

LEGISLATIVE BILL 264

Approved by the Governor May 24, 1995

Introduced by Hillman, 48; Day, 19

AN ACT relating to highways; to amend sections 39-202, 39-203, 39-205, 39-210, 39-1302, 39-1311, 39-1320, 39-1320.02, 39-1320.03, 39-1320.07, 39-1320.09, 39-1320.12, 39-1320.13, 39-1320.14, 39-1320.15, 39-2601 to 39-2608, 39-2610, 39-2611, and 69-1701, Reissue Revised Statutes of Nebraska, and sections 39-1320.01, 39-1320.06, 39-1320.08, 39-1320.10, and 39-1320.11, Revised Statutes Supplement, 1994; to define terms; to change and eliminate outdoor advertising provisions; to provide for designation of scenic byways; to change map requirements; to change provisions relating to screening of junkyards adjacent to certain highways; to harmonize provisions; to repeal the original sections; and to outright repeal section 39-201, Reissue Revised Statutes of Nebraska.

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

Section 1. For purposes of sections 39-202 to 39-211 and sections 6 to 20 of this act:

(1) Highway Beautification Control System means the National System of Interstate and Defense Highways, the system of federal-aid primary roads as they existed on June 1, 1991, any additional highway or road which is designated as a part of the National Highway System under the federal Intermodal Surface Transportation Efficiency Act, and scenic byways. A map of the Highway Beautification Control System shall be maintained as provided in section 39-1311;

(2) Scenic byway means a road, highway, or connecting link designated as a scenic byway pursuant to section 11 of this act. A map of the scenic byways shall be maintained as provided in section 39-1311; and

(3) Visible, in reference to advertising signs, displays, or devices, means the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign is considered visible even though the message or advertising content can be seen but not read.

Sec. 2. Section 39-202, Reissue Revised Statutes of Nebraska, is amended to read:

39-202. (1) Except as provided in sections 39-202 to 39-205, 39-1302, 39-1320, 39-1320.06, 39-1320.07, and 39-1320.09 and sections 9, 10, and 14 of this act, the erection or maintenance of any advertising sign, display, or device beyond six hundred sixty feet of the right-of-way of the National System of Interstate and Defense Highways and visible from the main-traveled way of such highway system is hereby prohibited.

(2) The following signs shall be permitted:

(a) Directional and official signs to include, but not be limited to, signs and notices pertaining to natural wonders, scenic attractions, and historical attractions. Such signs shall comply with standards and criteria established by regulations of the Department of Roads as promulgated from time to time;

(b) Signs, displays, and devices advertising the sale or lease of property upon which such media are located;

(c) Signs, displays, and devices advertising activities conducted on the property on which such media are located; and

(d) Signs in existence in accordance with sections 39-1320 to 39-1320.03 and 39-1320.06 to 39-1320.11 6 to 16 of this act, to include landmark signs, signs on farm structures, markers, and plaques of historical or artistic significance.

(3) For purposes of this section, visible shall mean the message or advertising content of an advertising sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.

Sec. 3. Section 39-203, Reissue Revised Statutes of Nebraska, is amended to read:

39-203. Just compensation shall be paid upon the removal of any advertising sign, display, or device lawfully erected or in existence prior to May 27, 1975, and not conforming to the provisions of sections 39-202 to 39-205, 39-1302, 39-1320, 39-1320.06, 39-1320.07, and 39-1320.09 and sections 9, 10, and 14 of this act except as otherwise authorized by such sections.

The Department of Roads shall not be required to expend any funds under the provisions of such sections unless and until federal-aid matching funds are made available for this purpose.

Sec. 4. Section 39-205, Reissue Revised Statutes of Nebraska, is amended to read:

39-205. (1) Applicants for business signs shall furnish business signs to the Department of Roads and shall pay to the department an annual fee for posting each business sign and the actual cost of material for, fabrication of, and erecting the specific information sign panels where specific information sign panels have not been installed.

