

E AND R AMENDMENTS TO LB 1038

Introduced by Hansen, 26, Chairman Enrollment and Review

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

3 Section 1. Section 2-945.01, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 2-945.01 Sections 2-945.01 to 2-966 and sections 3 and 4 of this act
6 ~~2-968~~ shall be known and may be cited as the Noxious Weed Control Act.

7 Sec. 2. Section 2-958.02, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 2-958.02 (1) From funds available in the Noxious Weed and Invasive
10 Plant Species Assistance Fund, the director may administer a grant
11 program to assist local control authorities and other weed management
12 entities in the cost of implementing and maintaining noxious weed control
13 programs and in addressing special weed control problems as provided in
14 this section.

15 (2) The director shall receive applications by local control
16 authorities and weed management entities for assistance under this
17 subsection and, in consultation with the advisory committee created under
18 section 2-965.01, award grants for any of the following eligible
19 purposes:

20 (a) To conduct applied research to solve locally significant weed
21 management problems;

22 (b) To demonstrate innovative control methods or land management
23 practices which have the potential to reduce landowner costs to control
24 noxious weeds or improve the effectiveness of noxious weed control;

25 (c) To encourage the formation of weed management entities;

26 (d) To respond to introductions or infestations of invasive plants
27 that threaten or potentially threaten the productivity of cropland and

1 rangeland over a wide area;

2 (e) To respond to introductions and infestations of invasive plant
3 species that threaten or potentially threaten the productivity and
4 biodiversity of wildlife and fishery habitats on public and private
5 lands;

6 (f) To respond to special weed control problems involving weeds not
7 included in the list of noxious weeds promulgated by rule and regulation
8 of the director if the director has approved a petition to bring such
9 weeds under the county control program;

10 (g) To conduct monitoring or surveillance activities to detect, map,
11 or determine the distribution of invasive plant species and to determine
12 susceptible locations for the introduction or spread of invasive plant
13 species; and

14 (h) To conduct educational activities.

15 (3) The director shall select and prioritize applications for
16 assistance under subsection (2) of this section based on the following
17 considerations:

18 (a) The seriousness of the noxious weed or invasive plant problem or
19 potential problem addressed by the project;

20 (b) The ability of the project to provide timely intervention to
21 save current and future costs of control and eradication;

22 (c) The likelihood that the project will prevent or resolve the
23 problem or increase knowledge about resolving similar problems in the
24 future;

25 (d) The extent to which the project will leverage federal funds and
26 other nonstate funds;

27 (e) The extent to which the applicant has made progress in
28 addressing noxious weed or invasive plant problems;

29 (f) The extent to which the project will provide a comprehensive
30 approach to the control or eradication of noxious weeds or invasive plant
31 species as identified and listed by the Nebraska Invasive Species

1 Council;

2 (g) The extent to which the project will reduce the total population
3 or area of infestation of a noxious weed or invasive plant species as
4 identified and listed by the Nebraska Invasive Species Council;

5 (h) The extent to which the project uses the principles of
6 integrated vegetation management and sound science; and

7 (i) Such other factors that the director determines to be relevant.

8 (4) The director shall receive applications for grants under this
9 subsection and shall award grants to recipients and programs eligible
10 under this subsection. Priority shall be given to grant applicants whose
11 proposed programs are consistent with vegetation management goals and
12 priorities and plans and policies of the Riparian Vegetation Management
13 Task Force established under ~~created pursuant to~~ section 4 of this act
14 ~~2-968~~. Beginning in fiscal year 2016-17 ~~2009-10~~, it is the intent of the
15 Legislature to appropriate one ~~two~~ million dollars annually for the
16 management of vegetation within the banks of a natural stream or within
17 one hundred feet of the banks of a channel of any natural stream. Such
18 funds shall only be used to pay for activities and equipment as part of
19 vegetation management programs that have as their primary objective
20 improving conveyance of streamflow in natural streams. Grants from funds
21 appropriated as provided in this subsection shall be disbursed only to
22 weed management entities, local weed control authorities, and natural
23 resources districts, ~~whose territory includes one or more fully~~
24 ~~appropriated or overappropriated river basins,~~ as designated by the
25 ~~Department of Natural Resources~~ with priority given to ~~fully appropriated~~
26 river basins that are the subject of an interstate compact or decree. The
27 Game and Parks Commission shall assist grant recipients in implementing
28 grant projects under this subsection, and interlocal agreements under the
29 Interlocal Cooperation Act or the Joint Public Agency Act shall be
30 utilized whenever possible in carrying out the grant projects.—~~This~~
31 ~~subsection terminates on June 30, 2013.~~

1 (5) Nothing in this section shall be construed to relieve control
2 authorities of their duties and responsibilities under the Noxious Weed
3 Control Act or the duty of a person to control the spread of noxious
4 weeds on lands owned and controlled by him or her.

