

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1068

FINAL READING

Introduced by Louden, 49; Erdman, 47.

Read first time January 22, 2008

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to transportation; to amend sections 39-1817,
2 39-1818, 39-2103, 39-2105, 39-2109, 39-2110, 39-2112,
3 and 39-2113, Reissue Revised Statutes of Nebraska,
4 and section 13-1210, Revised Statutes Cumulative
5 Supplement, 2006; to require reports regarding the
6 public transportation assistance program; to create
7 the classification of remote residential road; to
8 change and eliminate provisions relating to functional
9 classification of roads; to harmonize provisions; and to
10 repeal the original sections.

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

1 Section 1. Section 13-1210, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 13-1210 (1) The Department of Roads shall annually
4 certify the amount of operating costs eligible for funding under
5 the public transportation assistance program established under
6 section 13-1209.

7 (2) The department shall submit an annual report to the
8 chairperson of the Appropriations Committee of the Legislature
9 on or before December 1 of each year regarding funds requested
10 by each applicant for eligible operating costs in the current
11 fiscal year pursuant to subsection (2) of section 13-1209 and
12 the total amount of state grants projected to be awarded in
13 the current fiscal year pursuant to the public transportation
14 assistance program. The report shall separate into two categories
15 the requests and grants awarded for handicapped vans, otherwise
16 known as paratransit vehicles, and requests and grants awarded for
17 handicapped-accessible fixed-route bus systems.

18 Sec. 2. Section 39-1817, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 39-1817 The county board of any county may, in accordance
21 with sections 39-1817 to 39-1820, enter into an agreement with
22 any agency or political subdivision of the state approving
23 the construction of a water impoundment structure which, when
24 completed, may result in the occasional and temporary storage
25 or flowage of floodwaters upon, across, or adjacent to any road

1 classified as a local road or remote residential road. ~~by the Board~~
2 ~~of Public Roads Classifications and Standards.~~ Any such agreement
3 may include such terms regarding the maintenance of such road
4 or other matters incident to the construction and operation of
5 such water impoundment structure as the parties to the agreement
6 determine to be mutually acceptable. Conformance with sections
7 39-1817 to 39-1820 shall relieve the county board and all other
8 parties to any such agreement of any liability for personal injury
9 or property damage suffered by any person while utilizing any such
10 road for travel during a period of inundation.

11 Sec. 3. Section 39-1818, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 39-1818 A water impoundment structure which will result
14 in temporary storage and flowage of water upon, across, or adjacent
15 to a road upstream from such structure may be approved only
16 if such road would not be inundated because of the storage in
17 such structure of waters from a ten-year, twenty-four-hour or
18 lesser frequency storm. A water impoundment structure which will
19 also serve as a roadbed may be approved and constructed only if
20 the structure would contain the runoff from a twenty-five-year,
21 twenty-four-hour frequency storm without water overtopping such
22 structure or being discharged through its emergency spillway,
23 except that if the road which is subject to such inundation is
24 classified as a local road or remote residential road with current
25 average daily traffic of fifty vehicles or less, the containment of

1 a ten-year, twenty-four-hour frequency storm shall be sufficient.
2 In making the storm frequency determinations required by this
3 section, any recognized method may be used.

4 Sec. 4. Section 39-2103, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 39-2103 Rural highways are hereby divided into ~~eight~~ nine
7 functional classifications as follows:

8 (1) Interstate, which shall consist of the federally
9 designated National System of Interstate and Defense Highways;

10 (2) Expressway, which shall consist of a group of
11 highways following major traffic desires in Nebraska which rank
12 next in importance to the National System of Interstate and Defense
13 Highways. The expressway system is one which ultimately should be
14 developed to multilane divided highway standards;

15 (3) Major arterial, which shall consist of the balance
16 of routes which serve major statewide interests for highway
17 transportation. This system is characterized by high-speed,
18 relatively long-distance travel patterns;

19 (4) Scenic-recreation, which shall consist of highways or
20 roads located within or which provide access to or through state
21 parks, recreation or wilderness areas, other areas of geographical,
22 historical, geological, recreational, biological, or archaeological
23 significance, or areas of scenic beauty;

24 (5) Other arterial, which shall consist of a group of
25 highways of less importance as through-travel routes which would

1 serve places of smaller population and smaller recreation areas not
2 served by the higher systems;

3 (6) Collector, which shall consist of a group of highways
4 which pick up traffic from many local or land-service roads and
5 carry it to community centers or to the arterial systems. They are
6 the main school bus routes, mail routes, and farm-to-market routes;

7 (7) Local, which shall consist of all remaining rural
8 roads, except minimum maintenance roads and remote residential
9 roads; and

10 (8) Minimum maintenance, which shall consist of (a) roads
11 used occasionally by a limited number of people as alternative
12 access roads for areas served primarily by local, collector,
13 or arterial roads, or (b) roads which are the principal access
14 roads to agricultural lands for farm machinery and which are not
15 primarily used by passenger or commercial vehicles; and-

16 (9) Remote residential, which shall consist of roads or
17 segments of roads in remote areas of counties with (a) a population
18 density of no more than five people per square mile or (b) an
19 area of at least one thousand square miles, and which roads or
20 segments of roads serve as primary access to no more than seven
21 residences. For purposes of this subdivision, residence means a
22 structure which serves as a primary residence for more than six
23 months of a calendar year. Population shall be determined using
24 data from the most recent federal decennial census.