(2) Upon receipt of the business signs and the annual fee, the department shall post or cause to be posted the business signs where specific information sign panels have been installed. The applicant shall not be required to remove any advertising device to qualify for a business sign except any advertising device which was unlawfully erected or in violation of section 39-202, 39-203, 39-204, 39-205, or 39-206, ~~39-1302, 39-1320, 39-1320.06, 39-1320.07, or 39-1320.09~~ or section 9, 10, or 14 of this act, any rule or regulation of the department, or any federal rule or regulation relating to informational signs. The specific information sign panels and business signs shall conform to the requirements of the Federal Beautification Act and the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118.

(3) All revenue received for the posting or erecting of business signs or specific information sign panels pursuant to this section shall be deposited in the Highway Cash Fund, except that any revenue received from the annual fee and for posting or erecting such signs in excess of the state's costs shall be deposited in the General Fund.

(4) For purposes of this section, unless the context otherwise requires:

(a) Business sign shall mean a sign displaying a commercial brand, symbol, trademark, or name, or combination thereof, designating a motorist service. Business signs shall be mounted on a rectangular information panel; and

(b) Specific information sign panel shall mean a rectangular sign panel with:

- (i) The word gas, food, lodging, or camping;
- (ii) Directional information; and
- (iii) One or more business signs.

(5) The department shall provide notice of space available for business signs on any specific information sign panel at least ninety days prior to accepting or approving the posting of any business sign.

Sec. 5. Section 39-210, Reissue Revised Statutes of Nebraska, is amended to read:

39-210. To qualify to appear on a tourist-oriented directional sign panel, an activity shall be licensed and approved by the state and local agencies if required by law and be open to the public at least eight hours per day, five days per week, including Saturdays or Sundays, during the normal season of the activity. The activity, before qualifying to appear on a sign panel, shall provide to the Department of Roads assurance of its conformity with all applicable laws relating to discrimination based on race, creed, color, sex, national origin, ancestry, political affiliation, or religion. If the activity violates any of such laws, it shall lose its eligibility to appear on a tourist-oriented directional sign panel. In addition, the qualifying activity shall be required to remove any advertising device which was unlawfully erected or which is in violation of section 39-202, 39-203, 39-204, 39-205, or 39-206, ~~39-1302, 39-1320, 39-1320.06, 39-1320.07, or 39-1320.09~~ or section 9, 10, or 14 of this act, any rule or regulation of the department, or any federal rule or regulation relating to tourist-oriented directional sign panels. The tourist-oriented directional sign panels shall conform to the requirements of the Federal Beautification Act and the Manual on Uniform Traffic Control Devices as adopted pursuant to section 60-6,118.

Sec. 6. Section 39-1320.01, Revised Statutes Supplement, 1994, is amended to read:

~~39-1320.01-~~ (1) The ~~department~~ Department of Roads may acquire the interest in real or personal property necessary to exercise the power authorized by subdivision (2)(m) of section 39-1320 and to pay just compensation upon removal of the following outdoor advertising signs, displays, and devices, as well as just compensation for the disconnection and removal of electrical service to the same:

(a) Those lawfully erected or in existence prior to March 27, 1972, and not conforming to the provisions of sections 39-1320 ~~to 39-1320.03 and 39-1320.06 to 39-1320.13~~ 6 to 16 of this act except as otherwise authorized by

such sections; and

(b) Those lawfully erected after March 27, 1972, which become nonconforming after being erected.

(2) Such compensation for removal of such signs, displays, and devices is authorized to be paid only for the following:

(a) The taking from the owner of such sign, display, or device or of all right, title, leasehold, and interest in connection with such sign, display, or device, or both; and

(b) The taking from the owner of the real property on which the sign, display, or device is located of the right to erect and maintain such signs, displays, and devices thereon.

(3) In all instances where signs, displays, or devices which are served electrically are taken under subdivision (2)(a) of this section, the department shall pay just compensation to the supplier of electricity for supportable costs of disconnection and removal of such service to the nearest distribution line or, in the event such sign, display, or device is relocated, just compensation for removal of such service to the point of relocation.

Except for expenditures for the removal of nonconforming signs erected between April 16, 1982, and May 27, 1983, the department shall not be required to expend any funds under ~~sections section 39-1320 and sections 6 to 16 of this act to 39-1320.03 and 39-1320.06 to 39-1320.11~~ unless and until federal-aid matching funds are made available for this purpose.

