

AMENDMENTS TO LB706

Introduced by Revenue.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. The Legislature finds that safe and modern highway  
4 infrastructure is of great importance to Nebraska's residents,  
5 agricultural economy, business economy, and future economic growth.  
6 Furthermore, the Legislature finds that it is in the interest of Nebraska  
7 taxpayers to leverage historically low interest rates to offset the  
8 challenges that construction inflation and uncertain federal highway  
9 funding pose to adequately financing the state's infrastructure needs. It  
10 is the intent of the Legislature to conservatively utilize bond financing  
11 by issuing bonds, not to exceed four hundred fifty million dollars in  
12 principal and thirty-five million dollars in annual debt service for a  
13 period of not more than nineteen years, in order to accelerate completion  
14 of the highway construction projects identified and to be identified for  
15 funding under the Build Nebraska Act.

16           Sec. 2. Upon the written recommendation of the Department of  
17 Transportation, the commission, acting for and on behalf of the state,  
18 may issue from time to time bonds under the Nebraska Highway Bond Act by  
19 resolution as described in section 39-2209 in such principal amounts as  
20 determined by the commission for the purpose of accelerating completion  
21 of the highway construction projects identified and to be identified for  
22 funding under the Build Nebraska Act. The principal amounts, interest  
23 rates, maturities, redemption provisions, sale prices, and other terms of  
24 the bonds so authorized to be issued shall be in accordance with terms or  
25 conditions established by the commission. No bonds shall be issued after  
26 June 30, 2029, except for refunding bonds issued in accordance with the  
27 Nebraska Highway Bond Act. The proceeds from the sale of any bonds

1 issued, net of costs of issuance, capitalized interest, and necessary or  
2 appropriate reserve funds, shall be deposited in the State Highway  
3 Capital Improvement Fund for use pursuant to the Build Nebraska Act. The  
4 commission is hereby granted all powers necessary or convenient to carry  
5 out the purposes and exercise the powers granted by the Nebraska Highway  
6 Bond Act. Bonds shall be paid off by June 30, 2042.

7       Sec. 3. The bonds issued pursuant to section 2 of this act shall be  
8 special obligations of the state payable solely and only from the State  
9 Highway Capital Improvement Fund and any other funds specifically pledged  
10 by the commission for such purpose, and neither the members of the  
11 commission nor any person executing the bonds shall be liable thereon.  
12 Such bonds shall not be a general obligation or debt of the state, and  
13 they shall contain on the face thereof a statement to such effect. Such  
14 bonds, and the transfer of and the income from any such bonds, shall be  
15 exempt from all taxation and assessments in this state. In the resolution  
16 authorizing the bonds, the commission may waive the exemption from  
17 federal income taxation for interest on the bonds.

18       Sec. 4. Section 39-2205, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20       39-2205 Bonds may be issued under the Nebraska Highway Bond Act only  
21 to the extent that the annual aggregate principal and interest  
22 requirements, in the calendar year in which such bonds are issued and in  
23 each calendar year thereafter until the scheduled maturity of such bonds,  
24 on such bonds and on all other bonds theretofore issued and to be  
25 outstanding and unpaid upon the issuance of such bonds shall not exceed  
26 the amount which is equal to fifty percent of the money deposited in the  
27 fund, the State Highway Capital Improvement Fund, or the bond fund, as  
28 the case may be, from which such bonds shall be paid during the calendar  
29 year preceding the issuance of the bonds proposed to be issued. This  
30 section shall not apply to the first issuance of each series of bonds  
31 authorized by the Legislature.

