

HIGHWAYS, BRIDGES AND FERRIES

CHAPTER 177

H. B. No. 560
(Legislative Research)

STATE HIGHWAY SYSTEM

AN ACT

Relating to the state highway system, county road system, and municipal streets; providing for highway administration, standards for construction and maintenance, planning and research; authorizing contracts and acquisition of land, equipment, and materials; providing for control of access and right-of-way; repealing chapter 24-01, except section 24-0101, chapter 24-02, except section 24-0238, chapter 24-03, chapter 24-04, sections 24-0811 and 24-0901, and chapter 24-12, except section 24-1210, of the North Dakota Revised Code of 1943; repealing sections 24-01231, 24-0206, 24-0207, 24-0214, 24-02191, 24-0633, 24-0812, 24-1202, 24-1213, 39-07031 and 39-1301 of the 1949 Supplement to the North Dakota Revised Code of 1943; and repealing chapter 176, chapter 179, chapter 181, section 1 of chapter 236, and chapter 316 of the North Dakota Session Laws of 1951.

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

§ 1. DECLARATION OF LEGISLATIVE INTENT.) Adequate roads and streets provide for the free flow of traffic; result in low cost of motor vehicle operation; protect the health and safety of the citizens of the state; increase property value; and generally promote economic and social progress of the state. Therefore, the legislative assembly hereby determines and declares that an adequate and integrated system of roads and streets is essential to the general welfare of the state of North Dakota.

In designating the highway systems of this state, as hereinafter provided, the legislative assembly places a high degree of trust in the hands of those officials whose duty it shall be, within the limits of available funds, to plan, develop, operate, maintain and protect the highway facilities of this state, for present as well as for future use. To this end, it is the intent of the legislative assembly to make the state highway commissioner, and the state highway department acting through him, custodian of the state highway system and to provide sufficiently broad authority to enable the commissioner to function adequately and efficiently in all areas of appropriate jurisdiction with specific details to be determined by reasonable rules

and regulations which may be promulgated by him, subject to the limitations of the constitution and the legislative mandate hereinafter imposed.

It is recognized that the efficient management, operation and control of our county roads, city streets, and other public thoroughfares are likewise a matter of vital public interest. Therefore, it is the further intent of the legislative assembly to bestow upon the boards of county commissioners similar authority with respect to the county road system and to local officials with respect to the roads under their jurisdiction.

While it is necessary to fix responsibilities for the construction, maintenance and operation of the several systems of highways, it is intended that the state of North Dakota shall have an integrated system of all roads and streets to provide safe and efficient highway transportation throughout the state. To this end, it is the intent of the legislative assembly to give broad authority and definite responsibility to the state highway commissioner and to the boards of county commissioners so that working together, free from political pressure and local interests, they may provide for the state an integrated system of state and county highways built upon a basis of sound engineering with full regard to the interest and well-being of the state as a whole.

Providing adequate public highway facilities, including rural and urban links, is hereby declared to be a proper public use and purpose and the legislative assembly hereby determines and declares that this Act is necessary for the immediate preservation of the public peace, health and safety, for the promotion of the general welfare, and as a contribution to the national defense.

§ 2. DEFINITION OF WORDS AND PHRASES.) The following words and phrases when used in this title shall, for the purposes of this title, have the meanings respectively ascribed to them in this chapter:

1. "Abandonment" shall mean cessation of use of right-of-way or activity thereon with no intention to reclaim or use again for highway purposes.
2. "Acquisition or taking" shall mean the process of obtaining right-of-way.
3. "Arterial highway" shall mean a general term denoting a highway primarily for through traffic, usually on a continuous route.
4. "Belt highway" shall mean an arterial highway for carrying traffic partially or entirely around an urban area or portion thereof.
5. "Capacity" shall mean the ability of a roadway to accommodate traffic.

6. "Commission" shall mean the public service commission of the state of North Dakota.
7. "Commissioner" shall mean the commissioner of the state highway department.
8. "Consequential damages" shall mean loss in value of a parcel, no portion of which is acquired, resulting from a highway improvement.
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.
10. "County road system" shall mean the system of secondary highways designated by the county officials, the responsibility for which is lodged with the counties.
11. "Department" shall mean the highway department of this state.
12. "Direct compensation" shall mean payment for land or interest in land and improvements actually acquired for highway purposes.
13. "Divided highway" shall mean a highway with separated roadways for traffic in opposite directions.
14. "Easement" shall mean a right acquired by public authority to use or control property for a designated highway purpose.
15. "Expressway" shall mean a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.
16. "Fee simple" shall mean an absolute estate or ownership in property including unlimited power of alienation, except as to any and all lands acquired or taken for highway, road or street purposes. Where lands are taken for such purposes, "fee simple" shall not be deemed to include any oil, gas or fluid mineral rights.
17. "Freeway" shall mean an expressway with full control of access.
18. "Frontage street or road" shall mean a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

19. "Grade crossing" shall mean the intersection of a public highway and of the track or tracks of any railroad, however operated, on the same plane or level, other than a street railway within the limits of a city or village.
20. "Highway, street, or road" shall mean a general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way. A highway in a rural area may be called a "road," while a highway in an urban area may be called a "street."
21. "Intersection" shall mean a general term denoting the area where two or more highways join or cross.
22. "Local street or local road" shall mean a street or road primarily for access to residence, business, or other abutting property.
23. "Market value" shall mean the highest price for which property can be sold in the open market by a willing seller to a willing purchaser, neither acting under compulsion and both exercising reasonable judgment.
24. "Major street or major highway" shall mean an arterial highway with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.
25. "Median" shall mean the portion of a divided highway separating the traveled ways for traffic in opposite directions.
26. "Municipal corporation or municipality" shall mean all cities, towns, and villages organized under the laws of this state, but shall not include any other political subdivisions.
27. "Outer separation" shall mean the portion of an arterial highway between the traveled ways of a roadway for through traffic and a frontage street or road.
28. "Partial taking" shall mean the acquisition of a parcel of property.
29. "Person" shall mean any person, firm, partnership, association, corporation, organization or business trust.
30. "Roadside" shall mean a general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

31. "Roadway" shall mean in general, the portion of a highway, including shoulders, for vehicular use. In construction specifications, the portion of a highway within limits of construction.
32. "Radial highway" shall mean an arterial highway leading to or from an urban center.
33. "Remainder" shall mean the portion of a parcel retained by the owner after a part of such parcel has been acquired.
34. "Remnant" shall mean a remainder so small or irregular that it usually has little or no economic value to the owner.
35. "Right of access" shall mean the right of ingress to a highway from abutting land and egress from a highway to abutting land.
36. "Right of survey entry" shall mean the right to enter property temporarily to make surveys and investigations for proposed highway improvements.
37. "Right-of-way" shall mean a general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to a highway.
38. "Right-of-way appraisal" shall mean a determination of the market value of property including damages, if any, as of a specified date, resulting from an analysis of facts.
39. "Right-of-way estimate" shall mean an approximation of the market value of property including damages, if any, in advance of an appraisal.
40. "Severance damages" shall mean loss in value of the remainder of a parcel resulting from an acquisition.
41. "Shoulder" shall mean the portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.
42. "State highway system" shall mean the system of state primary roads designated by the state highway commissioner, the responsibility for which is lodged in the state highway department.
43. "Traffic lane" shall mean the portion of the traveled way for the movement of a single line of vehicles.

44. "Traveled way" shall mean the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.
45. "Through street or through highway" shall mean every highway or portion thereof at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected.

§ 3. STATE HIGHWAY DEPARTMENT ESTABLISHED.) There is hereby established a state highway department which shall be known as the North Dakota state highway department. The department shall consist of a state highway commissioner, a chief engineer and other engineers, draftsmen, persons and employees necessary to carry out the intent and purpose of this Act.

§ 4. STATE HIGHWAY COMMISSIONER; APPOINTMENT; TERM; REMOVAL; OATH, BOND.) A state highway commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. Such commissioner, upon appointment, shall take and file the oath prescribed by law for state officers, and shall be bonded in the state bonding fund, in the sum of twenty-five thousand dollars.

§ 5. COMMISSIONER IS HEAD OF DEPARTMENT.) The commissioner shall have full control, management, supervision, administration, and direction of the department and shall perform such other duties as may be imposed upon him or placed under his jurisdiction. All powers and duties which hereinafter may be conferred on the department shall be exercised solely by and through the commissioner.

§ 6. RESPONSIBILITIES OF COMMISSIONER.) The commissioner shall:

1. Have charge of the records of the department;
2. Cause minutes of his acts and accurate and complete books of account to be kept;
3. Supervise the signing of vouchers, orders for supplies, materials, and any other expenditures;
4. Employ all engineers, assistants, clerks, agents, attorneys, and other employees, required for the proper transaction of the business of his office, or of the department, fix their titles, determine their duties, the amount of their bonds in the state bonding fund, if any are required, and their compensation, and shall discharge them in his discretion; and

5. Sign and execute all contracts and agreements for highway construction and the purchase of machinery, materials, and supplies.

