

CORRECTED COPY

LEGISLATIVE BILL 602

Approved by the Governor February 24, 1990

Introduced by Warner, 25; Hartnett, 45

AN ACT relating to highways and roads; to amend section 39-2215.01, Reissue Revised Statutes of Nebraska, 1943, section 66-424, Revised Statutes Supplement, 1988, and sections 39-2215, 66-473, and 66-605.02, Revised Statutes Supplement, 1989; to change provisions relating to the allocation of funds in the Highway Trust Fund to the Department of Roads as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 39-2215, Revised Statutes Supplement, 1989, be amended to read as follows:

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

(2) All funds credited to the Highway Trust Fund pursuant to sections 66-473, 66-479, and 66-605.02 shall be allocated as provided in such sections. The State Treasurer shall make the transfer to the General Fund required by section 66-421.

(3) All other motor fuel taxes and special fuel taxes related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund pursuant to section 60-302, and other highway-user taxes imposed by state law and allocated to the Highway Trust Fund, except for the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers credited to the fund pursuant to section 77-27,132, are hereby irrevocably pledged for the terms of the bonds issued prior to January 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose.

(4) Of the money in the fund specified in

subsection (3) of this section which is not required for the use specified in such subsection, (a) an amount equal to one dollar and fifty cents times the number of motorcycles registered during the previous month shall be placed in the Motorcycle Safety Education Fund, (b) an amount to be determined annually by the Legislature through the appropriations process shall be transferred to the License Plate Cash Fund as needed to meet the current obligations associated with the manufacture of license plates and stickers or tabs provided for in sections 60-311, 60-311.02, and 60-1804, as certified by the Director of Motor Vehicles, and (c) the remaining money may be used for the purchase for retirement of the bonds issued prior to January 1, 1988, in the open market or for any other lawful purpose.

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

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

(7) If it is determined by December 20 of any

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

(8) The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. All disbursements from the fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276 and the earnings, if any, credited to the fund.

Sec. 2. That section 39-2215.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2215.01. (1) There is hereby created in the state treasury a fund to be known as the Highway Restoration and Improvement Bond Fund.

(2) If bonds are issued pursuant to subsection (2) of section 39-2223, all A++ motor vehicle fuel taxes, special fuel taxes related to highway use, motor vehicle registration fees, and other highway-user taxes which are retained by the state and allocated to the bond fund from the Highway Trust Fund are shall be hereby irrevocably pledged for the terms of the bonds issued after July 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited directly in the bond fund for such purpose. Of the money in the bond fund not required for such purpose, such remaining money may be used for the purchase for retirement of the bonds in the open market or for any other lawful purpose related to the issuance of bonds, and the balance, if any, shall be transferred monthly to the Highway Cash Fund for such use as may be provided by

law.

(3) The State Treasurer shall disburse the money in the bond fund as directed by resolution of the commission. All disbursements from the bond fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the bond fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269 72-1276.

Sec. 3. That section 66-424, Revised Statutes Supplement, 1988, be amended to read as follows:

66-424. The 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, which fund is hereby created. 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 Highway Cash Fund 7 and 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, and (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.

Any money in the Highway 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 sections 72-1237 to ~~72-1269~~ 72-1276, 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. 4. That section 66-473, Revised Statutes Supplement, 1989, be amended to read as follows:

66-473. (1) Each dealer required by section 66-410 to pay motor vehicle fuel taxes shall, in addition to all other taxes provided by law, pay an excise tax at a rate set pursuant to section 66-476 for motor vehicle fuels, as defined in section 66-401, received, imported, produced, refined, manufactured, blended, or compounded by such dealer within the State of Nebraska as a motor vehicle fuel suitable for retail sale. All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to dealers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated to the Highway Restoration and Improvement Bond Fund if bonds are issued pursuant to subsection (2) of section 39-2223 and to the Highway Cash Fund if no bonds are issued pursuant to such subsection.

(2) Dealers of motor vehicle fuels subject to taxation under subsection (1) of this section shall pay such excise tax and shall make a report concerning the tax in like manner, form, and time and be allowed the same exemptions, deductions, and rights of reimbursement as are authorized dealers for taxes paid pursuant to Chapter 66, article 4.

Sec. 5. That section 66-605.02, Revised Statutes Supplement, 1989, be amended to read as follows:

66-605.02. (1) Each special fuel dealer as defined in subdivision (6) of section 66-602 shall, in addition to all other taxes provided by law, pay an excise tax at a rate set pursuant to section 66-476 for special fuels as defined in Chapter 66, article 6, and subject to taxation under section 66-605. All sums of

money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to special fuel dealers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated to the Highway Restoration and Improvement Bond Fund if bonds are issued pursuant to subsection (2) of section 39-2223 and to the Highway Cash Fund if no bonds are issued pursuant to such subsection.

(2) Special fuel dealers subject to taxation under subsection (1) of this section shall pay such excise tax and shall make a report concerning the tax in like manner, form, and time and be allowed the same exemptions, deductions, and rights of reimbursement as are authorized dealers for taxes paid pursuant to Chapter 66, article 6.

Sec. 6. That original section 39-2215.01, Reissue Revised Statutes of Nebraska, 1943, section 66-424, Revised Statutes Supplement, 1988, and sections 39-2215, 66-473, and 66-605.02, Revised Statutes Supplement, 1989, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.