

# HIGHWAYS, BRIDGES, AND FERRIES

## CHAPTER 230

SENATE BILL NO. 2151  
(Committee on Transportation)  
(At the request of the Highway Department)

### STATE HIGHWAY SYSTEM DESIGNATION

AN ACT to amend and reenact section 24-01-02 of the North Dakota Century Code, relating to the designation of the state highway system.

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

SECTION 1. AMENDMENT.) Section 24-01-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-02. 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 more than fifty miles in any one calendar year. 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 type of service class, the construction of bypasses and alternate routes, 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 nationwide network of highways.

Approved March 23, 1977

## CHAPTER 231

HOUSE BILL NO. 1154  
(Committee on Transportation)  
(At the request of the Highway Department)

## HIGHWAY DEPARTMENT REVENUES AND SCHOLARSHIPS

AN ACT to amend and reenact sections 24-02-41 and 24-02-42 of the North Dakota Century Code, relating to certain highway department revenues and the time for deposit of such revenues with the state treasurer, and changing the interest rate on engineering scholarships.

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

SECTION 1. AMENDMENT.) Section 24-02-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-41. HIGHWAY DEPARTMENT REVENUES TO STATE HIGHWAY FUND.) All revenue in the form of charges, reimbursements, or earnings as hereinafter specified, accruing to the state highway department or any of its agencies or divisions, shall be collected and received by the state highway commissioner or his agent, and deposited with the state treasurer monthly, who shall credit all such deposits to the state highway fund:

1. Overload fees or charges, permit fees, proceeds from sales, and reimbursements from other entities.
2. Service fees and charges for furnishing documents, material, information, or performing work at the request of, or for the convenience of other entities.
3. Income resulting from ownership of rights or properties.
4. Funds collected pursuant to a reciprocal or other agreement, which are in lieu of mile tax.
5. Other income resulting from authorized activities of the department and the discharge of its statutory responsibilities.

SECTION 2. AMENDMENT.) Section 24-02-42 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-42. ENGINEERING AND TECHNICIAN SCHOLARSHIPS AUTHORIZED.) The state highway commissioner is hereby authorized to

establish not over sixteen continuing scholarships for study in civil engineering, civil engineering technology, and industrial drafting and design technology at institutions of higher learning in this state. Expenditure of not over ten thousand dollars annually from highway operating funds is hereby authorized. No individual shall receive scholarship payments in any year exceeding eight hundred dollars nor a total exceeding twenty-four hundred dollars and an executed contract of employment shall be a prerequisite. Before any student shall receive the benefits authorized by this section he shall enter into a contract with the North Dakota state highway department, which shall provide that such student shall upon graduation accept employment with the North Dakota state highway department for a period of time at least equal to the time he received scholarship benefits, the salary to be in the amount equaling current salaries paid to civil engineering graduates. In the event such student shall be inducted into the armed forces before graduation, such education may then be completed upon his return to civil life, and in the event such induction into the armed services is made after graduation the employment contract shall not take effect until after such period of service in the armed forces has been completed. Leave of absence without pay will be granted to one whose induction occurs during the period of the life of such contract and the employment will be resumed for the balance of the contract period after such employee has been discharged from the service.

If such student fails to graduate with a degree in civil engineering, or fails to accept employment with the North Dakota state highway department as above provided, such student shall repay the North Dakota state highway department, with interest at the rate of six percent per annum, all sums received by him in scholarship benefits under the contract herein provided, such repayment to be made within a period equal to the time he received such benefits. For the purpose of this section defenses of minority or statute of limitations are hereby removed as to any applicant granted a loan by the commissioner and such contracts shall in all respects be legal and binding. Salary increases to employees having received scholarships by virtue of this section shall be based on the same considerations as other engineers employed by the state highway department.

The commissioner, with the cooperation and concurrence of the board of higher education, shall prescribe rules for determining the selection of recipients, qualifications, and courses of study. Such rules may cover any areas as may be necessary to assure a source of qualified technically trained employees for the department.

Approved March 12, 1977

## CHAPTER 232

HOUSE BILL NO. 1519  
(Powers)

## COUNTY ROAD TAX ALLOCATION

AN ACT to amend and reenact section 24-05-01 of the North Dakota Century Code, to provide that the allocation of the county road tax shall not apply to oil and gas tax distributions and other intergovernmental transfers.

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

SECTION 1. AMENDMENT.) Section 24-05-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-01. 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. When authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any county, the county commissioners may levy and collect a property tax of not more than two mills on each dollar of the assessed valuation of all taxable property in the county for the improvement of highways, which levy shall be in addition to, and shall not be restricted by, the levy limitations of section 57-15-06. The levy pursuant to such an election may be discontinued at the discretion of the county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy shall be submitted to the electors of the county at any regular or special election and, upon a favorable vote of sixty percent of the electors voting, such levy shall be discontinued. Of the proceeds of such tax collected on account of real or personal property situated within any city, by the county treasurer of the county in which such city is located, twenty percent shall be turned over by such treasurer to the treasurer of such city, in the manner provided in section 11-13-06 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. No allocation pursuant to this section shall include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor shall any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.