§ 7. COMMISSIONER TO DEVOTE FULL TIME TO OFFICE.) The commissioner shall not hold any other office under the laws of this state or of any other state or of the United States. He shall reside at the capital of the state, and shall devote his entire time to the duties of his office, and shall not hold any position of trust or profit, nor engage in any business or occupation interfering or inconsistent with his duties, nor shall he serve on or under any committee of any political party.

§ 8. OFFICE HOURS OF COMMISSIONER.) The office of the commissioner shall be open for the transaction of business every day of the year, except Sundays and legal holidays, and the commissioner, or whosoever may be designated by him, may hold sessions or conduct investigations or hearings at the capitol, or at any other place within the state when deemed necessary to facilitate the work of the department.

§ 9. SALARY OF COMMISSIONER.) The commissioner shall receive a salary in such sum as shall be determined by the governor but not to exceed the sum of ten thousand dollars annually. He also shall receive his expenses actually and necessarily incurred in the performance of the duties of his office.

§ 10. CHIEF ENGINEER; QUALIFICATIONS; SALARY.) The chief engineer shall be a competent civil engineer, a graduate of an approved engineering school, with at least five years' experience in highway and bridge construction, maintenance, and repair, or in case he shall not be a graduate of some college or school of engineering, he shall have at least ten years' experience in highway and bridge construction and maintenance. He shall serve at the pleasure of the commissioner and shall be paid such compensation as the commissioner shall prescribe. He shall devote all his time and service to the department and shall exercise such powers and perform such duties as may be prescribed by the commissioner.

§ 11. EXPENSES OF DEPARTMENT EMPLOYEES.) In addition to the compensation received for their service, employees of the department shall be entitled to receive their expenses actually and necessarily incurred in the performance of their duties, the amount of the expenses so allowed to be fixed and determined by the commissioner.

§ 12. ENGINEERING CONSULTING SERVICES.) The commissioner is authorized to provide consulting engineering services, upon request, to any governmental unit.

§ 13. COORDINATOR OF HIGHWAY ROAD AND STREET PROGRAM, WITHIN STATE.) The commissioner shall have the authority and responsibility for the coordination of the total highway road and street program within this state, including the designation of systems and the development of construction standards as hereinafter provided for, and shall review the annual programs for each of the major systems to ensure coordination of planning and general conformity with the law. To obtain coordination, programs for the road systems of the counties and cities shall be initiated by the respective county and city authorities and approved by the commissioner.

§14. DEPARTMENTAL BUDGETS.) Not later than the thirty-first day of December of each year, the commissioner shall adopt a departmental budget wherein shall be allocated, set aside, and appropriated to each department, division, section, or activity of the 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 specified in such departmental budget. Nothing herein, however, shall prevent the commissioner from adding to, amending, revising, or reducing from time to time and as circumstances may warrant, such departmental budget.

§ 15. DEPARTMENTAL BUDGET ESTIMATES.) Not later than the fifteenth day of November of each year, each head of a department, division, section, or activity of the department who may be directed and designated to do so by the commissioner, shall submit to the commissioner an outline of the work which should be undertaken by such department, division, section, or activity during the following calendar year and the estimated expense thereof, in such detail as the commissioner may prescribe, together with such other cost data and information as the commissioner shall direct.

§ 16. BIENNIAL REPORT.) On or before January fifteenth of each odd numbered year, the commissioner shall transmit to the governor a full and complete biennial report of the activities of his office for the preceding two calendar years.

§ 17. RECORDS OF DEPARTMENT OPEN TO PUBLIC; CERTIFIED COPIES.) The commissioner shall be custodian of, and shall preserve, the files and records of the department. The files and records of the department shall be open to public inspection under reasonable regulations. Copies of said files and records, when certified by the commissioner as being true copies, shall be received in evidence in any court in the state with the same force and effect as the originals.

The books of account of the department shall be kept accurately and completely as shall be prescribed or approved

by the state examiner, which shall show among other things the following facts:

1. The cost of maintaining the department, including the salaries and expenses of the individual members thereof;
2. The amounts of money expended for the construction or maintenance of the state highways, when and where, and upon what job or portion of the road expended, so that the cost per mile of such construction or maintenance can be ascertained with ease; and
3. The amount of road equipment and materials purchased and when and where and from whom purchased. Such book also shall show the price paid for each item. The original invoice shall form a part of the permanent files and records in said department.

§ 18. AUDITING AND PAYMENT OF PAY ROLLS.) Pay roll vouchers prepared on forms adopted in accordance with section 88 of this Act, shall be certified and approved by the commissioner and the same shall be presented to the state auditor, who shall draw his warrant for each person named thereon without submitting such payroll vouchers to the state auditing board for its examination and approval.

§ 19. PAYMENT OF ESTIMATES ON CONTRACT.) Whenever any estimate or allowance for payment, except a final estimate or payment subsequent to a final estimate, is allowed, or granted, on a contract entered into by the department, and the same is vouchered by the department for presentation to the state auditor, or the county auditor, as the case may be, instead of submitting the same to the contractor for certification by him, the chief engineer of said department shall make the following certificate, in lieu of the certificate otherwise required by law, which shall be printed on the said voucher or claim:

ESTIMATE CERTIFICATE

I hereby certify that the within estimate or claim is just and true, that the contractor herein named has rendered the services and furnished the material herein charged, that they are of the value claimed, that no part thereof has been paid, and that the foregoing estimate or claim is supported by a proper contract and bond on file in the Department.

.....
Chief Engineer,
State Highway Department

After a certified estimate has been approved for payment by the commissioner, the same shall be presented to the state auditor or county auditor, as the case may be, for payment. The state auditor thereupon shall draw his warrant therefor as provided by law without submitting such voucher or claim to the state auditing board for examination and allowance. The foregoing procedure shall not apply to the final estimate or allowance to a contractor, nor to any estimate or allowance subsequent or supplemental to such final estimate, but such final estimate, or supplemental allowance, shall conform to the provisions of law relative to the certification and approval of any other claim or demand.

§ 20. ACTS PROHIBITED.) Any person who willfully or knowingly makes a false or erroneous certificate or claim is guilty of a misdemeanor, and, in addition thereto, he shall be liable personally for such claim, estimate, or allowance falsely certified.

§ 21. ACTION AGAINST EMPLOYEE OF DEPARTMENT ON BOND.) The state, and civil government divisions thereof, and any person damaged by any wrongful act or omission of any bonded employee of the department in the performance of his official duties may maintain an action on his bond for the recovery of damages so sustained.

§ 22. ASSENT TO FEDERAL AID GIVEN.) The legislative assent required by section 1 of the Act of Congress approved July 11, 1916, public law No. 156, entitled "An act to provide that the United States shall aid the States in the Construction of Rural Post Roads, and for Other Purposes", is hereby given. The commissioner is authorized and empowered to make all contracts and to do all things necessary to cooperate with the United States government in the construction of roads under the provisions of the said act or other act of congress that hereafter may be enacted, including the Federal-Aid Highway Act of 1950 regarding secondary roads.

§ 23. FEDERAL AID HIGHWAYS INCLUDED IN HIGHWAY SYSTEMS OF STATE.) In the selection and designation of highway systems, as provided for under this title, due consideration shall be given to those highways on which federal-aid funds have been expended, and where practicable and justifiable, such federal-aid highways shall be included in said systems.

§ 24. FEEDER ROADS; COMMISSIONER MAY COOPERATE WITH FEDERAL GOVERNMENT.) The commissioner may receive any appropriations made by Congress of the United States to be applied on the county road system, and other roads or streets not on the state highway system and may carry out the intent and purpose of such appropriations to the same extent that he

now may cooperate legally on roads which are on the state highway system.

§ 25. COUNTY ROAD PROGRAM INCLUDING FARM TO MARKET AND FEDERAL AID; TAX LEVY.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm-to-market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the department and the bureau of public roads, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed five mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm-to-market roads, and all roads as provided for under public law 769, 81st congress, or future federal aid highway acts of a similar character. If the majority of the electors voting on the question approve such program and levy, annually thereafter until such program is completed the board shall levy a tax not in excess of five mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used only for matching federal aid available for such program which shall be the official county road program.

§ 26. MUNICIPALITIES MAY AID FEDERAL HIGHWAY CONSTRUCTION.) Any municipality, through its governing body, wherever a federal aid highway is routed through such municipality, may participate in the financing, planning, construction and acquisition of right-of-way of said highway in the same manner and proportion as a county by law is permitted to contribute.

§ 27. MUNICIPALITIES MAY PAY SHARE OF HIGHWAY COST BY TAXES OR SPECIAL ASSESSMENTS.) Any municipality may raise funds for the purpose of meeting its share of the cost of construction, financing, planning or acquiring a right-of-way of a federal aid highway through general taxes to be levied at large throughout such municipality, or where such highway in the opinion of the governing body of said municipality particularly and materially benefits property abutting thereon, may provide said sum through special assessment.

§ 28. GENERAL LAWS GOVERN TAXES AND SPECIAL ASSESSMENTS TO PAY HIGHWAY COSTS.) All provisions of law relating to the levying of taxes for internal improvements of municipalities and the levying of special assessments for such improvements are applicable to sections 26 and 27 of this Act

insofar as they are not inconsistent with the general purpose thereof, namely, to permit such municipalities to participate in federal aid highway construction, financing, planning and acquisition of right-of-way, through and within their limits.

