

# HIGHWAYS, BRIDGES, AND FERRIES

## CHAPTER 245

### SENATE BILL NO. 2160

(Transportation Committee)

(At the request of the Department of Transportation)

## DOT CONSULTING SERVICES AND CONSTRUCTION CONTRACTS

AN ACT to amend and reenact sections 24-02-01.5, 24-02-08, and 24-02-16 of the North Dakota Century Code, relating to department of transportation engineering consulting services and construction contracts; and to repeal section 24-03-03 of the North Dakota Century Code, relating to the annual construction program of the department of transportation.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 24-02-01.5 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**24-02-01.5. Department of transportation - Administrative rules.** The department of transportation may adopt the administrative rules necessary to carry out its responsibilities and functions as created and transferred by sections 24-02-01.1 through 24-02-01.5. Rules adopted by the agencies whose functions relate to the functions or agencies created, transferred, or covered by sections 2-05-03, 24-02-01.1 through 24-02-01.5, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, ~~24-03-03~~, 24-16-02, 24-17-02, subsections 8, 12, and 13 of section 39-01-01, subsection 1 of section 39-16-01, subsection 7 of section 39-24-01, subsection 2 of section 49-17.1-01, subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, subsection 6 of section 57-40.3-01, subsection 1 of section 57-43.1-01, section 57-43.1-44, subsection 2 of section 57-43.2-01, and section 57-43.2-37 remain in effect until they are specifically amended or repealed by the department.

**SECTION 2. AMENDMENT.** Section 24-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-08. Engineering consulting services - Coordinator of highway, road, and street program within state.** The director ~~is authorized to~~ may provide consulting engineering services; upon request; ~~to~~ of any governmental unit.

The director has the authority and responsibility for the coordination of the total highway, road, and street program within this state, including the designation of systems, which ~~he~~ the director may functionally classify as to the types of service, 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 must be initiated by the respective county and city authorities and approved by the director.~~

**SECTION 3. AMENDMENT.** Section 24-02-16 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-16. Basis of contracts for construction work.** The director 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 director to furnish and provide the ~~said~~ contractor with ~~such~~ materials and supplies as ~~he~~ the director may elect. ~~In the event that~~ If the director elects to provide materials and supplies for any project or construction work, such election must be made at the time of the adoption of the construction program, and the director shall notify the office of management and budget of the fact that the director has elected to furnish the materials and supplies. The office of management and budget may either exempt the purchase and allow the director to request and let bids, and make the purchase, or ~~it~~ the office of management and budget may handle the bidding and purchasing through its central purchasing agency. Either the office of management and budget or the director shall request proposals or bids for the total and aggregate of ~~such~~ the materials and supplies for any and all ~~such~~ projects or construction work according to the class, type, and nature of ~~such~~ the materials and supplies, and may ~~proceed to~~ award a contract or contracts therefor upon ~~such~~ a basis ~~as is~~ deemed efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the state. ~~Such~~ The materials and supplies ~~so~~ purchased by the office of management and budget or the department of transportation may be delivered to the project or construction work without expense to the contractor doing ~~such~~ the construction work, or may be sold to ~~him~~ the contractor at cost and made to constitute a part of ~~such~~ the construction cost, as the director may elect.

**SECTION 4. REPEAL.** Section 24-03-03 of the North Dakota Century Code is repealed.

Approved March 15, 1999

Filed March 16, 1999

## CHAPTER 246

### HOUSE BILL NO. 1128

(Transportation Committee)

(At the request of the Department of Transportation)

## CENTRAL VEHICLE MANAGEMENT SYSTEM

AN ACT to amend and reenact section 24-02-03.3 of the North Dakota Century Code, relating to the central vehicle management system.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 24-02-03.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**24-02-03.3. Central management system for all state-owned licensed motor vehicles.**

1. The director shall establish within the department a central vehicle management system to regulate the operation, maintenance, and management of all motor vehicles owned or leased by the state subject to registration under chapters 39-04 and 39-05. Upon the request of a state agency and an agreement between the agency and director for the use of the motor vehicle-related equipment, the director may purchase or lease motor vehicle-related equipment and include that equipment within the system. The director shall provide a uniform method of documenting the use and cost of operation of motor vehicles and motor vehicle-related equipment in the system. The director shall advise the director of the office of management and budget as to the need to acquire or dispose of system motor vehicles. The specifications for highway patrol vehicles to be acquired may be set by the highway patrol superintendent. Every state agency, institution, department, board, bureau, and commission unless exempted by the director must use the system.
2. The director may enter into an agreement with a state employee who has a disability requiring a specially-equipped vehicle to pay a mileage rate greater than the rate established in section 54-06-09 for the employee's use of the employee's specially-equipped motor vehicle while conducting state business. The rate must be based on the rate provided in section 54-06-09, increased by the actual cost per mile caused by the special equipment, and may not exceed the cost associated with the special equipment expressed as the new value plus the depreciated fair market value in eight years divided by two, divided by forty thousand miles.
3. Each entity required to use the system shall submit records of the operation of each vehicle as directed by the director.