Approved March 19, 1977

## CHAPTER 233

HOUSE BILL NO. 1323  
(Backes, Peterson)

## ROAD EQUIPMENT LEASE RATES

AN ACT to amend and reenact section 24-05-04.1 of the North Dakota Century Code, relating to the rental fee charged by counties for use of their equipment.

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

SECTION 1. AMENDMENT.) Section 24-05-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-04.1. COUNTY NOT TO LEASE ITS EQUIPMENT FOR LESS THAN COST OF OPERATION.) No county, city, or township shall lease, rent, or enter into a contract or agreement for the use of any road construction or maintenance equipment belonging to any county, city, or township on other than county, city, or township roads or projects at a rate which is less than the current equipment rental rates adopted by the North Dakota state highway department as shown in its Standard Specifications for Road and Bridge Construction manual.

Approved March 23, 1977

## CHAPTER 234

HOUSE BILL NO. 1129  
(Murphy)

## SECTION LINES

AN ACT to amend and reenact sections 24-06-28, 24-06-30, 24-07-03, 24-07-19, 24-10-01, 24-10-02, and 24-10-04 of the North Dakota Century Code, relating to obstruction of section lines, removal of fences, section lines as public roads, removal of fences when public roads have been laid out, erection of cattle guards, construction of cattle guards, and removal of cattle guards.

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

SECTION 1. AMENDMENT.) Section 24-06-28 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-06-28. OBSTRUCTION OF SECTION LINES PROHIBITED - EXCEPTION - CERTAIN FENCES NOT CONSIDERED OBSTRUCTIONS - PENALTY.)

1. No person shall place or cause to be placed any permanent obstruction, stones, or rubbish within thirty-three feet of any section line, unless written permission is first secured from the board of county commissioners or the board of township supervisors, as the case may be. Such permission shall be granted where the section line has been closed pursuant to section 24-07-03 or 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.
2. Subsection 1 shall not be construed to prohibit construction of fences:
  - a. Along or across section lines which have been closed pursuant to section 24-07-03 or which have not been opened because construction of a road is impracticable due to the topography of the land along the section line, but such fences shall be subject to removal as provided in section 24-06-30.

- b. Across section lines which have not been closed pursuant to section 24-07-03 if cattle guards are provided in accordance with chapter 24-10 where fences cross the section lines.
3. The construction of fences pursuant to subsection 2 shall not be considered an obstruction of section lines and any person who damages any fence or who opens and fails to close any gate constructed under subsection 2 is guilty of an infraction.

SECTION 2. AMENDMENT.) Section 24-06-30 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-06-30. REMOVAL OF FENCES - NOTICE - COST.) When a public highway is opened along any section line, the board of county commissioners or the board of township supervisors, as the case may be, shall notify the owner of adjacent property to remove any fences not constructed pursuant to subsection 2 of section 24-06-28 within thirty-three feet of the section line in the manner provided for notice to remove stones or rubbish. If the owner of adjacent property shall fail to remove the fences within thirty days after the notice has been given, the board of county commissioners or the board of township supervisors, as the case may be, shall cause the fences to be removed, and the cost thereof shall be returned and entered the same as taxes against the property and shall be paid in the same manner as taxes are paid.

SECTION 3. AMENDMENT.) Section 24-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 24-07-03. SECTION LINES CONSIDERED PUBLIC ROADS - CLOSING SAME UNDER CERTAIN CONDITIONS.) In all townships in this state, outside the limits of incorporated cities, and outside platted townsites, additions, or subdivisions recorded pursuant to chapter 40-50, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of such section lines, where the same have not been opened already upon the order of the board having jurisdiction, without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessments of damages.

The county commissioners, if petitioned by a person having an interest in the adjoining land or a portion thereof, are authorized, after public hearing and a finding by the commissioners of public benefit, to close section line roads or portions thereof which are not used for ten years, are not traveled due to natural obstacles or difficulty of terrain, are not required due to readily accessible alternate routes of travel, or are intersected

\*NOTE: Section 24-07-03 was also amended by section 1 of Senate Bill No. 2382, chapter 235.



by interstate highways causing such section line road to be a dead end, providing the closing of such dead end section line road does not deprive adjacent landowner access to his property. After such section line roads are closed, they may be leveled and farmed by the adjacent landowners or tenants. However, if drainage is interfered with due to the farming operations, alternate means of drainage must be provided for by the landowners or tenants farming such lands.