1           If short-term bonds are issued in anticipation of the issuance of  
2 long-term refunding bonds and such short-term bonds are secured by  
3 insurance or a letter of credit or similar guarantee issued by a  
4 financial institution rated by a national rating agency in one of the two  
5 highest categories of bond ratings, then, for the purposes of the  
6 Nebraska Highway Bond Act, when determining the amount of short-term  
7 bonds that may be issued and the amount of taxes, fees, or other money to  
8 be deposited in any fund for the payment of bonds issued under the act,  
9 the annual aggregate principal and interest payments on the short-term  
10 bonds shall be deemed to be such payments thereon, except that the final  
11 principal payment shall not be that specified in the short-term bonds but  
12 shall be the principal and all interest payments required to reimburse  
13 the issuer of the insurance policy or letter of credit or similar  
14 guarantee pursuant to the reimbursement agreement between the commission  
15 and such issuer.

16           Sec. 5. Section 39-2209, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18           39-2209 Any resolution or resolutions of the commission authorizing  
19 any bonds or any issue thereof may contain provisions, consistent with  
20 the Nebraska Highway Bond Act and not in derogation or limitation of such  
21 act, which shall be a part of the contract with the holders thereof, as  
22 to:

23           (1) Pledging all or any part of the money in the fund, the State  
24 Highway Capital Improvement Fund, or the ~~or~~ bond fund, as the case may  
25 be, to secure the payment of the bonds, subject to such agreements with  
26 the bondholders as may then prevail;

27           (2) The use and disposition of money in the fund, the State Highway  
28 Capital Improvement Fund, or the ~~or~~ bond fund;

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

31           (4) Limitations on the purpose to which the proceeds from the sale

1 of bonds may be applied;

2 (5) Limitations on the issuance of additional bonds and on the  
3 retirement of outstanding or other bonds pursuant to the Nebraska Highway  
4 Bond Act;

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

9 (7) Vesting in a bank or trust company as paying agent such rights,  
10 powers, and duties as the commission may determine, vesting in a trustee  
11 appointed by the bondholders pursuant to the Nebraska Highway Bond Act  
12 such rights, powers, and duties as the commission may determine, and  
13 limiting or abrogating the right of the bondholders to appoint a trustee  
14 under such act or limiting the rights, powers, and duties of such  
15 trustee;

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

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

21 Sec. 6. Section 39-2211, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 39-2211 In addition to the powers conferred upon the commission to  
24 secure the bonds in the Nebraska Highway Bond Act, the commission shall  
25 have power in connection with the issuance of bonds to enter into such  
26 agreements, consistent with the act and not in derogation or limitation  
27 of the act, as it may deem necessary, convenient, or desirable concerning  
28 the use or disposition of the money in the fund, the State Highway  
29 Capital Improvement Fund, or the ~~or~~ bond fund including the pledging or  
30 creation of any security interest in such money and the doing of or  
31 refraining from doing any act which the commission would have the right

1 to do to secure the bonds in the absence of such agreements. The  
2 commission shall have the power to enter into amendments of any such  
3 agreements, consistent with the Nebraska Highway Bond Act and not in  
4 derogation or limitation of the act, within the powers granted to the  
5 commission by the act and to perform such agreements. The provisions of  
6 any such agreements may be made a part of the contract with the holders  
7 of the bonds.

8 Sec. 7. Section 39-2212, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 39-2212 Any pledge or security instrument made by the commission  
11 shall be valid and binding from the time when the pledge or security  
12 instrument is made. The money in the fund, the State Highway Capital  
13 Improvement Fund, or the ~~or~~ bond fund so pledged and entrusted shall  
14 immediately be subject to the lien of such pledge or security instrument  
15 upon the deposit thereof in the fund without any physical delivery  
16 thereof or further act. The lien of any such pledge or security  
17 instrument shall be valid and binding as against all parties having  
18 subsequently arising claims of any kind in tort, contract, or otherwise,  
19 irrespective of whether such parties have notice thereof. Neither the  
20 resolution nor any security instrument or other instrument by which a  
21 pledge or other security is created need be recorded or filed and the  
22 commission shall not be required to comply with any of the provisions of  
23 the Uniform Commercial Code.

