

LEGISLATIVE BILL 632

Approved by the Governor April 11, 1988

Introduced by Hartnett, 45; Peterson, 21; Campbell, 22
Hefner, 19; Coordsen, 32; Schmit, 23

AN ACT relating to highways and roads; to amend sections 39-2201, 39-2203, 39-2205, 39-2209, 39-2211 to 39-2214, 39-2216, 39-2217, 39-2219, 39-2221 to 39-2224, 39-2226, 66-424, 66-473, 66-476, and 66-605.02, Reissue Revised Statutes of Nebraska, 1943, and section 39-2215, Revised Statutes Supplement, 1986; to define and redefine terms; to create the Highway Restoration and Improvement Bond Fund; to authorize the issuance of bonds as prescribed; to change the disposition of funds received pursuant to the Nebraska Highway Bond Act; to change provisions relating to the distribution of the Highway Cash Fund; to change provisions relating to the receipt of revenue from and the rate of the motor fuel excise tax as prescribed; to state intent; to provide powers and duties for the Department of Roads; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 39-2201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2201. As used in sections 39-2201 to 39-2222 the Nebraska Highway Bond Act, unless the context otherwise requires:

(1) Bond fund shall mean the Highway Restoration and Improvement Bond Fund created in section 10 of this act;

(2) ~~{1}~~ Bonds shall mean the bonds authorized to be issued under the provisions of sections 39-2201 to 39-2222 Nebraska Highway Bond Act and shall include notes or other similar evidences of indebtedness;

(3) ~~{2}~~ Commission shall mean the Nebraska Highway Bond Commission;

(4) ~~{3}~~ Construction shall mean and include acquisition, construction, resurfacing, restoring, rehabilitation, and reconstruction necessary to plan, build, improve, replace, or extend a highway, and to

construct shall mean and include to acquire, to construct, to resurface, to restore, to rehabilitate, and to reconstruct as necessary to plan, build, improve, replace, or extend a highway;

(5) ~~(4)~~ Cost of construction shall mean and include obligations to contractors and builders for construction and for the restoration of property damaged or destroyed in connection with such construction, the cost of acquiring land, property rights, rights-of-way, franchises, easements, and other interests deemed necessary or convenient for construction, the cost of acquiring any property, real or personal, tangible or intangible, or any interest therein, deemed necessary or convenient for construction, the interest requirements upon any bonds prior to, during, and for a period of eighteen months after completion of construction, fees and expenses of paying agents and other agents appointed by the commission for such bonds during any such period, the costs and expenses of preliminary investigations to determine the feasibility or practicability of such construction, the fees and expenses of engineers for making preliminary studies, surveys, reports, estimates of costs and of revenue, and other estimates and for preparing plans and specifications and supervising construction as well as for the performance of all other duties of engineers in relation to such construction or the issuance of bonds therefor, expenses of administration during construction, legal expenses and fees, financing charges, municipal bond insurance or surety bond premiums, credit facility fees, costs of audits, and costs of preparing and issuing such bonds, and all other items of expense incident to such construction, the financing thereof, and the acquisition of land and property therefor;

(6) ~~(5)~~ Fund shall mean the Highway Trust Fund which is created by ~~sections 39-2201 to 39-2222~~ section 39-2215; and

(7) ~~(6)~~ Highway shall mean and include any public road now or at any time hereafter classified by the Legislature as the responsibility of the state to construct and any related facility, the cost of which is financed in whole or in part by the issuance of bonds under the ~~provisions of sections 39-2201 to 39-2222~~ Nebraska Highway Bond Act.

The Legislature hereby reserves the right to vary and change by law the definitions of construction, cost of construction, and highway contained in this section.

Sec. 2. That section 39-2203, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

39-2203. The commission acting for and on behalf of the state may issue from time to time bonds in such principal amounts as shall be necessary to provide sufficient funds to defray any or all of the cost of construction of highways. The principal amount of the bonds so authorized to be issued shall not exceed, in the aggregate, the total amount authorized by the Legislature from time to time for such purpose. The proceeds from the sale of any bonds issued under the provisions of sections 39-2201 to 39-2222 Nebraska Highway Bond Act shall be deposited in the state treasury to the credit of the Highway Cash Fund and shall be used only for to finance or to refinance through the issuance of refunding bonds the construction of highways in this state as authorized by law. The commission is hereby granted all powers necessary or convenient to carry out the purposes and exercise the powers granted by sections 39-2201 to 39-2222 such act.