§ 29. DESIGNATION OF STATE HIGHWAY SYSTEM.) The commissioner is hereby vested with complete authority to designate, locate, create, and determine what roads, highways and streets shall constitute the state highway system, subject however, to such conditions, requirements and mileage limits as provided for by law. The total mileage of the state highway system may be increased by not to exceed twenty-five miles in any one calendar year and only in the event it becomes necessary to construct by-passes and alternate routes on said system. In designating, locating, creating and determining the several routes of the state highway system, the commissioner shall take into account such factors as the actual or potential traffic volumes, the conservation and development of the state's natural resources, the general economy of the state and communities, and the desirability of fitting such system into the general scheme of the nation-wide network of highways.

§ 30. RESPONSIBILITY FOR STATE HIGHWAY SYSTEM.) The commissioner shall be responsible for the construction, maintenance, and operation of the state highway system and he shall be authorized to enter into a cooperative agreement with any municipality for the construction, maintenance, or repair of any urban connecting street.

The jurisdiction, control and duty of the state and municipality with respect to such urban connecting streets shall be as follows:

- a. The commissioner shall have no authority to change or establish any grade of any such street without approval of the governing body of such municipality;
- b. The municipality shall at its own expense maintain all underground facilities in such streets, and shall have the right to construct such additional underground facilities as may be necessary in such streets;
- c. The municipality shall have the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired by said municipality at its direction and without cost to the department;
- d. The municipality shall have exclusive right to grant franchises over, beneath and upon such streets.

§ 31. AUTHORITY TO ABANDON SECTIONS OF ROUTES.) The commissioner shall have the authority to abandon sections of routes on the state highway system when such abandoned sections are substantially replaced by improvements on new locations serving the area. Such abandonment may be made even though such highway is not placed on any other road system.

§ 32. MAPS OF STATE, COUNTY AND MUNICIPAL SYSTEMS.) The department at all times shall provide and maintain a map of the state, which shall show all the highways which have been designated, located, created, and constituted as part of the state highway system, the county road system, and the municipal arterial street system, and if practical the status of improvement thereof. Not later than the fifteenth day of January of each odd numbered year, it shall file a copy of such map in the office of the secretary of state and deposit another copy thereof with the state historical society.

§ 33. UNIFORM MARKING AND ERECTION OF SIGNS ON HIGHWAY.) The commissioner shall classify, designate and mark both intrastate and interstate highways lying within the boundaries of this state and which are under the jurisdiction of the department to provide a uniform system of marking and posting such highways. Such system of marking and posting shall correlate with, and, as far as possible, shall conform to the recommendations of the manual on traffic control devices as adopted by the American association of state highway officials.

§ 34. AUTHORITY TO PRESCRIBE TRAFFIC CONTROL SIGNALS.) The commissioner is hereby authorized and directed to prescribe types of traffic control signals which correlate with and, as far as possible, conform to the recommendations of the manual on uniform traffic control devices as adopted by the American association of state highway officials, and which shall be used to regulate traffic upon any highway, street or public way within this state. He shall also prescribe uniform rules for the placing and installation of such signals. After such types of traffic signals shall have been so prescribed and such rules promulgated, no municipality, public officer or employee shall install or cause to be installed any traffic signal which does not conform to such rules and requirements.

§ 35. LOCAL JURISDICTIONS MAY PROVIDE ADDITIONAL CAPACITY TO STATE HIGHWAY.) The governing board of any county, municipality, or township, as the case may be, may enter into a written agreement with the commissioner for the construction of a roadway or structure of greater width or capacity than would be necessary to accommodate the normal state

highway traffic, upon any state highway within its boundaries, and may appropriate from any funds available, and pay into the state highway fund, such sum or sums of money as may be agreed upon. Nothing herein contained shall prevent any such municipality from constructing the portions of the street not included in the state highway system independent of any contract with the department, if such construction shall conform to such reasonable regulations as the department may prescribe as to grade and drainage.

§ 36. MAINTENANCE OF ADDITIONAL WIDTH OF STATE HIGHWAY SYSTEM IN MUNICIPALITIES.) The governing body of any municipality may enter into a written agreement with the department for the maintenance of such additional width by the department, and from time to time in accordance with such agreement shall appropriate and pay into the state highway fund such sums of money as may be agreed upon. Nothing herein contained shall be construed to prevent any such municipality from maintaining such additional width at its own expense subject to the written approval of the department.

§ 37. REGULATION OF ADVERTISING SIGNS ON HIGHWAYS.) No person, firm or corporation shall place, put or maintain any sign, billboard or advertisement within the limits of a public highway, or in any manner paint, print, place, put or affix, or cause to be painted, printed, placed or affixed, any advertisement on or to any stone, tree, fence, stump, pole, mileboard, milestone, danger sign, danger signal, guide sign, guidepost, billboard, building or other object within the limits of a public highway, or place, put or maintain any sign or billboard upon private property within one thousand feet of any highway grade crossing in such place or manner as to obstruct or interfere with a free and clear view of such crossing from any highway or railroad intersecting thereat. None of the provisions of this section shall prohibit the placing of public notices on billboards erected for that purpose by authority of the governing body of a municipality. Any advertisement in or upon a public highway or private property which, in the judgment of the commissioner, may be deemed to be a hazard to traffic, or in the future may tend to create a hazard to traffic, may be taken down, removed or destroyed by direction or authority of the department in the case of the state highway system, by the board of county commissioners in the case of the county road system, and by the board of township supervisors in the case of township roads.

§ 38. VEHICLE SIZE AND WEIGHT CONTROLLED.) The commissioner, with respect to highways under his jurisdiction, may:

1. Classify highways and enforce limitations as to weight

and load of vehicles thereon as provided under section 39-1201;

2. Issue special written permits authorizing the operation of oversized or overweight vehicles as provided for under section 39-1202;
3. Prohibit the operation, or may impose restrictions on vehicular use of highways during certain seasons of the year as provided for under section 39-1203;
4. Issue permits authorizing the operation of tractors or traction engines with movable tracks as provided for under section 39-1122.

§ 39. DETERMINATION OF SPEED.) The commissioner, with respect to highways under his jurisdiction may conduct an investigation and determine safe speed limits on any state highway as provided for under section 39-0902 and on any public bridge, causeway, or viaduct as provided for under section 39-0904.

§ 40. COMMISSIONER TO DESIGNATE THROUGH HIGHWAYS.) The commissioner, with reference to highways under his jurisdiction, may designate through highways by erecting stop signs at the entrances thereto as provided for under section 39-0703.

§ 41. ERECTION AND MAINTENANCE OF GUARD RAILS.) The commissioner shall have the authority to erect and maintain guard rails, stretch wires and other devices, on all highways under his jurisdiction, in the interest of public safety.

§ 42. GRADE CROSSING ELIMINATION.) The commissioner shall have the authority to contract, on an equitable basis with any railway company, and to let all the necessary contracts, for the construction of bridges, underpasses, and approaches necessary for the separation of grades at points of intersection between railroads and the state highways.

§ 43. RESPONSIBILITY FOR COUNTY ROAD SYSTEM.) The boards of county commissioners in their respective counties shall have the sole authority and responsibility to acquire land for, construct, maintain and operate the county road system as designated and selected by them.

§ 44. COUNTIES MAY COOPERATE WITH DEPARTMENT; PROCEDURE.) Whenever any board of county commissioners of any county shall decide that any road or roads in such county shall be improved or constructed in cooperation with the department, such board shall make written application to the commissioner for the improvement and construction thereof. If the

commissioner shall approve such application, he, in writing, shall notify the said board of such approval, and at the same time shall submit to the said board an estimate of the cost of such improvement, including the cost of engineering, the purchase or acquirement of right-of-way, and all other expenses, and the share or portion thereof which such county shall bear. Whenever the board of county commissioners aforesaid shall elect to proceed with such improvement, the said board shall adopt a resolution signifying such election and in such resolution shall set aside out of such funds as are or may become available the amount necessary to pay the county's share of the cost of such improvement. Upon written demand of the commissioner, the board of county commissioners shall instruct and direct the county auditor by resolution to draw a warrant or warrants on the county treasurer in favor of the contractor, or of the department, for the county's share of such amount or amounts as may become due during the progress of such improvement. The county shall also draw additional warrants in favor of the department as may be necessary to reimburse it for the county's share of the cost of engineering and the acquisition of right-of-way. Such warrants shall be drawn by the county treasurer upon the certificate of the commissioner.

§ 45. COUNTY BOUND TO PROVIDE ITS SHARE OF COST.) The election to proceed with an improvement as provided in section 44 of this Act by the board of county commissioners shall constitute an agreement and contract with the commissioner, and the board of county commissioners must provide sufficient funds in accordance with law to defray its share of the cost of such improvement, or must levy sufficient taxes therefor. Construction on such improvement shall be commenced within one year.

§ 46. PREPARATION AND ADOPTION OF STANDARD PLANS AND SPECIFICATIONS.) The commissioner shall prepare and adopt uniform standard plans and specifications for the establishment, construction and maintenance of the state highways and bridges within this state. Such plans and specifications may be amended, from time to time, as the commissioner deems advisable.