Sec. 7. Section 39-1320.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320.02.~~ (1) In order that this state may qualify for the payments authorized in 23 U.S.C. 131(c) and (e), and to comply with the provisions of 23 U.S.C. 131 as revised and amended on October 22, 1965, by Public Law 89-285, the Department of Roads, for and in the name of the State of Nebraska, is authorized to enter into an agreement, or agreements, with the Secretary of Transportation of the United States, which agreement or agreements shall include provisions for regulation and control of the erection and maintenance of advertising signs, displays, and other advertising devices and may include, among other things, provisions for preservation of natural beauty, prevention of erosion, landscaping, reforestation, development of viewpoints for scenic attractions that are accessible to the public without charge, and the erection of markers, signs, or plaques, and development of areas in appreciation of sites of historical significance.

(2) It is the intention of the Legislature that the state shall be and is hereby empowered and directed to continue to qualify for and accept bonus payments pursuant to 23 U.S.C. 131(j) and subsequent amendments as amended in the Federal Aid Highway Acts of 1968 and 1970 for controlling outdoor advertising within the area adjacent to and within six hundred sixty feet of the edge of the right-of-way of the National System of Interstate and Defense Highways constructed upon any part of the right-of-way the entire width of which is acquired subsequent to July 1, 1956, and, to this end, to continue any agreements with, and make any new agreements with the Secretary of Transportation, to accomplish the same. Such agreement or agreements shall also provide for excluding from application of the national standards segments of the National System of Interstate and Defense Highways which traverse commercial or industrial zones within the boundaries of incorporated municipalities as they existed on September 21, 1959, wherein the use of real property adjacent to the National System of Interstate and Defense Highways is subject to municipal regulation or control, or which traverse other areas where the land use, as of September 21, 1959, is clearly established by state law as industrial or commercial.

(3) It is also the intention of the Legislature that the state shall comply with 23 U.S.C. 131, as revised and amended on October 22, 1965, by Public Law 89-285, in order that the state not be penalized by the provisions of subsection (b) thereof, and that the department shall be and is hereby empowered and directed to make rules and regulations in accord with the agreement between the department and the Department of Transportation dated October 29, 1968.

Sec. 8. Section 39-1320.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320.03.~~ Whenever advertising rights are acquired by the department pursuant to subdivision (2)(m) of ~~subsection (2)~~ of section 39-1320, or an agreement has been entered into as authorized by section ~~39-1320.02 7 of this act.~~ it shall be the duty of the ~~department~~ Department of Roads to adopt and promulgate reasonable rules and regulations for the control of outdoor advertising within the area specified in such ~~subsection subdivision~~ subdivision, which rules and regulations shall have as their minimum requirements the provisions of 23 U.S.C. 131 and regulations adopted pursuant

thereto, as amended on the date of March 27, 1972.

Sec. 9. Section 39-1320.06, Revised Statutes Supplement, 1994, is amended to read:

~~39-1320.06-~~ (1) Except as provided in this section and sections 39-1320 to 39-1320.03 and 39-1320.07 to 39-1320.11 6 to 16 of this act, the erection or maintenance of any advertising sign, display, or device which is visible from the main-traveled way of the National System of Interstate and Defense Highways and the system of federal-aid primary roads of the State of Nebraska Highway Beautification Control System is hereby prohibited. On-premise signs, directional and official signs, and notices as defined and controlled in the department's rules and regulations shall be permitted.

(2) Other signs controlled in accordance with the federal-state agreement shall be permitted, if conforming to this section and sections 39-1320 to 39-1320.03 and 39-1320.07 to 39-1320.11 6 to 16 of this act, in the following areas:

(a) All zoned commercial or industrial areas within the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959, and all other areas where the land use as of September 21, 1959, was clearly established by law or ordinance as industrial or commercial in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of the National System of Interstate and Defense Highways, except that no such signs, displays, or devices shall be permitted in areas in which advertising control easements have been acquired;

(b) All zoned and unzoned commercial and industrial areas in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of those portions of the National System of Interstate and Defense Highways constructed upon right-of-way, any part of the width of which was acquired on or before July 1, 1956, except that no such signs, displays, or devices shall be permitted in areas in which advertising control easements have been acquired;

