

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 200

SENATE BILL NO. 2109

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 24-02-02.3 of the North Dakota Century Code, relating to agreements with tribal governments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-02.3 of the North Dakota Century Code is amended and reenacted as follows:

24-02-02.3. Director may enter agreements with tribal governments.

Notwithstanding the provisions of chapter 54-40.2, the director may enter agreements with any one or more tribal governments for the purpose of construction and maintenance of highways, streets, roads, and bridges on the state highway system. ~~The agreements must be limited to those necessary to meet federal highway program spending requirements.~~

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 201

HOUSE BILL NO. 1111

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact section 24-02-02.4 of the North Dakota Century Code, relating to agreements with the metro flood diversion authority; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 24-02-02.4 of the North Dakota Century Code is created and enacted as follows:

24-02-02.4. Agreement for the construction of the Fargo Moorhead metropolitan area flood risk management project impacting the state highway system.

The director may enter an agreement with the metro flood diversion authority regarding the portion of the construction of the Fargo Moorhead metropolitan area flood risk management project which will impact the state highway system. The agreement must address the construction and maintenance of the parts of the project which need to be constructed and maintained on the state highway system.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 202

HOUSE BILL NO. 1110

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact section 24-02-49 of the North Dakota Century Code, relating to cooperative agreements with private entities for the construction of certain items on the state highway system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 24-02-49 of the North Dakota Century Code is created and enacted as follows:

24-02-49. Cooperative agreements with private entities for the construction of certain items on the state highway system.

Notwithstanding any other provision of law, the director may enter a cooperative agreement with a private entity for the construction of an item on the state highway system which will benefit the private entity and the traveling public, as determined by the director. The items requested to be added to the state highway system must be paid for in advance of the construction by the private entity before the department can construct the project. Funds received by the department pursuant to this section must be deposited in the state highway fund as prescribed by section 24-02-41 and are appropriated to the department. If the department requires engineering or contracting services for a project under this section, it may provide the services or procure the services in accordance with section 24-02-07.3 and 24-02-17.

Approved April 5, 2017

Filed April 5, 2017

CHAPTER 203

HOUSE BILL NO. 1352

(Representatives M. Johnson, Rick C. Becker, Dockter, Kading, B. Koppelman, Lefor,
Owens, Steiner)
(Senators Campbell, Casper, Clemens)

AN ACT to amend and reenact sections 24-03-23, 39-26-02, 39-26-04, 39-26-06, 39-26-07, and 39-26-08 of the North Dakota Century Code, relating to custody and disposition of abandoned motor vehicles; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁷ **SECTION 1. AMENDMENT.** Section 24-03-23 of the North Dakota Century Code is amended and reenacted as follows:

24-03-23. Encroachments on state highways.

No part of the right of way for state highways may be encroached upon by erection thereon of ~~any~~ structure, or placing thereon any personal property, other than a temporary parking of a motor vehicle, without a written permit from the director. ~~Any~~An encroachment may be caused to be removed, obliterated, or corrected by order of the director and the total cost thereof must be paid by the person responsible for the encroachment. Property other than motor vehicles left upon highway right of way for a period exceeding seventy-two hours, the ownership of which cannot be determined after reasonable effort has been made to do so, must be deemed abandoned and may be removed from the right of way and stored at the nearest site available for thirty days and if it is not claimed by the owner during such period, and the cost of removal and storage paid, it may be disposed of in the manner prescribed by the director. Abandoned motor vehicles are subject to the provisions of sections 39-26-01 through 39-26-11. If such property is disposed of it must, except as otherwise provided by this section, be sold or disposed of in the manner provided in sections 39-26-05 through 39-26-09. The receipts therefrom must be deposited in the state treasury as provided in section 1 of article IX of the Constitution of North Dakota and credited to the ~~permanent school~~common schools trust fund unless a commercial towing service lawfully disposes of the abandoned motor vehicle.

⁹⁸ **SECTION 2. AMENDMENT.** Section 39-26-02 of the North Dakota Century Code is amended and reenacted as follows:

39-26-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, ~~or has remained for a~~

⁹⁷ Section 24-03-23 was also amended by section 31 of Senate Bill No. 2327, chapter 199.

⁹⁸ Section 39-26-02 was repealed by section 74 of Senate Bill No. 2327, chapter 199.

~~period of more than forty-eight hours located~~ on private property without consent of the person in control of such property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a person duly licensed under section 39-26-10. An antique automobile, as defined in section 39-04-10.4, and other motor vehicles to include parts car and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this chapter.