§ 47. MUNICIPALITIES TO DEVELOP MASTER STREET PLAN.) Each municipality of over five thousand population in this state, according to the latest available census, shall develop and adopt a master street plan cooperatively between the commissioner and the municipal officials, which shall insure the proper location and integration of the state highway connections in the total city street plan. In selecting and designating the master street plan, the cooperating officials shall take

into account the more important principal streets that connect the residential areas with the business areas, and the streets that carry the important rural traffic into and across the city, to insure a system of streets upon which traffic can be controlled and protected, in such a manner as to provide safe and efficient movement of traffic within a municipality.

§ 48. INSPECTION AND TESTING OF MATERIALS.) The commissioner shall have the authority to inspect and test all materials, supplies, equipment and machinery used by the department and to develop methods and procedures for this purpose.

§ 49. TESTING LABORATORY.) The commissioner shall have the authority to maintain and develop a testing laboratory to carry out the requirements of section 48 of this Act. The department may, upon request of any division or agency of government, make available the services and facilities of said testing laboratory, and make a reasonable charge therefor.

§ 50. PREPARATION OF MANUALS OF METHODS AND PROCEDURES.) The commissioner shall, to the extent practicable, prepare, print, and distribute manuals of standard and uniform methods for any of the activities, divisions, or work of the department, or for general road and bridge construction, design, land acquisition, traffic control, maintenance, marking, and kindred purposes in this state.

§ 51. RESEARCH ON HIGHWAY DEVELOPMENT.) The commissioner shall have the authority to gather, investigate and compile information concerning the use, construction and maintenance of highways, the practices and methods of efficient highway organization, financing, and such other information, data and statistics of this state or other states as deemed advisable, and the extent of the natural resources of roadbuilding materials within this state. The commissioner shall have the further authority to enter into agreements with other states or research organizations to carry on research and test projects involving highway development and to expend highway funds for this purpose. He shall disseminate all such information, together with any recommendations he deems advisable.

§ 52. TRAFFIC SURVEYS.) The commissioner shall have the authority to collect, analyze and interpret all physical and economic data needed to measure existing and estimated future street and highway traffic characteristics, such as, origin and destination, volumes, speeds, accidents, congestion, parking, pedestrian use of streets and the economic loss caused by inferior traffic facilities, including the preparation of traffic plans and recommendations.

§ 53. PREPARATION OF ROAD MAPS.) The commissioner shall prepare for general distribution, road maps of the state highway system and such other roads and information as he shall deem necessary.

§ 54. AUTHORITY TO CONSTRUCT AND MAINTAIN STATE HIGHWAY SYSTEM.) The commissioner shall have the authority, and shall be responsible for the construction, maintenance, protection and control of the highways which shall comprise the state highway system. The commissioner shall patrol and keep said system in good and safe condition for general public use.

§ 55. CONSTRUCTION PROGRAM.) Not later than the fifteenth day of January of each year there shall be submitted to the commissioner by the chief engineer a statement showing what improvements, structures and construction work have been requested and proposed, and may be undertaken, by the department. Such statement shall set forth the estimated quantities and the estimated unit cost of each class, type, and nature, together with the totals thereof for each and every project or improvement which may be made, and the totals of all such projects or improvements, and the average quantities and unit costs for all such projects or improvements. The commissioner shall examine the same and shall proceed to adopt a construction program, wherein shall be determined what projects and improvements shall be undertaken by the said department during the ensuing construction season, and the order of priority thereof. Insofar as practicable, priority shall be given first to the improvement of the so-called primary system of the state highway system, and the total estimated cost of such construction program shall not exceed the total estimated income or allowance granted or set aside for construction purposes in the departmental budget. Nothing herein, however, shall prevent the commissioner from adding to, amending, revising, or reducing from time to time and as circumstances may warrant, such construction program. The commissioner shall proceed to advertise for bids for contracts at such time as he may elect, and in the manner and for the purposes in this chapter provided.

§ 56. FORCE ACCOUNTS IN EMERGENCIES.) In case of great emergency requiring immediate action, and, where delay would cause a public injury, the work may be done by the department by force account.

§ 57. CLOSING OF ROADS; PENALTY FOR PASSING OVER ROAD OR REMOVING BARRICADE.) Whenever, during the construction work on any state highway or at any other time, it may be necessary to prevent traffic from passing over any portion of such highway, the department may close such portion of the

highway to all traffic by causing to be posted in a conspicuous manner, at the ends of the portion of the highway so closed, suitable signs warning the public that such road is closed under authority of law, and by the erection of suitable barricades, fences, or other obstructions. The driver or owner, or both, of any vehicle, self-propelling or otherwise, passing through, over, or around any such barricade, fence, or other obstruction so placed, or any person or persons opening, removing, or defacing any such barricade, fence, or other obstruction, or any such warning sign, without written permission from the engineer in charge of the work, or in charge of such highway, or any person or persons willfully, knowingly, or maliciously causing any damage to the work under construction, is guilty of a misdemeanor.

§ 58. METHOD OF CONSTRUCTION OF HIGHWAY DITCHES.) Any and all highways of any kind hereafter constructed or reconstructed by the department, any board of county commissioners, any board of township supervisors, their contractors, subcontractors or agents, or by any individual firm or corporation, shall be so designed as to permit the waters running into such ditches to drain into coulees, rivers and lakes according to the surface and terrain where such highway or highways are constructed in accordance with scientific highway construction and engineering so as to avoid the waters flowing into and accumulating in the ditches to overflow adjacent and adjoining lands. It is the intention of this Act that in the construction of highways, as herein provided, the natural flow and drainage of surface waters shall not be obstructed, but that such water shall be permitted to follow the natural course according to the surface and terrain of the particular terrain.

§ 59. DRAINS ACROSS STATE HIGHWAYS.) The commissioner, when notified by the board of drain commissioners of any drainage district that it is necessary to run a drain across any state or federal aid highway, shall make the necessary opening through such highway and shall build and keep in repair suitable culverts or bridges, as provided for under section 61-2135.

§ 60. DETERMINATIONS OF SURFACE WATER FLOW AND APPROPRIATE HIGHWAY CONSTRUCTION.) Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county has been or will be constructed over a water course or draw into which flow surface waters from farm lands, the state water conservation commission, upon petition of the majority of landowners of the area affected, shall determine as nearly as practicable the maximum quantity of water, in terms of second feet, which

such water course or draw may be required to carry. When such determination has been made by the state water conservation commission, it shall be the duty of the department or the board of county commissioners, as the case may be, upon notification of such determination, to install a culvert or bridge of sufficient capacity to permit such maximum quantity of water to flow freely and unimpeded through such culvert or under such bridge.

§ 61. WARNING SIGNS OF ROAD CONSTRUCTION.) Whenever the department or any county or township shall enter into a contract for the construction and improvement of any road or culvert, or bridge thereon, it, as a condition of such contract, shall provide therein that the contractor shall place suitable warning signs which can be read for a distance of one hundred feet in daytime, and also shall erect and place at night a red or white lantern or a torch or other effective device, of a type approved by the department, at both ends of such construction work, no less than three hundred feet therefrom, warning the public that such road is under construction or improvement and either is closed, or impassable, or dangerous for travel thereon, but nothing contained in this section shall make any township, county or the state liable for the failure of any contractor to erect such warning signs.

§ 62. PUBLIC OFFICERS.) Whenever a township, county, or the department shall construct, improve, or repair any road, culvert, or bridge, or shall gravel any road, and such work shall render travel on such road, culvert, or bridge unsafe or dangerous, the board of supervisors of any such township, the board of county commissioners of any such county, or the commissioner or any foreman or other person in charge of such work, shall place warning signs as provided in section 62 of this Act.

§ 63. PENALTY FOR FAILURE TO ERECT WARNING SIGNS.) Any contractor, foreman, or other person in charge of any work or repairs on any public road, culvert, or bridge who shall fail or neglect to erect and maintain suitable warning signs as provided in sections 61 and 62 of this Act shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment.

§ 64. AUTHORITY TO ACQUIRE EQUIPMENT.) The commissioner shall have the authority to purchase, lease or acquire, as he deems necessary, all road material, road machinery, tools, equipment and supplies necessary for the construction, maintenance and control of the state highway system.

§ 65. EQUIPMENT AND MATERIALS MAY BE PURCHASED WITHOUT ADVERTISING FOR BIDS.) The commissioner may, in his discretion, purchase equipment, materials, supplies or other personal property useful to the department, from the United States government, or any of its officers, agents, agencies, or corporations, without compliance with the provisions of section 69 of this Act.

§ 66. AUTHORITY TO ACQUIRE BUILDINGS FOR EQUIPMENT.) The commissioner shall have authority to construct, rent, or purchase for the state the necessary land and buildings for the storage and housing of road materials, road machinery, equipment and tools.

§ 67. SALE OF OBSOLESCEMENT HIGHWAY EQUIPMENT.) The commissioner shall be authorized to sell, exchange or otherwise dispose of all obsolescent road machinery, equipment, and material no longer needed, required or useful for highway purposes. Any funds or money derived from the sale of such property shall be credited to the funds from which such purchase was made originally.