Sec. 3. That section 39-2205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2205. Bonds may be issued under the Nebraska Highway Bond Act sections 39-2201 to 39-2222 only to the extent that the annual aggregate principal and interest requirement requirements, in the calendar year in which such bonds are issued and any in each calendar year thereafter until the scheduled maturity of such bonds, on such bonds and on all other bonds theretofore issued and to be outstanding and unpaid upon the issuance of such bonds, shall not exceed the amount which is equal to fifty percent of the money deposited in the fund or the bond fund, as the case may be, from which such bonds shall be paid during the calendar year preceding the issuance of the bonds proposed to be issued. The provisions of this This section shall not apply to the first issuance of each series of bonds authorized by the Legislature.

If short-term bonds are issued in anticipation of the issuance of long-term refunding bonds and such short-term bonds are secured by insurance or a letter of credit or similar guarantee issued by a financial institution rated by a national rating agency in one of the two highest categories of bond ratings, then, for the purposes of the Nebraska Highway Bond Act, when determining the amount of short-term bonds that may be issued and the amount of taxes, fees, or other money to be deposited in any fund for the payment of bonds issued

under the act, the annual aggregate principal and interest payments on the short-term bonds shall be deemed to be such payments thereon, except that the final principal payment shall not be that specified in the short-term bonds but shall be the principal and all interest payments required to reimburse the issuer of the insurance policy or letter of credit or similar guarantee pursuant to the reimbursement agreement between the commission and such issuer.

Sec. 4. That section 39-2209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2209. Any resolution or resolutions of the commission authorizing any bonds or any issue thereof may contain provisions, consistent with the Nebraska Highway Bond Act provisions of sections 39-2201 to 39-2222 and not in derogation or limitation of such provisions act, which shall be a part of the contract with the holders thereof, as to:

(1) Pledging all or any part of the money in the fund or bond fund, as the case may be, to secure the payment of the bonds, subject to such agreements with the bondholders as may then prevail;

(2) The use and disposition of money in the fund or bond fund;

(3) The setting aside of reserves, or sinking funds, or arbitrage rebate funds and the funding, regulation, and disposition thereof;

(4) Limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(5) Limitations on the issuance of additional bonds and on the retirement of outstanding or other bonds pursuant to sections 39-2201 to 39-2222 the Nebraska Highway Bond Act;

(6) The procedure by which the terms of an agreement with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(7) Vesting in a bank or trust company as paying agent such rights, powers, and duties as the commission may determine, and vesting in a trustee appointed by the bondholders pursuant to sections 39-2201 to 39-2222 the Nebraska Highway Bond Act such rights, powers, and duties as the commission may determine, and limiting or abrogating the right of the bondholders to appoint a trustee under sections 39-2201 to 39-2222 such act or limiting the rights, powers, and duties of such trustee; and

(8) Providing for a municipal bond insurance policy, surety bond, letter of credit, or other credit support facility or liquidity facility; and

~~(8)~~ (9) Any other matters, of like or different character, which in any way affect the security or protection of the bonds.

Sec. 5. That section 39-2211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2211. In addition to the powers herein conferred upon the commission to secure the bonds in the Nebraska Highway Bond Act, the commission shall have power in connection with the issuance of bonds to enter into such agreements, consistent with the provisions of sections 39-2201 to 39-2222 act and not in derogation or limitation of such provisions the act, as it may deem necessary, convenient, or desirable concerning the use or disposition of the money in the fund or bond fund including the pledging or creation of any security interest in such money and the doing of or refraining from doing any act which the commission would have the right to do to secure the bonds in the absence of such agreements. The commission shall have the power to enter into amendments of any such agreements, consistent with the provisions of sections 39-2201 to 39-2222 Nebraska Highway Bond Act and not in derogation or limitation of such provisions the act, within the powers granted to the commission by sections 39-2201 to 39-2222 the act and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of the bonds.

Sec. 6. That section 39-2212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2212. Any pledge or security instrument made by the commission shall be valid and binding from the time when the pledge or security instrument is made. The money in the fund or bond fund so pledged and entrusted shall immediately be subject to the lien of such pledge or security instrument upon the deposit thereof in the fund without any physical delivery thereof or further act. The lien of any such pledge or security instrument shall be valid and binding as against all parties having subsequently arising claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof. Neither the resolution nor any security instrument or other instrument by which a pledge or other security is created need be recorded or filed and

the commission shall not be required to comply with any of the provisions of the Uniform Commercial Code.

Sec. 7. That section 39-2213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2213. The bonds shall be special obligations of the state payable solely and only from the fund or bond fund, as the case may be, and neither the members of the commission nor any person executing the bonds shall be liable thereon. Such bonds shall not be a general obligation debt of this state and they shall contain on the face thereof a statement to such effect.