24 Sec. 8. Section 39-2213, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 39-2213 The bonds shall be special obligations of the state payable  
27 solely and only from the fund, the State Highway Capital Improvement  
28 Fund, or the ~~or~~ bond fund, as the case may be, and neither the members of  
29 the commission nor any person executing the bonds shall be liable  
30 thereon. Such bonds shall not be a general obligation debt of this state  
31 and they shall contain on the face thereof a statement to such effect.

1           Sec. 9. (1) If bonds are issued pursuant to subsection (3) of  
2 section 39-2223, all sales and use taxes which are retained by the state  
3 and allocated to the State Highway Capital Improvement Fund pursuant to  
4 section 77-27,132 shall be hereby irrevocably pledged for the terms of  
5 the bonds to the payment of the principal, interest, and redemption  
6 premium, if any, of such bonds as they mature and become due at maturity  
7 or prior redemption and for any reserves therefor and shall, as received  
8 by the State Treasurer, be deposited directly in the State Highway  
9 Capital Improvement Fund for such purpose. Of the money in the State  
10 Highway Capital Improvement Fund not required for such purpose, such  
11 remaining money may be used as prescribed in section 39-2704.

12           (2) The State Treasurer shall disburse the money in the State  
13 Highway Capital Improvement Fund as directed by resolution of the  
14 commission. All disbursements from the State Highway Capital Improvement  
15 Fund shall be made upon warrants drawn by the Director of Administrative  
16 Services. Any money in the State Highway Capital Improvement Fund  
17 available for investment shall be invested by the state investment  
18 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
19 State Funds Investment Act.

20           Sec. 10. Section 39-2216, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22           39-2216 The Legislature hereby irrevocably pledges and agrees with  
23 the holders of the bonds issued under the Nebraska Highway Bond Act that  
24 so long as such bonds remain outstanding and unpaid it shall not repeal,  
25 diminish, or apply to any other purposes the motor vehicle fuel taxes,  
26 diesel fuel taxes, compressed fuel taxes, and alternative fuel fees  
27 related to highway use, motor vehicle registration fees, sales and use  
28 taxes credited to the State Highway Capital Improvement Fund pursuant to  
29 section 77-27,132, and such other highway-user taxes which may be imposed  
30 by state law and allocated to the fund, the State Highway Capital  
31 Improvement Fund, or the ~~or~~ bond fund, as the case may be, if to do so

1 would result in fifty percent of the amount deposited in the fund, the  
2 State Highway Capital Improvement Fund, or the ~~or~~ bond fund in each year  
3 being less than the amount equal to the maximum annual principal and  
4 interest requirements of such bonds.

5 Sec. 11. Section 39-2222, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 39-2222 Sections 39-2201 to 39-2226 and sections 1 to 3 and 9 of  
8 this act shall be known and may be cited as the Nebraska Highway Bond  
9 Act.

10 Sec. 12. Section 39-2223, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 39-2223 (1) Under the authority granted by Article XIII, section 1,  
13 of the Constitution of Nebraska, the Legislature hereby authorizes the  
14 issuance of bonds in the principal amount of twenty million dollars in  
15 1969 and in the principal amount of twenty million dollars on or before  
16 June 30, 1977, with the proceeds thereof to be used for the construction  
17 of highways in this state, the Legislature expressly finding that the  
18 need for such construction requires such action. Such bonds shall in all  
19 respects comply with the provisions of Article XIII, section 1, of the  
20 Constitution of Nebraska.

21 (2) Under the authority granted by Article XIII, section 1, of the  
22 Constitution of Nebraska, the Legislature hereby authorizes after July 1,  
23 1988, the issuance of bonds in a principal amount to be determined by the  
24 commission, not to exceed fifty million dollars. The outstanding  
25 principal amount of such bonds may exceed such limit if and to the extent  
26 that the commission determines that the issuance of advance refunding  
27 bonds under section 39-2226 in a principal amount greater than the bonds  
28 to be refunded would reduce the aggregate bond principal and interest  
29 requirements payable from the bond fund. The proceeds of such issues  
30 shall be used exclusively (a) for the construction, resurfacing,  
31 reconstruction, rehabilitation, and restoration of highways in this

1 state, the Legislature expressly finding that the need for such  
2 construction and reconstruction work and the vital importance of the  
3 highway system to the welfare and safety of all Nebraskans requires such  
4 action, or (b) to eliminate or alleviate cash-flow problems resulting  
5 from the receipt of federal funds. Such bonds shall in all respects  
6 comply with the provisions of Article XIII, section 1, of the  
7 Constitution of Nebraska.

