

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 334**

Introduced by Giese, 17; Avery, 28; Hadley, 37; Janssen, 15;  
Louden, 49; Pankonin, 2; Schilz, 47.

Read first time January 15, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to highways and roads; to amend sections  
2 39-1302 and 39-1365.01, Reissue Revised Statutes of  
3 Nebraska; to designate the state expressway system;  
4 to change provisions relating to highway planning;  
5 to harmonize provisions; and to repeal the original  
6 sections.

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

1           Section 1. The map entitled "NEBRASKA EXPRESSWAY SYSTEM"  
2 on page 53 of the 2006 State Highway Needs Assessment, prepared  
3 by the Department of Roads, and on file with the Clerk of  
4 the Legislature, is hereby adopted by the Legislature as the  
5 state expressway system. The adoption by reference of the map  
6 includes the roads designated as Original (Programmed), Planned  
7 (Not Programmed), and Planned (Programmed).

8           Sec. 2. Section 39-1302, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           39-1302 For purposes of sections 39-1301 to 39-1392 and  
11 section 1 of this act, unless the context otherwise requires:

12           (1) Abandon shall mean to reject all or part of the  
13 department's rights and responsibilities relating to all or part of  
14 a fragment, section, or route on the state highway system;

15           (2) Alley shall mean an established passageway for  
16 vehicles and pedestrians affording a secondary means of access  
17 in the rear to properties abutting on a street or highway;

18           (3) Approach or exit road shall mean any highway or ramp  
19 designed and used solely for the purpose of providing ingress or  
20 egress to or from an interchange or rest area of a highway. An  
21 approach road shall begin at the point where it intersects with  
22 any highway not a part of the highway for which such approach road  
23 provides access and shall terminate at the point where it merges  
24 with an acceleration lane of a highway. An exit road shall begin at  
25 the point where it intersects with a deceleration lane of a highway

1 and shall terminate at the point where it intersects any highway  
2 not a part of a highway from which the exit road provides egress;

3 (4) Arterial highway shall mean a highway primarily for  
4 through traffic, usually on a continuous route;

5 (5) Beltway shall mean the roads and streets not  
6 designated as a part of the state highway system and that are  
7 under the primary authority of a county or municipality, if  
8 the location of the beltway has been approved by (a) record of  
9 decision or finding of no significant impact by the federal highway  
10 administration and (b) the applicable local planning authority as a  
11 part of the comprehensive plan;

12 (6) Business shall mean any lawful activity conducted  
13 primarily for the purchase and resale, manufacture, processing,  
14 or marketing of products, commodities, or other personal property  
15 or for the sale of services to the public or by a nonprofit  
16 corporation;

17 (7) Channel shall mean a natural or artificial  
18 watercourse;

19 (8) Commercial activity shall mean those activities  
20 generally recognized as commercial by zoning authorities in  
21 this state, and industrial activity shall mean those activities  
22 generally recognized as industrial by zoning authorities in this  
23 state, except that none of the following shall be considered  
24 commercial or industrial:

25 (a) Outdoor advertising structures;

1           (b) General agricultural, forestry, ranching, grazing,  
2   farming, and related activities, including wayside fresh produce  
3   stands;

4           (c) Activities normally or regularly in operation less  
5   than three months of the year;

6           (d) Activities conducted in a building principally used  
7   as a residence;

8           (e) Railroad tracks and minor sidings; and

9           (f) Activities more than six hundred sixty feet from the  
10   nearest edge of the right-of-way of the road or highway;

11          (9) Connecting link shall mean the roads, streets, and  
12   highways designated as part of the state highway system and which  
13   are within the corporate limits of any city or village in this  
14   state;

15          (10) Controlled-access facility shall mean a highway or  
16   street especially designed for through traffic and over, from, or  
17   to which owners or occupants of abutting land or other persons  
18   have no right or easement or only a controlled right or easement  
19   of access, light, air, or view by reason of the fact that their  
20   property abuts upon such controlled-access facility or for any  
21   other reason. Such highways or streets may be freeways, or they may  
22   be parkways;

23          (11) Department shall mean the Department of Roads;

24          (12) Displaced person shall mean any individual, family,  
25   business, or farm operation which moves from real property acquired

