

CHAPTER 94**(HB 536)**

AN ACT relating to transportation, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 177.317 is amended to read as follows:

The Transportation Cabinet shall allow partial control of access on the Hal Rogers Parkway, *between the junction with KY 192 and the junction with KY 80*, and establish minimum spacing requirements and the manner in which the access is to be provided. Minimum access spacing under this section shall be no less than one thousand two hundred (1,200) feet.

➔Section 2. 2008 Kentucky Acts Chapter 127, Part I, Operating Budget; L. Transportation Cabinet; 3. Debt Service, at page 538, is amended to read as follows:

3. DEBT SERVICE

	2008-09	2009-10
Road Fund	148,513,000	154,278,000 136,599,000

(1) **Resource Recovery Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$9,086,400 in fiscal year 2008-2009 for Resource Recovery Road lease-rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

(2) **Economic Development Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$139,426,600 in fiscal year 2008-2009 and \$134,389,000 in fiscal year 2009-2010 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously authorized by the General Assembly and issued by the Kentucky Turnpike Authority.

(3) **Economic Development Road Bond Debt Service:** Included in the above Road Fund appropriation is \$2,210,000 in fiscal year 2009-2010 for Economic Development Road lease-rental payments to the Kentucky Turnpike Authority relating to projects financed by \$50,000,000 in Economic Development Road Revenue Bonds.

(4) **Excess Lease-Rental Payments:** Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Kentucky Turnpike Authority shall be transferred to the State Construction Account.

(5) **Debt Payment Acceleration Fund Account:** Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2008-2010 fiscal biennium.

(6) **Economic Development Road Bond Debt Service:** *Included in the above Road Fund appropriation is \$17,679,000 in fiscal year 2009-2010 for Economic Development Road lease-rental payments to the Kentucky Turnpike Authority relating to projects financed by \$400,000,000 in Economic Development Road Revenue Bonds.*

➔Section 3. 2008 Kentucky Acts Chapter 127, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways, at pages 538 to 541, as amended by 2008 Kentucky Acts Chapter 123 is further amended to read as follows:

4. HIGHWAYS

	2007-08	2008-09	2009-10
General Fund-0-	-0-	442,000	
Restricted Funds	37,960,400	310,076,700	80,181,800
Federal Funds	4,216,800	686,029,100	720,009,500

Road Fund	98,100	680,624,200	737,488,500	755,167,500
Highway Bond	-0-	450,000,000	50,000,000	-0-
TOTAL	42,275,300	2,126,730,000	1,726,730,000	1,555,800,800
	1,538,121,800			

(1) **Debt Service:** Included in the above Federal Funds appropriation is \$44,323,900 in fiscal year 2008-2009 and \$43,901,500 in fiscal year 2009-2010 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds previously appropriated by the General Assembly.

(2) **State Supported Construction Programs:** Included in the above Road Fund appropriation is \$289,434,000 in fiscal year 2008-2009 and ~~\$316,679,400~~ ~~\$334,358,400~~ in fiscal year 2009-2010 for the State Supported Construction Program.

(3) **State Resurfacing Program:** Included in the State Supported Construction Program in subsection (2) of this section is \$97,000,000 in fiscal year 2008-2009 and \$107,000,000 in fiscal year 2009-2010 from the Road Fund for the State Resurfacing Program.

(4) **Biennial Highway Construction Program:** Included in the State Supported Construction Program in subsection (2) of this section is \$161,434,000 in fiscal year 2008-2009 and ~~\$178,679,400~~ ~~\$196,358,400~~ in fiscal year 2009-2010 from the Road Fund for state construction projects in the fiscal biennium 2008-2010 Biennial Highway Construction Program.

