

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 312

SENATE BILL NO. 2155
(Committee on Political Subdivisions)
(At the request of the Highway Department)

HIGHWAY ABANDONMENT ORDER FILING

AN ACT to amend and reenact section 24-01-06 of the North Dakota Century Code, relating to abandonment of highways.

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

SECTION 1. AMENDMENT. Section 24-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-06. 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.

The abandonment order must be filed with the office of the register of deeds of each county in which the abandonment occurs.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 313

SENATE BILL NO. 2148
(Committee on Agriculture)
(At the request of the Highway Department)

HAY ON HIGHWAY RIGHT OF WAY

AN ACT to amend and reenact sections 24-01-12.1 and 24-01-12.2 of the North Dakota Century Code, relating to harvesting hay on state highway right of way.

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

SECTION 1. AMENDMENT. Section 24-01-12.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-12.1. Harvesting hay on state highway system - Storage and removal. Every person harvesting hay on the rights of way of the state highway system, ~~and intending to store who stores~~ the harvested hay on the rights of way for later removal, shall take measures to store the harvested hay near at the outer edge of the rights of way. ~~if, in the judgment of the commissioner, the harvested hay hampers the efficient and safe operation of the highway system, the~~ The commissioner may give notice to remove the stored hay any hay that is not stored as prescribed in this section. All hay stored on the rights of way must be removed by November first of each year.

SECTION 2. AMENDMENT. Section 24-01-12.2 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-12.2. Hay forfeiture. Any stored hay improperly stored on the right of way or which has not been removed within two weeks of the notice to do so, remaining on the right of way on November first of each year shall be deemed forfeited and disposed of in a manner deemed proper by the commissioner.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 314

SENATE BILL NO. 2203
(Committee on Transportation)
(At the request of the Highway Department)

CENTRAL VEHICLE MANAGEMENT

AN ACT to create and enact two new sections to chapter 24-02 of the North Dakota Century Code, relating to the transfer of motor vehicles to the central management system and motor vehicle user charges; and to amend and reenact section 24-02-03.3 of the North Dakota Century Code, relating to the central management of state motor vehicles.

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

SECTION 1. AMENDMENT. Section 24-02-03.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-03.3. Central management system for all state-owned licensed motor vehicles. The commissioner 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 ~~this section~~ registration under chapters 39-04 and 39-05. ~~The system commissioner shall provide a uniform method of recording and reporting the utilization, mileage, and other costs of operating these motor vehicles documenting the use and cost of operation of motor vehicles in the system. The commissioner shall also establish a system whereby a recommendation can be made to advise the director of the office of management and budget concerning the acquisition and disposal as to the need to acquire or dispose of system motor vehicles subject to this section. 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 commissioner must use the system. The board of higher education and institutions under its jurisdiction are not required to use the system. An appropriate charge based on actual costs will be made for such services. All revenue received by the commissioner under this section shall be remitted by the commissioner to the state treasurer to be deposited by the treasurer in the state highway fund.

Each entity required to use the system must submit records of the operation of each vehicle as directed by the commissioner. ~~The commissioner is authorized, within the limits of legislative appropriation, to employ personnel necessary to carry out the duties prescribed by this section.~~

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

Transfer of motor vehicles. The title or other documents representing ownership of a motor vehicle owned or leased by the state, except the board of higher education and the institutions under its jurisdiction, must be transferred to the commissioner upon the effective date of this Act. If a transferred motor vehicle was originally purchased with dedicated or trust funds, the commissioner shall credit the purchaser with an amount equal to two-thirds of the national automobile dealers association wholesale value of the motor vehicle to be offset against future user charges. Any credit must be made available July 1, 1989, and be completed within ten years. The commissioner may assign motor vehicles purchased with federal funds to the original purchaser or may pay the market value of the vehicle to the original purchaser.

SECTION 3. A new section to chapter 24-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

User charges - Incidental revenues. Each entity using the central vehicle management system shall pay a user charge to the commissioner. The user charge will be set by the commissioner and must be based upon the actual cost of the service provided, including depreciation. The user charges and any proceeds from insurance claims, motor vehicle sales, commercial refunds or rebates, or similarly derived proceeds must be remitted to the state treasurer for deposit in the highway fund.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 315

HOUSE BILL NO. 1673
(Mertens, Strinden)

(Approved by the Committee on Delayed Bills)

HIGHWAY BID ADVERTISING

AN ACT to provide temporary authority to the highway commissioner to reduce the period of advertising for bids and to designate the time of opening of bids for certain highway department construction contracts; to provide an expiration date; and to declare an emergency.

