebraska Revenue Act of 1967 shall be credited  
23 to the General Fund.

24           Sec. 4. This act becomes operative on October 1, 2006.

25           Sec. 5. Original section 77-27,132, Reissue Revised

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1 Statutes of Nebraska, section 66-4,100, Revised Statutes Cumulative  
2 Supplement, 2004, and section 39-2215, Revised Statutes Supplement,  
3 2005, are repealed.