§ 68. BASIS OF CONTRACTS FOR CONSTRUCTION WORK.) The commissioner may request bids and award contracts for construction work requiring the contractor to furnish all equipment, labor, materials, and supplies for each particular contract or project, or requiring the commissioner to furnish and provide the said contractor with such materials and supplies as he may elect. In the event that the commissioner shall elect to provide materials and supplies for any project or construction work, such election shall be made at the time of the adoption of the construction program. The commissioner shall request proposals or bids for the total and aggregate of such materials and supplies for any and all such projects or construction work according to the class, type, and nature of such materials and supplies, and may proceed to award a contract or contracts therefor upon such basis as he shall deem efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the department. Such materials and supplies so purchased by the department may be delivered to the project or construction work without expense to the contractor doing such construction work, or may be sold to him at cost and made to constitute a part of such construction cost, as the commissioner may elect.

§ 69. CONTRACTS; BIDS.) Whenever the cost of any improvement or the purchase price of equipment or materials and supplies, exclusive of repairs to equipment, shall exceed the sum of one thousand dollars, the department shall proceed to adver-

tise the same, request bids, and award such contracts in the manner provided in this chapter. Whenever any proposed contract, purchase, or work of the department shall be for a sum less than one thousand dollars, it shall be discretionary with the department whether the same shall be awarded after advertising for bids. The department shall award such contracts in the manner provided in this chapter, but where contracts are in excess of one thousand dollars, the department shall request bids from as many contractors, manufacturers, and dealers as can be requested conveniently.

§ 70. RECONSTRUCTION WORK WITHOUT LETTING CONTRACT.) The department may, in any case where, in the opinion of the commissioner, the public interest and the preservation of the state highways from deterioration requires it, do the work necessary for minor grading reconstruction or any established secondary state highway without letting a contract for such reconstruction work, or the commissioner may, in his discretion, contract with the county in which any such reconstruction project is located, to perform such reconstruction work on a cost basis. Any such reconstruction projects may include any project that is eligible for federal aid. Any funds available for highway reconstruction purposes may be expended in carrying out the provisions of this section.

§ 71. REQUESTS FOR BIDS; HOW ADVERTISED.) Any request for bids for construction work or the improvement of any state highway, or any structure in excess of one thousand dollars, shall be advertised by publication once a week for a period of two successive weeks, prior to the opening of such bids, in the 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. Such place shall be the office of the department. All requests for bids for the purchase of equipment, materials, and supplies, exclusive of repairs to equipment in excess of the sum of one thousand dollars shall be advertised in the official newspaper of Burleigh county once a week for a period of two successive weeks prior to the opening of such bids.

§ 72. BIDS, WHERE OPENED; REQUIREMENTS.) All bids shall be opened at the time and place specified in the advertised request for bids. 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. Such check shall be forfeited to the state highway fund should the bidder fail to effect a contract within ten days after a notice of an award.

§ 73. CHECKS OF THREE LOWEST BIDDERS RETAINED.) All certified bidders' checks, except those of the responsible bidders

submitting the three lowest and best bids, shall be returned to the bidders promptly upon opening such bids. The check of the responsible bidder submitting the lowest and best bid may be cashed and the money retained until the contract has been awarded and executed properly. The checks of the responsible bidders submitting the second and third lowest and best bids may be returned to the bidders when the department has determined to whom the contract is to be awarded.

§ 74. CONTRACTS ON INFORMAL BIDS; HOW LET.) Informal bids shall be requested and the contract therefor may be awarded upon such basis and procedure as the commissioner shall direct.

§ 75. SEPARATE PROPOSALS ON EACH TYPE OF WORK.) 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 practicable and not contrary to any federal law or regulations, separate proposals and bids shall be received on each separate type of work.

§ 76. AWARD OF CONTRACTS; BOND.) Each and every contract in excess of the sum of three thousand dollars shall be awarded by the department to the responsible bidder submitting the lowest and best bid, but said department may reject all bids. If no satisfactory bid or bids shall be received, new bids may be called for. The successful bidder shall be required to furnish a suitable bond in at least the amount of the contract and with such sureties as may be determined by the department and as shall be approved by it.

§ 77. PARTICIPATING COUNTY OR MUNICIPALITY TO BE NOTIFIED OF OPENING OF BIDS.) 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, the commissioner shall 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 bids.

§ 78. PAYMENTS MADE MONTHLY TO CONTRACTORS.) Payment shall be made monthly to the contractor for all work done or material furnished, in the amount of ninety percent thereof, and payment shall be made in full upon the completion of the contract and acceptance of the work.

§ 79. CONTROVERSIES TO BE ARBITRATED; ARBITRATORS; HOW NAMED.) All controversies arising out of any contract for the construction or repair of highways entered into by the commissioner shall be submitted to arbitration as provided in this chapter, if the parties cannot agree. Any person who volun-

tarily enters into a contract for the construction or repair of highways shall be considered as having agreed to arbitration of all controversies arising out of such contract. Three persons shall compose the arbitration board, one of whom shall be appointed by each of the parties and the two thus appointed shall name a third.

§ 80. ARBITRATION; DEMAND FOR; DISTRICT COURT MAY APPOINT ARBITRATORS IF PARTIES FAIL.) The party desiring arbitration shall make a written demand therefor and in such demand shall name the arbitrator by him selected. He also in such demand shall set forth all the controversies and claims which he desires to submit to arbitration and a concise statement of his claims with reference to each controversy. Such demand shall be served upon the opposite party, who, within ten days, shall name in writing the arbitrator on his part, and in connection therewith shall set forth in writing his contentions with reference to the claims set forth in the demand served upon him and any additional claims or controversies which he desires to submit to arbitration on his part, with a concise statement of his claims in connection therewith. If the party proceeded against shall fail or refuse to name an arbitrator, the moving party may apply ex parte to the judge of the district court of the county in which the improvement in the contract in question, or any part thereof, may be located, for the appointment of the two additional arbitrators, and if upon the appointment of an arbitrator by each of the parties, the two so appointed have been unable to agree upon a third arbitrator within five days, then either party to the controversy, upon five days' notice, may apply to such district court for the appointment of such third arbitrator.

§ 81. PROCEDURE FOR ARBITRATION.) When a board of arbitration shall have been appointed, a submission in writing shall be executed as provided in section 32-2902, except that such submission must provide for the entry of judgment upon the award by the district court of the county within which the improvement, or some part thereof, involved in the contract is located. Such county must be specified in such submission. The submission must be executed by the commissioner. Thereupon the arbitration shall proceed in accordance with the provisions of chapter 29 of the title judicial remedies.

§ 82. ARBITRATION MAY PROCEED ALTHOUGH ONE PARTY FAILS TO AGREE.) If either party refuses to submit to arbitration as provided in this chapter, he shall be deemed to have waived all claims and demands, and the arbitrators shall proceed to determine the controversies set forth by the moving party according to the justice of the case. Judgment shall be entered

upon the award of such arbitrators in all things the same as though the submission to arbitration has been signed by both parties.

§ 83. CONDITIONS PRECEDENT TO DEMAND FOR ARBITRATION AGAINST COMMISSIONER.) No right shall exist to demand arbitration against the commissioner until the conditions specified in this action shall have been complied with. The contractor must give the commissioner notice in writing that he claims the contract has been or will be performed fully on a day stated, which shall not be less than ten days after the giving of such notice. At the time stated in the notice the commissioner shall cause the work to be inspected, and if he claims the work has not been completed, he, with all reasonable dispatch, having regard to the early completion of the work, shall specify the particulars in which it is incomplete and shall direct that it be completed accordingly, or if he considers further work necessary to bring the project up to the desired standard for acceptance either by him or the United States public roads administration, even though he considers such contract complete, he likewise may specify any such additional work. The contractor must proceed with all reasonable dispatch, having due regard to weather conditions, with the performance of all such additional work with a view to a speedy completion of the project. When the contractor claims in good faith, supported by affidavit furnished to the commissioner, that he has completed such additional work according to the specifications furnished to him, and the commissioner fails for ten days to accept such work as completed, he shall have the right to institute proceedings under this chapter.

§ 84. ARBITRATORS SHALL DETERMINE ALL CONTROVERSIES; MAY GIVE DIRECTIONS.) The arbitrators shall determine all controversies between the parties growing out of the contract, including the question whether it had been performed at the time claimed by the contractor and whether the additional work required by the commissioner as specified has been done, and if not done they shall specify the particulars in which it has not been done, give appropriate directions with reference thereto, and shall make a proper award for any extra work they find the contractor entitled to, making such award so far as it is practicable upon the basis of the contract price, having due regard to what is just and equitable between the parties under the facts and circumstances of the case.

§ 85. FURTHER ARBITRATION PERMITTED.) If after the making of an award which requires the contractor to do further work, any controversies arise between the parties as to the doing of such work, such controversies may be submitted to the same arbitrators on five days' notice for further determination.

§ 86. ARBITRATION MUST BE COMMENCED WITHIN SIX MONTHS.) No arbitration shall be had under this chapter unless commenced within six months after the right thereto has arisen.

