

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 453

Introduced by DeKay, 40; Geist, 25; Hughes, 24.

Read first time January 13, 2023

Committee:

1 A BILL FOR AN ACT relating to transportation; to amend sections 3-107,
2 39-1348, and 66-4,100, Reissue Revised Statutes of Nebraska, and
3 section 39-847, Revised Statutes Cumulative Supplement, 2022; to
4 provide for the use of the Highway Cash Fund for administrative
5 costs of the Division of Aeronautics of the Department of
6 Transportation; to change the required county contribution for
7 bridge replacement; to provide for adjustments to threshold amounts
8 for road construction contracts; to harmonize provisions; and to
9 repeal the original sections
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 3-107, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 3-107 (1) The division shall have general supervision over
4 aeronautics within this state. It is empowered and directed to encourage,
5 foster, and assist in the development of aeronautics in this state and
6 encourage the establishment of airports and other air navigation
7 facilities.

8 (2) The Department of Transportation may budget for and pay any of
9 the costs related to the administration of the division, including, but
10 not limited to, employee salaries and benefits, out of the Highway Cash
11 Fund, as the Director-State Engineer determines, in his or her sole
12 discretion, to be in the best interest of transportation in Nebraska.
13 Such costs do not include costs related to the construction,
14 reconstruction, repair, operation, or maintenance of airport
15 infrastructure, including runways, concrete surfacing, hangers or capital
16 improvements, buildings, and structures.

17 (3) No state funds for the acquisition, engineering, construction,
18 improvement, or maintenance of airports shall be expended upon any
19 project or for any work upon any such project which is not done under the
20 supervision of the division. When any airport which has received state
21 grant funds pursuant to the State Aeronautics Act ceases to be an airport
22 or a privately owned public use airport, the division shall, consistent
23 with all other provisions of state and federal law, seek to recover so
24 much of the state funds provided to the airport as it may and shall
25 deposit any such funds so recovered into the Aeronautics Cash Fund.

26 Sec. 2. Section 39-847, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 39-847 (1) Any county board may apply, in writing, to the Department
29 of Transportation for state aid in the replacement of any bridge under
30 the jurisdiction of such board. The application shall contain a
31 description of the bridge, with a preliminary estimate of the cost of

1 replacement thereof, and a certified copy of the resolution of such
2 board, pledging such county to furnish up to twenty ~~twenty~~ ~~five~~ percent of the
3 cost of replacement of such bridge. The county's share of replacement
4 cost may be from any source except the State Aid Bridge Fund, except that
5 where there is any bridge which is the responsibility of two counties,
6 either county may make application to the department and, if the
7 application is approved by the department, such county and the department
8 may replace such bridge and recover, by suit, one-half of the county's
9 cost of such bridge from the county failing or refusing to join in such
10 application. All requests for bridge replacement under sections 39-846 to
11 39-847.01 shall be forwarded by the department to the Board of Public
12 Roads Classifications and Standards. Such board shall establish
13 priorities for bridge replacement based on critical needs. The board
14 shall consider such applications and establish priorities for a period of
15 time consistent with sections 39-2115 to 39-2119. The board shall return
16 the applications to the department with the established priorities.

17 (2) The plans and specifications for each bridge shall be furnished
18 by the department and replacement shall be under the supervision of the
19 department and the county board.

20 (3) Any contract for the replacement of any such bridge shall be
21 made by the department consistent with procedures for contracts for state
22 highways and federal-aid secondary roads.

23 (4) After the replacement of any such bridge and the acceptance
24 thereof by the department, any county having jurisdiction over it shall
25 have sole responsibility for maintenance.

26 Sec. 3. Section 39-1348, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 39-1348 (1) Except as otherwise provided in sections 39-2808 to
29 39-2823, when letting contracts for the construction, reconstruction,
30 improvement, maintenance, or repair of roads, bridges, and their
31 appurtenances, the department shall solicit bids as follows:

1 (a) ~~(1)~~ For contracts with an estimated cost, as determined by the
2 department, of greater than two hundred fifty ~~one hundred~~ thousand
3 dollars, the department shall advertise for sealed bids for not less than
4 twenty days by publication of a notice thereof once a week for three
5 consecutive weeks in the official county newspaper designated by the
6 county board in the county where the work is to be done and in such
7 additional newspaper or newspapers as may appear necessary to the
8 department in order to give notice of the receiving of bids. Such
9 advertisement shall state the place where the plans and specifications
10 for the work may be inspected and shall designate the time when the bids
11 shall be filed and opened. If through no fault of the department
12 publication of such notice fails to appear in any newspaper or newspapers
13 in the manner provided in this subdivision, the department shall be
14 deemed to have fulfilled the requirements of this subdivision; and

15 (b) ~~(2)~~ For contracts with an estimated cost, as determined by the
16 department, of two hundred fifty ~~one hundred~~ thousand dollars or less,
17 the department, in its sole discretion, shall either:

18 (i) ~~(a)~~ Follow the procedures given in subdivision (a) ~~(1)~~ of this
19 subsection ~~section~~; or

20 (ii) ~~(b)~~ Request bids from at least three potential bidders for such
21 work. If the department requests bids under this subdivision, it shall
22 designate a time when the bids shall be opened. The department may award
23 a contract pursuant to this subdivision if it receives at least one
24 responsive bid.

25 (2) The Department of Transportation may adjust the amounts in
26 subdivisions (1)(a) and (b) of this section annually on October 1 by the
27 percentage change in the Consumer Price Index for All Urban Consumers
28 published by the United States Department of Labor, Bureau of Labor
29 Statistics, at the close of the twelve-month period ending on August 31
30 of such year. The amounts shall be rounded to the next highest one-
31 thousand-dollar amount.

1 Sec. 4. Section 66-4,100, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 66-4,100 The Highway Cash Fund and the Roads Operations Cash Fund
4 are hereby created. If bonds are issued pursuant to subsection (2) of
5 section 39-2223, the balance of the share of the Highway Trust Fund
6 allocated to the Department of Transportation and deposited into the
7 Highway Restoration and Improvement Bond Fund as provided in subsection
8 (6) of section 39-2215 and the balance of the money deposited in the
9 Highway Restoration and Improvement Bond Fund as provided in section
10 39-2215.01 shall be transferred by the State Treasurer, on or before the
11 last day of each month, to the Highway Cash Fund. If no bonds are issued
12 pursuant to subsection (2) of section 39-2223, the share of the Highway
13 Trust Fund allocated to the Department of Transportation shall be
14 transferred by the State Treasurer on or before the last day of each
15 month to the Highway Cash Fund.

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

1 other roads in the state and for incidental costs in connection with the
2 federal-aid grade crossing program for roads not on state highways, (5)
3 for tests and research by the department or proportionate costs of
4 membership, tests, and research of highway organizations when
5 participated in by the highway departments of other states, (6) for the
6 payment of expenses and costs of the Board of Examiners for County
7 Highway and City Street Superintendents as set forth in section 39-2310,
8 (7) for support of the public transportation assistance program
9 established under section 13-1209 and the intercity bus system assistance
10 program established under section 13-1213, and (8) for purchasing from
11 political or governmental subdivisions or public corporations, pursuant
12 to section 39-1307, any federal-aid transportation funds available to
13 such entities, and (9) for costs related to the administration of the
14 Division of Aeronautics of the Department of Transportation as specified
15 in section 3-107.

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

23 ~~Transfers may be made from the Roads Operations Cash Fund to the~~
24 ~~General Fund at the direction of the Legislature through June 30, 2019.~~
25 ~~The State Treasurer shall transfer seven million five hundred thousand~~
26 ~~dollars from the Roads Operations Cash Fund to the General Fund on or~~
27 ~~before June 30, 2018, on such date as directed by the budget~~
28 ~~administrator of the budget division of the Department of Administrative~~
29 ~~Services. The State Treasurer shall transfer seven million five hundred~~
30 ~~thousand dollars from the Roads Operations Cash Fund to the General Fund~~
31 ~~on or after July 1, 2018, but on or before June 30, 2019, on such date as~~

1 ~~directed by the budget administrator of the budget division of the~~
2 ~~Department of Administrative Services.~~

3 Sec. 5. Original sections 3-107, 39-1348, and 66-4,100, Reissue
4 Revised Statutes of Nebraska, and section 39-847, Revised Statutes
5 Cumulative Supplement, 2022, are repealed.