1 for state highway purposes or for a federal-aid highway;

2 (13) Easement shall mean a right acquired by public  
3 authority to use or control property for a designated highway  
4 purpose;

5 (14) Expressway shall mean a divided arterial highway for  
6 through traffic with full or partial control of access which may  
7 have grade separations at intersections;

8 (15) Family shall mean two or more persons living  
9 together in the same dwelling unit who are related to each  
10 other by blood, marriage, adoption, or legal guardianship;

11 (16) Farm operation shall mean any activity conducted  
12 primarily for the production of one or more agricultural products  
13 or commodities for sale and home use and customarily producing such  
14 products or commodities in sufficient quantity to be capable of  
15 contributing materially to the operator's support;

16 (17) Federal-aid primary roads shall mean roads, streets,  
17 and highways, whether a part of the state highway system, county  
18 road systems, or city streets, which have been designated as  
19 federal-aid primary roads by the department and approved by the  
20 United States Secretary of Transportation and shown on the maps  
21 provided for in section 39-1311;

22 (18) Freeway shall mean an expressway with full control  
23 of access;

24 (19) Frontage road shall mean a local street or road  
25 auxiliary to an arterial highway for service to abutting property

1 and adjacent areas and for control of access;

2 (20) Full control of access shall mean that the right of  
3 owners or occupants of abutting land or other persons to access or  
4 view is fully controlled by public authority having jurisdiction  
5 and that such control is exercised to give preference to through  
6 traffic by providing access connections with selected public roads  
7 only and by prohibiting crossings or intersections at grade or  
8 direct private driveway connections;

9 (21) Grade separation shall mean a crossing of two  
10 highways at different levels;

11 (22) Highway shall mean a road or street, including the  
12 entire area within the right-of-way, which has been designated a  
13 part of the state highway system;

14 (23) Individual shall mean a person who is not a member  
15 of a family;

16 (24) Interchange shall mean a grade-separated  
17 intersection with one or more turning roadways for travel  
18 between any of the highways radiating from and forming part of such  
19 intersection;

20 (25) Map shall mean a drawing or other illustration or  
21 a series of drawings or illustrations which may be considered  
22 together to complete a representation;

23 (26) Mileage shall mean the aggregate distance in miles  
24 without counting double mileage where there are one-way or divided  
25 roads, streets, or highways;

1           (27) Parking lane shall mean an auxiliary lane primarily  
2 for the parking of vehicles;

3           (28) Parkway shall mean an arterial highway for  
4 noncommercial traffic, with full or partial control of access, and  
5 usually located within a park or a ribbon of park-like development;

6           (29) Relinquish shall mean to surrender all or part  
7 of the rights and responsibilities relating to all or part of  
8 a fragment, section, or route on the state highway system to  
9 a political or governmental subdivision or public corporation of  
10 Nebraska;

11           (30) Right of access shall mean the rights of ingress and  
12 egress to or from a road, street, or highway and the rights of  
13 owners or occupants of land abutting a road, street, or highway or  
14 other persons to a way or means of approach, light, air, or view;

15           (31) Right-of-way shall mean land, property, or interest  
16 therein, usually in a strip, acquired for or devoted to a road,  
17 street, or highway;

18           (32) Road shall mean a public way for the purposes  
19 of vehicular travel, including the entire area within the  
20 right-of-way. A road designated as part of the state highway system  
21 may be called a highway, while a road in an urban area may be  
22 called a street;

23           (33) Roadside shall mean the area adjoining the outer  
24 edge of the roadway. Extensive areas between the roadways of a  
25 divided highway may also be considered roadside;

1           (34) Roadway shall mean the portion of a highway,  
2 including shoulders, for vehicular use;

3           (35) Separation structure shall mean that part of any  
4 bridge or road which is directly overhead of the roadway of any  
5 part of a highway;

6           (36) State expressway system shall mean the roads,  
7 streets, and highways shown on the map provided for in section  
8 1 of this act;

9           ~~(36)~~ (37) State highway purposes shall have the meaning  
10 set forth in subsection (2) of section 39-1320;