Sec. 8. That section 39-2214, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2214. The state pledges and agrees with the holders of any bonds issued under ~~sections 39-2201 to 39-2222~~ the Nebraska Highway Bond Act that it will not limit or alter or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, ~~with the~~ interest on any unpaid installments of interest, and all costs and expenses for which the commission is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

Sec. 9. That section 39-2215, Revised Statutes Supplement, 1986, 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 Tax Refund 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 such other highway-user taxes which may be imposed by state law and allocated to the 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) to (4) of this section are satisfied, (a) thirty thousand dollars to the Grade Crossing Protection Fund and (b) the amount calculated pursuant to section 19-3909.01 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 portion allocated to the Department of Roads shall be credited monthly to the Highway Cash Highway Restoration and Improvement Bond 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 ~~for~~ from the Highway Trust Fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the Highway Trust Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269 and the earnings, if any, credited to the fund.

Sec. 10. There is hereby created in the state treasury a fund to be known as the Highway Restoration and Improvement Bond Fund. All 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 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. 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.

Sec. 11. That section 39-2216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2216. The Legislature hereby irrevocably pledges and agrees with the holders of the bonds issued under the Nebraska Highway Bond Act provisions of sections 39-2201 to 39-2222 that so long as such bonds remain outstanding and unpaid it shall not repeal, diminish, or apply to any other purposes the motor fuel taxes and special fuel taxes related to highway use, motor vehicle registration fees, and such other highway-user taxes which may be imposed by state law and allocated to the fund or bond fund, as the case may be, if to do so would result in fifty percent of the amount deposited in the fund or bond fund in each year being less than the amount equal to the maximum annual principal and interest requirement requirements of such bonds.

Sec. 12. That section 39-2217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2217. Any holder of bonds issued under the Nebraska Highway Bond Act provisions of sections 39-2201 to 39-2222 or any of the coupons appertaining thereto, except to the extent the rights given by sections 39-2201 to 39-2222 such act may be restricted by resolution of the commission, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of this state or as granted under the act provisions of sections 39-2201 to 39-2222 or under the resolution authorizing the issuance of the bonds and may enforce and compel the performance of all duties required by such laws, or by such act, sections 39-2201 to 39-2222 or by such resolution to be performed by the commission or by any employee thereof.

Sec. 13. That section 39-2219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2219. It is hereby found, determined, and declared that there exists a need for the construction of highways in this state requiring the issuance of bonds by the commission acting for and on behalf of the

state, all as more fully provided in ~~sections 39-2201 to 39-2222~~ the Nebraska Highway Bond Act, that the creation of the commission and the carrying out of its purpose are in all respects for the benefit of the people of this state and for the improvement of their health, welfare, and prosperity and constitute a public purpose, and that such bonds, the interest thereon, and the income therefrom shall at all times be exempt from taxation by this state or any political subdivision of this state.

Sec. 14. That section 39-2221, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2221. ~~Sections 39-2201 to 39-2222 are The Nebraska Highway Bond Act~~ is supplemental to existing statutes and shall not be construed as repealing or amending existing statutes but shall be construed harmoniously and implemented compatibly with them.

Sec. 15. That section 39-2222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2222. Sections 39-2201 to 39-2222 39-2226 and section 10 of this act shall be known and may be cited as the Nebraska Highway Bond Act.

Sec. 16. That section 39-2223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(2) Under the authority granted by Article XIII, section 1, of the Constitution of Nebraska, the Legislature hereby authorizes after July 1, 1988, the issuance of bonds in a principal amount to be determined by the commission, not to exceed fifty million dollars. The outstanding principal amount of such bonds may exceed such limit if and to the extent that the commission determines that the issuance of advance refunding bonds under section 39-2226 in a principal amount greater than the bonds to be refunded would

reduce the aggregate bond principal and interest requirements payable from the bond fund. The proceeds of such issues shall be used exclusively (a) for the construction, resurfacing, reconstruction, rehabilitation, and restoration of highways in this state, the Legislature expressly finding that the need for such construction and reconstruction work and the vital importance of the highway system to the welfare and safety of all Nebraskans requires such action, or (b) to eliminate or alleviate cash-flow problems resulting from the receipt of federal funds. Such bonds shall in all respects comply with the provisions of Article XIII, section 1, of the Constitution of Nebraska.

Sec. 17. That section 39-2224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2224. (1) The proceeds of the sale of bonds authorized by subsection (1) of section 39-2223 are hereby appropriated to the Highway Cash Fund of the Department of Roads, for the biennium ending June 30, 1977, for expenditure for the construction of highways, as defined in sections 39-2201 to 39-2222.