8 (3) Under the authority granted by Article XIII, section 1, of the  
9 Constitution of Nebraska, the Legislature hereby authorizes after July 1,  
10 2023, in addition to the authority granted in subsections (1) and (2) of  
11 this section, the issuance of bonds in one or more series in an aggregate  
12 principal amount to be determined by the commission, not to exceed four  
13 hundred fifty million dollars. The outstanding principal amount of such  
14 bonds may exceed such limit if and to the extent that the commission  
15 determines that the issuance of advance refunding bonds under section  
16 39-2226 in a principal amount greater than the bonds to be refunded would  
17 reduce the aggregate bond principal and interest requirements payable  
18 from the State Highway Capital Improvement Fund. The proceeds of such  
19 issues shall be used exclusively for purposes of the Build Nebraska Act,  
20 the Legislature expressly finding that the need for such construction and  
21 reconstruction work and the vital importance of the highway system to the  
22 welfare and safety of all Nebraskans requires such action. Such bonds  
23 shall in all respects comply with the provisions of Article XIII, section  
24 1, of the Constitution of Nebraska.

25 Sec. 13. Section 39-2224, Revised Statutes Cumulative Supplement,  
26 2022, is amended to read:

27 39-2224 (1) The proceeds of the sale of bonds authorized by  
28 subsection (1) of section 39-2223 are hereby appropriated to the Highway  
29 Cash Fund of the Department of Transportation, for the biennium ending  
30 June 30, 1977, for expenditure for the construction of highways.

31 (2) The proceeds of the sale of bonds authorized by subsection (2)

1 of section 39-2223 are hereby appropriated to the Highway Cash Fund of  
2 the Department of Transportation for expenditure for highway  
3 construction, resurfacing, reconstruction, rehabilitation, and  
4 restoration and for the elimination or alleviation of cash-flow problems  
5 resulting from the receipt of federal funds.

6 (3) The proceeds of the sale of bonds authorized by subsection (3)  
7 of section 39-2223 are hereby appropriated to the State Highway Capital  
8 Improvement Fund of the Department of Transportation for use pursuant to  
9 the Build Nebraska Act.

10 Sec. 14. Section 39-2703, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 39-2703 (1) The State Highway Capital Improvement Fund is created.  
13 The fund shall consist of money credited to the fund pursuant to section  
14 77-27,132, proceeds of bonds issued pursuant to subsection (3) of section  
15 39-2223, and any other money as determined by the Legislature.

16 (2) The department may create or direct the creation of accounts  
17 within the fund as the department determines to be appropriate and useful  
18 in administering the fund.

19 (3) Any money in the fund available for investment shall be invested  
20 by the state investment officer pursuant to the Nebraska Capital  
21 Expansion Act and the Nebraska State Funds Investment Act. Investment  
22 earnings from investment of money in the fund shall be credited to the  
23 fund.

24 Sec. 15. Section 39-2704, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 39-2704 (1) The money credited to the fund pursuant to section  
27 77-27,132 shall be used for repayment of bonds issued pursuant to  
28 subsection (3) of section 39-2223. If any of the money credited to the  
29 fund pursuant to section 77-27,132 exceeds the amount of the annual  
30 principal and interest requirements for such bonds which are issued, such  
31 money shall be used as follows:

1           ~~(a) (1)~~ At least twenty-five percent of the money ~~credited to the~~  
2 ~~fund pursuant to section 77-27,132~~ each fiscal year shall be used, as  
3 determined by the department, for construction of the expressway system  
4 and federally designated high priority corridors; and

5           ~~(b) (2)~~ The remaining money ~~credited to the fund pursuant to section~~  
6 ~~77-27,132~~ each fiscal year shall be used to pay for surface  
7 transportation projects of the highest priority as determined by the  
8 department.