5 (6) The Department of Agriculture may adopt and promulgate necessary
6 rules and regulations to carry out this section.

7 ~~(7)(a) The director shall apply for a grant from the Nebraska~~
8 ~~Environmental Trust Fund prior to the application deadline in September~~
9 ~~of 2009 for grants to be awarded and funded in April of 2010.~~

10 ~~(7 b) The director may annually shall apply for conservation funding~~
11 ~~a grant from the Natural Resources Conservation Service of the United~~
12 ~~States Department of Agriculture prior to July 31, 2009.~~

13 Sec. 3. The Riparian Vegetation Management Task Force is created.
14 The Governor shall appoint the members of the task force. The members
15 shall include one surface water project representative from each river
16 basin that has ever been determined to be fully appropriated pursuant to
17 section 46-714 or 46-720 or is designated as overappropriated pursuant to
18 section 46-713 by the Department of Natural Resources; one surface water
19 project representative from a river basin that has not been determined to
20 be fully appropriated pursuant to section 46-714 or 46-720 or is not
21 designated as overappropriated pursuant to section 46-713 by the
22 Department of Natural Resources; one representative from the Department
23 of Agriculture, the Department of Environmental Quality, the Department
24 of Natural Resources, the office of the Governor, the office of the State
25 Forester, the Game and Parks Commission, and the University of Nebraska;
26 three representatives nominated by the Nebraska Association of Resources
27 Districts; two representatives nominated by the Nebraska Weed Control
28 Association; one riparian landowner from each of the state's
29 congressional districts; and one representative from the Nebraska
30 Environmental Trust. In addition to such members, any member of the
31 Legislature may serve as a nonvoting, ex officio member of the task force

1 at his or her option. For administrative and budgetary purposes only, the
2 task force shall be housed within the Department of Agriculture.

3 Sec. 4. The Riparian Vegetation Management Task Force, in
4 consultation with appropriate federal agencies, shall develop and
5 prioritize vegetation management goals and objectives, analyze the cost-
6 effectiveness of available vegetation treatment, and develop plans and
7 policies to achieve such goals and objectives. Any plan shall utilize the
8 principles of integrated vegetation management and sound science. The
9 task force shall convene within thirty days after the appointment of the
10 members is complete to elect a chairperson and conduct such other
11 business as deemed necessary. An annual report shall be submitted to the
12 Governor and the Legislature by June 30 each year with the first report
13 due on June 30, 2017. The report submitted to the Legislature shall be
14 submitted electronically. It is the intent of the Legislature that
15 expenses of the task force not exceed twenty-five thousand dollars of the
16 total appropriation to the program per fiscal year.

17 Sec. 5. Section 39-891, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 39-891 Recognizing that obstructions on or near the boundary of the
20 State of Nebraska impede commerce and travel between the State of
21 Nebraska and adjoining states, the Legislature hereby declares that
22 bridges over these obstructions are essential to the general welfare of
23 the State of Nebraska.

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

27 Such bridges, properly planned, designated, and managed, provide a
28 safe passage for highway traffic to and from the state highway system and
29 encourage commerce and travel between the State of Nebraska and adjoining
30 states which increase the social and economic progress and general
31 welfare of the state.

1 It is recognized that bridges between the State of Nebraska and
2 adjoining states are not and cannot be the sole concern of the State of
3 Nebraska. The nature of such bridges requires that a high degree of
4 cooperation be exercised between the State of Nebraska and adjoining
5 states in all phases of planning, construction, maintenance, and
6 operation if proper benefits are to be realized.

7 It is also recognized that parties other than the State of Nebraska
8 may wish to erect and control bridges between the State of Nebraska and
9 adjoining states and that the construction, operation, and financing of
10 such bridges have previously been authorized by the Legislature. Such
11 bridges also benefit the State of Nebraska, and it is not the intent of
12 the Legislature to abolish such power previously granted.

13 To this end, it is the intention of the Legislature to supplement
14 sections 39-1301 to 39-1362 and section 11 of this act, relating to state
15 highways, in order that the powers and authority of the department
16 relating to the planning, construction, maintenance, acquisition, and
17 operation of interstate bridges upon the state highway system may be
18 clarified within a single act.