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

Sec. 18. That section 39-2226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2226. For the purpose of refunding present and future bonded indebtedness issued pursuant to ~~sections 39-2201 to 39-2222~~ the Nebraska Highway Bond Act, the Nebraska Highway Bond Commission ~~commission~~ may issue, without further legislative authorization, refunding bonds with which to call and redeem all or any part of such outstanding bonds at or before the maturity or the redemption date thereof, ~~and~~ may include various series and issues of the outstanding bonds in a single issue of refunding bonds, and may issue refunding bonds to pay any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The refunding bonds may be issued and delivered at any time prior to the date of maturity or the redemption date of the bonds to be refunded that the ~~Nebraska~~

Highway Bond Commission commission determines to be in the best interest interests of the state. The refunding bonds shall, except as specifically provided in this section, be issued in accordance with sections 39-2201 to 39-2222 such act. The proceeds derived from the sale of refunding bonds issued pursuant to this section may be invested in obligations of, or guaranteed by, the United States government pending the time the proceeds are required for the purposes for which refunding bonds are issued, and to further secure the refunding bonds, the Nebraska Highway Bond Commission commission may enter into a contract with any bank or trust company, within or without the state, with respect to the safekeeping and application of the proceeds of the refunding bonds and the safekeeping and application of the earnings on the investment. Such contract shall become a part of the contract with the holders of the refunding bonds. Bonds refunded by such refunding Refunding bonds, which shall have been called for redemption or with respect to which the bond trustee or paying agent has irrevocable instructions to call such bonds for redemption on a date certain in accordance with the terms thereof, and which have sufficient funds or obligations of, or guaranteed by, the United States government set aside in safekeeping to be applied for the complete payment of such bonds, interest thereon, and redemption premium, if any on the redemption date, shall not be considered as outstanding and unpaid bonds with respect to the limitations set forth in section 39-2205.

Sec. 19. That section 66-424, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-424. 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 10 of this act shall be transferred by the State Treasurer, on or before the last day of each month, to the Highway Cash Fund, which is hereby created, 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, as provided in section 39-852; (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, test tests, and research of highway organizations when participated in by the highway departments of other states, and (6) for the payment of expenses and ~~cost~~ 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, 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. 20. That section 66-473, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-473. (1) Each dealer as defined in subdivision (3) of section 66-401 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 Chapter 66, article 4, 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 for allocation to the Highway Cash Fund Highway Restoration and Improvement Bond Fund, except that the State Treasurer shall first transfer such amounts to the Tax Refund Fund as the Tax Commissioner shall determine to be equal to the credits and refunds of such tax allowed to dealers.

(2) Dealers of motor vehicle fuels subject to taxation under subsection (1) of this section shall pay

such excise tax and 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. 21. That section 66-476, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-476. (1) In order to insure that an adequate balance in the Highway Restoration and Improvement Bond Fund is maintained to meet the debt service requirements of bonds to be issued by the commission under subsection (2) of section 39-2223, the Governor may call a meeting of the State Board of Equalization and Assessment at any time in advance of the issuance of such bonds. At such meeting the State Board of Equalization and Assessment shall set the rate of the excise tax imposed by sections 66-473 and 66-605.02 for each year during which such bonds shall be outstanding to provide in each such year money equal in amount to not less than one hundred twenty-five percent of such year's bond principal and interest payment requirements. Such rate shall be in addition to the rate of excise tax set pursuant to subsection (2) of this section. Each such rate shall be effective from July 1 of a stated year through June 30 of the succeeding year or during such other period not longer than one year as the State Board of Equalization and Assessment determines to be consistent with the principal and interest requirements of such bonds. Such excise tax rates set pursuant to this subsection may be increased but such excise tax rates shall not be subject to reduction or elimination unless the State Board of Equalization and Assessment has received from the Nebraska Highway Bond Commission notice of reduced principal and interest requirements for such bonds, in which event the Governor may call a meeting of the State Board of Equalization and Assessment to determine whether the rate or rates shall be changed. The new rate or rates, if any, set by the board shall become effective on the first day of the following calendar quarter.

(2) In order to insure that there shall be maintained an adequate Highway Cash Fund balance to meet expenditures from such fund as appropriated by the Legislature, within fifteen days after the adjournment of the regular session of the Legislature in 1981 and within fifteen days after the adjournment of each regular session of the Legislature thereafter, the State

Board of Equalization and Assessment shall set the rate of the excise tax imposed by sections 66-473 and 66-605.02 which will be effective from July 1 through June 30 of the succeeding year. The rate of excise tax for a given July 1 through June 30 period set pursuant to this subsection shall be in addition to and independent of the rate or rates of excise tax set pursuant to subsection (1) of this section for such period.

