

under, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for a term of not more than six (6) months, or to both such fine and imprisonment.

§ 14. REPEAL]: That Chapter 184 of the 1929 Session Laws of North Dakota, and Chapter 135 of the 1937 Session Laws of North Dakota be, and the same are hereby, repealed. All laws or parts of laws in conflict with this Act be, and the same are hereby, repealed.

§ 15. SAVING CLAUSE]: It is hereby declared to be the legislative intent to enact each separate provision of this Act independently of all other provisions; and the fact that any section, word, clause, sentence or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence or part thereof unless otherwise stated herein.

Approved March 20, 1941.

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## HIGHWAYS

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### CHAPTER 171

H. B. No. 303—(Johnson of Cass)

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#### BIENNIAL REPORT TO BE SUBMITTED BY THE STATE HIGHWAY COMMISSIONER

An Act Requiring departmental budgets and biennial reports by the State Highway Commissioner and repealing all Acts and parts of Acts in conflict herewith.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DEPARTMENTAL BUDGETS.] Not later than the 31st day of December of each year, the State Highway Commissioner shall adopt a Department Budget wherein shall be allocated, set aside and appropriated to each Department, division, section or activity of the State Highway Department for the ensuing calendar year, a definite and fixed sum or allowance in such amount and with such detail as the Commissioner may elect for the use and purpose set aside in said Department Budget.

§ 2. BIENNIAL REPORTS.] It shall be the duty of the State Highway Commissioner, on or before January 15 of each odd num-

bered year, to transmit to the Governor a full and complete biennial report of the activities of his office for the preceding two calendar years; and also to submit a biennial report, as is now required by law, for other departments of the State government.

§ 3. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 18, 1941.

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## CHAPTER 172

H. B. No. 112—(Trydahl, Brusseau and Blair)

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### CONTRACTS FOR ROAD IMPROVEMENTS AND MACHINERY TO BE ADVERTISED

An Act to amend and re-enact Section 2 of Chapter 108 of the Session Laws of 1915, being Section 1946a1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota; Relating to the expenditure of money by contract for road improvements and road machinery by the County Commissioners, and repealing all Acts and parts of Acts in conflict herewith.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 2 of Chapter 108 of the Session Laws of 1915, being Section 1946a1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ 1946a1. CONTRACTS TO BE ADVERTISED.] All purchases of road machinery and all rental contracts or agreements for the use of road machinery and other articles or contracts for the improvements of the highways, except necessary repairs for such road machinery, which shall exceed the sum of Two Hundred Dollars (\$200.00), shall be advertised in the manner as now provided by law for the purchase of county supplies.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1941.

## CHAPTER 173

H. B. No. 113—(Trydahl, Boulden, Saumur and Smart)

**PURCHASE OF RIGHT OF WAY BY COUNTY COMMISSIONERS**  
An Act to Amend and Re-enact Section 1, Chapter 121 of the Session  
Laws of North Dakota for the year 1935.

*Be It Enacted by the Legislative Assembly of the State of North  
Dakota:*

§ 1. PURCHASE OF RIGHT OF WAY BY COUNTY COMMISSIONERS.] That the county commissioners of any county of the State of North Dakota, by resolution or order may, as part of the cost of construction, reconstruction, widening, altering, changing, locating, re-locating, aligning, realigning or maintaining of any highways in said county, may purchase, acquire, take over or condemn, under the right and power of eminent domain, for any county, any and all lands which it shall deem necessary for the present use, either temporary or permanent and to provide adequate drainage in the improvement, constructing, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning or maintaining of any highways in said county, and it may by the same means acquire said lands notwithstanding the fact that the title thereto now or hereafter is vested in the state or any of its subdivisions. Whenever said county commissioners shall determine by resolution or order that the public necessity requires the taking of land as aforesaid, it shall cause said lands to be surveyed and described and a plat thereof prepared and recorded in the office of the Register of Deeds of the County wherein the same is located. The county commissioners or their duly authorized agents and employees are hereby authorized and empowered to enter upon any land or lands for the purpose of making such surveys, examination or test; provided, however, that in case of damages to said premises the county commissioners shall forthwith pay to the owner of said premises the amount of said damages.

Approved February 21, 1941.

