

LAWS REGULATING
THE BOARD OF EXAMINERS FOR COUNTY HIGHWAY
AND CITY STREET SUPERINTENDENTS

Article 21 (Part)

39-2101. State highways; functional classification; declaration (*emphasis added*). Recognizing that safe and efficient transportation over public roads is a matter of major importance to all of the people in the state, the Legislature hereby determines and declares that an integrated system of public roads is essential to the general welfare of the State of Nebraska.

Adequate public roads provide for the free flow of traffic, protect the health and safety of the citizens of the state, result in lower cost of motor vehicle operation, increase property values, and generally promote the economic and social progress of the state.

Providing such a system of facilities and the efficient management, operation, and control thereof are recognized as urgent problems and proper objectives of legislation pertaining to all public roads.

As a result of the comprehensive three-year study of all public roads in Nebraska conducted by a committee of the Legislative Council as authorized by the Legislature in 1965 and 1967, a study through which determination has been made of the engineering, financial, and management needs of all public roads, **a program has been developed to provide an integrated system of public roads for the state, its counties, and its municipalities.**

Recognizing that cooperation among these governmental entities is essential in bringing to fruition the development of a truly integrated system of public roads, it is the intent of the Legislature to provide by law the structure upon which the state, its counties, and its municipalities can work as equal partners in the development, operation, and management of such a system.

Fundamental to the development of an integrated system of public roads is a determination of the function each road segment serves. Through adoption by law of a functional classification system, it is the intent of the Legislature that each segment of public road shall be identified according to the function it serves. Identification of roads according to function, then will permit the establishment of uniform standards of design, construction, operation, and maintenance for each classification of road. Such standards will promote the general safety of the traveling public, enhance the free flow of traffic, and provide improved utilization of highway financing.

Responsibility for the various functional classifications of public roads shall be assigned by law to the state, the counties, and the municipalities, as appropriate, such assignments reflecting the general responsibilities of each entity.

Through establishment of a Board of Public Roads Classifications and Standards composed of representation from the state, counties, municipalities, and general public, it is the intent of the Legislature to give each governmental entity and the public an equal voice in developing reasonable standards for each classification of road which shall be adequate to meet the needs of an increasingly mobile society.

Both long-range planning and annual programming are essential to the orderly development of an integrated system of public roads. It is the intent of the Legislature to provide by law a structure which will enable each governmental entity to program its individual needs on a priority basis, yet to establish an intergovernmental relationship which will permit their working in cooperation with each other to attain the desired objective of an integrated system. The structure will have the flexibility necessary to recognize that annual programs cannot always be met as planned because of unforeseen problems which may arise.

To assure realization of the maximum benefits possible from the substantial investment Nebraska citizens make toward their public roads, it is the intent of the Legislature to provide by law a system of planning, programming, budgeting, reporting, and accounting for each governmental entity which will bring improved management methods.

Such management will provide citizens the opportunity to know how each governmental entity intends to spend its highway money, and to determine its performance when measured against its plans.

Nebraska's public roads system is one of the largest in the nation; yet its population is relatively small and ranges from high concentrations of people in urban centers to vast rural areas in which the population is sparsely located. The citizens in these diverse areas have the same need, however, for a transportation system which will meet their respective needs. It is not economically feasible to develop all public roads

throughout the state to the same high standards, and thus, it becomes incumbent upon the Legislature to devise a program under which the roads most important to these diverse areas are developed to modern standards. Adoption of a functional classification system and implementation of modern management methods will combine to bring such a program into being and result in improved utilization of highway financing.

Recognizing that highway financing heretofore has been inadequate to meet the needs of a modern transportation system, and that the distribution of revenue has resulted in disparities of treatment, it is the intent of the Legislature to provide reasonable financing and more equitable distribution of revenue. The objectives of this total program are to bring the state highway system up to adequate standards in a twenty-year period, and to bring the road systems of its counties, and the street systems of its municipalities, up to adequate standards over a twenty-year period.

Source: Laws 1969, c. 312, § 1, p. 1116.

Article 23

39-2301. Act, how cited; legislative findings. (1) Sections 39-2301 to 39-2311 shall be known and may be cited as the County Highway and City Street Superintendents Act.

(2) The Legislature finds that in order to safeguard life, health, and property, and in order to further professional management of county road and municipal street programs, persons practicing or offering to practice street or highway superintending in this state are encouraged to become licensed as provided in the act.