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

SECTION 1. Highway construction project bids and bid openings. Notwithstanding the provisions of section 24-02-19 the highway commissioner may reduce the period of advertising for bids on highway construction projects to two successive weeks. The highway commissioner may provide that, after receipt, the bids may be opened and read within a period set by the commissioner, not to exceed four weeks. Oral or written notice of the opening must be given to the bidders at least one day before opening of the bids.

SECTION 2. EFFECTIVE DATE. This Act is effective through June 30, 1987, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 316

HOUSE BILL NO. 1538
(Representatives Laughlin, Flaagan)
(Senator Wogsland)

HIGHWAY CONSTRUCTION PROJECT CLAIMS

AN ACT to amend and reenact section 24-02-25.1 of the North Dakota Century Code, relating to the filing of a claim against a highway construction project.

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

SECTION 1. AMENDMENT. Section 24-02-25.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-25.1. Claims against project - Notice of claim - When filed - Where filed. Any person who has furnished labor, materials, or supplies on a contract awarded under section 24-02-23, and who has not been paid in full at the time of final acceptance of the project by the department, shall have the right to file a claim against the contractor and the surety furnishing the performance bond.

Notice of the claim shall be given, in writing, to the contractor or the surety furnishing the performance bond and must provide a clear and concise statement of the labor, materials, and supplies furnished, to whom it was furnished, and the monetary value thereof. The claim shall bear interest, on each transaction for labor, materials, or supplies, commencing thirty days after the last transaction. The rate of interest must be the rate provided in section 28-20-34. The notice of the claim shall be made by certified mail postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or has a residence and posted within one hundred eighty days from the date on which the person completed the contribution giving rise to the claim.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 317

HOUSE BILL NO. 1549
(Representatives Peterson, O'Shea)
(Senators Mutch, W. Meyer)

HIGHWAY CONTRACTOR ARBITRATION CLAIMS

AN ACT to amend and reenact section 24-02-26.1 of the North Dakota Century Code, relating to contractors' claims submitted for arbitration.

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

SECTION 1. AMENDMENT. Section 24-02-26.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-26.1. Condition precedent to contractor demand for arbitration - Claims for extra compensation. In addition to the provisions of section 24-02-30, full compliance by a contractor with the provisions of this section is a condition precedent to the contractor's right to demand arbitration. If the contractor believes the contractor is entitled to additional compensation for work or materials not covered in the contract or not ordered by the engineer as extra work or force account work in accordance with the contract specifications, the contractor shall, prior to beginning the work which the claim will be based upon, notify the engineer in writing of the intent to make claim for additional compensation. If the basis for the claim does not become apparent until the contractor has commenced work on the project and it is not feasible to stop the work, the contractor shall immediately notify the engineer that the work is continuing and that written notification of the intent to make claim will be submitted within ten calendar days. Failure of the contractor to give the notification required and to afford the engineer facilities and assistance in keeping strict account of actual costs will constitute a waiver of claim for additional compensation in connection with the work already performed. Notification of a claim, and the fact that the engineer has kept account of the costs involved, shall not be construed as proving or substantiating the validity or actual value of the claim.

Any person submitting a claim for compensation under this section, personally or on behalf of another person or entity, shall do so in writing, stating the monetary amount of the claim, the

reason for the claim, when the loss was incurred, and a short statement of the factual situation under which the claim arose. The claim must be made under oath or equivalent affirmation. The commissioner shall provide claim forms to persons requesting or indicating a need for them.

The contractor shall make available to the department and allow the department to examine and copy all of the contractor's records, documents, worksheets, and other data which are pertinent to the justification of the claim and to the substantiation of all costs related to the claim.

Approved March 27, 1987

Filed March 30, 1987

CHAPTER 318

HOUSE BILL NO. 1396
(Representative Dalrymple)
(Senator Tweten)

TOWNSHIP ROAD DITCHES

AN ACT to create and enact a new section to chapter 24-06 of the North Dakota Century Code, relating to maintenance of township road ditches.