SECTION 4. AMENDMENT.) Section 24-07-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-19. NOTICE TO PARTY TO REMOVE FENCES.) Whenever any public road has been laid out through any enclosed, cultivated, or improved lands, pursuant to this chapter and the decision of the board laying out the road has not been appealed from, the board shall give the owner or occupant of the land through which the road is laid out thirty days' written notice to remove his fences. If the owner does not remove his fences within thirty days after the notice, the board shall cause the fences to be removed and shall direct the road to be opened and worked, but no enclosure shall be ordered opened between April first and October first.

SECTION 5. AMENDMENT.) Section 24-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-10-01. CATTLE GUARDS - HOW PERMITTED.) Whenever the erection of cattle guards is necessary to complete an enclosure which includes land on both sides of any highway in the state, except a highway which has been designated as part of the state highway system, or to cross a section line pursuant to section 24-06-28, the board of county commissioners, if the cattle guard is to be erected across a county road or a section line subject to jurisdiction of the board of county commissioners, or the board of township supervisors, if the cattle guard is to be erected across a township road or a section line subject to jurisdiction of the board of township supervisors, may issue permission to any person, firm, or corporation to erect a cattle guard and gateway across the highway or section line upon the conditions hereinafter prescribed.

SECTION 6. AMENDMENT.) Section 24-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-10-02. CATTLE GUARDS - HOW CONSTRUCTED - EFFECT.) Before any cattle guard and gateway shall be erected across any highway or section line as authorized in section 24-10-01, the board of county commissioners or board of township supervisors, as the case may be, shall approve written specifications of the cattle guard and gateway. Specifications approved by the board of

county commissioners shall be filed with the county auditor and specifications approved by the board of township supervisors shall be filed with the township clerk. The specifications shall include requirements for warning signs to be placed approximately three hundred feet from and plainly visible to persons approaching the cattle guard upon the highway or section line. A cattle guard shall be so constructed as to permit the passage of motor vehicles through and over the same. No cattle guard shall be erected upon any highway or section line unless there also is provided adjacent thereto an ample gateway in which shall be erected a gate which may be opened easily and closed by the public. Within the limits of an enclosure so completed by authorized cattle guards erected in accordance with such specifications, livestock shall be permitted to run at large without liability for being upon the highway or section line.

SECTION 7. AMENDMENT.) Section 24-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-10-04. CATTLE GUARDS MAY BE ORDERED REMOVED.) The board having authority to permit the erection of a cattle guard and gateway across any highway or section line also shall have authority to cause the same to be removed, if the same is not kept in repair, or if in the judgment of said board, it becomes necessary to remove the cattle guard and gateway for the purpose of improving the highway or section line. If the board determines any cattle guard and gateway should be removed under this section, written notice by registered or certified mail shall be sent to the occupant of the enclosure, notifying the occupant to effect such removal within thirty days from the date of mailing. Where the notice is not complied with, the board, upon expiration of the period, shall be authorized to remove or destroy the cattle guard and gateway.

Approved March 31, 1977

## CHAPTER 235

SENATE BILL NO. 2382  
(Jones)

## SECTION LINES CONSIDERED PUBLIC ROADS

AN ACT to amend and reenact section 24-07-03 of the North Dakota Century Code, relating to when section lines are considered public roads.

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

SECTION 1. AMENDMENT.) Section 24-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 24-07-03. SECTION LINES CONSIDERED PUBLIC ROADS - CLOSING SAME UNDER CERTAIN CONDITIONS.) In all townships in this state, outside the limits of incorporated cities, and outside platted townsites, additions, or subdivisions recorded pursuant to chapter 40-50, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of such section lines, where the same have not been opened already upon the order of the board having jurisdiction, without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessments of damages.

The county commissioners, if petitioned by the adjoining landowners, are authorized to close section line roads or portions thereof which are intersected by interstate highways causing such section line road to be a dead end, providing the closing of such dead end section line road does not deprive adjacent landowner access to his property. After such section line roads are closed, they may be leveled and farmed by the adjacent landowners or tenants. However, if drainage is interfered with due to the farming operations, alternate means of drainage must be provided for by the landowners or tenants farming such lands.

\*NOTE: Section 24-07-03 was also amended by section 3 of House Bill No. 1129, chapter 234.

Approved April 6, 1977

## CHAPTER 236

HOUSE BILL NO. 1403  
(Lundene)

## COUNTY BRIDGE CONSTRUCTION

AN ACT to amend and reenact section 24-08-01 of the North Dakota Century Code, relating to the construction of bridges by the board of county commissioners pursuant to the request of township freeholders, and its effect upon the construction of culverts on township roads.

