

AMENDMENTS TO LB639

Introduced by Transportation and Telecommunications.

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

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

13           (2) The department may charge a fee in an amount reasonably  
14 calculated to defray the cost of administering the vegetation control  
15 program and may adjust the fee periodically to ensure continued recovery  
16 of administrative costs, except that such fee shall not exceed fifty  
17 dollars. The applicant to whom the permit is issued shall furnish the  
18 department with a cash deposit or certified check upon a solvent bank or  
19 a surety bond in a guaranty company qualified to do business in Nebraska.  
20 The deposit, check, or bond shall be in an amount required by the  
21 department and shall be furnished on the condition that the sum be  
22 forfeited to the state in the event that the conditions of the permit or  
23 rules and regulations adopted and promulgated by the department are  
24 violated. The applicant for a permit shall sign a release acknowledging  
25 that he or she will assume all risk and liability for any accidents and  
26 damages that may occur as a result of the work done as the permitholder.  
27 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 and regulations. Each approved permit shall grant written consent to  
7 encroach onto the state's right-of-way pursuant to section 39-1359.

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

10 Sec. 2. Section 39-891, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 39-891 Recognizing that obstructions on or near the boundary of the  
13 State of Nebraska impede commerce and travel between the State of  
14 Nebraska and adjoining states, the Legislature hereby declares that  
15 bridges over these obstructions are essential to the general welfare of  
16 the State of Nebraska.

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

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

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

31 It is also recognized that parties other than the State of Nebraska

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

6 To this end, it is the intention of the Legislature to supplement  
7 sections 39-1301 to 39-1362 and section 1 of this act, relating to state  
8 highways, in order that the powers and authority of the department  
9 relating to the planning, construction, maintenance, acquisition, and  
10 operation of interstate bridges upon the state highway system may be  
11 clarified within a single act.

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

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

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

1 may always be served. The authority of the department to enter into  
2 agreements with adjoining states, as granted in the act, is therefor  
3 essential.

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

8 Sec. 3. Section 39-893, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 39-893 The provisions of the Interstate Bridge Act of 1959 are  
11 intended to be cumulative to, and not amendatory of, sections 39-1301 to  
12 39-1362 and section 1 of this act.

13 Sec. 4. Section 39-1301, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 39-1301 Recognizing that safe and efficient highway transportation  
16 is a matter of important interest to all of the people in the state, the  
17 Legislature hereby determines and declares that an integrated system of  
18 highways is essential to the general welfare of the State of Nebraska.

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

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

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

29 In designating the highway system of this state, as provided by  
30 sections 39-1301 to 39-1362 and section 1 of this act, the Legislature  
31 places a high degree of trust in the hands of those officials whose duty

1 it shall be, within the limits of available funds, to plan, develop,  
2 construct, operate, maintain, and protect the highway facilities of this  
3 state, for present as well as for future uses.

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

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

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

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

1 and cooperate with each other is therefor essential.

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

6 Sec. 5. Section 39-1302, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 39-1302 For purposes of sections 39-1301 to 39-1392 and section 1 of  
9 this act, unless the context otherwise requires:

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

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

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

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

28 (5) Beltway shall mean the roads and streets not designated as a  
29 part of the state highway system and that are under the primary authority  
30 of a county or municipality, if the location of the beltway has been  
31 approved by (a) record of decision or finding of no significant impact by

1 the federal highway administration and (b) the applicable local planning  
2 authority as a part of the comprehensive plan;

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

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

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

13 (a) Outdoor advertising structures;

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

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

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

20 (e) Railroad tracks and minor sidings; and

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

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

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

1 streets may be freeways, or they may be parkways;

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

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

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

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

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

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

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

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

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

29 (20) Full control of access shall mean that the right of owners or  
30 occupants of abutting land or other persons to access or view is fully  
31 controlled by public authority having jurisdiction and that such control

1 is exercised to give preference to through traffic by providing access  
2 connections with selected public roads only and by prohibiting crossings  
3 or intersections at grade or direct private driveway connections;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (45) Zoned commercial or industrial areas shall mean those areas  
30 within six hundred sixty feet of the nearest edge of the right-of-way of  
31 the Highway Beautification Control System defined in section 39-201.01,

1 zoned by state or local zoning authorities for industrial or commercial  
2 activities.

3 Sec. 6. Section 39-1309, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 39-1309 (1) The map prepared by the State Highway Commission showing  
6 a proposed state highway system in Nebraska, filed with the Clerk of the  
7 Legislature and referred to in the resolution filed with the Legislature  
8 on February 3, 1955, is hereby adopted by the Legislature as the state  
9 highway system on September 18, 1955, except that a highway from  
10 Rushville in Sheridan County going south on the most feasible and direct  
11 route to the Smith Lake State Recreation Grounds shall be known as state  
12 highway 250 and shall be a part of the state highway system.

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

1 defense, and (h) the general welfare of the people of the state.

2 (3) Any highways not designated as a part of the state highway  
3 system as provided by sections 39-1301 to 39-1362 and section 1 of this  
4 act shall be a part of the county road system, and the title to the  
5 right-of-way of such roads shall vest in the counties in which the roads  
6 are located.

7 Sec. 7. Section 39-1320, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 39-1320 (1) The Department of Roads is hereby authorized to acquire,  
10 either temporarily or permanently, lands, real or personal property or  
11 any interests therein, or any easements deemed to be necessary or  
12 desirable for present or future state highway purposes by gift,  
13 agreement, purchase, exchange, condemnation, or otherwise. Such lands or  
14 real property may be acquired in fee simple or in any lesser estate. It  
15 is the intention of the Legislature that all property leased or purchased  
16 from the owner shall receive a fair price.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Sec. 8. The Revisor of Statutes shall assign section 1 of this act  
13 within sections 39-1359 to 39-1360.