19 Acting under the direction of the Director-State Engineer, the
20 department, with the advice of the State Highway Commission and the
21 consent of the Governor, is given the power to enter into agreements with
22 the United States and adjoining states, subject to the limitations
23 imposed by the Constitution and the provisions of the Interstate Bridge
24 Act of 1959.

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

30 In order that the persons concerned may understand the limitations
31 and responsibilities for planning, constructing, acquiring, operating,

1 and maintaining interstate bridges upon the state highway system, it is
2 necessary that the responsibilities for such work shall be fixed, but it
3 is intended that the department, acting under the Director-State
4 Engineer, shall have sufficient freedom to enter into agreements with
5 adjoining states regarding any phase of planning, constructing,
6 acquiring, maintaining, and operating interstate bridges upon the state
7 highway system in order that the best interests of the State of Nebraska
8 may always be served. The authority of the department to enter into
9 agreements with adjoining states, as granted in the act, is therefor
10 essential.

11 The Legislature hereby determines and declares that the provisions
12 of the act are necessary for the preservation of the public peace,
13 health, and safety, for the promotion of the general welfare, and as a
14 contribution to the national defense.

15 Sec. 6. Section 39-893, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 39-893 The provisions of the Interstate Bridge Act of 1959 are
18 intended to be cumulative to, and not amendatory of, sections 39-1301 to
19 39-1362 and section 11 of this act.

20 Sec. 7. Section 39-1301, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 39-1301 Recognizing that safe and efficient highway transportation
23 is a matter of important interest to all of the people in the state, the
24 Legislature hereby determines and declares that an integrated system of
25 highways is essential to the general welfare of the State of Nebraska.

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

29 Adequate highways provide for the free flow of traffic, result in
30 low cost of motor vehicle operation, protect the health and safety of the
31 citizens of the state, increase property values, and generally promote

1 economic and social progress of the state.

2 It is the intent of the Legislature to consider of paramount
3 importance the convenience and safety of the traveling public in the
4 location, relocation, or abandonment of highways.

5 In designating the highway system of this state, as provided by
6 sections 39-1301 to 39-1362 and section 11 of this act, the Legislature
7 places a high degree of trust in the hands of those officials whose duty
8 it shall be, within the limits of available funds, to plan, develop,
9 construct, operate, maintain, and protect the highway facilities of this
10 state, for present as well as for future uses.

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

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

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

1 While it is necessary to fix responsibilities for the construction,
2 maintenance, and operation of the several systems of highways, it is
3 intended that the State of Nebraska shall have an integrated system of
4 all roads and streets to provide safe and efficient highway
5 transportation throughout the state. The authority granted in such
6 sections 39-1301 to 39-1362 and section 11 of this act to the Director-
7 State Engineer and to the political or governmental subdivisions or
8 public corporations of this state to assist and cooperate with each other
9 is therefor essential.

10 The Legislature hereby determines and declares that such sections
11 are necessary for the preservation of the public peace, health, and
12 safety, for promotion of the general welfare, and as a contribution to
13 the national defense.

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

16 39-1302 For purposes of sections 39-1301 to 39-1392 and section 11
17 of this act, unless the context otherwise requires:

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

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

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

1 any highway not a part of a highway from which the exit road provides
2 egress;

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

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

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

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

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

21 (a) Outdoor advertising structures;

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

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

26 (d) Activities conducted in a building principally used as a
27 residence;

28 (e) Railroad tracks and minor sidings; and

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

31 (9) Connecting link shall mean the roads, streets, and highways

1 designated as part of the state highway system and which are within the
2 corporate limits of any city or village in this state;

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

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

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

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

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

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

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

27 (17) Federal-aid primary roads shall mean roads, streets, and
28 highways, whether a part of the state highway system, county road
29 systems, or city streets, which have been designated as federal-aid
30 primary roads by the department and approved by the United States
31 Secretary of Transportation and shown on the maps provided for in section

1 39-1311;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (40) Title shall mean the evidence of a person's right to property
8 or the right itself;

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

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

29 (43) Visible, for purposes of section 39-1320, in reference to
30 advertising signs, displays, or devices, shall mean the message or
31 advertising content of such sign, display, or device is capable of being

1 seen without visual aid by a person of normal visual acuity. A sign shall
2 be considered visible even though the message or advertising content may
3 be seen but not read;