(5) **Highway Construction Contingency Account:** Included in the State Supported Construction Program in subsection (2) of this section is \$31,000,000 in fiscal year 2008-2009 and \$31,000,000 in fiscal year 2009-2010 for the Highway Construction Contingency Account. The Transportation Cabinet may deposit \$4,000,000 from the Highway Construction Contingency Account in each fiscal year to the Industrial Road Access Account within the Transportation Cabinet. The Industrial Road Access Account funds are designated to be used solely by the Secretary of the Economic Development Cabinet. These funds may be expended, encumbered, or committed only upon the direction of the Secretary of the Economic Development Cabinet to the Secretary of the Transportation Cabinet. The Secretary of the Economic Development Cabinet may request from the Secretary of the Transportation Cabinet additional funds to be deposited to the Industrial Road Access Account if the funds are necessary to meet specific economic development opportunities in a local community. Notwithstanding KRS 45.229, any funds not expended from the Industrial Road Access Account prior to June 30, 2009, shall not lapse to the State Highway Construction Program, but shall remain in the Industrial Road Access Account and carry forward into fiscal year 2009-2010. Included in the above Road Fund appropriation is \$98,000 in fiscal year 2008-2009 for use by Mammoth Caves National Park to provide a 20 percent state-funded match for federal funds designated for planning and for design phases for dredging and reconstruction and improvements to the Green River Ferry loading ramps for year-round operation of the ferry.

(6) **2008-2010 Biennial Highway Construction Plan:** Projects in the enacted 2006-2008 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2008-2010 fiscal biennium.

(7) **Kentucky Transportation Center:** Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is \$290,000 in fiscal year 2008-2009 and \$290,000 in fiscal year 2009-2010 for the Kentucky Transportation Center.

(8) **New Highway Equipment Purchases:** Notwithstanding KRS 48.710(3), included in the above Restricted Funds appropriation is \$1,500,000 in fiscal year 2008-2009 and \$1,500,000 in fiscal year 2009-2010 from the sale of surplus equipment to purchase new highway equipment.

(9) **State Match Provisions:** The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

(10) **Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; (b) All projects identified for federal funding in the fiscal biennium 2008-2010 Biennial Highway Construction Plan shall be given first priority; and (c) All other funds shall be used to ensure that projects in the fiscal biennium 2008-2010 Biennial Highway Construction Plan are funded.

(11) Road Fund Cash Management: The Secretary of the Transportation Cabinet is authorized to continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2008-2010 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

(12) Carry Forward of Appropriation Balances: Notwithstanding KRS 45.229, unexpended Road Fund appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2007-2008 and in fiscal year 2008-2009 shall not lapse but shall carry forward. Unexpended Federal Funds and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2007-2008 and in fiscal year 2008-2009, up to the amount of ending cash balances and grant balances shall not lapse but shall carry forward.

(13) Kentucky Pride Program Report: The Environmental and Public Protection Cabinet shall provide to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a program and financial status report of all expenditures related to the Kentucky Pride Fund. The status report shall be provided to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation no later than October 1 of each year.

(14) Miscellaneous Road Fund Projects: (a) The Transportation Cabinet may undertake the following miscellaneous road projects using the Highway Construction Contingency appropriation contained therein:

1. Fayette County Traffic Control Device: Install a traffic light at the intersection of Georgetown Road and Spurr Road for \$50,000 from Road Fund resources in fiscal year 2008-2009;
2. Fayette County Traffic Control Device: Install a left turn signal at the intersection of Russell Cave Road and Asbury Lane for \$6,000 from Road Fund resources in fiscal year 2008-2009;
3. Fayette County Traffic Control Device: Install a left turn signal at the intersection of Broadway and Third Street for \$6,000 from Road Fund resources in fiscal year 2008-2009;
4. Jefferson County Traffic Control Device: Install a left turn signal on both sides of the traffic control signal at the intersection of Eastern Parkway and Bardstown Road for \$12,000 from Road Fund resources in fiscal year 2008-2009;
5. Jefferson County Traffic Control Device: Install a right turn lane at Terry Road and Greenwood Road for \$75,000 from Road Fund resources in fiscal year 2008-2009;
6. Jefferson County Traffic Control Device: Install a left turn lane at St. Andrews Church Road and St. Anthony Road for \$150,000 from Road Fund resources in fiscal year 2008-2009;
7. Jefferson County Railroad Crossing: Reimburse \$80,000 to Louisville Metro Government, from Road Fund resources in fiscal year 2008-2009, for improvements to the Norfolk Southern Railroad crossing on Breckenridge Lane near the intersection of Breckenridge Lane and Six Mile Lane. The improvements shall include the rehabilitation and beautification of all sidewalks, drainage, landscaping, replacement or refurbishing of handrails, curbs, and retaining walls;
8. Kenton County Traffic Control Device: Install a traffic light at the intersection of Adela Street and Oak Street in Ludlow for \$22,000 from Road Fund resources in fiscal year 2008-2009;
9. Kenton County Sidewalks: Construct sidewalks on the northwest side of Adela Street from the Ludlow Independent School District to City Park in Ludlow for \$50,000 from Road Fund resources in fiscal year 2008-2009;
10. Kenton County Sidewalk and Brick Repair: Provide for transportation enhancement and beautification by repairing or replacing the historic brick and sidewalk located in the 500 block of Linden Street from Adela Street to Helen Street for \$100,000 from Road Fund resources in fiscal year 2008-2009; and
11. Clark County Traffic Control Device: Install a four-way traffic signal at the intersection of KY 1958 and KY 1960.