Source: Laws 1969, c. 144, § 1, p. 665; Laws 2003, LB 500, § 1.

39-2301.01. Terms, defined. For purposes of the County Highway and City Street Superintendents Act, unless the context otherwise requires:

(1) Board of examiners means the Board of Examiners for County Highway and City Street Superintendents;

(2) City street superintendent means a person who engages in the practice of street superintending for an incorporated municipality;

(3) County highway superintendent means a person who engages in the practice of highway superintending for a county; and

(4) Street or highway superintending means:

(a) Developing and annually updating long-range plans based on needs and coordinated with adjacent local governmental units;

(b) Developing annual programs for design, construction, and maintenance;

(c) Developing annual budgets based on programmed projects and activities;

(d) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and

(e) Managing personnel, contractors, and equipment in support of such planning, programming, budgeting, and implementation operations.

Source: Laws 2003, LB 500, § 2.

39-2302. County highway or city street superintendents; license required; effect. No person shall be employed by any county as a county highway superintendent or by any municipality as a city street superintendent to qualify for the incentive payments provided in sections 39-2501 to 39-2520 unless he or she has been licensed under the County Highway and City Street Superintendents Act.

Source: Laws 1969, c. 144, § 2, p. 665; Laws 2003, LB 500, § 3.

39-2304. Board of Examiners for County Highway and City Street Superintendents; created; members; qualifications; appointment; term; vacancy; expenses. The Board of Examiners for County Highway and City Street Superintendents is created. The board shall consist of seven members to be appointed by the Governor, four of whom shall be county representatives, and three of whom shall be municipal representatives.

Immediately preceding appointment to the board, each county and municipal representative shall hold a current license as a county highway or city street superintendent pursuant to the County Highway and City Street Superintendents Act. Of the county representatives, no more than one member shall be appointed from each class of county as defined in section 23-1114.01, and of the municipal representatives, no more than one shall be appointed from each congressional district, one of whom shall be a representative of a city of the metropolitan or primary class, one of whom shall be a representative of a city of the first class, and one of whom shall be a representative of a city of the second class or a village.

In making such appointments, the Governor may give consideration to a list of licensed county highway engineers, county highway superintendents, and county surveyors submitted by the Nebraska Association of County Officials and to a list of licensed city street superintendents or street commissioners, city engineers, and public works directors submitted by the League of Nebraska Municipalities. Two county representatives shall initially be appointed for terms of two years each, and two county representatives shall initially be appointed for terms of four years each. One municipal representative shall initially be appointed for a term of two years, and two municipal representatives shall initially be appointed for terms of four years each. Thereafter, all such appointments shall be for terms of four years each.

In the event a county or municipal representative loses his or her license as a county highway or city street superintendent, such person shall no longer be qualified to serve on the board and such seat shall be vacant. In the event of a vacancy occurring on the board for any reason, such vacancy shall be filled by appointment by the Governor for the remainder of the unexpired term. Such appointed person shall meet the same requirements and qualifications as the member whose vacancy he or she is filling.

Members of the board shall receive no compensation for their services as members of the board but shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 144, § 4, p. 666; Laws 1981, LB 204, § 63;
Laws 1992, LB 175, § 1; Laws 2003, LB 500, § 4.

39-2305. Board of examiners; office space; equipment; meetings. The board of examiners shall be furnished necessary office space, furniture, equipment, stationery, and clerical assistance by the Department of Roads. The board shall organize itself by selecting from among its members a chairperson and such other officers as it may find desirable. The board shall meet at such times at the Department of Roads headquarters in Lincoln as may be necessary for the administration of the County Highway and City Street Superintendents Act.

Source: Laws 1969, c. 144, § 5, p. 666; Laws 2003, LB 500, § 5.

39-2306. Class B license; application; fee; exceptions. (1) Any person desiring to be issued a Class B license under section 39-2308 shall make application therefore to the board of examiners upon forms prescribed and furnished by the board. The application shall include the applicant's social security number. Such application shall be accompanied by an application fee of twenty-five dollars.

(2) Any professional engineer shall be entitled to a Class B license under section 39-2308 without examination.

Source: Laws 1969, c. 144, § 6, p. 667; Laws 1997, LB 622, § 61;
Laws 1997, LB 752, § 94; Laws 2003, LB 500, § 6.