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

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

11 Sec. 9. Section 39-1309, Reissue Revised Statutes of Nebraska, is
12 amended to read:

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

21 (2) The state highway system may be redesignated, relocated,
22 redetermined, or recreated by the department with the written advice of
23 the State Highway Commission and the consent of the Governor. In
24 redesignating, relocating, redetermining, or recreating the several
25 routes of the state highway system, the following factors, except as
26 provided in section 39-1309.01, shall be considered: (a) The actual or
27 potential traffic volumes and other traffic survey data, (b) the relevant
28 factors of construction, maintenance, right-of-way, and the costs
29 thereof, (c) the safety and convenience of highway users, (d) the
30 relative importance of each highway to existing business, industry,
31 agriculture, enterprise, and recreation and to the development of natural

1 resources, business, industry, agriculture, enterprise, and recreation,
2 (e) the desirability of providing an integrated system to serve
3 interstate travel, principal market centers, principal municipalities,
4 county seat municipalities, and travel to places of statewide interest,
5 (f) the desirability of connecting the state highway system with any
6 state park, any state forest reserve, any state game reserve, the grounds
7 of any state institution, or any recreational, scenic, or historic place
8 owned or operated by the state or federal government, (g) the national
9 defense, and (h) the general welfare of the people of the state.

10 (3) Any highways not designated as a part of the state highway
11 system as provided by sections 39-1301 to 39-1362 and section 11 of this
12 act shall be a part of the county road system, and the title to the
13 right-of-way of such roads shall vest in the counties in which the roads
14 are located.

15 Sec. 10. Section 39-1320, Reissue Revised Statutes of Nebraska, is
16 amended to read:

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

25 (2) State highway purposes, as referred to in subsection (1) of this
26 section or otherwise in sections 39-1301 to 39-1362 and section 11 of
27 this act, shall include provision for, but shall not be limited to, the
28 following:

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

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

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

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

7 (e) Road material sites, sites for the manufacture of road
8 materials, and access roads to such sites;

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

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

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

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

19 (j) The construction and maintenance of stock trails and cattle
20 passes;

21 (k) The erection and maintenance of marking and warning signs and
22 traffic signals;

23 (l) The construction and maintenance of sidewalks and highway
24 illumination;

25 (m) The control of outdoor advertising which is visible from the
26 nearest edge of the right-of-way of the Highway Beautification Control
27 System as defined in section 39-201.01 to comply with the provisions of
28 23 U.S.C. 131, as amended;

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

1 (o) The establishment and maintenance of wetlands to replace or to
2 mitigate damage to wetlands affected by highway construction,
3 reconstruction, or maintenance. The replacement lands shall be capable of
4 being used to create wetlands comparable to the wetlands area affected.
5 The area of the replacement lands may exceed the wetlands area affected.
6 Lands may be acquired to establish a large or composite wetlands area,
7 sometimes called a wetlands bank, not larger than an area which is one
8 hundred fifty percent of the lands reasonably expected to be necessary
9 for the mitigation of future impact on wetlands brought about by highway
10 construction, reconstruction, or maintenance during the six-year plan as
11 required by sections 39-2115 to 39-2117, an annual plan under section
12 39-2119, or an annual metropolitan transportation improvement program
13 under section 39-2119.01 in effect upon acquisition of the lands. For
14 purposes of this section, wetlands shall have the definition found in 33
15 C.F.R. 328.3(b).

16 (3) The procedure to condemn property authorized by subsection (1)
17 of this section or elsewhere in sections 39-1301 to 39-1362 and section
18 11 of this act shall be exercised in the manner set forth in sections
19 76-704 to 76-724 or as provided by section 39-1323, as the case may be.

20 Sec. 11. (1) The department shall establish and administer a
21 vegetation control program which may allow permits for the cutting or
22 trimming of vegetation in the vicinity of advertising signs, displays, or
23 devices placed pursuant to section 39-220. A permit issued under this
24 section shall allow the cutting or trimming of vegetation under
25 controlled conditions when such vegetation obstructs or obscures a
26 lawfully placed advertising sign, display, or device. The department may
27 establish criteria for what vegetation may be cut or trimmed. Each permit
28 shall be valid for no more than thirty days and shall only be applicable
29 for one sign, display, or device location.

