

AMENDMENTS TO LB1038

(Amendments to Standing Committee amendments, AM2472)

Introduced by Garrett, 3.

1 1. Insert the following new sections:

2 Sec. 5. (1) The department shall establish and administer a
3 vegetation control program which may allow permits for the cutting or
4 trimming of vegetation in the vicinity of advertising signs, displays, or
5 devices placed pursuant to section 39-220. A permit issued under this
6 section shall allow the cutting or trimming of vegetation under
7 controlled conditions when such vegetation obstructs or obscures a
8 lawfully placed advertising sign, display, or device. The department may
9 establish criteria for what vegetation may be cut or trimmed. Each permit
10 shall be valid for no more than thirty days and shall only be applicable
11 for one sign, display, or device location.

12 (2) The department may charge a fee in an amount reasonably
13 calculated to defray the cost of administering the vegetation control
14 program and may adjust the fee periodically to ensure continued recovery
15 of administrative costs, except that such fee shall not exceed fifty
16 dollars. The applicant to whom the permit is issued shall furnish the
17 department with a cash deposit or certified check upon a solvent bank or
18 a surety bond in a guaranty company qualified to do business in Nebraska.
19 The deposit, check, or bond shall be in an amount required by the
20 department and shall be furnished on the condition that the sum be
21 forfeited to the state in the event that the conditions of the permit or
22 rules and regulations adopted and promulgated by the department are
23 violated. The applicant for a permit shall sign a release acknowledging
24 that he or she will assume all risk and liability for any accidents and
25 damages that may occur as a result of the work done as the permitholder.
26 The applicant shall provide proof of liability insurance of at least one

1 million dollars. The permitholder shall be responsible for compensating
2 the state for loss or damage to state property, including, but not
3 limited to, intentional vegetation, and for restoring state property to
4 its preexisting condition as determined in the sole discretion of the
5 department. Permits are subject to all state and federal environmental
6 laws, rules, and regulations. Each approved permit shall grant written
7 consent to encroach onto the state's right-of-way pursuant to section
8 39-1359.

9 (3) The department may adopt and promulgate rules and regulations to
10 carry out this section.

11 Sec. 6. Section 39-891, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 39-891 Recognizing that obstructions on or near the boundary of the
14 State of Nebraska impede commerce and travel between the State of
15 Nebraska and adjoining states, the Legislature hereby declares that
16 bridges over these obstructions are essential to the general welfare of
17 the State of Nebraska.

18 Providing bridges over these obstructions and for the safe and
19 efficient operation of such bridges is deemed an urgent problem that is
20 the proper concern of legislative action.

21 Such bridges, properly planned, designated, and managed, provide a
22 safe passage for highway traffic to and from the state highway system and
23 encourage commerce and travel between the State of Nebraska and adjoining
24 states which increase the social and economic progress and general
25 welfare of the state.

26 It is recognized that bridges between the State of Nebraska and
27 adjoining states are not and cannot be the sole concern of the State of
28 Nebraska. The nature of such bridges requires that a high degree of
29 cooperation be exercised between the State of Nebraska and adjoining
30 states in all phases of planning, construction, maintenance, and
31 operation if proper benefits are to be realized.

1 It is also recognized that parties other than the State of Nebraska
2 may wish to erect and control bridges between the State of Nebraska and
3 adjoining states and that the construction, operation, and financing of
4 such bridges have previously been authorized by the Legislature. Such
5 bridges also benefit the State of Nebraska, and it is not the intent of
6 the Legislature to abolish such power previously granted.

7 To this end, it is the intention of the Legislature to supplement
8 sections 39-1301 to 39-1362 and section 5 of this act, relating to state
9 highways, in order that the powers and authority of the department
10 relating to the planning, construction, maintenance, acquisition, and
11 operation of interstate bridges upon the state highway system may be
12 clarified within a single act.

13 Acting under the direction of the Director-State Engineer, the
14 department, with the advice of the State Highway Commission and the
15 consent of the Governor, is given the power to enter into agreements with
16 the United States and adjoining states, subject to the limitations
17 imposed by the Constitution and the provisions of the Interstate Bridge
18 Act of 1959.

19 The Legislature intends to place a high degree of trust in the hands
20 of those officials whose duty it may be to enter into agreements with
21 adjoining states and the United States for the planning, development,
22 construction, acquisition, operation, maintenance, and protection of
23 interstate bridges.