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

SECTION 1. AMENDMENT.) Section 24-08-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-01. CONSTRUCTION OF BRIDGES BY BOARD OF COUNTY COMMISSIONERS - PETITION - BIDS - REJECTION.) Whenever a majority of the freeholders of a civil township, or a majority of the freeholders living within a radius of three miles of the proposed location, shall petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city, if the cost of such bridge shall exceed the sum of five hundred dollars, the board of county commissioners shall view and investigate the necessity of such proposed bridge. If the board approves the petition, it shall proceed to advertise in the official paper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to it at the next regular or special meeting, at which the board shall proceed to examine all proposals or bids for the building of such bridge. The board shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid, or contract, such bond to be approved by the board and filed in the office of the county auditor but the board may reject all bids. If all bids are rejected, the board shall re-advertise as provided herein. Provided, however, that in any case where the amount of the lowest responsible bid is less than fifteen thousand dollars, the board shall have the authority to refuse all bids received, and to proceed to construct such bridge under its own supervision, and in the manner deemed by it most expedient, and to enter into contracts for the labor or material to be used in the construction of the same.

Approved March 23, 1977

## CHAPTER 237

HOUSE BILL NO. 1380  
(Weber, Erickson)

APPORTIONMENT OF COST OF RAILROAD  
CROSSING SAFETY DEVICES

AN ACT to amend and reenact section 24-09-08.1 of the North Dakota Century Code, relating to the apportionment of grade crossing safety devices.

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

SECTION 1. AMENDMENT.) Section 24-09-08.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-08.1 PUBLIC SERVICE COMMISSION TO APPORTION COST.) In order to promote public safety at intersections of railroad lines and all classes of highways the public service commission shall apportion the cost of automatic grade crossing protection devices in accordance with this section. In the event that the public service commission in accordance with the provisions of section 24-09-08 orders that any grade crossing shall be protected by automatic grade crossing protection devices, the public service commission shall in its order apportion the cost thereof between the railroad interested, the political subdivision having jurisdiction of the highway involved, and the state of North Dakota. Such cost shall be apportioned to such parties or to any one or more of such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users shall be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties. The cost apportioned to the state of North Dakota shall be paid out of the highway fund in the state treasury, provided that not more than one hundred thousand dollars may be expended for this purpose in any one biennium.

Approved March 23, 1977

## CHAPTER 238

HOUSE BILL NO. 1163  
(Committee on Transportation)  
(At the request of the Highway Department)

## CONTROL OF OUTDOOR ADVERTISING

AN ACT to create and enact a new section to chapter 24-17 of the North Dakota Century Code, relating to limitations of outdoor advertising; to amend and reenact section 24-17-03 of the North Dakota Century Code, relating to limitations of outdoor advertising.

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

SECTION 1.) A new section to chapter 24-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

LIMITATIONS OF OUTDOOR ADVERTISING BEYOND SIX HUNDRED SIXTY FEET.) Subject to the provisions of this chapter, no sign shall, after July 1, 1977, be erected or maintained beyond six hundred sixty feet from the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the highway system, and erected with the purpose of their message being read from such main traveled way except the following:

1. Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions which are required or authorized by law.
2. Signs, displays, and devices advertising the sale or lease of property upon which they are located.
3. Signs, displays, and devices advertising activities conducted on the property on which they are located.

SECTION 2. AMENDMENT.) Section 24-17-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-17-03. LIMITATIONS OF OUTDOOR ADVERTISING WITHIN SIX HUNDRED SIXTY FEET.) Subject to the provisions of this chapter, no sign shall, after January 1, 1968, or any later date established by the Congress of the United States in relation to title 23, United States Code, section 131, or waiver thereof pursuant to said title 23, be erected or maintained within six hundred and

sixty feet from the nearest edge of the right-of-way and visible from the main traveled way of any highway which is a part of the state highway system in this state except the following:

1. Official signs and notices, directional signs and notices, which shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions and outdoor recreational areas subject to the national standards to be promulgated by the secretary of transportation.
2. Signs advertising the sale or lease of property upon which they are located.
3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced or mined, or the name of the enterprise on the property and which are within fifty feet of the area used for the purpose advertised and upon which they are located.
4. Signs in areas which are now or hereafter zoned industrial, commercial, or the like by the board as provided in this chapter.
5. Signs in unzoned commercial or industrial areas, which now or hereafter qualify as such, pursuant to the agreement between the board and the secretary of transportation according to title 23, United States Code, section 131.
6. Signs relocated by reason of the construction or reconstruction of the state highway system.
7. Official highway signs within interstate rights-of-way giving specific information for the traveling public pursuant to title 23, United States Code, section 131 (f) and the rules and regulations promulgated thereunder.
8. Signs calling attention to the location of buried utility lines.

Approved April 9, 1977