§ 87. JUDGMENT AGAINST COMMISSIONER; HOW COLLECTED.) When judgment shall have been entered against the commissioner, the same shall not be collectible or enforceable by execution, but if the same provides for the payment of money by the commissioner, it shall be paid in the same manner, to the same extent, and out of the same funds as though the claims thus established had been recognized and allowed without arbitration. The performance of the duty of the commissioner with reference to payment or other compliance with such judgment may be enforced by mandamus proceedings in the district courts of the state.

§ 88. PREPARATION OF STANDARD CONTRACT FORMS.) The commissioner may prepare, adopt or amend uniform standard forms of contracts, bonds, estimates and other forms and documents deemed essential for the efficient administration of highway matters within the department.

§ 89. CONTRACTS; FOR ROAD AND BRIDGE WORK AND MATERIALS; AWARDED TO RESIDENTS OF NORTH DAKOTA AND GIVING PREFERENCE TO RESIDENTS OF NORTH DAKOTA.) In letting of any contract for the construction of any road or bridge, road work, or for road material or culvert, by the department or by any political subdivision of the state, preference shall be given to all bona fide contractors who have been continually in business and have resided in the state of North Dakota for a period of at least one year prior to filing his bid, if at least ninety per cent of the employees of such contractor engaged in highway construction and maintenance shall have been residents of the state of North Dakota for at least one year, and shall be citizens of the United States or shall have declared their intention to become such. Such preferences shall be to the extent of five per cent on contracts not exceeding ten thousand dollars, three per cent on contracts exceeding ten thousand dollars and not exceeding fifty thousand dollars, and two per cent on contracts exceeding fifty thousand dollars. Such preference shall not apply to federal aid projects.

§ 90. RIGHT-OF-WAY AND MATERIALS MAY BE ACQUIRED BY PURCHASE OR EMINENT DOMAIN.) The commissioner, by order, on behalf of the state, and as part of the cost of constructing, reconstructing, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining a state highway, or of providing a temporary road for public use, may purchase, acquire, take over, or condemn under the right and power of

eminent domain, for the state, any and all lands in fee simple of such easements thereof which he shall deem necessary for present public use, either temporary or permanent, or which he may deem necessary for reasonable future public use, and to provide adequate drainage in the improvement, construction, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining of a state highway, provided however, as to any and all lands acquired or taken for highway, road or street purposes, he shall not obtain any rights or interest in or to the oil, gas or fluid minerals on or underlying said lands. By the same means, he may secure any and all materials, including clay, gravel, sand, or rock, or the lands necessary to secure such material, and the necessary land or easements thereover, to provide ways and access thereto. He may acquire such land or materials notwithstanding that the title thereto may be vested in the state or any division thereof; provided, however, that no interests in gas, oil or fluid minerals shall be acquired by this procedure.

§ 91. BOARD OF COUNTY COMMISSIONERS MAY DETERMINE DAMAGES.) If the commissioner is unable to purchase land or materials with the necessary ways and access thereto, at what he deems a reasonable valuation, then the board of county commissioners of the county wherein such land or materials may be situated, on petition of the commissioner, shall proceed to ascertain and determine the damages and make awards in the manner provided by chapter 7 of this title for lands taken for highway purposes as hereby modified or amended. Within fifteen days after the filing of such petition with the county auditor, the board of county commissioners shall fix a time and place, not later than sixty days from and after the filing of such petition, for a hearing of all persons interested or aggrieved by such taking, and shall cause to be published in the official newspaper of the county, at least once a week, for three successive weeks, prior to such hearing, a notice of such hearing, stating the time and place where the same shall be held, together with a description of the property to be taken. Such published notice shall be in lieu of all other notices, and when so published shall give the said board of county commissioners full and complete jurisdiction to proceed with the determination of awards of damages. A copy of such notice shall be served personally upon all known owners residing or found within the state, and upon the occupant of the land, not less than fifteen days prior to such hearing, in the manner provided for the service of a summons in the district court, and in case of personal service of such notice upon all persons interested in any manner in said real property, as disclosed by the records in the office of the register of deeds of the county wherein said property is located, no publication of such notice shall be made.

§ 92. DAMAGES TO BE PAID INTO COURT.) When the award of damages for the taking of land or materials, or both, shall have been completed by the board of county commissioners, the commissioners shall pay, or cause to be paid from the state highway fund, into court, for the benefit of the owners of land to whom such awards have been made, by depositing with the clerk of court of such county cash in the amount of such award or awards.

§ 93. RECEIPT TO BE SIGNED BY OWNER OR CLERK OF COURT.) Every owner entitled to an award for damages, before the same shall be paid to him by the clerk of court, shall sign and execute a receipt therefor. Such receipt shall contain a description of the premises covered by the award. In case the owner shall fail or refuse to accept such award and execute such receipt therefor, the clerk of court shall execute a receipt, reciting the deposit of such award with him and the description of the premises covered by the award.

§ 94. TITLE VESTS AFTER THIRTY DAYS IF NO APPEAL TAKEN.) At the expiration of thirty days from the award by the board of county commissioners from which no appeal has been taken as provided in section 95 of this Act, whenever such money shall have been deposited in the office of the clerk of court, the receipt of the owners of said property, or of such clerk of court, shall be recorded in the office of the register of deeds of the county in which such real estate is situated, and the title to the land or materials thereupon shall be vested in the state.

§ 95. APPEALS FROM DECISION OF BOARD OF COUNTY COMMISSIONERS; PROCEDURE; SPECIAL TERM OF COURT.) Any party aggrieved by the proceedings of the commissioner in the taking of land or materials, or by the estimate of damages and the award of the board of county commissioners shall have the remedies provided in this title for appeal from any determination of a board of county commissioners in the taking of land for highway purposes. Service of a written or printed notice of such appeal shall be made upon the chairman of the board of county commissioners and the commissioner. An appeal from the award by the board of county commissioners, without filing a cost bond, may be taken by the commissioner, by service of notice of appeal upon the chairman of the board of county commissioners and the owner of the property, in the manner provided by law for the service of a summons in a civil action. Upon any appeal, the commissioner, on application to the judge of the district court, shall be granted a special term of court, in the manner provided in cases of eminent domain in the title judicial procedure, civil.

§ 96. APPEAL DOES NOT STAY CONDEMNATION PROCEEDINGS.) Notwithstanding the taking of an appeal as provided in section 95 of this Act in proceedings of the commissioner in the taking of land or materials by condemnation, or from the award made by the board of county commissioners in such proceedings, the commissioner may proceed with the use of the property so condemned and shall be liable for any additional amount awarded to the appellant upon such appeal.

§ 97. FEES NOT CHARGED FOR RECORDING INSTRUMENTS.) No fees shall be charged or collected by the county auditor, the register of deeds, or the clerk of court, for any services rendered for the recording or filing of any document required under the provisions of this Act.

§ 98. GRANTS OF RIGHTS-OF-WAY CONFIRMED.) The grants of rights-of-way heretofore made by the legislative assembly, viz:

1. For a highway across the military encampment grounds at Rock Island in Ramsey County as set forth in chapter 134 of the session laws of 1901;
2. For a highway across Devils Lake as set forth in chapter 141 of the session laws of 1903; and
3. For a highway across Des Lacs Lake as set forth in chapter 57 of the session laws of 1905, are hereby confirmed.

§ 99. SURVEY; PLAT; DAMAGES FROM SURVEY.) Whenever the commissioner shall determine by order that public exigency requires the taking of land or materials as provided in section 90 of this Act, he shall cause the same to be surveyed and described, and a plat thereof and the said description shall be recorded in the office of the register of deeds of the county wherein the same is located. The commissioner, or his duly authorized agents, may enter upon any land for the purpose of making surveys, examinations, or tests. In case of any damages to said premises the commissioner forthwith shall pay to the owner of said premises the amount of such damages.

§ 100. VACATING HIGHWAYS BY COMMISSIONER; SALE OF PROPERTY.) The commissioner may vacate any land or part thereof, of rights in land taken or acquired for highway purposes under the provisions of this title, by executing and recording a deed thereof, and said vacation shall revert the title to the land or rights in the persons, their heirs, successors, or assigns, in whom it was vested at the time of the taking. As oil, gas and fluid minerals are not a part of and essential for highway purposes, all such rights heretofore taken, if any, are hereby vacated and returned to the person or persons in

whom the title was vested at the time of taking, their heirs, administrators, executors or assigns. Such reconveyance shall be subject to any existing contracts or agreements covering such property, and all rights and benefits thereof shall accrue to the grantee. The governor, on recommendation of the commissioner, may sell and convey on behalf of the state the interests of the state in property acquired by purchase under this title and deemed no longer necessary for the purposes thereof, and the proceeds of such sale so far as practicable shall be credited to the funds from which such purchase was made originally.

§ 101. TEMPORARY ACQUISITION OF RIGHTS-OF-WAY OR EASEMENTS FOR DETOURS.) The commissioner, by order, and as part of the cost of constructing, reconstructing or repairing a state highway or any part thereof, may acquire by gift, permission, purchase, lease, or condemnation, temporary easements or rights-of-way for the purpose of providing a temporary detour at such location as he shall designate.