(c) All zoned and unzoned commercial and industrial areas in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of all portions of all federal-aid primary roads the Highway Beautification Control System other than the National System of Interstate and Defense Highways within the State of Nebraska, except that no such signs, displays, or devices shall be permitted in areas in which advertising control easements have been acquired. No signs shall be allowed in such areas along scenic byways except those permitted under section 12 of this act; and

(d) All signs, displays, or devices beyond six hundred sixty feet of the edge of the right-of-way of the federal-aid interstate, federal-aid primary roads, Highway Beautification Control System and outside of urban areas which are visible from the main-traveled way are prohibited except those which are authorized to be erected by the Federal-Aid Highway Acts of 1965, 1970, and 1974 and those signs whose advertising message is only visible from a secondary road or street but not visible from the main-traveled way of such federal-aid roads or the National System of Interstate and Defense Highways the Highway Beautification Control System.

(3) In the areas described in subsection (2) of this section, advertising signs, displays, and devices shall be allowed to be erected in accordance with the following criteria:

(a) Whenever a bona fide state, county, or local zoning authority has made a determination of customary use, as to size, lighting, and spacing, such determination may be accepted in lieu of criteria established by regulation in the zoned commercial and industrial areas described in subsection (2) of this section within the geographical jurisdiction of such authority unless conflicting with laws not contained in this section or with the rules and regulations of the department; and

(b) In all other areas described in subsection (2) of this section, the following criteria shall apply:

(1) On-premise signs as defined and controlled in the department's rules and regulations shall be permitted;

(ii) Those signs referred to as being permitted in the October 1968 federal-state agreement shall be permitted when in conformity with the rules and regulations of the department;

(iii) Within the areas in which, according to this section and sections 39-1320 to 39-1320.03 and 39-1320.07 to 39-1320.11 6 to 16 of this act, advertising signs will be permitted, such signs shall conform to standards and criteria as to height, width, spacing, and lighting as set forth in the rules and regulations of the department;

(iv) Nothing contained in such sections shall be construed to allow any person or persons, except the department, to erect signs within the right-of-way of any portion of the state highway system or, except the county,

to erect official signs within the right-of-way of any portion of the county road system;

(v) Nothing contained in such sections shall be construed to prevent the department from acquiring easements for the control of outdoor advertising;

(vi) Nothing contained in such sections shall be construed to require the removal of signs in zoned and unzoned commercial and industrial areas, lawfully in existence on March 27, 1972, which signs may under such sections remain and continue in place even if nonconforming; and

(vii) The powers conferred by such sections are supplementary and additional powers, and nothing contained in such sections shall be deemed amendatory or in derogation of any other grant of power or authority to the department.

Sec. 10. Section 39-1320.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320.07.~~ It shall be unlawful for any person to place or cause to be placed any advertising sign, display, or device which is visible from the main-traveled way of the Highway Beautification Control System National System of Interstate and Defense Highways or federal-aid primary roads or upon land not owned by such person, without first procuring a written lease from the owner of such land and a permit from the Department of Roads authorizing such display or device to be erected as permitted by the advertising laws, rules, and regulations of this state.

Sec. 11. (1) The Department of Roads may designate portions of the state highway system as a scenic byway when the highway corridor possesses unusual, exceptional, or distinctive scenic, historic, recreational, cultural, or archeological features. The department shall adopt and promulgate rules and regulations establishing the procedure and criteria to be utilized in making scenic byway designations.

(2) Any portion of a highway designated as a scenic byway which is located within the limits of any incorporated municipality shall not be designated as part of the scenic byway, except when such route possesses intrinsic scenic, historic, recreational, cultural, or archeological features which support designation of the route as a scenic byway.

Sec. 12. No sign shall be erected which is visible from the main-traveled way of any scenic byway except (1) directional and official signs to include, but not be limited to, signs and notices pertaining to natural wonders, scenic attractions, and historical attractions, (2) signs, displays, and devices advertising the sale or lease of property upon which such media are located, and (3) signs, displays, and devices advertising activities conducted on the property on which such media are located. Signs which are allowed shall comply with the standards and criteria established by rules and regulations of the Department of Roads.