30 (2) The department may charge a fee in an amount reasonably
31 calculated to defray the cost of administering the vegetation control

1 program and may adjust the fee periodically to ensure continued recovery
2 of administrative costs, except that such fee shall not exceed fifty
3 dollars. The applicant to whom the permit is issued shall furnish the
4 department with a cash deposit or certified check upon a solvent bank or
5 a surety bond in a guaranty company qualified to do business in Nebraska.
6 The deposit, check, or bond shall be in an amount required by the
7 department and shall be furnished on the condition that the sum be
8 forfeited to the state in the event that the conditions of the permit or
9 rules and regulations adopted and promulgated by the department are
10 violated. The applicant for a permit shall sign a release acknowledging
11 that he or she will assume all risk and liability for any accidents and
12 damages that may occur as a result of the work done as the permitholder.
13 The applicant shall provide proof of liability insurance of at least one
14 million dollars. The permitholder shall be responsible for compensating
15 the state for loss or damage to state property, including, but not
16 limited to, intentional vegetation, and for restoring state property to
17 its preexisting condition as determined in the sole discretion of the
18 department. Permits are subject to all state and federal environmental
19 laws, rules, and regulations. Each approved permit shall grant written
20 consent to encroach onto the state's right-of-way pursuant to section
21 39-1359.

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

24 Sec. 12. Section 46-290, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-290 (1)(a) Except as provided in this section and sections
27 46-2,120 to 46-2,130, any person having a permit to appropriate water for
28 beneficial purposes issued pursuant to sections 46-233 to 46-235,
29 46-240.01, 46-241, 46-242, or 46-637 and who desires (i) to transfer the
30 use of such appropriation to a location other than the location specified
31 in the permit, (ii) to change that appropriation to a different type of

1 appropriation as provided in subsection (3) of this section, or (iii) to
2 change the purpose for which the water is to be used under a natural-
3 flow, storage, or storage-use appropriation to a purpose not at that time
4 permitted under the appropriation shall apply for approval of such
5 transfer or change to the Department of Natural Resources.

6 (b) The application for such approval shall contain (i) the number
7 assigned to such appropriation by the department, (ii) the name and
8 address of the present holder of the appropriation, (iii) if applicable,
9 the name and address of the person or entity to whom the appropriation
10 would be transferred or who will be the user of record after a change in
11 the location of use, type of appropriation, or purpose of use under the
12 appropriation, (iv) the legal description of the land to which the
13 appropriation is now appurtenant, (v) the name and address of each holder
14 of a mortgage, trust deed, or other equivalent consensual security
15 interest against the tract or tracts of land to which the appropriation
16 is now appurtenant, (vi) if applicable, the legal description of the land
17 to which the appropriation is proposed to be transferred, (vii) if a
18 transfer is proposed, whether other sources of water are available at the
19 original location of use and whether any provisions have been made to
20 prevent either use of a new source of water at the original location or
21 increased use of water from any existing source at that location, (viii)
22 if applicable, the legal descriptions of the beginning and end of the
23 stream reach to which the appropriation is proposed to be transferred for
24 the purpose of augmenting the flows in that stream reach, (ix) if a
25 proposed transfer is for the purpose of increasing the quantity of water
26 available for use pursuant to another appropriation, the number assigned
27 to such other appropriation by the department, (x) the purpose of the
28 current use, (xi) if a change in purpose of use is proposed, the proposed
29 purpose of use, (xii) if a change in the type of appropriation is
30 proposed, the type of appropriation to which a change is desired, (xiii)
31 if a proposed transfer or change is to be temporary in nature, the

1 duration of the proposed transfer or change, and (xiv) such other
2 information as the department by rule and regulation requires.

3 (2) If a proposed transfer or change is to be temporary in nature, a
4 copy of the proposed agreement between the current appropriator and the
5 person who is to be responsible for use of water under the appropriation
6 while the transfer or change is in effect shall be submitted at the same
7 time as the application.

8 (3) Regardless of whether a transfer or a change in the purpose of
9 use is involved, the following changes in type of appropriation, if found
10 by the Director of Natural Resources to be consistent with section
11 46-294, may be approved subject to the following:

12 (a) A natural-flow appropriation for direct out-of-stream use may be
13 changed to a natural-flow appropriation for aboveground reservoir storage
14 or for intentional underground water storage;

15 (b) A natural-flow appropriation for intentional underground water
16 storage may be changed to a natural-flow appropriation for direct out-of-
17 stream use or for aboveground reservoir storage;

18 (c) A natural-flow appropriation for direct out-of-stream use, for
19 aboveground reservoir storage, or for intentional underground water
20 storage may be changed to an instream appropriation subject to sections
21 46-2,107 to 46-2,119 if the director determines that the resulting
22 instream appropriation would be consistent with subdivisions (2), (3),
23 and (4) of section 46-2,115;