39-2307. Board of examiners; examinations; conduct; test qualifications of applicants for Class B licenses. The board of examiners shall, twice each year, conduct examinations of applicants for Class B licenses under section 39-2308. Such examinations shall be designed to test the qualifications of applicants for the position of county highway superintendent or city street superintendent and shall cover the ability to:

- (1) Develop and annually update long-range plans based on needs and coordinated with adjacent local governmental units;
- (2) Develop annual programs for design, construction, and maintenance;
- (3) Develop annual budgets based on programmed projects and activities;
- (4) Implement the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and
- (5) Understand principles pertaining to highway, road, and street operations and to management of personnel, contractors, and equipment.

Source: Laws 1969, c. 144, § 7, p. 667; Laws 2003, LB 500, § 7.

39-2308. Class B license; term; renewal. Any person satisfactorily completing the examination required by section 39-2307 or exempt from such examination under the provisions of subsection (2) of section 39-2306 shall be issued a Class B license as a county highway or city street superintendent. Such license shall be valid for a period of one year and shall be renewable upon the payment of an annual fee of ten dollars. Any person holding a license on January 1, 2004, shall be deemed to be holding a Class B license under this section.

Source: Laws 1969, c. 144, § 8, p. 668; Laws 2003, LB 500, § 8.

39-2308.01. Class A license; application; qualifications; fees; term; renewal. Any person holding a Class B license issued pursuant to section 39-2308 may apply to the board of examiners for a Class A license upon forms prescribed and furnished by the board upon submitting evidence that (1) he or she has been employed and appointed by one or more county or counties or municipality or municipalities as a county highway or city street superintendent at least half-time for at least two years within the past six years or (2) he or she has at least four years' experience in work comparable to street or highway superintending. Such application shall be accompanied by a fee of seventy-five dollars. A Class A license shall be valid for a period of three years and shall be renewable for three years as provided in section 39-2308.02 upon payment of a fee of fifty dollars.

Source: Laws 2003, LB 500, § 9.

39-2308.02. Class A license; renewal; professional development required. (1) As a condition for renewal of a license issued pursuant to section 39-2308.01, the holder of a Class A license shall be required to have successfully completed twenty hours of professional development within the preceding three years. Any license holder who completes in excess of twenty hours of professional development within the preceding three years may have the excess, not to exceed ten hours, applied to the requirement for the next triennium.

(2) The board of examiners shall not renew the Class A license of a license holder who has failed to complete the professional development requirements pursuant to subsection (1) of this section unless he or she can show good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown, the board shall permit such license holder to make up all outstanding required hours of professional development. If the board determines that good cause was not shown or if the license holder requests renewal as a Class B licensee, the board shall issue a Class B license. Renewal of such license shall be governed by section 39-2308.

(3) A holder of a Class B license who previously held a Class A license may be reissued a Class A license by:

- (a) Electing to either:
 - (i) Complete one and one-half of the triennial requirements for professional development as set forth in the rules and regulations of the board; or

- (ii) Reapply under section 39-2308.01; and
 - (b) Paying the seventy-five dollar Class A application fee.
- Source: Laws 2003, LB 500, § 10.

39-2308.03. Licensees; additional licensure; requirements. The holder of a county highway superintendent's license shall be entitled to hold a city street superintendent's license of the same or a lower level upon payment of the application fee for that additional license. The holder of a city street superintendent's license shall be entitled to hold a county highway superintendent's license of the same or a lower level upon payment of the application fee for that additional license.

Source: Laws 2003, LB 500, § 11.

39-2309. License; suspension; revocation; grounds; hearing; notice. The board of examiners may suspend or revoke any license issued under the County Highway and City Street Superintendents Act for fraud or deceit in obtaining it, neglect of duty, or incompetence in the performance of duty. Such action shall only be taken after notice and hearing under the provisions of the Administrative Procedure Act.

Source: Laws 1969, c. 144, § 9, p. 668; Laws 2003, LB 500, § 12.

39-2310. Funds received under act; use. All funds received under the County Highway and City Street Superintendents Act shall be remitted to the State Treasurer for credit to the Highway Cash Fund. Expenses of the members of the board of examiners as provided in section 39-2304 shall be paid by the Department of Roads from the Highway Cash Fund.

Source: Laws 1969, c. 144, § 10, p. 668; Laws 1971, LB 53, § 4.
Laws 1972, LB 1496, § 1; Laws 2003, LB 500, § 13.