§ 102. AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES.) The highway authorities of the state, counties, and municipalities of North Dakota, acting alone or in cooperation with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, are hereby authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities. Provided that within municipalities such authority shall be subject to such municipal consent as may be provided by law. Said highway authorities of the state, counties, and municipalities, in addition to the specific powers granted in this Act, shall also have and may exercise, relative to controlled-access facilities, any and all additional authority now or hereafter vested in them relative to highways or streets within their respective jurisdictions. Said units may regulate, restrict, or prohibit use of such controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with the definition of a controlled-access facility.

§ 103. DESIGN OF CONTROLLED-ACCESS FACILITY.) The highway authorities of the state, or any county, or municipality are authorized to so design any controlled-access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended. In this connection such highway authorities are authorized to divide and separate any controlled-access facility into separate roadways by the construction of raised curbing, central dividing sections, or other

physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person shall have any right of ingress or egress to, from or across controlled-access facilities to or from abutting lands, except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

§ 104. ACQUISITION OF PROPERTY AND PROPERTY RIGHTS.) For the purposes of this Act the highway authorities of the state, or any county, or municipality may acquire private or public property and property rights for controlled-access facilities and service roads, including rights of access, air, view, and lights, by gift, devise, purchase, or condemnation in the same manner as such units are now or hereafter may be authorized by law to acquire such property or property rights in connection with highways and streets within their respective jurisdictions. All property rights acquired under the provisions of this Act shall be in fee simple, provided however, as to any and all lands acquired or taken for highway, road or street purposes, they shall not obtain any rights or interest in or to the oil, gas or fluid minerals underlying said lands. In connection with the acquisition of property or property rights for any controlled-access facility or portion thereof, or service road in connection therewith, the state, county, or municipal highway authority may, in its discretion, acquire an entire lot, block, or tract of land, if, by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

§ 105. NEW AND EXISTING FACILITIES; GRADE-CROSSING ELIMINATION.) The highway authority of the state or any county, or municipality may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within a controlled-access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads, and municipal streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary lines of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility shall intersect the same at grade. No municipal county or state highway, or other public way shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the highway authority in the state, county, or municipality having jurisdiction over such control-

led-access facility. Such consent and approval shall be given only if the public interest shall be served thereby.

§ 106. **AUTHORITY OF LOCAL UNITS TO CONSENT.)** The highway authorities of the state, or any county, or municipality are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of controlled-access facilities or other public ways in their respective jurisdictions, to facilitate the purposes of this Act.

§ 107. **LOCAL SERVICE ROADS.)** In connection with the development of any controlled-access facility the state, county, or municipal highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets or to designate as local service roads and streets any existing road or street, and to exercise jurisdiction over service roads in the same manner as is authorized over controlled-access facilities under the terms of this Act, if, in their opinion, such local service roads and streets are necessary or desirable. Such local service roads or streets shall be of appropriate design, and shall be separated from the controlled-access facility proper by means of all devices designated as necessary or desirable by the proper authority.

§ 108. **BRIDGES MAY BE BUILT SEPARATELY.)** While the necessary bridges on any state highway shall be construed and considered a part of such highway, nevertheless, such bridges may be designed, erected, and contracts awarded separately therefor, and such bridges may be designed, erected and contracted irrespective of the time when the highway contiguous thereto shall have been or may have been improved. All necessary fills and approaches to any bridge shall be construed and considered as part of such bridge.

§ 109. **INSPECTION OF BRIDGES.)** The department, at least every two years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the state highway system in the state. In case any bridge on the state highway system shall be deemed unsafe for public use by the said department, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the state highway system shall be deemed unsafe for loads in excess of a certain weight, the department forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight.

§ 110. **BRIDGE ACROSS YELLOWSTONE RIVER IN MCKENZIE COUNTY.)** The department is hereby authorized to maintain,

repair, operate and pay rental for the use of the bridge belonging to the Great Northern Railway Company across the Yellowstone River in McKenzie County, North Dakota, and may charge the expenses for such maintenance, repair, operation and rental to the state highway maintenance fund.

§ 111. USE OF RIGHT-OF-WAY FOR UTILITIES SUBJECT TO REGULATIONS BY DEPARTMENT.) Electric transmission, telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat, or pipe lines, gas mains, flumes, or other structures outside of the limits of any municipality which under the laws of this state, may be constructed, placed, or maintained across or along any highway which is a part of the state highway system, by any person, persons, corporation, or subdivision of the state, may be so maintained or constructed only in accordance with such regulations as may be prescribed by the department, which shall have power to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining along, across, or on any such state highway any of the utilities hereinbefore set forth. Nothing herein shall restrict the action of public authorities in extraordinary emergencies. And nothing in this chapter contained shall be construed as modifying or abridging the powers conferred upon the public service commission in the title Public Utilities, the intent of this section being that the powers hereby granted to the department shall be exercised only in such manner as not to conflict with valid exercise by the public service commission of the powers granted to it.

§ 112. RIGHT-OF-WAY FOR UTILITIES; GRANTED BY COMMISSIONER.) The commissioner may grant to any person, who is a resident of this state, or to any corporation organized under the law of this state, or licensed to do business within this state, the right-of-way for the erection of a telephone line or electric line over or upon any state highway or structure constituting part of such highway or to lay pipes, conduits, or tunnels in, through, or over any such state highway or structure, or to erect, construct, and maintain any bridge, conduit, or other crossing in, under, or over such state highway or structure and in accordance with the rules and regulations therefor.

§ 113. STATE FUNDS NOT USED ON FEEDER ROADS.) No state funds shall be expended for feeder roads or other roads not on the state highway system except for the necessary administrative costs and for such work as is reimbursable from federal or county funds or from funds of other organizations or governmental departments for which reimbursement arrangements have been made. After completion of any such cooperative construction, all authority and control over roads off the

state highway system shall be returned to the local authorities under whom control was vested previously.

§ 114. STATE HIGHWAY FUND; HOW EXPENDED.) The state highway fund, created by law and not otherwise appropriated and allocated, shall be applied and used for the purposes herein named and in the following order of priority:

1. The estimated annual cost of maintaining and keeping in repair all improved parts of the state highway system, constructed and improved in part with federal aid, and to be maintained in accordance with the requirements upon which federal aid was granted;
2. The cost of construction and reconstruction of highways in an amount equal to the state's share of the amount necessary to equal the sum of federal aid granted to this state annually by the United States government for road purposes in North Dakota; and
3. Any portion of the highway fund not allocated as provided in subsections 1 and 2 may be expended for the construction of state highways without federal aid but with county aid to the extent of not less than twenty-five percent of the cost of the project, or may be expended in the purchase of machinery, tools, supplies, materials, the hire of teams or labor, or the rental of machinery, in the construction, improvement, or maintenance of such state highways.

Any claims for moneys expended by the department upon warrants issued by the state auditor under the provisions of this title shall be paid out of the state highway fund by the state treasurer.

§ 115. INJURIES TO HIGHWAYS.) No person shall willfully dig up, remove, displace, break, or otherwise injure or destroy any public highway, right-of-way, or bridge, or any private way laid out by authority of law, or any bridge upon such way without first securing permission from the person or governing body having jurisdiction and control thereof.

§ 116. OBSTRUCTING HIGHWAYS.) No person shall:

1. Obstruct any public highway in any manner with intent to prevent the free use thereof by the public;
2. Willfully and knowingly obstruct or plow up, or cause to be obstructed or plowed up, any public highway or right-of-way, except by order of the overseer of highways for the purpose of working or improving the same; or

3. Build or place a barbed wire fence across any well-traveled trail which has been the usual and common route of travel for not less than one year without placing on the outside of the top tier of barbed wire on said fence a board, pole or other suitable protection, to be at least sixteen feet in length.

§ 117. GARBAGE DEPOSITED ON HIGHWAYS.) No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, glass, bottles, boxes, or rubbish of any kind upon any public highway in the state.

§ 118. INJURY TO MILEBOARDS, GUIDEPOSTS, TRAFFIC CONTROL SIGNALS, SIGNS OR MARKINGS.) No person shall remove, injure, or destroy any mileboard, milestone, or guidepost, traffic control signals, signs or markings, or any inscription thereon, erected or placed upon any highway.

§ 119. PENALTIES.) Any person who violates any provision of this title is guilty of a misdemeanor and if convicted shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not to exceed thirty days, or by both such fine and imprisonment.

§ 120. REPEAL.) Chapter 24-01, except section 24-0101, chapter 24-02, except section 24-0238, chapter 24-03, chapter 24-04, section 24-0811 and 24-0901, and chapter 24-12, except section 24-1210, of the North Dakota Revised Code of 1943 are hereby repealed; sections 24-01231, 24-0206, 24-0207, 24-0214, 24-02191, 24-0633, 24-0812, 24-1202, 24-1213, 39-07031 and 39-1301 of the 1949 Supplement to the North Dakota Revised Code of 1943 are hereby repealed; and chapter 176, chapter 179, chapter 181, section 1 of chapter 236, and chapter 316 of the North Dakota session laws of 1951 are hereby repealed.

Approved March 20, 1953.

CHAPTER 178

S. B. No. 218

(Nordhougen, Luick, Streibel and Sayer)

BIDS FOR HIGHWAY CONTRACTS; ADVERTISING

AN ACT

To amend and reenact sections 24-0219 and 24-0220 of the North Revised Code of 1943, relating to highway contracts, bids, and advertising for bids.