{2} (3) The Department of Roads, with assistance from the Department of Revenue, shall prepare and provide the necessary information to each member of the State Board of Equalization and Assessment at least five days before each meeting. Such information shall include, but not be limited to, the unobligated balance in the Highway Cash Fund anticipated on the subsequent June 30, monthly estimates of anticipated receipts to the Highway Cash Fund for the subsequent fiscal year, and the appropriations made from the Highway Cash Fund for the subsequent fiscal year.

{3} (4) The board shall determine the cash and investment balances of the Highway Cash Fund at the beginning of each fiscal year under consideration and the estimated receipts to the Highway Cash Fund from each source which provides at least one million dollars annually to such fund. The board shall then fix the rate of excise tax in an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature. Such rate shall be set in increments of one-tenth of one percent. For the period commencing on October 1, 1980, and until adjusted by such board, the excise tax shall be two percent of the statewide average cost.

{4} (5) On or before the fifteenth day of each month the Department of Roads shall provide to each member of the State Board of Equalization and Assessment and the Clerk of the Legislature a report reflecting the Highway Cash Fund deposits for the preceding calendar month and the limitations of information contained in such report. If the accumulative total deposits to the Highway Cash Fund, under the provisions of Chapter 66, articles 4 and 6, for the fiscal year shall at any time be less than ninety percent or greater than one hundred ten percent of the projected deposits for such period, the Governor may call a meeting of the State Board of Equalization and Assessment to determine whether the rate shall be changed. If such a change is required, the board shall set the new rate which shall become effective on the first day of the following calendar

quarter.

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

Sec. 22. That section 66-605.02, Reissue Revised Statutes of Nebraska, 1943, 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 for allocation to the Highway Cash Restoration and Improvement Bond Fund, except that the State Treasurer shall first transfer such amounts to the Tax Refund Fund as the Tax Commissioner shall determine to be equal to the credits and refunds of such tax allowed to special fuel dealers.

(2) Special fuel dealers subject to taxation under subsection (1) of this section shall pay such excise tax and 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. 23. The Legislature finds and declares that the highways of the state are of the utmost importance to future development within the state and that the following actions are necessary for such development: (1) The accelerated completion of all improvement and expansion projects on the Nebraska segments of the National System of Interstate and Defense Highways; (2) the accelerated completion of improvement projects on state highways with geometric and capacity deficiencies; (3) the resurfacing of highways to protect pavement integrity; (4) the development of a system of expressways, which shall include, but not be limited to, a north-south expressway; and (5) the general upgrading of the state highway system concerning driving surfaces and surfaced shoulders.

Sec. 24. The Department of Roads shall be responsible for developing a specific and long-range state highway system plan. The department shall annually formulate plans to meet the state highway system needs of all facets of the state and shall assign

priorities for such needs. The department shall, on or before December 1 of each year, present such plans to the Legislature. The plans shall be referred to the appropriate standing committees of the Legislature for review. In establishing priorities, the department shall consider a variety of factors, including, but not limited to, current and projected traffic volume, safety requirements, economic development needs, current and projected demographic trends, and maintenance and enhancement of the quality of life for all Nebraska citizens. The state highway system plan shall include the designation of those portions of the state highway system which shall be expressways.

Sec. 25. (1) The Department of Roads shall apply for and make maximum use of available federal funding, including discretionary funding, on all highway construction projects which are eligible for such assistance.

(2) The Department of Roads shall transmit to the Legislature, by December 1 of each year, a report on the needs of the state highway system and the department's planning procedures. Such report shall include:

(a) The criteria by which highway needs are determined;

(b) The standards established for each classification of highways;

(c) An assessment of current and projected needs of the state highway system, such needs to be defined by category of improvement required to bring each segment up to standards. Projected fund availability shall not be a consideration by which needs are determined;

(d) Criteria and data, including factors enumerated in section 24 of this act, upon which decisions may be made on possible special priority highways for commercial growth; and

(e) A review of the department's procedure for selection of projects for the annual construction program, the five-year planning program, and extended planning programs.

Sec. 26. That original sections 39-2201, 39-2203, 39-2205, 39-2209, 39-2211 to 39-2214, 39-2216, 39-2217, 39-2219, 39-2221 to 39-2224, 39-2226, 66-424, 66-473, 66-476, and 66-605.02, Reissue Revised Statutes of Nebraska, 1943, and section 39-2215, Revised Statutes Supplement, 1986, are repealed.