24 (d) A natural-flow appropriation for direct out-of-stream use, for
25 aboveground reservoir storage, or for intentional underground water
26 storage may be changed to an appropriation for induced ground water
27 recharge if the director determines that the resulting appropriation for
28 induced ground water recharge would be consistent with subdivisions (2)
29 (a)(i) and (ii) of section 46-235; ~~and~~

30 (e) An appropriation for the manufacturing of hydropower at a
31 facility located on a natural stream channel may be permanently changed

1 in full to an instream basin-management appropriation to be held jointly
2 by the Game and Parks Commission and any natural resources district or
3 combination of natural resources districts. The beneficial use of such
4 change is to maintain the streamflow for fish, wildlife, and recreation
5 that was available from the manufacturing of hydropower prior to the
6 change. Such changed appropriation may also be utilized by the owners of
7 the appropriation to assist in the implementation of an approved
8 integrated management plan or plans developed pursuant to sections 46-714
9 to 46-718 for each natural resources district within the river basin. Any
10 such change under this section shall be subject to review under sections
11 46-229 to 46-229.06 to ensure that the beneficial uses of the change of
12 use are still being achieved; and

13 (f e) The incidental underground water storage portion, whether or
14 not previously quantified, of a natural-flow or storage-use appropriation
15 may be separated from the direct-use portion of the appropriation and may
16 be changed to a natural-flow or storage-use appropriation for intentional
17 underground water storage at the same location if the historic
18 consumptive use of the direct-use portion of the appropriation is
19 transferred to another location or is terminated, but such a separation
20 and change may be approved only if, after the separation and change, (i)
21 the total permissible diversion under the appropriation will not
22 increase, (ii) the projected consequences of the separation and change
23 are consistent with the provisions of any integrated management plan
24 adopted in accordance with section 46-718 or 46-719 for the geographic
25 area involved, and (iii) if the location of the proposed intentional
26 underground water storage is in a river basin, subbasin, or reach
27 designated as overappropriated in accordance with section 46-713, the
28 integrated management plan for that river basin, subbasin, or reach has
29 gone into effect, and that plan requires that the amount of the
30 intentionally stored water that is consumed after the change will be no
31 greater than the amount of the incidentally stored water that was

1 consumed prior to the change. Approval of a separation and change
2 pursuant to this subdivision (f e) shall not exempt any consumptive use
3 associated with the incidental recharge right from any reduction in water
4 use required by an integrated management plan for a river basin,
5 subbasin, or reach designated as overappropriated in accordance with
6 section 46-713.

7 Whenever any change in type of appropriation is approved pursuant to
8 this subsection and as long as that change remains in effect, the
9 appropriation shall be subject to the statutes, rules, and regulations
10 that apply to the type of appropriation to which the change has been
11 made.

12 (4) The Legislature finds that induced ground water recharge
13 appropriations issued pursuant to sections 46-233 and 46-235 and instream
14 appropriations issued pursuant to section 46-2,115 are specific to the
15 location identified in the appropriation. Neither type of appropriation
16 shall be transferred to a different location, changed to a different type
17 of appropriation, or changed to permit a different purpose of use.

18 (5) In addition to any other purposes for which transfers and
19 changes may be approved, such transfers and changes may be approved if
20 the purpose is (a) to maintain or augment the flow in a specific stream
21 reach for any instream use that the department has determined, through
22 rules and regulations, to be a beneficial use or (b) to increase the
23 frequency that a diversion rate or rate of flow specified in another
24 valid appropriation is achieved.

25 For any transfer or change approved pursuant to subdivision (a) of
26 this subsection, the department shall be provided with a report at least
27 every five years while such transfer or change is in effect. The purpose
28 of such report shall be to indicate whether the beneficial instream use
29 for which the flow is maintained or augmented continues to exist. If the
30 report indicates that it does not or if no report is filed within sixty
31 days after the department's notice to the appropriator that the deadline

1 for filing the report has passed, the department may cancel its approval
2 of the transfer or change and such appropriation shall revert to the same
3 location of use, type of appropriation, and purpose of use as prior to
4 such approval.

5 (6) A quantified or unquantified appropriation for incidental
6 underground water storage may be transferred to a new location along with
7 the direct-use appropriation with which it is recognized if the director
8 finds such transfer to be consistent with section 46-294 and determines
9 that the geologic and other relevant conditions at the new location are
10 such that incidental underground water storage will occur at the new
11 location. The director may request such information from the applicant as
12 is needed to make such determination and may modify any such quantified
13 appropriation for incidental underground water storage, if necessary, to
14 reflect the geologic and other conditions at the new location.