9           (2) The proceeds of bonds issued pursuant to subsection (3) of  
10 section 39-2223 which are credited to the fund shall be used as follows:

11           (a) At least seventy-five percent of the proceeds from such bonds  
12 shall be used, as determined by the department, for construction of the  
13 expressway system and federally designated high priority corridors; and

14           (b) The remaining proceeds shall be used to pay for surface  
15 transportation projects of the highest priority as determined by the  
16 department.

17           Sec. 16. Section 77-27,132, Revised Statutes Cumulative Supplement,  
18 2022, is amended to read:

19           77-27,132 (1) There is hereby created a fund to be designated the  
20 Revenue Distribution Fund which shall be set apart and maintained by the  
21 Tax Commissioner. Revenue not required to be credited to the General Fund  
22 or any other specified fund may be credited to the Revenue Distribution  
23 Fund. Credits and refunds of such revenue shall be paid from the Revenue  
24 Distribution Fund. The balance of the amount credited, after credits and  
25 refunds, shall be allocated as provided by the statutes creating such  
26 revenue.

27           (2) The Tax Commissioner shall pay to a depository bank designated  
28 by the State Treasurer all amounts collected under the Nebraska Revenue  
29 Act of 1967. The Tax Commissioner shall present to the State Treasurer  
30 bank receipts showing amounts so deposited in the bank, and of the  
31 amounts so deposited the State Treasurer shall:

1 (a) For transactions occurring on or after October 1, 2014, and  
2 before October 1, 2027, credit to the Game and Parks Commission Capital  
3 Maintenance Fund all of the proceeds of the sales and use taxes imposed  
4 pursuant to section 77-2703 on the sale or lease of motorboats as defined  
5 in section 37-1204, personal watercraft as defined in section 37-1204.01,  
6 all-terrain vehicles as defined in section 60-103, and utility-type  
7 vehicles as defined in section 60-135.01;

8 (b) Credit to the Highway Trust Fund all of the proceeds of the  
9 sales and use taxes derived from the sale or lease for periods of more  
10 than thirty-one days of motor vehicles, trailers, and semitrailers,  
11 except that the proceeds equal to any sales tax rate provided for in  
12 section 77-2701.02 that is in excess of five percent derived from the  
13 sale or lease for periods of more than thirty-one days of motor vehicles,  
14 trailers, and semitrailers shall be credited to the Highway Allocation  
15 Fund;

16 (c) For transactions occurring on or after July 1, 2013, and before  
17 July 1, 2042 ~~2033~~, of the proceeds of the sales and use taxes derived  
18 from transactions other than those listed in subdivisions (2)(a) and (b)  
19 of this section from a sales tax rate of one-quarter of one percent,  
20 credit monthly eighty-five percent to the State Highway Capital  
21 Improvement Fund and fifteen percent to the Highway Allocation Fund; and

22 (d) Of the proceeds of the sales and use taxes derived from  
23 transactions other than those listed in subdivisions (2)(a) and (b) of  
24 this section, credit to the Property Tax Credit Cash Fund the amount  
25 certified under section 77-27,237, if any such certification is made.

26 The balance of all amounts collected under the Nebraska Revenue Act  
27 of 1967 shall be credited to the General Fund.

28 Sec. 17. Original sections 39-2205, 39-2209, 39-2211, 39-2212,  
29 39-2213, 39-2216, 39-2222, 39-2223, 39-2703, and 39-2704, Reissue Revised  
30 Statutes of Nebraska, and sections 39-2224 and 77-27,132, Revised  
31 Statutes Cumulative Supplement, 2022, are repealed.

1           Sec. 18.   Since an emergency exists, this act takes effect when  
2   passed and approved according to law.