## CHAPTER 174

H. B. No. 323—(Johnson, Crockett and Twitchell)

## STATE HIGHWAY DEPARTMENT, BIDS

An Act to Amend and Re-enact Section 11 of Chapter 159, Session Laws of 1927, relating to the Department of State Highways.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Section 11 of Chapter 159, Session Laws of 1927, is hereby amended and re-enacted as follows:

§ 11. CONTRACTS AND FORCE ACCOUNT.] Whenever the cost of any improvement or the purchase price of equipment or materials and supplies shall exceed the sum of Three Thousand (\$3,000.00) Dollars, the Department of State Highways shall proceed to advertise the same, request bids and award such contracts in the manner hereinafter provided. Whenever any proposed contract, purchase or work of the Department of State Highways shall be for a sum less than Three Thousand (\$3,000.00) Dollars, it shall be discretionary with the Department of State Highways whether the same shall be awarded after advertising, or request of bids; and it shall award such contracts in a manner hereinafter provided; provided, however, that where contracts be in excess of One Thousand (\$1,000.00) Dollars, the Department of State Highways shall request informal bids from as many contractors, manufacturers and dealers as it can conveniently.

Request for bids for all construction work or the improvement of any State Highway, or any structure in excess of Three Thousand (\$3,000.00) Dollars, shall be advertised by publication once a week for a period of three successive weeks, prior to the opening of such bids, in the county official newspaper of the county in which the project is located. Such advertisement shall state where the bidder may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened.

All requests for bids for the purchase of equipment, materials and supplies in excess of the sum of Three Thousand (\$3,000.00) Dollars, shall be advertised in the official newspaper of Burleigh County, once a week for a period of three successive weeks prior to the opening of such bids. All bids shall be opened at the time and place specified, and in the offices of the Department of State Highways, by and in the presence of the State Highway Commission, or its successors. Each bid shall be accompanied by a certified check of the bidder on a solvent North Dakota bank, in an amount equal to five per cent of his bid, which check shall be forfeited to the State Highway Fund, should the bidder fail to effect a contract within ten days after a notice of such award. In the event that any county or municipality shall participate in and defray the cost, or part of the

cost of any improvement to be made by the Department of State Highways, it shall be the duty of the chief executive officer of such Highway Commission to notify the board of county commissioners of the county so interested, or the proper city officials of any municipality of the time set for opening such bids.

Excepting the certified checks of the three lowest bidders; all certified bidders' checks shall be returned to the bidders promptly upon opening such bids. The checks of the three lowest responsible bidders may be cashed and the money retained until the contract has been awarded and properly executed.

Informal bids shall be requested and the contract therefor may be awarded upon such basis and procedure as the State Highway Commission shall direct.

Provided, however, that in case of great emergency requiring immediate action and, where delay would cause a public injury, the work may be done by the Department of State Highways by force account.

§ 11A. Whenever any highway improvement involves structural work, dirt grading and traffic service gravel, graveling, stabilizing and oiling, or concrete surfacing, or any two or more of them, then wherever practical and not contrary to any Federal law or regulations, separate proposals and bids shall be received on each separate type of work.

Approved March 21, 1941.

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## CHAPTER 175

H. B. No. 62—(Sharpe, Nystrom and Bergesen)

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### HIGHWAY PATROL AND DRIVERS LICENSE

An Act to amend and re-enact Sections 4, 7, 12 and 18 of Chapter 139 of the Session Laws of North Dakota of 1937 relating to issuance of motor vehicle operators' licenses to persons under sixteen years of age; the fee for motor vehicle operators' licenses; the revocation of licenses; and the establishment of the Division of Highway Safety and Police Patrol, repealing all Acts and parts of Acts in conflict herewith and declaring an emergency.

March 20, 1941

Honorable Herman Thorson  
Secretary of State

Dear Mr. Thorson:

I transmit herewith House Bill 62 entitled "An Act to amend and re-enact Sections 4, 7, 12, and 18 of Chapter 139 of the Session Laws of North Dakota of 1937 relating to issuance of motor vehicle operators' licenses to persons under sixteen years of age; the fee for

motor vehicle operators' licenses; the revocation of licenses; and the establishment of the Division of Highway Safety and Police Patrol, repealing all Acts and parts of Acts in conflict herewith and declaring an emergency" which I have signed.

It will be noted that both the title of the act and the act itself contain an emergency clause and that both branches of the Legislature have certified that the act was passed by a  $\frac{2}{3}$  majority. It is further noted, however, that as a matter of fact, the vote on the measure in the Senate was 29 for and 16 against the measure with 4 members absent and not voting, and that as a result less than  $\frac{2}{3}$  of the members of the Senate present and voting voted in favor of the Law. It, therefore, appears that the emergency clause failed to pass and should have been declared lost and should have been so certified by the presiding officers of the Senate. It necessarily follows that the act will not become effective until July 1, 1941 pursuant to the mandatory provision of the Constitution.