Approved March 25, 1999  
Filed March 25, 1999

## CHAPTER 247

### SENATE BILL NO. 2267

(Senators B. Stenehjem, Christmann, Tomac)  
(Representatives Grande, Hanson, Henegar)

### SPECIAL ROAD COMMITTEE AND FUND

AN ACT to create and enact a new section to chapter 24-02 of the North Dakota Century Code, relating to the special road committee; to amend and reenact subsection 3 of section 24-02-37 of the North Dakota Century Code, relating to the special road fund; to provide an effective date; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 3 of section 24-02-37 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. The state treasurer shall deposit the moneys in the state highway fund in an interest-bearing account at the Bank of North Dakota. ~~Any~~ The state treasurer shall deposit forty percent of the income derived from the deposit of the moneys must be retained in the state highway interest-bearing account in a special interest-bearing account in the state treasury known as the special road fund. The special road fund may be used, within the limits of legislative appropriation, exclusively for the construction and maintenance of access roads to and roads within recreational, tourist, and historical areas as designated by the special road committee. A political subdivision or state agency may request funds from the special road fund by applying to the committee on forms designated by the committee. The committee may require the political subdivision or state agency to contribute to the cost of the project as a condition of any expenditure authorized from the special road fund. Any moneys in the fund not obligated by the special road committee on June thirtieth of each odd-numbered year must revert to the state highway fund.

**SECTION 2.** A new section to chapter 24-02 of the North Dakota Century Code is created and enacted as follows:

**Special road committee.** The special road committee consists of one member of the senate and one member of the house of representatives appointed by the chairman of the legislative council, the director of the game and fish department, the director of the parks and recreation department, and the director of the department of transportation. The director of the department of transportation is chairman of the committee. The committee must meet at the call of the director to review requests for funding from the special road fund. The committee shall decide which project requests will receive funding. The director shall provide staff services to the committee. The members of the committee who are members of the legislative assembly are entitled to compensation from the department of transportation, from moneys appropriated from the special road fund, for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses

incurred in attending the meetings in the amounts provided by law for other state officers.

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective July 1, 1999.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 16, 1999

Filed April 16, 1999

## CHAPTER 248

### HOUSE BILL NO. 1310

(Representatives Weisz, DeKrey, Devlin, Schmidt)  
(Senators Fischer, Klein)

## HIGHWAY CONSTRUCTION TO PERMIT WATER FLOW

AN ACT to amend and reenact sections 24-03-06, 24-03-08, and 24-06-26.1 of the North Dakota Century Code, relating to construction of highways to permit a natural flow of water.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 24-03-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**24-03-06. Method of construction of highway ditches.** ~~Any and all~~ 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, corporation, or limited liability company must be so designed as to permit the waters running into ~~such~~ the ditches to drain into coulees, rivers, and lakes according to the surface and terrain where ~~such~~ the highway or highways are constructed in accordance with scientific highway construction and engineering the stream crossing standards prepared by the department and the state engineer so as to avoid the waters flowing into and accumulating in the ditches to overflow adjacent and adjoining lands. In the construction of highways; ~~as herein provided~~, the natural flow and drainage of surface waters to the extent required to meet the stream crossing standards prepared by the department and the state engineer may not be obstructed, but ~~such~~ the water must be permitted to follow the natural course according to the surface and terrain of the particular terrain. The department, county, township, their contractors, subcontractors, or agents, or any individual firm, corporation, or limited liability company is not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

**SECTION 2. AMENDMENT.** Section 24-03-08 of the North Dakota Century Code is amended and reenacted as follows:

**24-03-08. 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 or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the state ~~water commission~~ engineer, upon petition of the majority of landowners of the area affected; or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the maximum quantity of water, in terms of second feet, which such watercourse or draw may be design discharge that the crossing is required to carry to meet the stream crossing standards prepared by the

department and the state engineer. When ~~such~~ the determination has been made by the state ~~water commission~~ engineer, ~~it is the duty of~~ the department ~~or~~, the board of county commissioners, or the board of township supervisors, as the case may be, upon notification of ~~such~~ the determination, ~~to~~ shall install a culvert or bridge of sufficient capacity to permit ~~such maximum quantity of~~ the water to flow freely and unimpeded through ~~such~~ the culvert or under ~~such~~ the bridge. The department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

**SECTION 3. AMENDMENT.** Section 24-06-26.1 of the North Dakota Century Code is amended and reenacted as follows:

**24-06-26.1. Township road and drainage construction standards.** Whenever the construction or reconstruction of a township road or bridge, the insertion of a culvert in a township road, or the construction or reconstruction of a ditch or drain in connection with a township road affects the flow of surface waters and increases the surface water flow through ditches, drains, bridges, and culverts in other townships, the board of township supervisors or the township overseer of highways of the township undertaking ~~such~~ the construction or reconstruction shall give notice to the boards of township supervisors or township overseers of highways in all townships affected by ~~such~~ the construction or reconstruction projects.

The boards of township supervisors of townships affected by any road or bridge construction ~~which that~~ changes or increases the flow of surface waters shall cooperate in the ~~determination of uniform construction standards to be adopted by all townships affected and shall cooperate in~~ such construction projects expending on any portion of ~~such~~ the projects ~~such~~ the portions of the road and bridge tax as deemed conducive to the interests of the township. The board of township supervisors shall construct the ditches, drains, bridges, and culverts in accordance with stream crossing standards prepared by the department and the state engineer. A township, board of township supervisors, and township overseer of highways are not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

Approved April 9, 1999  
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