15 (7) Unless an incidental underground water storage appropriation is
16 changed as authorized by subdivision (3)(f e) of this section or is
17 transferred as authorized by subsection (6) of this section or subsection
18 (1) of section 46-291, such appropriation shall be canceled or modified,
19 as appropriate, by the director to reflect any reduction in water that
20 will be stored underground as the result of a transfer or change of the
21 direct-use appropriation with which the incidental underground water
22 storage was recognized prior to the transfer or change.

23 (8) Any appropriation for manufacturing of hydropower changed under
24 subdivision (3)(e) of this section shall maintain the priority date and
25 preference category of the original manufacturing appropriation and shall
26 be subject to condemnation and subordination pursuant to sections 70-668
27 and 70-669. Any person holding a subordination agreement that was
28 established prior to such change of appropriation shall be entitled to
29 enter into a new subordination agreement for terms consistent with the
30 original subordination agreement at no additional cost. Any person having
31 obtained a condemnation award that was established prior to such change

1 of appropriation shall be entitled to the same benefits created by such
2 award, and any obligations created by such award shall become the
3 obligations of the new owner of the appropriation changed under this
4 section.

5 Sec. 13. Section 70-668, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 70-668 In applying the provisions of law relating to the
8 appropriation of water, priority of appropriation shall give the better
9 right as between those using the water for the same purpose, but when the
10 waters of any natural stream are not sufficient for the use of all those
11 desiring to use the same, those using the water for domestic purposes
12 shall have preference over those claiming it for any other purpose. Those
13 using the water for agricultural purposes shall have the preference over
14 those using the same for manufacturing purposes, and those using the
15 water for agricultural purposes shall have the preference over those
16 using the same for power purposes, where turbine or impulse water wheels
17 are installed, or for instream-basin-management purposes.

18 Sec. 14. Section 70-669, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 70-669 No inferior right to the use of the waters of this state
21 shall be acquired by a superior right without just compensation therefor
22 to the inferior user. The just compensation paid to those using water for
23 power purposes shall not be greater than the cost of replacing the power
24 which would be generated in the plant or plants of the power user by the
25 water so acquired. The just compensation to be paid to a holder of an
26 instream-basin-management appropriation that has been changed from a
27 manufacturing of hydropower appropriation pursuant to section 46-290
28 shall be the cost per acre-foot of water subordinated for the hydropower
29 appropriation at the time of approval of the change. The amount of
30 compensation may be adjusted annually, except that any increase shall not
31 exceed the annual change in the Consumer Price Index from the time of

1 approval of the change. If publication of such index is discontinued, a
2 comparable index selected by the Director of Natural Resources shall be
3 used.

4 Sec. 15. Section 72-2007, Revised Statutes Supplement, 2015, is
5 amended to read:

6 72-2007 (1) The Niobrara Council is created. The council membership
7 shall include:

8 (a) A commissioner from each of the county boards of Brown, Cherry,
9 Keya Paha, and Rock counties chosen by the county board of the respective
10 county;

11 (b) A representative of the Middle Niobrara Natural Resources
12 District and the Lower Niobrara Natural Resources District chosen by the
13 board of the respective district;

14 (c) The secretary of the Game and Parks Commission or his or her
15 designee;

16 (d) The regional director for the National Park Service or his or
17 her designee and the regional director for the United States Fish and
18 Wildlife Service or his or designee. The members under this subdivision
19 shall be nonvoting members unless and until the agencies represented by
20 these members formally authorize such members to vote on all matters
21 before the council by notifying the council and the Governor in writing;

22 (e) An individual from each of Brown, Cherry, Keya Paha, and Rock
23 counties who resides in the Niobrara River drainage area and owns land in
24 the Niobrara scenic river corridor chosen by the Governor from a list of
25 at least three individuals, or fewer if there are not at least three
26 qualified individuals, from each county submitted by the county board
27 members on the council;

28 (f) A representative from a recreational business operating within
29 the Niobrara scenic river corridor chosen by the Governor from a list of
30 at least three individuals, or fewer if there are not at least three
31 qualified individuals, submitted by the county board members on the

1 council;

2 (g) A timber industry representative operating within the Niobrara
3 scenic river corridor chosen by the Governor from a list of at least
4 three individuals, or fewer if there are not at least three qualified
5 individuals, submitted by the county board members on the council; and

6 (h) A representative of a recognized, nonprofit environmental,
7 conservation, or wildlife organization chosen by the Governor from a list
8 of at least three individuals, or fewer if there are not at least three
9 qualified individuals, submitted by the county board members on the
10 council.