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

SECTION 1. A new section to chapter 24-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

Maintenance of township road ditches - Limited duty. The party with an interest in land adjacent to a township road is not responsible for maintaining that ditch unless improper conservation practices on that party's adjoining land have led to unreasonable wind and water erosion, not commonly experienced in the locality, which resulted in conditions adversely affecting the ditch. On the occurrence of such improper conservation practices, the board of township supervisors may require the adjoining party with an interest in the land to clean the ditch at that party's expense. If that party fails to clean the ditch, the procedures applicable to the duty to cut weeds under chapter 63-05 apply with respect to the cleaning of the ditch.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 319

HOUSE BILL NO. 1397
(Representative Dairymple)
(Senator Tweten)

TOWNSHIP ROAD DITCHES

AN ACT to create and enact a new section to chapter 24-06 of the North Dakota Century Code, relating to maintenance of ditches along township roads by parties with an interest in adjoining land.

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

SECTION 1. A new section to chapter 24-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

Maintenance of township road ditches by private party - Power of board of township supervisors - Approval - Standards of construction. The board of township supervisors may authorize any private party to maintain, clean, or shape a ditch along a township road at that party's own expense and in accordance with this section. In maintaining, cleaning, or shaping a ditch, the private party may not spread any soil or debris from that ditch along adjoining land without the permission of all parties with an interest in that land. The ditch may be on a continuous grade from the bottom of the upstream water outlet to the bottom of the downstream water outlet structure. The grade ratio in that distance must be a slope that, in light of the soil types and potential for vegetative cover in the ditch, will resist erosion. In order for any action to be considered maintenance of a ditch in accordance with this section, the ditch must be entirely contained within the township right of way, must have a bottom that is not wider than twelve feet [3.66 meters], and may not alter the side slope of the ditch to a slope steeper than the existing side slope. The board of township supervisors may not approve private maintenance of a ditch that does not comply with the standards of this section. If the board of township supervisors denies permission to maintain a ditch under this section, the petitioner may appeal that decision to the water resource board that has jurisdiction over the ditch. This section does not relieve any person from compliance with any requirements for a drainage permit which are required by statute or rule.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 320

SENATE BILL NO. 2080
(Legislative Council)
(Interim Transportation Committee)

MINIMUM MAINTENANCE ROADS

AN ACT to create and enact three new sections to chapter 24-07 and a new subsection to section 32-12.1-03 of the North Dakota Century Code, relating to the designation of certain roads as minimum maintenance roads and the limitation of liabilities of political subdivisions for those roads.

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

SECTION 1. A new section to chapter 24-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Designation of minimum maintenance road. A board having jurisdiction as described in this chapter, and the governing body of a city, may designate a road under its jurisdiction as a minimum maintenance road in accordance with sections 1 through 3 of this Act. The designation may be made only if the board or governing body determines that the road to be so designated is used only occasionally or intermittently for passenger and commercial travel. Further, the designation cannot be made if the road is used as a schoolbus route, mail route, or as the only access to any existing residence. In its action designating the minimum maintenance road, the board or governing body shall identify the beginning and end of the road. The board or governing body shall notify each adjoining political subdivision of a designation made under this section. If a road runs along the boundary of political subdivisions, the designation as a minimum maintenance road is not applicable unless the board or governing body of each adjoining political subdivision agrees with the designation.

SECTION 2. A new section to chapter 24-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Required signs on minimum maintenance roads. The body making a designation of a minimum maintenance road shall post signs at the beginning and the end of the road and at regular intervals along the road. The signs must conform to standards adopted by the highway commissioner by rule. If the signs are properly posted, that fact

is prima facie evidence that adequate notice of the road's status as a minimum maintenance road has been given to the public.

SECTION 3. A new section to chapter 24-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Limitations on designation of minimum maintenance roads. A road is not eligible for designation as a minimum maintenance road if federal highway aid to this state would be reduced as a result of that designation. A road is not eligible for that designation if additional right of way or easement by eminent domain is required for constructing or designating the road as a minimum maintenance road, unless the consent of the landowner is given or the designation is necessary for drainage or public safety.

SECTION 4. A new subsection to section 32-12.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

A political subdivision is not liable for any claim based on an act or omission in the designation, repair, operation, or maintenance of a minimum maintenance road if that designation has been made in accordance with sections 1 through 3 of this Act and if the road has been maintained at a level to serve occasional and intermittent traffic.