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

§ 1. AMENDMENT.) Section 24-0219 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0219. CONTRACTS; BIDS.) Whenever the cost of any improvement or the purchase price of equipment or materials and supplies, exclusive of repairs to equipment, shall exceed the sum of one thousand dollars, the state highway department shall proceed to advertise the same, request bids, and award such contracts in the manner provided in this chapter. Whenever any proposed contract, purchase, or work of the state highway department shall be for a sum less than one thousand dollars, it shall be discretionary with the state highway department whether the same shall be awarded after advertising for bids. The department shall award such contracts in the manner provided in this chapter, but where contracts are in excess of one thousand dollars, the state highway department shall request bids from as many contractors, manufacturers, and dealers as can be requested conveniently.

§ 2. AMENDMENT.) Section 24-0220 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0220. REQUEST FOR BIDS; HOW ADVERTISED.) Any request for bids for construction work or the improvement of any state highway, or any structure in excess of one thousand dollars, shall be advertised by publication once a week for a period of two successive weeks, prior to the opening of such bids, in the 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. Such place shall be the office of the state highway department. All

requests for bids for the purchase of equipment, materials, and supplies in excess of the sum of one thousand dollars shall be advertised in the official newspaper of Burleigh county once a week for a period of two successive weeks prior to the opening of such bids.

Approved March 10, 1953.

CHAPTER 179

S. B. No. 98
(Schrock)

ALLOCATION AND USE OF COUNTY ROAD TAX FUNDS

AN ACT

To amend and reenact section 24-0501 and to repeal section 24-0618 of the North Dakota Revised Code of 1943, relating to property taxes for streets, highways, roads, and bridges.

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

§ 1. AMENDMENT.) Section 24-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0501. COUNTY ROAD TAX: ALLOCATION AND USE OF FUNDS.) In each county of this state having a population of two thousand or more according to the latest United States or state census, there shall be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by law, on each dollar of the assessed valuation of all taxable property in the county for the improvement of highways. Of the proceeds of such tax collected on account of real or personal property situated within any city or village, by the county treasurer of the county in which such city or village is located, twenty per cent shall be turned over by such treasurer to the treasurer of such city or village, in the manner provided in section 11-1306 to be expended under the direction of the governing body of such subdivision in the improvement of the streets and highways thereof. All other proceeds of such tax shall be kept in a distinct fund to be known as the "county road fund" and shall be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. Such taxes

shall be in addition to all other taxes for highway purposes otherwise provided by law. The provisions of this section in regard to allocation shall apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes.

§ 2. REPEAL.) Section 24-0618 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 6, 1953.

CHAPTER 180

H. B. No. 562
(Legislative Research Committee)

COUNTY ROAD SYSTEM; MILEAGE

AN ACT

Fixing the mileage of the county road system and providing for the designation of the county road system, allocation of mileage to the several counties, and extension of mileage limits.

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

§ 1. COUNTY ROAD SYSTEM.) The county road system shall not exceed eighteen thousand five hundred miles. This system shall remain substantially unchanged until such system has been improved.

§ 2. DESIGNATION OF COUNTY ROAD SYSTEM.) The county road system shall be the roads designated and selected by the boards of county commissioners, with the approval of the state highway commissioner. Any changes of the original designation which can be justified and based on new developments shall be initiated by the board of county commissioners and shall require the approval of the state highway commissioner. In designating and selecting roads on the county road system, the state highway commissioner and the boards of county commissioners of the several counties shall take into account such factors as the actual or potential traffic volumes, the conservation and development of the county's natural resources, the general economy of the communities, and the desirability of integrating such county roads into the general scheme of state-wide net work of county roads.

The original designation and selection of eighteen thousand five hundred miles of the county road system as hereinabove provided shall be allocated as near as possible to the several counties of the state in the following proportions:

County	Per Cent of Total 18,500
Adams	1.34
Barnes	2.56
Benson	1.97
Billings	0.62
Bottineau	2.55
Bowman	1.42
Burke	1.39
Burleigh	2.98
Cass	3.21
Cavalier	2.12
Dickey	1.96
Divide	1.94
Dunn	1.98
Eddy	1.03
Emmons	2.19
Foster	1.05
Golden Valley	0.80
Grand Forks	2.25
Grant	1.94
Griggs	1.09
Hettinger	1.63
Kidder	2.39
LaMoure	1.77
Logan	1.26
McHenry	2.84
McIntosh	1.65
McKenzie	1.64
McLean	3.22
Mercer	1.74
Morton	2.98
Mountrail	1.95
Nelson	1.37
Oliver	1.31
Pembina	1.46
Pierce	1.58
Ramsey	1.64
Ransom	1.81
Renville	1.37
Richland	2.39
Rolette	1.29
Sargent	1.45
Sheridan	1.71
Sioux	0.74

Slope	1.41
Stark	1.83
Steele	1.30
Stutsman	3.63
Towner	1.70
Traill	1.66
Walsh	2.08
Ward	3.29
Wells	1.93
Williams	3.59
Total	100.00

§ 3.) When, in the opinion of the board of county commissioners and the highway commissioner, the finances of the county permit, the county road system of such county may be extended beyond the limits herein fixed.

Approved March 12, 1953.

CHAPTER 181

S. B. No. 159
(Pyle)

CONTRACTS FOR TOWNSHIP ROAD IMPROVEMENTS: REPEAL

AN ACT

To repeal section 24-0608 of the North Dakota Revised Code of 1943 as amended by chapter 178 of the 1951 Session Laws relating to contracts for township road improvements.

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

§ 1.) Section 24-0608 of the North Dakota Revised Code of 1943 as amended by chapter 178 of the session laws of 1951 is hereby repealed.

Approved March 12, 1953.

CHAPTER 182

H. B. No. 823

(Schmalenberger, Gress, Langseth)

PROHIBITING OBSTRUCTION OF SECTION LINES; EXCEPTION

AN ACT

To amend and reenact section 24-0628 of the North Dakota Revised Code of 1943, relating to prohibiting the obstruction of section lines.

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

§ 1. AMENDMENT.) Section 24-0628 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0628. OBSTRUCTION OF SECTION LINES PROHIBITED; EXCEPTION.) No person shall place a fence across any section line or cause to be placed any stones or rubbish within thirty-three feet of any section line, unless he first shall secure permission in writing from the board of county commissioners or the board of township supervisors, as the case may be. Such permission to place a fence across a section line or cause to be placed any stones or rubbish along a section line shall be granted only where the topography of the land along such section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable. In granting permission to place a fence across a section line the board may require such conditions as shall be reasonable and necessary.

Approved March 5, 1953.

CHAPTER 183

S. B. No. 161
(Pyle)

FURNISHING AND INSTALLING CULVERTS BY COUNTIES
ALONG TOWNSHIP ROADS AT DRAIN INTERSECTIONS

AN ACT

Relating to the furnishing and installing of culverts along township roads at points of intersection with drains, and declaring an emergency.

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

§ 1.) The county shall furnish and install, at county expense, such culverts as are necessary to be used along township roads at points of intersection with established drains, in accordance with sections 24-0801, 24-0802 and section 61-2136.

§ 2. 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 14, 1953.

CHAPTER 184

H. B. No. 649
(Holand, Nygaard, Siverson and Leet)

HIGHWAY DEPARTMENT, PUBLIC SAFETY DIVISION

AN ACT

Creating a division of public safety for the purpose of reducing highway accidents; for a director thereof and defining his powers and duties; and making an appropriation.

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

§ 1. CREATION OF PUBLIC SAFETY DIVISION.) There is hereby created a division of public safety within the state highway department for the purpose of reducing the danger of travel

on the highways, roads and streets of this state, reducing motor vehicle accidents, saving lives and human injuries and reducing property losses resulting from motor vehicle accidents; to encourage better law enforcement and more equitable penalties; and to encourage safe driving practices and public adherence to traffic safety laws through public education, information and support.

§ 2. DIRECTOR OF PUBLIC SAFETY.) The safety division shall be administered by a director of public safety, who shall be appointed by the governor on the basis of qualifications, experience and training. Such appointment shall be for a term of four years at a salary to be determined by the governor.

§ 3. POWERS AND DUTIES.) It shall be the duty of the director to supervise and carry on a public education and information program and to assist and cooperate with all governmental or private agencies, organizations or groups for the purpose of encouraging better and safer driving practices, better law enforcement and more uniform and equitable penalties for the purpose of reducing motor vehicle accidents. The director of public safety shall coordinate and strengthen the highway and traffic safety activities of the state of North Dakota and its political subdivisions, which shall specifically include the functions of driver licensing and control, driver financial responsibility, traffic law enforcement, and other highway and traffic safety activities of the state highway department, state highway patrol and the motor vehicle department and to generally work and cooperate with the officials in charge of these departments and all public officials in all matters relating to motor vehicle safety. The director shall have authority to employ such other persons in the division of public safety as may be necessary to carry out the purposes of this Act.

§ 4. APPROPRIATION.) There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of forty thousand dollars, or so much thereof as may be necessary to pay the expenses of operation of the public safety division in carrying out the purposes of this Act. This appropriation shall be for the biennium beginning July 1, 1953, and ending June 30, 1955.

Approved March 10, 1953.