11 The appointments made pursuant to subdivisions (1)(e) through (h) of
12 this section shall be subject to confirmation by the Legislature. The

13 council members shall hold office for three-year terms and until a
14 successor is appointed and qualified. The council members shall serve at
15 the pleasure of the appointing board or the Governor.

16 (2) The council shall elect a chairperson, a vice-chairperson, a
17 secretary, and a treasurer who shall jointly serve as the executive
18 committee for the council. The council shall meet on a regular basis with
19 a minimum of six meetings per year. Special meetings may be called by any
20 member of the executive committee or at the request of a simple majority
21 of the members of the council.

22 (3) A quorum shall be present at a meeting before any action may be
23 taken by the council. A quorum shall be a majority of the members who are
24 selected and serving and who vote on issues before the council. All
25 actions of the council require a majority vote of the quorum present at
26 any meeting, except that any vote to reject or adopt any zoning
27 regulation or variance under section 72-2010 requires a vote of two-
28 thirds of all the council members who are selected and serving and who
29 vote on issues before the council.

30 (4) Members shall be reimbursed for actual and necessary expenses
31 incurred in carrying out their duties on the council as provided in

1 sections 81-1174 to 81-1177.

2 Sec. 16. Section 72-2008, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 72-2008 The mission of the Niobrara Council is to assist in all
5 aspects of the management of the Niobrara scenic river corridor since
6 portions of the Niobrara River have been designated as a national scenic
7 river under 16 U.S.C. 1274(a)(117), as such section existed on May 24,
8 1991, giving consideration and respect to local and governmental input
9 and private landowner rights, and to maintain and protect the integrity
10 of the resources associated with the Niobrara scenic river corridor. The
11 council shall perform management functions related to the Niobrara scenic
12 river corridor, including, but not limited to, those authorized and
13 delegated to it by the National Park Service. The council may promulgate
14 its own rules and internal policies to carry out the purposes of the
15 Niobrara Scenic River Act. The Game and Parks Commission may provide
16 administrative, budgetary, operational, and programmatic support when
17 requested by the council to carry out its duties. ~~This support shall not~~
18 ~~exceed fifty thousand dollars in any calendar year.~~ In the Niobrara
19 scenic river corridor, the council may hold title to real estate in the
20 name of the council. The council may purchase, accept gifts of, or trade
21 real estate and may obtain conservation easements as provided in the
22 Conservation and Preservation Easements Act. Acquisition of conservation
23 easements outside the boundaries of the Niobrara scenic river corridor
24 shall require the approval of the appropriate governing body as provided
25 in section 76-2,112. On December 1, 2016, and on each December 1
26 thereafter, the council shall electronically submit an annual report to
27 the Clerk of the Legislature and the chairperson of the Natural Resources
28 Committee of the Legislature describing expenditures made pursuant to the
29 Niobrara Scenic River Act.

30 Sec. 17. The Revisor of Statutes shall assign section 11 of this act
31 within sections 39-1359 to 39-1360.

1 Sec. 18. Original sections 2-945.01, 2-958.02, 39-891, 39-893,
2 39-1301, 39-1302, 39-1309, 39-1320, 46-290, 70-668, 70-669, and 72-2008,
3 Reissue Revised Statutes of Nebraska, and section 72-2007, Revised
4 Statutes Supplement, 2015, are repealed.

5 Sec. 19. The following sections are outright repealed: Sections
6 2-967 and 2-968, Revised Statutes Cumulative Supplement, 2014.

7 2. On page 1, strike beginning with "water" in line 1 through line 3
8 and insert "natural resources; to amend sections 2-945.01, 2-958.02,
9 39-891, 39-893, 39-1301, 39-1302, 39-1309, 39-1320, 46-290, 70-668,
10 70-669, and 72-2008, Reissue Revised Statutes of Nebraska, and section
11 72-2007, Revised Statutes Supplement, 2015; to change provisions relating
12 to grants for certain vegetation management programs; to create the
13 Riparian Vegetation Management Task Force; to provide powers and duties;
14 to require an annual report; to provide for the issuance of permits to
15 control vegetation obscuring advertising signage along highways as
16 prescribed; to provide duties for the Department of Roads; to change
17 provisions relating to water appropriations; to require legislative
18 confirmation of certain appointments to the Niobrara Council; to change
19 provisions relating to support by the Game and Parks Commission under the
20 Niobrara Scenic River Act; to eliminate obsolete provisions; to harmonize
21 provisions; to repeal the original sections; and to outright repeal
22 sections 2-967 and 2-968, Revised Statutes Cumulative Supplement, 2014."