Approved April 10, 1987
Filed April 14, 1987

CHAPTER 321

HOUSE BILL NO. 1219
(Committee on Industry, Business and Labor)
(At the request of the Public Service Commission)

RAILROAD CROSSING WARNINGS

AN ACT to amend and reenact sections 24-09-01.1, 24-09-02, 24-09-04, 24-09-05, 24-09-08.1, and 24-09-09 of the North Dakota Century Code, relating to warning devices at railroad crossings.

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

SECTION 1. AMENDMENT. Section 24-09-01.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-01.1. Standard railroad crossing warning systems - Survey for additional warning systems. The standard warning system at each public highway-railroad grade crossing shall be railroad crossbucks and advance warning signs designed and located pursuant to section 39-13-07. These signing requirements and standards shall be deemed adequate and appropriate for warning of the existence and nature of each railroad crossing for all purposes whatsoever. However, because of the availability of substantial federal funds, and for the purpose of promoting the additional safety and general welfare of the motoring public, and railroad employees, and to secure the practical and orderly development of additional warning systems beyond the standards herein, and to enable the various jurisdictional authorities to implement existing statutes authorizing the determination of need and selection of additional warning systems, and within the practical limitations of time and available public funds, the department, with the concurrence of the commission, shall conduct and systematically maintain a survey of all streets and highways as required by the Federal Highway Safety Act of 1973, to identify those railroad crossings which may need additional warning systems beyond the standard crossbucks and advance warning signs. To implement such survey and to make the determination of need and selection of additional warning systems the department may screen, rate and prioritize said crossings for additional warning systems and establish an installation program in concurrence with the commission. In order to foster additional warning systems beyond the standards herein or improvements thereto, where such additional warnings or improvements thereto are deemed

necessary by any jurisdictional authority either under this statute or any other statutes, neither the actions, proceedings, findings, or orders of any jurisdictional authority, nor the actions of the railroad regarding such additional warning or improvements thereto, prior to installation and operation thereof, shall be admissible in evidence in any civil action for personal injury, death, or damage to property arising out of a public highway-railroad crossing accident.

SECTION 2. AMENDMENT. Section 24-09-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-02. Uniform warning systems at railroad crossings. The ~~commission~~ department shall adopt and prescribe uniform warning systems in conformity with sections 39-13-06 and 39-13-07 for use at public grade crossings in this state which will be deemed adequate and appropriate warning of the existence and nature of such grade crossings for all purposes whatsoever.

SECTION 3. AMENDMENT. Section 24-09-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-04. Advance warning signs - Exceptions. The sole signing duty of the road authority, except as otherwise designated by the commission under section 24-09-08, at public grade crossings in the state shall be the erection and maintenance of advance warning signs in accordance with the manual on uniform traffic control devices. The road authorities shall have a reasonable length of time, not exceeding two years, in which to fully implement this requirement.

SECTION 4. AMENDMENT. Section 24-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-05. Stop signs may be required. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection to life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, stop signs shall be installed. The ~~commission~~ department may designate any crossing requiring such additional protection as a stop crossing, and shall notify the railway company operating the railroad thereat of such designation. Within thirty days after such notification the railway company shall erect uniform stop crossing signs in conspicuous places on each side of said crossing.

SECTION 5. AMENDMENT. Section 24-09-08.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-08.1. Public service commission State highway department to apportion cost - Exception. In order to promote public safety at intersections of railroad lines and all classes of highways, the ~~commission~~ department shall apportion the cost of automatic grade

crossing protection devices in accordance with this section. In the event that the 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 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.

SECTION 6. AMENDMENT. Section 24-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-09. Warning devices must be approved by public service commission state highway department. The commission department, so far as practicable, shall secure uniformity in the devices used to protect grade crossings. No such devices shall be installed until the same have been approved by the commission department. All Except for devices prescribed under section 24-09-08, all devices installed, which, in the opinion of the commission, conflict with the devices approved by the commission department, either in their design or method of operation, so as to create a hazardous condition to travel at such crossing, shall be modified immediately by the railway company controlling the same so as to conform to those approved by the commission department.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 322

SENATE BILL NO. 2560
(Stromme)

(Approved by the Committee on Delayed Bills)

SECTION LINE OBSTRUCTION

AN ACT to amend and reenact section 24-12-02 of the North Dakota Century Code, relating to obstructing public highways.

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

SECTION 1. AMENDMENT. Section 24-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-12-02. 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 officials having jurisdiction over such highway 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 [4.88 meters] in length; or
4. Plow up a section line in a manner so as to obstruct usual travel on the section line.

Approved April 21, 1987
Filed April 22, 1987