24 In order that the persons concerned may understand the limitations
25 and responsibilities for planning, constructing, acquiring, operating,
26 and maintaining interstate bridges upon the state highway system, it is
27 necessary that the responsibilities for such work shall be fixed, but it
28 is intended that the department, acting under the Director-State
29 Engineer, shall have sufficient freedom to enter into agreements with
30 adjoining states regarding any phase of planning, constructing,
31 acquiring, maintaining, and operating interstate bridges upon the state

1 highway system in order that the best interests of the State of Nebraska
2 may always be served. The authority of the department to enter into
3 agreements with adjoining states, as granted in the act, is therefor
4 essential.

5 The Legislature hereby determines and declares that the provisions
6 of the act are necessary for the preservation of the public peace,
7 health, and safety, for the promotion of the general welfare, and as a
8 contribution to the national defense.

9 Sec. 7. Section 39-893, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 39-893 The provisions of the Interstate Bridge Act of 1959 are
12 intended to be cumulative to, and not amendatory of, sections 39-1301 to
13 39-1362 and section 5 of this act.

14 Sec. 8. Section 39-1301, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 39-1301 Recognizing that safe and efficient highway transportation
17 is a matter of important interest to all of the people in the state, the
18 Legislature hereby determines and declares that an integrated system of
19 highways is essential to the general welfare of the State of Nebraska.

20 Providing such a system of facilities and the efficient management,
21 operation, and control thereof are recognized as urgent problems and the
22 proper objectives of highway legislation.

23 Adequate highways provide for the free flow of traffic, result in
24 low cost of motor vehicle operation, protect the health and safety of the
25 citizens of the state, increase property values, and generally promote
26 economic and social progress of the state.

27 It is the intent of the Legislature to consider of paramount
28 importance the convenience and safety of the traveling public in the
29 location, relocation, or abandonment of highways.

30 In designating the highway system of this state, as provided by
31 sections 39-1301 to 39-1362 and section 5 of this act, the Legislature

1 places a high degree of trust in the hands of those officials whose duty
2 it shall be, within the limits of available funds, to plan, develop,
3 construct, operate, maintain, and protect the highway facilities of this
4 state, for present as well as for future uses.

5 The design, construction, maintenance, operation, and protection of
6 adequate state highway facilities sufficient to meet the present demands
7 as well as future requirements will, of necessity, require careful
8 organization, with lines of authority definitely fixed, and basic rules
9 of procedure established by the Legislature.

10 To this end, it is the intent of the Legislature, subject to the
11 limitations of the Constitution and such mandates as the Legislature may
12 impose by the provisions of such sections, to designate the Director-
13 State Engineer and the department, acting under the direction of the
14 Director-State Engineer, as direct custodian of the state highway system,
15 with full authority in all departmental administrative details, in all
16 matters of engineering design, and in all matters having to do with the
17 construction, maintenance, operation, and protection of the state highway
18 system.

19 The Legislature intends to declare, in general terms, the powers and
20 duties of the Director-State Engineer, leaving specific details to be
21 determined by reasonable rules and regulations which may be promulgated
22 by him or her. It is the intent of the Legislature to grant authority to
23 the Director-State Engineer to exercise sufficient power and authority to
24 enable him or her and the department to carry out the broad objectives
25 stated in this section.

26 While it is necessary to fix responsibilities for the construction,
27 maintenance, and operation of the several systems of highways, it is
28 intended that the State of Nebraska shall have an integrated system of
29 all roads and streets to provide safe and efficient highway
30 transportation throughout the state. The authority granted in such
31 sections to the Director-State Engineer and to the political or

1 governmental subdivisions or public corporations of this state to assist
2 and cooperate with each other is therefor essential.

3 The Legislature hereby determines and declares that such sections
4 are necessary for the preservation of the public peace, health, and
5 safety, for promotion of the general welfare, and as a contribution to
6 the national defense.

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

9 39-1302 For purposes of sections 39-1301 to 39-1392 and section 5 of
10 this act, unless the context otherwise requires:

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

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

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

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

29 (5) Beltway shall mean the roads and streets not designated as a
30 part of the state highway system and that are under the primary authority
31 of a county or municipality, if the location of the beltway has been

1 approved by (a) record of decision or finding of no significant impact by
2 the federal highway administration and (b) the applicable local planning
3 authority as a part of the comprehensive plan;

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

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

9 (8) Commercial activity shall mean those activities generally
10 recognized as commercial by zoning authorities in this state, and
11 industrial activity shall mean those activities generally recognized as
12 industrial by zoning authorities in this state, except that none of the
13 following shall be considered commercial or industrial:

14 (a) Outdoor advertising structures;