Sec. 13. Section 39-1320.08, Revised Statutes Supplement, 1994, is amended to read:

~~39-1320.08.~~ Outdoor advertising signs, displays, and devices erected prior to March 27, 1972, may continue in zoned or unzoned commercial or industrial areas, notwithstanding the fact that such outdoor advertising signs, displays, and devices do not comply with standards and criteria established by sections 6 to 16 of this act ~~39-1320 to 39-1320.03 and 39-1320.06 to 39-1320.11~~ or rules and regulations of the Department of Roads, department as promulgated from time to time.

Sec. 14. Section 39-1320.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320.09.~~ The department Department of Roads may at its discretion require permits for advertising signs, displays, or devices which are placed or allowed to exist along or upon any interstate or primary highway or at any point visible from the main-traveled way, except for signs located within an area of fifty feet of any commercial or industrial building on the premises. Such permits shall be renewed biennially. Each sign shall bear on the side facing the highway the permit number in a readily observable place for inspection purposes from the highway right-of-way. The department is authorized to charge a fee to be not less than twenty-five cents or to exceed fifteen dollars for each permit and renewal permit for each individual sign. The department shall promulgate rules and regulations establishing, and from time to time adjusting, the annual fees for the permits to cover the costs of administering the provisions of sections 39-1320.01, 39-1320.09, and 39-1320.10 sections 6 to 20 of this act and may by rule and regulation provide exceptions from the payment of fees for signs advertising eleemosynary or nonprofit public service activities, signs designating historical sites, and farm and ranch directional signs. The department may revoke the permit for noncompliance reasons and remove the sign if, after thirty days' notification

to the sign owner, the sign remains in noncompliance. Printed sale bills not exceeding two hundred sixteen square inches in size shall not require a permit if otherwise conforming.

Sec. 15. Section 39-1320.10, Revised Statutes Supplement, 1994, is amended to read:

~~39-1320-10-~~ Any person, firm, company, or corporation violating any of the provisions of sections 39-1320 to 39-1320-03 and 39-1320-06 to 39-1320-11 6 to 16 of this act shall be guilty of a Class V misdemeanor. In addition to any other available remedies, the Director-State Engineer, for the ~~department~~ Department of Roads and in the name of the State of Nebraska, may apply to the district court having jurisdiction for an injunction to force compliance with any of the provisions of such sections or rules and regulations promulgated thereunder. When any person, firm, company, or corporation deems its property rights have been adversely affected by the application of the provisions of such sections, such person, firm, company, or corporation shall have the right to have damages ascertained and determined pursuant to Chapter 76, article 7.

Sec. 16. Section 39-1320.11, Revised Statutes Supplement, 1994, is amended to read:

~~39-1320-11-~~ Any provision of sections 39-1320 to 39-1320-03 and 39-1320-06 to 39-1320-11 to the contrary notwithstanding, nothing contained in such sections Sections 6 to 15 of this act shall not be construed to prevent the department Department of Roads from (1) exercising the power of eminent domain to accomplish the removal of any sign or signs or (2) acquiring any interest in real or personal property necessary to exercise the powers authorized by such sections whether within or without zoned or unzoned commercial or industrial areas.

Sec. 17. Section 39-1320.12, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320-12-~~ Any community, board of county commissioners, municipality, county, city, a specific region or area of the state, or other governmental or quasi-governmental agency which is part of a specific economic area located along ~~interstate highways or the system of federal-aid primary roads~~ the Highway Beautification Control System of the State of Nebraska may petition the Department of Roads for an exemption from mandatory removal of any legal, nonconforming directional signs, displays, or devices as defined by 23 U.S.C. 131(c), which signs, displays, or devices were in existence on May 5, 1976. The petitioning agency shall supply such documents as are supportive of its petition for exemption.

The Department of Roads is hereby authorized to seek the exemptions authorized by 23 U.S.C. 131(c) in accordance with the federal regulations promulgated thereunder, 23 C.F.R., part 750, subpart E, if the petitioning agency shall supply the necessary documents to justify such exemptions.

Sec. 18. Section 39-1320.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320-13-~~ Upon receipt of such petition, the Department of Roads shall make request of the United States Department of Transportation for permission to retain the directional signs, displays, or devices which provide information for the specific economic area responsible for the petition.