Yours truly,  
JOHN MOSES  
Governor

JM:S:EH

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 4, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 4. LICENSE TO PERSONS UNDER SIXTEEN YEARS.] Upon the recommendation in writing of the County Judge of the County wherein the child resides, a motor vehicle driver's license may be issued to any child, otherwise qualified, who is less than sixteen years of age but more than fourteen years of age. No County Judge shall make a recommendation for the issuance of a motor vehicle driver's license to a child who is less than sixteen years of age unless such child, accompanied by his parent or guardian, shall appear in person before such Judge and shall satisfy the Judge that such child is at least fourteen years of age, that he appears to be qualified to safely operate an automobile, and that it is necessary for such child to drive his parent's or guardian's automobile without being accompanied by some person over the age of sixteen. The parent or guardian shall at all times be responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this section shall not authorize such child to drive a motorcycle, commercial truck, motor bus, or taxicab.

§ 2. AMENDMENT.] That Section 7, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 7. TERM OF LICENSE AND LICENSE FEE.] Motor vehicle

operators' licenses shall be issued for terms of two years each, which terms shall commence on the first day of July of each odd numbered calendar year and shall expire on the thirtieth day of June of the next succeeding odd numbered calendar year. The fee for each operator's license shall be the sum of Seventy-five (75¢) cents for each current term of two years or part thereof, and new licenses shall be obtainable at the beginning of each term, provided, however, that applicants who are eighteen years of age or younger shall pay the sum of twenty-five cents for each such license; and provided further that the first license term under the provisions hereof shall expire on June 30, 1943.

In the event of the loss or destruction of such operator's license card the person to whom it was issued may obtain a duplicate thereof by filing an application with the State Highway Department and by paying a twenty-five cent fee. Whenever a motor vehicle operator's license becomes worn or mutilated to such an extent that it is not legible but is not wholly destroyed or lost, the holder of such card shall immediately apply to the said State Highway Department for a duplicate and forward the said fee of twenty-five cents, and a duplicate will be issued.

§ 3. AMENDMENT.] That Section 12, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 12. STATE HIGHWAY COMMISSIONER TO REVOKE OR SUSPEND LICENSES.] It shall be the duty of the State Highway Commissioner to revoke or suspend the license of any person convicted of any of the offenses hereinafter enumerated, and in addition the certificate of license of such person shall be returned to and retained by the State Highway Commissioner for the period of the revocation or suspension. Such revocation or suspension shall be done by Order of the State Highway Commissioner made within thirty days after he receives a record of the conviction of such person for any of the following offenses:

(a) Manslaughter or homicide in any degree arising out of the operation of a motor vehicle.

(b) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs.

(c) Any crime punishable as a felony under the motor vehicle laws of this State, or any other felony in the commission of which a motor vehicle was used.

(d) Conviction or forfeiture of bail upon two charges of reckless driving within the preceding twelve months.

(e) Conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose his identity at the scene of the accident.

(f) Any person who shall have been convicted of three misdemeanors for violation of this Act or of any law of this State relating to highways during the two-year period covered by any single license.

(g) Provided, however, that upon the written recommendation of the Judge of the Court in which a person convicted of any of the crimes specified in paragraphs (a), (b), (c), (d) and (e) above that the license of said person be suspended rather than revoked, it shall be within the discretion of the State Highway Commissioner to suspend the license of said person, provided however, that such period of suspension shall be no less than thirty days or more than one year, and further provided that unless said written recommendation from the Judge of the Court in which a person has been convicted of any one of the crimes specified in paragraphs (a), (b), (c), (d) and (e) hereof be received by the State Highway Commissioner within thirty days from the time the record of conviction is received by him the license of the person so convicted shall be revoked.

(h) Any person who drives a motor vehicle upon the highways of this State while his license to operate a motor vehicle is suspended or revoked shall be guilty of a misdemeanor.

§ 4. AMENDMENT.] That Section 18, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same are hereby amended and re-enacted to read as follows:

§ 18. ESTABLISHMENT OF DIVISION OF HIGHWAY SAFETY AND POLICE PATROL.] (a) The Commissioner is authorized and empowered to appoint a State Highway Patrol Superintendent and an Assistant Highway Patrol Superintendent, whose duty it shall be to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the highways in this State, and the operating of motor and other vehicles upon said highways. The jurisdiction of said officers shall extend throughout the State.

(b) The State Highway Patrol Superintendent, with the approval of the Highway Commissioner, is hereby authorized and empowered to appoint not more than twenty patrolmen, who shall constitute the Division of Highway Safety and Patrol, subject to removal for cause only, and whose duty it shall be to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the highways in this State. The Superintendent shall require that the Division of Highway Safety and Patrol properly patrol the highways of this State and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways, provided further that all sheriffs, peace officers, and the local authorities are required to enforce the provisions of this Act.

(c) OATH AND BOND.] Every person appointed as Superin-



tendent of the Division of Highway Safety and Patrol, or Assistant Superintendent, or as a Highway Patrolman shall, before entering upon his duties subscribe to an oath, and sign and file a bond with the Commissioner, the bond to run to the State of North Dakota; said oath and bond to be in such form and in such amounts as shall be prescribed by the Commissioner.