15 (b) General agricultural, forestry, ranching, grazing, farming, and
16 related activities, including wayside fresh produce stands;

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

19 (d) Activities conducted in a building principally used as a
20 residence;

21 (e) Railroad tracks and minor sidings; and

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

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

27 (10) Controlled-access facility shall mean a highway or street
28 especially designed for through traffic and over, from, or to which
29 owners or occupants of abutting land or other persons have no right or
30 easement or only a controlled right or easement of access, light, air, or
31 view by reason of the fact that their property abuts upon such

1 controlled-access facility or for any other reason. Such highways or
2 streets may be freeways, or they may be parkways;

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

4 (12) Displaced person shall mean any individual, family, business,
5 or farm operation which moves from real property acquired for state
6 highway purposes or for a federal-aid highway;

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

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

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

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

20 (17) Federal-aid primary roads shall mean roads, streets, and
21 highways, whether a part of the state highway system, county road
22 systems, or city streets, which have been designated as federal-aid
23 primary roads by the department and approved by the United States
24 Secretary of Transportation and shown on the maps provided for in section
25 39-1311;

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

27 (19) Frontage road shall mean a local street or road auxiliary to an
28 arterial highway for service to abutting property and adjacent areas and
29 for control of access;

30 (20) Full control of access shall mean that the right of owners or
31 occupants of abutting land or other persons to access or view is fully

1 controlled by public authority having jurisdiction and that such control
2 is exercised to give preference to through traffic by providing access
3 connections with selected public roads only and by prohibiting crossings
4 or intersections at grade or direct private driveway connections;

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

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

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

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

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

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

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

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

25 (29) Relinquish shall mean to surrender all or part of the rights
26 and responsibilities relating to all or part of a fragment, section, or
27 route on the state highway system to a political or governmental
28 subdivision or public corporation of Nebraska;

29 (30) Right of access shall mean the rights of ingress and egress to
30 or from a road, street, or highway and the rights of owners or occupants
31 of land abutting a road, street, or highway or other persons to a way or

1 means of approach, light, air, or view;

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

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

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

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

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

16 (36) State highway purposes shall have the meaning set forth in
17 subsection (2) of section 39-1320;

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

25 (38) Street shall mean a public way for the purposes of vehicular
26 travel in a city or village and shall include the entire area within the
27 right-of-way;

28 (39) Structure shall mean anything constructed or erected, the use
29 of which requires permanent location on the ground or attachment to
30 something having a permanent location;

31 (40) Title shall mean the evidence of a person's right to property

1 or the right itself;

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

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

22 (43) Visible, for purposes of section 39-1320, in reference to
23 advertising signs, displays, or devices, shall mean the message or
24 advertising content of such sign, display, or device is capable of being
25 seen without visual aid by a person of normal visual acuity. A sign shall
26 be considered visible even though the message or advertising content may
27 be seen but not read;

28 (44) Written instrument shall mean a deed or any other document that
29 states a contract, agreement, gift, or transfer of property; and

30 (45) Zoned commercial or industrial areas shall mean those areas
31 within six hundred sixty feet of the nearest edge of the right-of-way of

1 the Highway Beautification Control System defined in section 39-201.01,
2 zoned by state or local zoning authorities for industrial or commercial
3 activities.

4 Sec. 10. Section 39-1309, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 39-1309 (1) The map prepared by the State Highway Commission showing
7 a proposed state highway system in Nebraska, filed with the Clerk of the
8 Legislature and referred to in the resolution filed with the Legislature
9 on February 3, 1955, is hereby adopted by the Legislature as the state
10 highway system on September 18, 1955, except that a highway from
11 Rushville in Sheridan County going south on the most feasible and direct
12 route to the Smith Lake State Recreation Grounds shall be known as state
13 highway 250 and shall be a part of the state highway system.

14 (2) The state highway system may be redesignated, relocated,
15 redetermined, or recreated by the department with the written advice of
16 the State Highway Commission and the consent of the Governor. In
17 redesignating, relocating, redetermining, or recreating the several
18 routes of the state highway system, the following factors, except as
19 provided in section 39-1309.01, shall be considered: (a) The actual or
20 potential traffic volumes and other traffic survey data, (b) the relevant
21 factors of construction, maintenance, right-of-way, and the costs
22 thereof, (c) the safety and convenience of highway users, (d) the
23 relative importance of each highway to existing business, industry,
24 agriculture, enterprise, and recreation and to the development of natural
25 resources, business, industry, agriculture, enterprise, and recreation,
26 (e) the desirability of providing an integrated system to serve
27 interstate travel, principal market centers, principal municipalities,
28 county seat municipalities, and travel to places of statewide interest,
29 (f) the desirability of connecting the state highway system with any
30 state park, any state forest reserve, any state game reserve, the grounds
31 of any state institution, or any recreational, scenic, or historic place

1 owned or operated by the state or federal government, (g) the national
2 defense, and (h) the general welfare of the people of the state.