(b) The Transportation Cabinet shall follow the original plans for Scott County Project Number 7-102.10 as identified in the 2008-2014 Highway Road Plan. The Georgetown Northwest Bypass shall extend directly northward from the existing US 60/US 460 bypass intersection before proceeding to the existing KY 32. With the safety and protection of school children being of the utmost concern to the citizens of the Commonwealth, the Transportation Cabinet shall require the Georgetown Northwest Bypass project to provide adequate ingress to and egress from Western Elementary School.

(15) Wetland Restoration Debt Service: Included in the above appropriation is \$442,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(16) Innovative Financing: The Secretary of the Transportation Cabinet, or his or her designee, shall be authorized to update the initial financial plan utilizing toll revenues as an available funding source for the Louisville-Southern Indiana Ohio River Bridges Project.

(17) Interlocal Cooperative Agreement: Any local government may be permitted to enter into an interlocal cooperative agreement with the Transportation Cabinet to maintain traffic control devices on state-maintained roads within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the contracted cost of such maintenance. The agreement may permit local governments to make temporary repairs to state-maintained road surfaces within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the contracted cost of the temporary repairs. The Transportation Cabinet shall report all interlocal cooperative agreements entered into under this subsection to the Interim Joint Committee on Transportation within seven days of the agreement being finalized. The report shall include the local government requesting the assistance from the Cabinet, the scope and estimated cost of the service or repair, and the reasons for the necessity of the agreement.

(18) Grant Anticipation Revenue Vehicle (GARVEE) Bonds: Included in the above Restricted Funds appropriation is \$231,000,000 in fiscal year 2008-2009 for GARVEE Bond Funds to be issued for the Louisville-Southern Indiana Ohio River Bridges Project. Federal funds made available as a result of the issuance of bonds authorized herein, shall not be expended unless specifically appropriated and identified by the General Assembly.

(19) New Grant Anticipation Revenue Vehicle (GARVEE) Debt Service: Included in the above Federal Funds appropriation is \$12,410,800 in fiscal year 2008-2009 and \$24,821,600 in fiscal year 2009-2010 for GARVEE Bonds debt service payments relating to projects financed by \$231,000,000 in GARVEE Bonds.

(20) Crittenden County Property: *Whereas the existing real property in Crittenden County located at 110 Old Salem Road has become unsuitable for public use as a Transportation Cabinet maintenance facility due to its age, and whereas this property would be more suitable for use by the Crittenden County Board of Education as it is adjacent to the Crittenden County High School, the General Assembly authorizes the exchange of this property with the Crittenden County Industrial Authority property in Industrial Park North. Upon conveyance of title to sufficient property to the Transportation Cabinet by the Crittenden County Industrial Authority, the Transportation Cabinet shall construct a new maintenance facility and all necessary adjacent facilities. Upon completion and occupation of the new maintenance facility and approval required by KRS 45A.045, the Commonwealth shall convey title to the existing maintenance facility property to the Crittenden County Board of Education.*

➔Section 4. 2008 Kentucky Acts Chapter 127, Part II, Capital Projects Budget; (10) Payments for Wetland Restoration, at page 543, is amended to read as follows:

(10) Payments for Wetland Restoration: Obligations due from the Department of Highways from state funds for fees to the fund established by KRS 150.225(3) shall be deposited into an Other Special Revenue Fund established within the Transportation Cabinet. Payments in satisfaction of these obligations shall be made from the capital project appropriation in Part II, K., 1., ~~018.047~~ of this Act.