Sec. 19. Section 39-1320.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320-14-~~ The Department of Roads shall adopt future programs to assure that removal of directional signs, displays, or devices, providing directional information about goods and services in the interest of the traveling public, not otherwise exempted by economic hardship, be deferred until all other nonconforming signs, on a statewide basis, are removed.

Sec. 20. Section 39-1320.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~39-1320-15-~~ The exemption provided by sections 17 to 19 of this act 39-1320-12 to 39-1320-15 shall be in addition to the exemption provided by section 39-1320-08 13 of this act.

Sec. 21. Section 39-1302, Reissue Revised Statutes of Nebraska, is amended to read:

39-1302. For purposes of sections 39-1301 to 39-1392, unless the context otherwise requires:

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

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

(3) Approach or exit road shall mean any highway or ramp designed

and used solely for the purpose of providing ingress or egress to or from an interchange or rest area of a highway. An approach road shall begin at the point where it intersects with any highway not a part of the highway for which such approach road provides access and shall terminate at the point where it merges with an acceleration lane of a highway. An exit road shall begin at the point where it intersects with a deceleration lane of a highway and shall terminate at the point where it intersects any highway not a part of a highway from which the exit road provides egress;

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

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

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

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

(a) Outdoor advertising structures;

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

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

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

(e) Railroad tracks and minor sidings; and

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

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

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

(10) Department shall mean the Department of Roads;

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

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

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

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

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

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

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

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

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

(20) Grade separation shall mean a crossing of two highways at different levels;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(41) Unzoned commercial or industrial area for purposes of control of outdoor advertising shall mean all areas within six hundred sixty feet of the nearest edge of the right-of-way of the interstate and federal-aid primary systems which are not zoned by state or local law, regulation, or ordinance and on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located thereon, the area between such activity and the highway, and the area along the highway extending outward six hundred feet from and beyond each edge of such activity and, in the case of the primary system, may include the unzoned lands on both sides of such road or highway to the extent of the same dimensions if those lands on the opposite side of the highway are not deemed

scenic or having aesthetic value as determined by the department. In determining such an area, measurements shall be made from the furthest or outermost edges of the regularly used area of the commercial or industrial activity, structures, normal points of ingress and egress, parking lots, and storage and processing areas constituting an integral part of such commercial or industrial activity;

(42) Visible, for purposes of sections section 39-1320, 39-1320-06, 39-1320-07, and 39-1320-09 in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read;

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

(44) Zoned commercial or industrial areas shall mean those areas within six hundred sixty feet of the nearest edge of the right-of-way of the National System of Interstate and Defense Highways and all federal-aid primary roads Highway Beautification Control System defined in section 1 of this act, zoned by state or local zoning authorities for industrial or commercial activities.

Sec. 22. Section 39-1311, Reissue Revised Statutes of Nebraska, is amended to read:

39-1311. (1) The department Department of Roads at all times shall maintain a current map of the state, which shall show all the roads, highways, and connecting links which have been designated, located, created, or constituted as part of the state highway system, including all corridors. All changes in designation or location of highways constituting the state highway system, or additions thereto, shall be indicated upon the map. There shall also be maintained by the department two The department shall also maintain six separate and additional maps, one showing the current roads, highways and streets which have been designated as federal-aid primary roads, and the other map showing These maps shall include (a) the roads, highways, and streets designated as federal-aid primary roads as of March 27, 1972, (b) the National System of Interstate and Defense Highways, (c) the roads designated as the federal-aid primary system as it existed on June 1, 1991, (d) the National Highway System, (e) the Highway Beautification Control System as defined in section 1 of this act, and (f) scenic byways as defined in section 1 of this act. The National Highway System is the system designated as such under the federal Intermodal Surface Transportation Efficiency Act. At all times such map The maps shall be available at all times for public inspection at the offices of the Director-State Engineer and shall be filed with the Legislature of the State of Nebraska at each biennium.

(2) Whenever the department has received a corridor location approval for a proposed state highway to be located in any county or municipality, it shall prepare a map of such corridor sufficient to show the location of such corridor on each parcel of land to be traversed. If the county or municipality in which such corridor is located does not have a requirement that a building permit be obtained prior to commencement of a structure, the department shall send notice of the approval of such corridor by certified mail to the owner of each parcel traversed by the corridor at the address shown for such owner on the county tax records. Such notice shall advise the owner of the requirement of sections 39-1311 to 39-1311.05 for building permits.