25 The rural highways classified under subdivisions (1)

1 ~~to~~ through (3) of this section should, combined, serve every
2 incorporated municipality having a minimum population of one
3 hundred inhabitants or sufficient commerce, a part of which will be
4 served by stubs or spurs, and along with rural highways classified
5 under subdivision (4) of this section, should serve the major
6 recreational areas of the state.

7 For purposes of this section, sufficient commerce shall
8 ~~mean~~ means a minimum of two hundred thousand dollars of gross
9 receipts under the Nebraska Revenue Act of 1967.

10 Sec. 5. Section 39-2105, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 39-2105 Jurisdictional responsibility for the various
13 functional classifications of public highways and streets shall be
14 as follows:

15 (1) The state shall have the responsibility for the
16 design, construction, reconstruction, maintenance, and operation
17 of all roads classified under the category of rural highways
18 as interstate, expressway, and major arterial, and the municipal
19 extensions thereof, except that the state shall not be responsible
20 for that portion of a municipal extension which exceeds the design
21 of the rural highway leading into the municipality. When the design
22 of a rural highway differs at the different points where it leads
23 into the municipality, the state's responsibility for the municipal
24 extension thereof shall be limited to the lesser of the two
25 designs. The state shall be responsible for the entire interstate

1 system under either the rural or municipal category, and for
2 connecting links between the interstate and the nearest existing
3 state highway system in rural areas, except that ~~PROVIDED~~, if
4 such a connecting link has not been improved and a sufficient study
5 by the Department of Roads results in the determination that a link
6 to an alternate state highway would provide better service for the
7 area involved, the department shall have the option of providing
8 the alternate route, subject to satisfactory local participation in
9 the additional cost of the alternate route;

10 (2) The various counties shall have the responsibility
11 for the design, construction, reconstruction, maintenance, and
12 operation of all roads classified as other arterial, collector,
13 local, ~~and~~ minimum maintenance, and remote residential under the
14 rural highway category;

15 (3) The various incorporated municipalities shall have
16 the responsibility for the design, construction, reconstruction,
17 maintenance, and operation of all streets classified as expressway
18 which are of a purely local nature, that portion of municipal
19 extensions of rural expressways and major arterials which
20 exceeds the design of the rural portions of such systems, and
21 responsibility for those streets classified as other arterial,
22 collector, and local within their corporate limits; and

23 (4) Jurisdictional responsibility for all
24 scenic-recreation roads and highways shall remain with the
25 governmental subdivision which had jurisdictional responsibility

1 for such road or highway prior to its change in classification
2 to scenic-recreation made pursuant to this section and sections
3 39-2103, ~~39-2105~~, 39-2109, and 39-2113.

4 Sec. 6. Section 39-2109, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 39-2109 (1) The Board of Public Roads Classifications and
7 Standards shall develop the specific criteria for each functional
8 classification set forth in sections 39-2103 and 39-2104, which
9 criteria shall be consistent with the general criteria set forth
10 in those sections. No such criteria shall be adopted until after
11 public hearings have been held thereon at such times and places as
12 to assure interested parties throughout the state an opportunity
13 to be heard thereon. Following their adoption, such criteria shall
14 be printed and published and copies thereof shall be deposited
15 with the Secretary of State, the Clerk of the Legislature, the
16 county clerk of each county, and the clerk of each incorporated
17 municipality.

18 ~~(2) Within six months from July 19, 1980, the Board~~
19 ~~of Public Roads Classifications and Standards shall adopt and~~
20 ~~promulgate the specific criteria for scenic-recreation roads and~~
21 ~~highways pursuant to sections 39-2103, 39-2105, 39-2109, and~~
22 ~~39-2113.~~

23 ~~(3) Within six months from August 26, 1983, the Board~~
24 ~~of Public Roads Classifications and Standards shall adopt and~~
25 ~~promulgate the specific criteria for minimum maintenance roads and~~

1 ~~highways.~~

2 (2) Within eighteen months after the effective date
3 of this act, the Board of Public Roads Classifications and
4 Standards shall adopt and promulgate the specific criteria for
5 remote residential roads.

6 Sec. 7. Section 39-2110, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 39-2110 Following adoption and publication of the
9 specific criteria required by section 39-2109, the Department of
10 Roads, after consultation with the appropriate local authorities
11 in each instance, shall assign a functional classification to
12 each segment of highway, road, and street in this state. Before
13 assigning any such classification, the department shall make
14 reasonable effort to resolve any differences of opinion between
15 the department and any county or municipality. Whenever a new road
16 or street is to be opened or an existing road or street is to be
17 extended, the department shall, upon a request from the operating
18 jurisdiction, assign a functional classification to such segment
19 in accordance with the specific criteria established under section
20 39-2109.