(d) SALARIES, WAGES AND EXPENSES.] All salaries, wages and other expenses of the Division of Highway Safety and Patrol shall be paid by the State Auditor and State Treasurer out of the "Patrol Fund" herein provided, upon vouchers as now required by law for the payment of all State expenses, duly approved by the Commissioner and the Superintendent, and audited and allowed by the State Auditing Board. The salary of the Superintendent of the Division of Highway Safety and Patrol shall not exceed \$2,000 per annum, and the salary of the Assistant Superintendent shall not exceed \$1,800 per annum, the salary of each highway patrolman shall be fixed by the Superintendent at not to exceed \$125 per month, and shall be paid monthly out of the funds in the "Patrol Fund."

(e) QUALIFICATIONS OF HIGHWAY PATROLMEN.] All members of the Division of Highway Safety and Patrol shall not be less than twenty-five nor more than thirty-five years old on the date of their appointment. They shall, before being qualified to appointment, be required to pass such physical examination and such other qualification test as may be determined by the Superintendent, be of good moral character and temperate habits, have been citizens of the United States and of the State of North Dakota for not less than two years prior to their appointment. For appointment preference shall be given at all times to honorably discharged Veterans and all appointments shall be made without regard to any political party affiliation of the applicant.

(f) POLICE AUTHORITY TO THE DIVISION OF HIGHWAY SAFETY AND PATROL.] The Commissioner and such officers and inspectors of the department as he shall designate and all members of the division of highway safety and patrol shall have the power:

1. Of peace officers for the purpose of enforcing the provisions of this Act and of any other law regulating the operation of vehicles or the use of the highways.

2. To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this Act or other law regulating the operation of vehicles or the use of the highways.

3. At all times to direct all traffic in conformance with law and in the event of a fire or other emergency or to expedite traffic or to insure safety to direct traffic as conditions may require notwithstanding the provisions of law.

4. When on duty, upon reasonable belief that any vehicle is

being operated in violation of any provision of this Act, or of any other law regulating the operation of vehicles to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.

5. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.

7. To investigate traffic accidents and secure testimony of witnesses or of persons involved.

8. To investigate reported thefts of motor vehicles, trailers, and semi-trailers.

9. That said patrolmen shall be required to inspect all motor vehicles as to compliance with the provisions of law relating to the issuance and possession of motor vehicle licenses and to fully cooperate with the motor vehicle registrar in carrying out all of the laws relating to motor vehicle licenses, and to take over and perform the duties now performed by motor vehicle license inspectors under the Regulatory Department.

10. To take applications for driver's licenses without making charge therefor.

(g) (a) The Commissioner shall issue to each member of the division of highway safety and patrol a badge of authority with the seal of this State in the center thereof, the word "North Dakota Highway Patrol" encircling said seal and below the designation of the position held by the member to whom issued. Every such badge shall be serial numbered or each member shall otherwise display a distinctive serial number.

(b) Neither the Commissioner nor any other person shall issue any such badge to any person who is not a duly appointed and acting member of said division.

(c) Any person who without authority wears the badge of a member of said division, or a badge of similar design which would tend to deceive anyone, is guilty of a misdemeanor.

(d) Any person who impersonates a member of said division or other officer or employees of the department with intent to deceive anyone, or who without authority wears a uniform likely to be confused with the official uniform of any such officer, is guilty of a misdemeanor.

§ 5. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 6. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 18, 1941.

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## CHAPTER 176

S. B. No. 186—(Nelson of Grand Forks and Young)

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### REMOVING STATUTORY LIMITATIONS ON SALARIES PAID TO STATE HIGHWAY COMMISSIONER, CHIEF ENGINEER, ETC.

An Act Removing statutory limitations on salaries to be paid to the State Highway Commissioner, Chief Engineer, engineers, assistant engineers and draftsmen in the Highway Department between April 1, 1941 and June 30, 1943; repealing all Acts and parts of Acts in conflict herewith.

*Whereas*, the present national emergency and defense program has created an unusual demand for engineers, draftsmen and technicians, and

*Whereas*, Employees of the North Dakota Highway Department are being induced to leave their positions in such Department by offers of positions in defense industries at higher salaries,

*Therefore*,

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Between the first day of April, 1941, and the 30th day of June, 1943, the limitations imposed by statutes on the salaries to be paid to the State Highway Commissioner, Chief Engineer, engineers, assistant engineers, and draftsmen in the State Highway Department shall not be operative or effective, and salaries in excess of such limitations may be paid, provided, however, that the salaries of the State Highway Commissioner, Chief Engineer, engineers, assistant engineers and draftsmen in the State Highway Department shall not be increased more than twenty percent above the limitations imposed by statutes.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 20, 1941.