11           ~~(37)~~ (38) State highway system shall mean the roads,  
12 streets, and highways shown on the map provided for in section  
13 39-1311 as forming a group of highway transportation lines  
14 for which the department shall be the primary authority.  
15 The state highway system shall include, but not be limited  
16 to, rights-of-way, connecting links, drainage facilities, and  
17 the bridges, appurtenances, easements, and structures used in  
18 conjunction with such roads, streets, and highways;

19           ~~(38)~~ (39) Street shall mean a public way for the purposes  
20 of vehicular travel in a city or village and shall include the  
21 entire area within the right-of-way;

22           ~~(39)~~ (40) Structure shall mean anything constructed or  
23 erected, the use of which requires permanent location on the ground  
24 or attachment to something having a permanent location;

25           ~~(40)~~ (41) Title shall mean the evidence of a person's



1 right to property or the right itself;

2 ~~(41)~~ (42) Traveled way shall mean the portion of the  
3 roadway for the movement of vehicles, exclusive of shoulders and  
4 auxiliary lanes;

5 ~~(42)~~ (43) Unzoned commercial or industrial area for  
6 purposes of control of outdoor advertising shall mean all areas  
7 within six hundred sixty feet of the nearest edge of the  
8 right-of-way of the interstate and federal-aid primary systems  
9 which are not zoned by state or local law, regulation, or ordinance  
10 and on which there is located one or more permanent structures  
11 devoted to a business or industrial activity or on which a  
12 commercial or industrial activity is conducted, whether or not  
13 a permanent structure is located thereon, the area between such  
14 activity and the highway, and the area along the highway extending  
15 outward six hundred feet from and beyond each edge of such activity  
16 and, in the case of the primary system, may include the unzoned  
17 lands on both sides of such road or highway to the extent of the  
18 same dimensions if those lands on the opposite side of the highway  
19 are not deemed scenic or having aesthetic value as determined by  
20 the department. In determining such an area, measurements shall  
21 be made from the furthest or outermost edges of the regularly  
22 used area of the commercial or industrial activity, structures,  
23 normal points of ingress and egress, parking lots, and storage and  
24 processing areas constituting an integral part of such commercial  
25 or industrial activity;

1           ~~(43)~~ (44) Visible, for purposes of section 39-1320, in  
2 reference to advertising signs, displays, or devices, shall mean  
3 the message or advertising content of such sign, display, or device  
4 is capable of being seen without visual aid by a person of normal  
5 visual acuity. A sign shall be considered visible even though the  
6 message or advertising content may be seen but not read;

7           ~~(44)~~ (45) Written instrument shall mean a deed or any  
8 other document that states a contract, agreement, gift, or transfer  
9 of property; and

10          ~~(45)~~ (46) Zoned commercial or industrial areas shall  
11 mean those areas within six hundred sixty feet of the nearest  
12 edge of the right-of-way of the Highway Beautification Control  
13 System defined in section 39-201.01, zoned by state or local zoning  
14 authorities for industrial or commercial activities.

15               Sec. 3. Section 39-1365.01, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17               39-1365.01 The Department of Roads shall be responsible  
18 for developing a specific and long-range state highway system plan.  
19 The department shall annually formulate plans to meet the state  
20 highway system needs of all facets of the state and shall assign  
21 priorities for such needs. The department shall, on or before  
22 December 1 of each year, present such plans to the Legislature.  
23 The plans shall be referred to the appropriate standing committees  
24 of the Legislature for review. In establishing priorities, the  
25 department shall consider a variety of factors, including, but

1 not limited to, current and projected traffic volume, safety  
2 requirements, economic development needs, current and projected  
3 demographic trends, the ability of residents of cities of fifteen  
4 thousand inhabitants or more to access the National System of  
5 Interstate and Defense Highways through a completed expressway,  
6 the impact of uncompleted portions of the expressway system on  
7 the economic development of cities along the expressway system,  
8 and maintenance and enhancement of the quality of life for all  
9 Nebraska citizens. The state highway system plan shall include the  
10 designation of those portions of the state highway system which  
11 shall be expressways.

12           Sec. 4. Original sections 39-1302 and 39-1365.01, Reissue  
13 Revised Statutes of Nebraska, are repealed.