3 (3) Any highways not designated as a part of the state highway
4 system as provided by sections 39-1301 to 39-1362 and section 5 of this
5 act shall be a part of the county road system, and the title to the
6 right-of-way of such roads shall vest in the counties in which the roads
7 are located.

8 Sec. 11. Section 39-1320, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 39-1320 (1) The Department of Roads is hereby authorized to acquire,
11 either temporarily or permanently, lands, real or personal property or
12 any interests therein, or any easements deemed to be necessary or
13 desirable for present or future state highway purposes by gift,
14 agreement, purchase, exchange, condemnation, or otherwise. Such lands or
15 real property may be acquired in fee simple or in any lesser estate. It
16 is the intention of the Legislature that all property leased or purchased
17 from the owner shall receive a fair price.

18 (2) State highway purposes, as referred to in subsection (1) of this
19 section or otherwise in sections 39-1301 to 39-1362 and section 5 of this
20 act, shall include provision for, but shall not be limited to, the
21 following:

22 (a) The construction, reconstruction, relocation, improvement, and
23 maintenance of the state highway system. The right-of-way for such
24 highways shall be of such width as is deemed necessary by the department;

25 (b) Adequate drainage in connection with any highway, cuts, fills,
26 or channel changes and the maintenance thereof;

27 (c) Controlled-access facilities, including air, light, view, and
28 frontage and service roads to highways;

29 (d) Weighing stations, shops, storage buildings and yards, and road
30 maintenance or construction sites;

31 (e) Road material sites, sites for the manufacture of road

1 materials, and access roads to such sites;

2 (f) The preservation of objects of attraction or scenic value
3 adjacent to, along, or in close proximity to highways and the culture of
4 trees and flora which may increase the scenic beauty of such highways;

5 (g) Roadside areas or parks adjacent to or near any highway;

6 (h) The exchange of property for other property to be used for
7 rights-of-way or other purposes set forth in subsection (1) or (2) of
8 this section if the interests of the state will be served and acquisition
9 costs thereby reduced;

10 (i) The maintenance of an unobstructed view of any portion of a
11 highway so as to promote the safety of the traveling public;

12 (j) The construction and maintenance of stock trails and cattle
13 passes;

14 (k) The erection and maintenance of marking and warning signs and
15 traffic signals;

16 (l) The construction and maintenance of sidewalks and highway
17 illumination;

18 (m) The control of outdoor advertising which is visible from the
19 nearest edge of the right-of-way of the Highway Beautification Control
20 System as defined in section 39-201.01 to comply with the provisions of
21 23 U.S.C. 131, as amended;

22 (n) The relocation of or giving assistance in the relocation of
23 individuals, families, businesses, or farm operations occupying premises
24 acquired for state highway or federal-aid road purposes; and

25 (o) The establishment and maintenance of wetlands to replace or to
26 mitigate damage to wetlands affected by highway construction,
27 reconstruction, or maintenance. The replacement lands shall be capable of
28 being used to create wetlands comparable to the wetlands area affected.
29 The area of the replacement lands may exceed the wetlands area affected.
30 Lands may be acquired to establish a large or composite wetlands area,
31 sometimes called a wetlands bank, not larger than an area which is one

1 hundred fifty percent of the lands reasonably expected to be necessary
2 for the mitigation of future impact on wetlands brought about by highway
3 construction, reconstruction, or maintenance during the six-year plan as
4 required by sections 39-2115 to 39-2117, an annual plan under section
5 39-2119, or an annual metropolitan transportation improvement program
6 under section 39-2119.01 in effect upon acquisition of the lands. For
7 purposes of this section, wetlands shall have the definition found in 33
8 C.F.R. 328.3(b).

9 (3) The procedure to condemn property authorized by subsection (1)
10 of this section or elsewhere in sections 39-1301 to 39-1362 and section 5
11 of this act shall be exercised in the manner set forth in sections 76-704
12 to 76-724 or as provided by section 39-1323, as the case may be.

13 Sec. 15. The Revisor of Statutes shall assign section 5 of this act
14 within sections 39-1359 to 39-1360.

15 2. Renumber the remaining sections and correct the repealer
16 accordingly.