21 Sec. 8. Section 39-2112, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 39-2112 Any county or municipality may, based on changing
24 traffic patterns or volume or a change in jurisdiction, request the
25 Department of Roads to reclassify any segment of highway, road,

1 or street. Any county that wants to use the minimum maintenance,
2 remote residential, or scenic-recreation functional classification
3 or wants to return a road to its previous functional classification
4 may request the department to reclassify an applicable segment of
5 highway or road. If a county board wants a road or a segment
6 of road to be classified as remote residential, it shall hold a
7 public hearing on the matter prior to requesting the department
8 to reclassify such road or segment of road. The department shall
9 review such a request made under this section and either grant
10 or deny the reclassification in whole or in part. Any county or
11 municipality dissatisfied with the action taken by the department
12 under this section⁷ may appeal to the Board of Public Roads
13 Classifications and Standards in the manner provided in section
14 39-2111.

15 Sec. 9. Section 39-2113, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 39-2113 (1) In addition to the duties imposed upon it
18 by section 39-2109, the Board of Public Roads Classifications and
19 Standards shall develop minimum standards of design, construction,
20 and maintenance for each functional classification set forth in
21 sections 39-2103 and 39-2104. Except for scenic-recreation road
22 standards, such standards shall be such as to assure that each
23 segment of highway, road, or street will satisfactorily meet the
24 requirements of the area it serves and the traffic patterns and
25 volumes which it may reasonably be expected to bear.

1 (2) The standards for a scenic-recreation road
2 and highway classification shall insure a minimal amount of
3 environmental disruption practicable in the design, construction,
4 and maintenance of such highways, roads, and streets by the use
5 of less restrictive, more flexible design standards than other
6 highway classifications. Design elements of such a road or highway
7 shall incorporate parkway-like features which will allow the
8 user-motorist to maintain a leisurely pace and enjoy the scenic
9 and recreational aspects of the route and include rest areas and
10 scenic overlooks with suitable facilities. ~~The board may stipulate~~
11 ~~that speed limits consistent with scenic-recreation use apply to~~
12 ~~any such highway or road.~~

13 (3) The standards developed for a minimum maintenance
14 road and highway classification shall provide for a level of
15 minimum maintenance sufficient to serve farm machinery and
16 the occasional or intermittent use by passenger and commercial
17 vehicles. The standards shall provide that any defective bridges,
18 culverts, or other such structures on, in, over, under, or part of
19 the minimum maintenance road may be removed by the county in order
20 to protect the public safety and need not be replaced by equivalent
21 structures except when deemed by the county board to be essential
22 for public safety or for the present or future transportation needs
23 of the county. The standards for such minimum maintenance roads
24 shall include the installation and maintenance by the county at
25 entry points to minimum maintenance roads and at regular intervals

1 thereon of appropriate signs to adequately warn the public that the
2 designated section of road has a lower level of maintenance effort
3 than other public roads and thoroughfares. Such signs shall conform
4 to the requirements in the Manual on Uniform Traffic Control
5 Devices adopted pursuant to section 60-6,118.

6 (4) The standards developed for a remote residential road
7 classification shall provide for a level of maintenance sufficient
8 to provide access to remote residences, farms, and ranches by
9 passenger and commercial vehicles. The standards shall allow for
10 one-lane traffic where sight distance is adequate to warn motorists
11 of oncoming traffic. The standards for remote residential roads
12 shall include the installation and maintenance by the county at
13 entry points to remote residential roads of appropriate signs to
14 adequately warn members of the public that they are traveling on
15 a one-lane road. Such signs shall conform to the requirements in
16 the Manual on Uniform Traffic Control Devices adopted pursuant to
17 section 60-6,118.

18 ~~(4)~~ (5) The board shall by rule provide for the
19 relaxation of standards for any functional classification in those
20 instances in which their application is not feasible because of
21 peculiar, special, or unique local situations.

22 ~~(5)~~ (6) Any county or municipality which believes that
23 the application of standards for any functional classification to
24 any segment of highway, road, or street would work a special
25 hardship, or any other interested party which believes that the

1 application of standards for scenic-recreation roads and highways
2 to any segment of highway, road, or street would defeat the purpose
3 of the scenic-recreation functional classification contained in
4 section 39-2103, may request the board to relax the standards
5 for such segment. The Department of Roads, when it believes that
6 the application of standards for any functional classification to
7 any segment of highway that is not hard surfaced would work a
8 special hardship, may request the board to relax such standards.
9 The board shall review any request made pursuant to this section
10 and either grant or deny it in whole or in part. The provisions
11 of this section shall not be construed to apply to removal of a
12 road or highway from the state highway system pursuant to section
13 39-1315.01.

14 Sec. 10. Original sections 39-1817, 39-1818, 39-2103,
15 39-2105, 39-2109, 39-2110, 39-2112, and 39-2113, Reissue Revised
16 Statutes of Nebraska, and section 13-1210, Revised Statutes
17 Cumulative Supplement, 2006, are repealed.