➔Section 5. 2008 Kentucky Acts Chapter 127, Part II, Capital Projects Budget; K. Transportation Cabinet; 1. General Administration and Support, at pages 581 to 582, is amended to read as follows:

1. GENERAL ADMINISTRATION AND SUPPORT

001. Replace Automated Vehicle Information System (AVIS)

Bond Funds

25,000,000

-0-

002. Kentucky Horse Park Roads and Pedways - FEI Games

Road Fund	10,300,000	-0-
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(1) **Kentucky Horse Park Roads and Pedways - FEI Games:** Included in the above Road Fund appropriation is the amount necessary to complete roads, parking infrastructure, and pedways for the 2010 FEI World Equestrian Championship Games.

003. Road Maintenance Parks		
Road Fund	1,500,000	1,500,000
004. Repair Loadometer and Rest Areas		
Road Fund	900,000	600,000
005. Purchase TRNS*PORT Upgrade		
Road Fund	1,300,000	-0-
006. Building Renovations and Emergency Repairs		
Road Fund	600,000	600,000
007. Various Environmental Compliance		
Road Fund	500,000	500,000
008. Aircraft Maintenance Pool - 2008-2010		
Investment Income	500,000	500,000
009. HVAC Maintenance and Repairs		
Road Fund	400,000	400,000
010. Purchase Bridge Snooper		
Road Fund	500,000	-0-
011. Replace Overhead Doors and Emergency Repairs		
Road Fund	200,000	200,000
012. Painting and Roof Repair or Replacement		
Road Fund	200,000	200,000
013. Purchase One Track Mounted Core Drill		
Road Fund	375,000	-0-
014. Purchase GPS Surveying Equipment		
Road Fund	317,000	-0-
015. Repair Salt Storage Structures		
Road Fund	150,000	150,000
016. Purchase GPS Virtual Reference System		
Road Fund	150,000	-0-
017. 2008 Ryder Cup Parking		
Road Fund	600,000	-0-
(1) 2008 Ryder Cup Parking: Included in the above Road Fund appropriation is the amount necessary to complete parking infrastructure improvements at the Kentucky Fair and Exposition Center pursuant to the 2008 Ryder Cup Trade Agreement.		
018. Wetland Restoration		
Bond Funds	10,000,000	-0-

019. Construct Spencer County Maintenance Facility and Salt Storage Structure

Reauthorization (\$910,000 Road Fund)

020. Construct Larue County Maintenance Facility and Salt Storage Structure

Reauthorization (\$910,000 Road Fund)

➔Section 6. 2008 Kentucky Acts Chapter 127, Part VIII, Road Fund Budget Reduction Plan, at page 599, is amended to read as follows:

PART VIII

A. FISCAL YEAR 2008-2009 ROAD FUND BUDGET REDUCTION PLAN

Notwithstanding KRS 48.130 and 48.600, a Road Fund Budget Reduction Plan is enacted for fiscal year 2008-2009 for state government pursuant to the Consensus Forecasting Group's official revenue revision dated November 26, 2008, that estimated Road Fund revenue receipts of \$1,220,100,000 in fiscal year 2008-2009 and that projected a Road Fund revenue shortfall of \$104,706,400 in fiscal year 2008-2009, as may be modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Given the fiscal year 2008-2009 Road Fund revenue shortfall as identified by the Consensus Forecasting Group, the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service.

B. FISCAL YEAR 2009-2010 ROAD FUND BUDGET REDUCTION PLAN

~~[There is established a Road Fund Budget Reduction Plan for fiscal year 2008-2009 and fiscal year 2009-2010.]~~ *Notwithstanding* ~~[Pursuant to]~~ **KRS 48.130 and 48.600, a Road Fund Budget Reduction Plan is enacted for fiscal year 2009-2010** in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of ~~[\$1,324,806,400 in fiscal year 2008-2009 and]~~\$1,405,103,400 in fiscal year 2009-2010, *as may be modified by related Acts and actions of the General Assembly in an extraordinary or regular session. If the actual or projected revenue shortfall is five percent or less in aggregate in the enacted Road Fund revenue receipts* ~~[as determined by KRS 48.120(3)]~~, the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. *If the actual or projected revenue shortfall is greater than five percent in aggregate, the Governor is not empowered nor directed to take necessary actions with respect to the Transportation Cabinet's budget units to balance the budget.*

➔Section 7. Whereas the Commonwealth of Kentucky is facing a projected Road Fund revenue shortfall, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by the Governor March 24, 2009.