39-2311. Rules and regulations. The board of examiners may adopt and promulgate rules and regulations for the administration of the County Highway and City Street Superintendents Act.

Source: Laws 1969, c. 144, § 11, p. 668; Laws 2003, LB 500, § 14.

Article 25 (Part)

39-2501. Incentive payments for road purposes; priority.

Before making distribution of funds allocated to the counties or municipal counties for road purposes, incentive payments shall first be made as provided in sections 39-2502 to 39-2505.

Source: Laws 1969, c. 315, § 1, p. 1133; Laws 2001, LB 142, § 39.

39-2502. County highway superintendent, defined; duties; incentive payment. An incentive payment shall be made to each county having in its employ a county highway superintendent licensed under the County Highway and City Street Superintendents Act, during the calendar year preceding the year in which payment is made. For purposes of sections 39-2501 to 39-2510, county highway superintendent means a person who actually performs the following duties:

(1) Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;

(2) Developing an annual program for design, construction, and maintenance;

(3) Developing an annual budget based on programmed projects and activities;

(4) Submitting such plans, programs, and budgets to the local governing body for approval;

(5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and

(6) Preparing and submitting annually to the Board of Public Roads Classifications and Standards the county's one-year plans, six-year plans, or annual metropolitan transportation improvement programs for highway, road, and street improvements under sections 39-2115 to 39-2117, 39-2119, and 39-2119.01 and a report showing the actual receipts, expenditures, and accomplishments compared with those budgeted and programmed in the county's annual plans as set forth in section 39-2120.

Source: Laws 1969, c. 315, § 2, p. 1133; Laws 1976, LB 724, § 7;
Laws 2003, LB 500, § 15; Laws 2007, LB 277, § 7.

39-2503. Incentive payment; amount. The incentive payment to the various counties and municipal counties shall be based on the level of license of the county highway superintendent employed by the county and on the rural population of each county or municipal county, as determined by the most recent federal census, according to the following table.

Rural Population	Class B License Payment	Class A License Payment
Not more than 3,000	\$4,500.00	\$ 9,000.00
3,001 to 5,000	\$4,875.00	\$ 9,750.00
5,001 to 10,000	\$5,250.00	\$10,500.00
10,001 to 20,000	\$5,625.00	\$11,250.00
20,001 to 30,000	\$6,000.00	\$12,000.00
30,001 and more	\$6,375.00	\$12,750.00

Source: Laws 1969, c. 315, § 3, p. 1134; Laws 1981, LB 51, § 1; Laws 2001, LB 142, § 40; Laws 2003, LB 500, § 16.

39-2504. Incentive payment; reduction; when; consulting engineer; when; contracting with another political subdivision; payment. (1) A reduced incentive payment shall be made to any county or municipal county having in its employ either (a) a licensed county highway superintendent for only a portion of the calendar year preceding the year in which the payment is made or (b) two or more successive licensed county highway superintendents for the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the payment amounts listed in section 39-2503 as the number of full months each such licensed superintendent was employed is of twelve.

(2) Any county or municipal county that contracts for the services of a consulting engineer licensed under the County Highway and City Street Superintendents Act or any other person licensed under the act to perform the duties outlined in section 39-2502 rather than employing a licensed county highway superintendent shall be entitled to an incentive payment equal to two-thirds the payment amount provided in section 39-2503 or two-thirds of the reduced incentive payment provided in subsection (1) of this section, as determined by the Department of Roads pursuant to section 39-2505.

(3) Any county or municipal county that contracts with another county or municipal county or with any city or village for the services of a licensed county highway superintendent as provided in section 39-2114 shall be entitled to the incentive payment provided in section 39-2503 or the reduced incentive payment provided in subsection (1) of this section.

Source: Laws 1969, c. 315, § 4, p. 1134; Laws 1981, LB 51, § 2; Laws 2001, LB 142, § 41; Laws 2003, LB 500, § 17.

39-2505. Incentive payments; Department of Roads; certify amount; State Treasurer; payment. The Department of Roads shall, in January of each year commencing in 1970, determine and certify to the State Treasurer the amount of each incentive payment to be made under the provisions of sections 39-2501 to 39-2505. The State Treasurer shall, on or before February 15, make the incentive payments in accordance with such certification.