Sec. 23. Section 39-1320, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

(c) Controlled-access facilities, including air, light, view, and

frontage and service roads to highways;

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

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

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

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

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

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

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

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

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

(m) The control of outdoor advertising which is visible from the nearest edge of the right-of-way of the Highway Beautification Control System as defined in section 1 of this act to National System of Interstate and Defense Highways and all federal-aid primary roads, to the end that this state may comply with the provisions of 23 U.S.C. 131, as amended;

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

(o) The establishment and maintenance of wetlands to replace or to mitigate damage to wetlands affected by highway construction, reconstruction, or maintenance. The replacement lands shall be capable of being used to create wetlands comparable to the wetlands area affected. The area of the replacement lands may exceed the wetlands area affected. Lands may be acquired to establish a large or composite wetlands area, sometimes called a wetlands bank, not larger than an area which is one hundred fifty percent of the lands reasonably expected to be necessary for the mitigation of future impact on wetlands brought about by highway construction, reconstruction, or maintenance during the six-year plan in effect upon acquisition of the lands. For purposes of this section, wetlands shall have the definition found in 33 C.F.R. 328.3(b).

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

Sec. 24. Section 39-2601, Reissue Revised Statutes of Nebraska, is amended to read:

39-2601. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is declared to be in the public interest to regulate and restrict the location and maintenance of junkyards in areas adjacent to the Highway Beautification Control System any interstate or primary highway within this state. The Legislature finds and declares that junkyards which do not conform to the requirements of sections 39-2601 to 39-2612 and section 34 of this act are public nuisances.

Sec. 25. Section 39-2602, Reissue Revised Statutes of Nebraska, is amended to read:

39-2602. For purposes of sections 39-2601 to 39-2612 and section 34 of this act, unless the context otherwise requires:

(1) Junk ~~shall mean means~~ means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;

(2) Automobile graveyard ~~shall mean means~~ means any establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts;

(3) Junkyard ~~shall mean means~~ means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills;

(4) Highway Beautification Control System has the same meaning as in section 1 of this act; interstate highway shall mean a portion of the National System of Interstate and Defense Highways;

(5) Scenic byway has the same meaning as in section 1 of this act; Primary highway shall mean the federal-aid primary system of highways and state highways;

(6) Main-traveled way shall mean means the traveled portion of an interstate or primary highway on which through traffic is carried and, in the case of a divided highway, the traveled portion of each of the separated roadways;

(7) Person shall mean means any natural person, partnership, limited liability company, association, corporation, or governmental subdivision; and

(8) Department shall mean means the Department of Roads.

Sec. 26. Section 39-2603, Reissue Revised Statutes of Nebraska, is amended to read:

39-2603. No person shall locate or maintain a junkyard, any portion of which is within one thousand feet of the nearest edge of the right-of-way of any interstate or primary highway any roadway of the Highway Beautification Control System, without obtaining a permit from the department.

Sec. 27. Section 39-2604, Reissue Revised Statutes of Nebraska, is amended to read:

39-2604. The department may issue permits for the location and operation of junkyards within the limits herein defined prescribed in section 39-2603 and shall charge ~~therefor~~ an annual permit fee to be paid to the department in the manner provided by the department and shall thereafter be paid into the Highway Cash Fund. The department shall by order adjust the annual fees to cover the costs of administering the provisions of sections 39-2601 to 39-2612 and section 34 of this act.

Sec. 28. Section 39-2605, Reissue Revised Statutes of Nebraska, is amended to read:

39-2605. No permit shall be granted for the location and maintenance of a junkyard within one thousand feet of the nearest edge of the right-of-way of any interstate or primary highway any roadway of the Highway Beautification Control System except the following:

(1) Those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main-traveled way of the system, or otherwise removed from sight;

(2) Those located within areas which are zoned for industrial use under authority of the law of a municipality or county, except those located along any route designated as a scenic byway;

(3) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by rules to be promulgated by the department, except those located along any route designated as a scenic byway; and

(4) Those which are not visible from the main-traveled way of the system.

