

LEGISLATIVE BILL 249

Approved by the Governor May 23, 1975

Introduced by Burbach, 19

AN ACT to amend sections 39-6,194 and 39-6,195, Reissue Revised Statutes of Nebraska, 1943, relating to the Grade Crossing Protection Fund; to restate and enlarge the purpose of the Grade Crossing Protection Fund; to provide for and clarify responsibility for maintenance of all automatic railroad crossing protection in this state; to provide for a division of costs of maintenance of some automatic railroad crossing protection in this state; and to repeal the original sections.

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

Section 1. That section 39-6,194, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,194. In order to promote public safety at the intersection of railroad lines and all classes of highways, ~~excepting those highways for which federal aid is available~~; there is hereby created a special fund known as the Grade Crossing Protection Fund which shall be established in the state treasury to be used in furnishing financial assistance in the improvement of the safety of railroad grade crossings in this state including both the elimination of such crossings and the construction, substantial modification or improvement, and the maintenance of automatic crossing protection at such grade crossings. Any money in the Grade Crossing Protection Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 2. That section 39-6,195, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,195. The Department of Roads is hereby empowered to administer the funds deposited in the Grade Crossing Protection Fund as follows:

(1) When any political subdivision of this state determines that public safety will be improved by eliminating a crossing or by the installation, substantial modification, or improvement of automatic railroad grade crossing protection where a street, road,

or highway intersects with the a line of the railroad company within its jurisdiction, and demand is made upon the railroad company concerned, either the railroad company or the political subdivision shall inform the Department of Roads of such fact;

(2) Upon receiving such notice, or upon its own determination, the Department of Roads shall forthwith examine the crossing concerned, in conjunction with representatives of the political subdivision and the particular railroad company involved, to arrive at an estimate of the cost and the type of automatic railroad grade crossing protection that should be required, and the justification of the expenditure for such protection; and, if it is agreed by the Department of Roads, the railroad, and the political subdivision involved that such grade crossing should be eliminated by closing the street, road, or highway, such political subdivision as shall make such closing shall receive two thousand dollars or the actual cost thereof but not to exceed twelve thousand dollars from the Grade Crossing Protection Fund or, if pursuant to section 74-1305, it is agreed by the Department of Roads, the railroad, and the political subdivision involved that such crossing should be eliminated by the removal of such rail line, the political subdivision paying for such removal, if any, shall receive two thousand dollars or the actual cost thereof but not to exceed twelve thousand dollars from the Grade Crossing Protection Fund;

(3) In order to facilitate and protect the interest of the public as a whole, and to compensate for the statewide use of such crossing crossings by the public, the Department of Roads shall pay eighty per cent of the cost of such automatic railroad grade crossing protection from the Grade Crossing Protection Fund, and the balance of the cost shall be borne ten per cent by the railroad company and ten per cent by the political subdivision involved, except that in any county in which a Railroad Transportation Safety District has been formed, such balance shall be borne entirely by the political subdivision involved;

(4) It shall be the sole responsibility of the railroad company involved to maintain all automatic railroad grade crossing protection devices existing in this state as of the effective date of this act. For any automatic railroad grade crossing protection device installed or substantially modified or improved in this state on or after the effective date of this act with the approval of the Department of Roads, the Department of Roads may pay from the Grade Crossing Protection Fund fifty per cent of the annual costs for maintenance



thereof and the balance of such annual costs for maintenance shall be borne by the railroad companies at whose railroad crossings such devices are constructed;

(4) (5) The Department of Roads shall allocate the amount to be borne by the Grade Crossing Protection Fund for the cost of construction, and installation, or substantial modification or improvement, and for maintenance of the automatic device devices for the protection of the railroad grade crossing concerned under this act; and

(5) (6) The Department of Roads shall enter into and enforce agreements involving such Grade Crossing Protection Fund as well as the supervision of the construction, installation, substantial modification or improvement, and the maintenance of such automatic safety devices for which any part of the cost is borne from the Grade Crossing Protection Fund, and the auditing and collection of the bills covering the cost thereof. The Department of Roads is further authorized to enter into such contracts with any railroad companies and political subdivisions affected which are necessary to carry out the provisions of sections 39-6,194 and 39-6,195, and

~~(6) -- All -- automatic -- railroad -- grade -- crossing protection devices constructed in whole -- or -- in -- part -- by money from the Grade Crossing Protection Fund established by section 39-6,194 shall, after their construction, -- be the sole responsibility of the railroad company at -- whose railroad crossing such devices are constructed.~~

Sec. 3. That original sections 39-6,194 and 39-6,195, Reissue Revised Statutes of Nebraska, 1943, are repealed.