Source: Laws 1969, c. 315, § 5, p. 1134.

39-2511. Incentive payments for street purposes; priority.

Before making distribution of funds allocated to the municipalities or municipal counties for street purposes, incentive payments shall first be made as provided in sections 39-2512 to 39-2515.

Source: Laws 1969, c. 316, § 1, p. 1139; Laws 2001, LB 142, § 45.

39-2512. City street superintendent, defined; duties; incentive payment. An incentive payment shall be made to each municipality or municipal county having in its employ a city street superintendent licensed under the County Highway and City Street Superintendents Act, during the calendar year preceding the year in which payment is made. For purposes of sections 39-2511 to 39-2520, city street superintendent means a person who actually performs the following duties:

- (1) Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;
- (2) Developing an annual program for design, construction, and maintenance;
- (3) Developing an annual budget based on programmed projects and activities;

- (4) Submitting such plans, programs, and budgets to the local governing body for approval;
- (5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and
- (6) Preparing and submitting annually to the Board of Public Roads Classifications and Standards the one-year plans, six-year plans, or annual metropolitan transportation improvement programs of the municipality or municipal county for highway, road, and street improvements as set forth in sections 39-2115 to 39-2117, 39-2119, and 39-2119.01 and a report showing the actual receipts, expenditures, and accomplishments compared with those budgeted and programmed in the annual plans of the municipality or municipal county as set forth in section 39-2120.

Source: Laws 1969, c. 316, § 2, p. 1139; Laws 1976, LB 724, § 8;
 Laws 2001, LB 142, § 46; Laws 2003, LB 500, § 18;
 Laws 2007, LB 277, § 8.

39-2513. Incentive payment; amount. The incentive payment to the various municipalities or municipal counties shall be based on the level of license of the city street superintendent employed by the municipality or municipal counties and on the population of each municipality or urbanized area of each municipal county, as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119, according to the following table:

Population	Class B License Payment	Class A License Payment
Not more than 500	\$300.00	\$600.00
501 to 1,000	\$500.00	\$1,000.00
1,001 to 2,500	\$1,500.00	\$3,000.00
2,501 to 5,000	\$2,000.00	\$4,000.00
5,001 to 10,000	\$3,000.00	\$6,000.00
10,001 to 20,000	\$3,500.00	\$7,000.00
20,001 to 40,000	\$3,750.00	\$7,500.00
40,001 to 200,000	\$4,000.00	\$8,000.00
200,001 and more	\$4,250.00	\$8,500.00

Source: Laws 1969, c. 316, § 3, p. 1139; Laws 1993, LB 726, § 9;
 Laws 1994, LB 1127, § 5; Laws 2001, LB 142, § 47;
 Laws 2003, LB 500, § 19.

39-2514. Incentive payment; reduction; when; consulting engineer; when; contracting with another political subdivision.

(1) A reduced incentive payment shall be made to any municipality or municipal county having in its employ either (a) a licensed city street superintendent for only a portion of the calendar year preceding the year in which the payment is made or (b) two or more successive licensed city street superintendents for the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the payment amounts listed in section 39-2513 as the number of full months each such licensed superintendent was employed is of twelve.

(2) Any municipality or municipal county that contracts for the services of a consulting engineer licensed under the County Highway and City Street Superintendents Act or any other person licensed under the act to perform the duties outlined in section 39-2512 rather than employing a licensed city street superintendent shall be entitled to an incentive payment as provided in section 39-2513 or to the reduced incentive payment provided in subsection (1) of this section, as determined by the Department of Roads pursuant to section 39-2515.

(3) Any municipality or municipal county that contracts with another municipality, county, or municipal county for the services of a licensed city street superintendent as provided in section 39-2114 shall be entitled to the incentive payment provided in section 39-2513 or the reduced incentive payment provided in subsection (1) of this section.

Source: Laws 1969, c. 316, § 4, p. 1140; Laws 2001, LB 142, § 48;
 Laws 2003, LB 500, § 20.

39-2515. Incentive payments; Department of Roads, certify amount; State Treasurer; payment.

The Department of Roads shall, in January of each year commencing in 1970, determine and certify to the State Treasurer the amount of each incentive payment to be made under the provisions of sections 39-2511 to 39-2520. The State Treasurer shall, on or before February 15, make the incentive payments in accordance with such certification.

Source: Laws 1969, c. 316, § 5, p. 1140.