Sec. 29. Section 39-2606, Reissue Revised Statutes of Nebraska, is amended to read:

39-2606. Any Except as provided in section 39-2608, any junkyard lawfully in existence on August 27, 1971, which is within one thousand feet of the nearest edge of the right-of-way and visible from the main-traveled way of any interstate or primary highway the Highway Beautification Control System and which does not qualify for a permit under section 39-2605 shall be screened by the department so as not to be visible from the main-traveled way of such highway, the cost of which shall be paid in full by the department.

Sec. 30. Section 39-2607, Reissue Revised Statutes of Nebraska, is amended to read:

39-2607. The department may promulgate rules governing the materials, location, planting, construction, and maintenance for the screening or fencing required by the provisions of sections 39-2601 to 39-2612 and section 34 of this act.

Sec. 31. Section 39-2608, Reissue Revised Statutes of Nebraska, is amended to read:

39-2608. Any junkyard in existence on August 27, 1971, which does not qualify for a permit under section 39-2605 and which cannot, as a practical matter, be screened may be removed. The department may acquire by gift, purchase, exchange or condemnation from the owner, such interests in lands as may be necessary to acquire the location, or to effect the removal or disposal of such junkyards, lawfully in existence along any interstate or primary highway on or after August 27, 1971, when it determines that the topography of the land adjoining such highway will not permit adequate screening of such junkyards or the screening of such junkyards would not be

practical.

Sec. 32. Section 39-2610, Reissue Revised Statutes of Nebraska, is amended to read:

39-2610. Nothing in sections 39-2601 to 39-2612 and section 34 of this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation, or resolution which is more restrictive than sections 39-2601 to 39-2612 and section 34 of this act.

Sec. 33. Section 39-2611, Reissue Revised Statutes of Nebraska, is amended to read:

39-2611. The department shall be authorized to enter into agreements with the appropriate federal authority as provided by 23 U.S.C., relating to the control of junkyards in areas adjacent to ~~any interstate or primary highway~~ the Highway Beautification Control System, and to take action in the name of the state to comply with the terms of such agreement.

Sec. 34. The department shall not expend any funds under this section and sections 39-2601 to 39-2612 unless federal-aid matching funds are available for the purpose described in 23 U.S.C. 136.

Sec. 35. Section 69-1701, Reissue Revised Statutes of Nebraska, is amended to read:

69-1701. (1) Before an outdoor advertising sign, display, or device is removed, taken, or appropriated through the use of zoning or any other power or authority possessed by the state, a state agency, or a political subdivision of the state:

(a) The value of the sign, display, or device shall be determined by the taking entity without the use of any amortization schedule; and

(b) The owners of the sign, display, or device shall be paid the fair and reasonable market value for such removal, taking, or appropriation, which fair and reasonable market value shall be based upon the depreciated reproduction cost of such sign, display, or device using as a guideline the Nebraska Sign Schedule developed and used by the Department of Roads, except that, when feasible, the taking entity may elect to relocate such sign, display, or device, in which event the owners of the sign, display, or device shall be paid the actual and necessary relocation cost therefor.

(2) Subsection (1) of this section shall not apply to:

(a) Actions taken by the Department of Roads pursuant to ~~sections 39-1320 to 39-1320-15~~ section 39-1320 and sections 6 to 20 of this act; and

(b) The removal, taking, or appropriation of a sign, display, or device which (i) is insecurely fixed or inadequately maintained such that the sign, display, or device constitutes a danger to the public health or safety, or (ii) has been abandoned or no longer used by the owners for at least six months.

Sec. 36. Original sections 39-202, 39-203, 39-205, 39-210, 39-1302, 39-1311, 39-1320, 39-1320.02, 39-1320.03, 39-1320.07, 39-1320.09, 39-1320.12, 39-1320.13, 39-1320.14, 39-1320.15, 39-2601 to 39-2608, 39-2610, 39-2611, and 69-1701, Reissue Revised Statutes of Nebraska, and sections 39-1320.01, 39-1320.06, 39-1320.08, 39-1320.10, and 39-1320.11, Revised Statutes Supplement, 1994, are repealed.

Sec. 37. The following section is outright repealed: Section 39-201, Reissue Revised Statutes of Nebraska.