

AMENDMENTS TO LB138

Introduced by DeBoer, 10.

1           1. Insert the following new sections:

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

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

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

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

27           Sec. 2. Section 13-1205, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 13-1205 The department shall have the following powers, duties, and  
3 responsibilities:

4 (1) To collect and maintain data on the level of public  
5 transportation services and needs in the state and identify areas not  
6 being adequately served by existing public or private transportation  
7 services;

8 (2) To assess the regional and statewide effect of changes,  
9 improvement, and route abandonments in the state's public transportation  
10 system;

11 (3) To develop a six-year statewide transit plan and programs for  
12 public transportation in coordination with local plans and programs  
13 developed by municipalities, counties, transit authorities, and regional  
14 metropolitan transit authorities;

15 (4) To provide planning and technical assistance to agencies of the  
16 state, political subdivisions, or groups seeking to improve public  
17 transportation;

18 (5) To advise, consult, and cooperate with agencies of the state,  
19 the federal government, and other states, interstate agencies, political  
20 subdivisions, and groups concerned with public transportation;

21 (6) To cooperate with the Public Service Commission by providing  
22 periodic assessments to the commission when determining the effect of  
23 proposed regulatory decisions on public transportation;

24 (7) To administer federal and state programs providing financial  
25 assistance to public transportation, except those federal and state  
26 programs in which a municipality, county, transit authority, regional  
27 metropolitan transit authority, or other state agency is designated as  
28 the administrator;~~and~~

29 (8) To develop and administer a safety oversight program to oversee  
30 rail transit systems operated by the state, an interstate agency, or any  
31 political subdivision; and

1           (9) ~~(8)~~ To exercise all other powers necessary and proper for the  
2 discharge of its duties, including the adoption and promulgation of  
3 reasonable rules and regulations to carry out the Nebraska Public  
4 Transportation Act.

5           Sec. 3. Section 39-847, Revised Statutes Cumulative Supplement,  
6 2022, is amended to read:

7           39-847 (1) Any county board may apply, in writing, to the Department  
8 of Transportation for state aid in the replacement of any bridge under  
9 the jurisdiction of such board. The application shall contain a  
10 description of the bridge, with a preliminary estimate of the cost of  
11 replacement thereof, and a certified copy of the resolution of such  
12 board, pledging such county to furnish up to twenty  ~~fifty~~ percent of the  
13 cost of replacement of such bridge. The county's share of replacement  
14 cost may be from any source except the State Aid Bridge Fund, except that  
15 where there is any bridge which is the responsibility of two counties,  
16 either county may make application to the department and, if the  
17 application is approved by the department, such county and the department  
18 may replace such bridge and recover, by suit, one-half of the county's  
19 cost of such bridge from the county failing or refusing to join in such  
20 application. All requests for bridge replacement under sections 39-846 to  
21 39-847.01 shall be forwarded by the department to the Board of Public  
22 Roads Classifications and Standards. Such board shall establish  
23 priorities for bridge replacement based on critical needs. The board  
24 shall consider such applications and establish priorities for a period of  
25 time consistent with sections 39-2115 to 39-2119. The board shall return  
26 the applications to the department with the established priorities.

27           (2) The plans and specifications for each bridge shall be furnished  
28 by the department and replacement shall be under the supervision of the  
29 department and the county board.

30           (3) Any contract for the replacement of any such bridge shall be  
31 made by the department consistent with procedures for contracts for state

1 highways and federal-aid secondary roads.

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

5 Sec. 4. Section 39-1348, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 39-1348 (1) Except as otherwise provided in sections 39-2808 to  
8 39-2823, when letting contracts for the construction, reconstruction,  
9 improvement, maintenance, or repair of roads, bridges, and their  
10 appurtenances, the department shall solicit bids as follows:

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

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

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

30 (ii) ~~(b)~~ Request bids from at least three potential bidders for such  
31 work. If the department requests bids under this subdivision, it shall

1 designate a time when the bids shall be opened. The department may award  
2 a contract pursuant to this subdivision if it receives at least one  
3 responsive bid.

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

11 Sec. 5. Section 39-1351, Revised Statutes Cumulative Supplement,  
12 2022, is amended to read:

13 39-1351 (1) Except as provided in subsection (2) of this section,  
14 any person desiring to submit to the department a bid for the performance  
15 of any contract for the construction, reconstruction, improvement,  
16 maintenance, or repair of roads, bridges, and their appurtenances, which  
17 the department proposes to let, shall apply to the department for  
18 prequalification. Such application shall be made not later than five days  
19 before the letting of the contract unless fewer than five days is  
20 specified by the department. The department shall determine the extent of  
21 any applicant's qualifications by a full and appropriate evaluation of  
22 the applicant's experience, bonding capacity as determined by a bonding  
23 agency licensed to do business in the State of Nebraska or other  
24 sufficient financial showing deemed satisfactory by the department, and  
25 performance record. In determining the qualification of an applicant to  
26 bid on any particular contract, the department shall consider the  
27 resources available for the particular contract contemplated.

28 (2) The department may, in its sole discretion, grant an exemption  
29 from all prequalification requirements for (a) any contract for the  
30 construction, reconstruction, improvement, maintenance, or repair of  
31 roads, bridges, and their appurtenances if the estimate of the department

1 for such work is two hundred fifty ~~one hundred~~ thousand dollars or less  
2 or (b) any contract for the construction, reconstruction, improvement,  
3 maintenance, or repair of roads, bridges, and their appurtenances if such  
4 work is of an emergency nature.

5 Sec. 29. Section 66-4,100, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

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

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

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

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

27 ~~Transfers may be made from the Roads Operations Cash Fund to the~~  
28 ~~General Fund at the direction of the Legislature through June 30, 2019.~~  
29 ~~The State Treasurer shall transfer seven million five hundred thousand~~  
30 ~~dollars from the Roads Operations Cash Fund to the General Fund on or~~  
31 ~~before June 30, 2018, on such date as directed by the budget~~

1 ~~administrator of the budget division of the Department of Administrative~~  
2 ~~Services. The State Treasurer shall transfer seven million five hundred~~  
3 ~~thousand dollars from the Roads Operations Cash Fund to the General Fund~~  
4 ~~on or after July 1, 2018, but on or before June 30, 2019, on such date as~~  
5 ~~directed by the budget administrator of the budget division of the~~  
6 ~~Department of Administrative Services.~~

7       2. Renumber the remaining sections and correct the repealer and  
8 internal references accordingly.