2. "Collector" means the owner of one or more special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof for the person's own use in order to restore, preserve, and maintain a special interest vehicle or antique vehicle.
3. "Commercial towing service" means a registered business in North Dakota that tows motor vehicles.
4. "Department" means the state department of health.
- 4-5. "Parts car" means a motor vehicle generally in nonoperable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
- 5-6. "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- 6-7. "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
- 7-8. "Vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

⁹⁹ **SECTION 3. AMENDMENT.** Section 39-26-04 of the North Dakota Century Code is amended and reenacted as follows:

39-26-04. Custody of abandoned vehicle.

Units of government may take into custody and impound any abandoned motor vehicle. If requested by an owner, lessee, tenant, or occupant of private property, a commercial towing service may remove and take into custody an abandoned motor vehicle located on the private property.

¹⁰⁰ **SECTION 4. AMENDMENT.** Section 39-26-06 of the North Dakota Century Code is amended and reenacted as follows:

39-26-06. Notice to owner of abandoned vehicle.

⁹⁹ Section 39-26-04 was repealed by section 74 of Senate Bill No. 2327, chapter 199.

¹⁰⁰ Section 39-26-06 was repealed by section 74 of Senate Bill No. 2327, chapter 199.

1. When an abandoned motor vehicle does not fall within the provisions of section 39-26-05, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle and the place where the vehicle is being held, must inform the owner and any lienholders or secured parties of their right to reclaim the vehicle under section 39-26-07, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the sale/disposal of the vehicle ~~at a public auction~~ pursuant to section 39-26-08.
2. The notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy.

¹⁰¹ **SECTION 5. AMENDMENT.** Section 39-26-07 of the North Dakota Century Code is amended and reenacted as follows:

39-26-07. Right of owner to reclaim abandoned vehicle.

1. The owner, secured parties, or any lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from the unit of government taking ~~it~~the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within ~~fifteen~~thirty days after the date of the notice required by section 39-26-06.
2. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from a commercial towing service taking the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within thirty days after receipt of the notice required by section 39-26-06.
- ~~2-3.~~ Storage charges under subsection 2 may not exceed fifty dollars per day for an abandoned passenger vehicle, pickup, van, or truck that does not exceed twenty thousand registered gross weight pounds [9071.85 kilograms].
4. Nothing in this chapter may be construed to impair any lien of a garagekeeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, "garagekeeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.

¹⁰² **SECTION 6. AMENDMENT.** Section 39-26-08 of the North Dakota Century Code is amended and reenacted as follows:

¹⁰¹ Section 39-26-07 was repealed by section 74 of Senate Bill No. 2327, chapter 199.

¹⁰² Section 39-26-08 was repealed by section 74 of Senate Bill No. 2327, chapter 199.

39-26-08. Public sale ~~Disposal of vehicle~~ - Disposition of proceeds.

1. An abandoned motor vehicle not more than seven model years of age taken into custody by a unit of government and not reclaimed under section 39-26-07 must be sold to the highest bidder at public auction or sale, following reasonable published notice thereof. The purchaser must be given a receipt in a form prescribed by the department which shall be sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.
2. ~~From the proceeds of the sale of an abandoned motor vehicle, the unit of government shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all notice and publication costs incurred pursuant to this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be deposited in the state treasury as provided in section 1 of article IX of the Constitution of North Dakota and credited to the permanent school fund. If a commercial towing service takes custody of an abandoned motor vehicle and the vehicle is not reclaimed under section 39-26-07, the commercial towing service may obtain a release from the department of transportation which is sufficient title to dispose of the vehicle. The release entitles the commercial towing service to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on the abandoned vehicle must be removed and destroyed upon receipt of the new title.~~
3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government or the commercial towing service may reimburse itself for the cost of towing, preserving, and storing the vehicle, and for all notice and publication costs incurred under this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be delivered to the administrator of the state abandoned property office in accordance with chapter 47-30.1.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 5, 2017

Filed April 5, 2017

CHAPTER 204

SENATE BILL NO. 2197

(Senators Erbele, Vedaa, Dotzenrod)
(Representatives Beadle, Pyle, Vetter)

AN ACT to amend and reenact sections 24-05-04 and 48-01.2-07 of the North Dakota Century Code, relating to highway improvement contracts to be advertised; and to repeal section 24-05-04.2 of the North Dakota Century Code, relating to contracts for road construction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-05-04 of the North Dakota Century Code is amended and reenacted as follows:

24-05-04. Contracts to be advertised - Road construction - Requirements for rental contracts.

1. If a contract for a highway improvement exceeds one hundred thousand dollars, the board of county commissioners shall seek bids by publishing an advertisement at least once each week for two consecutive weeks in the official newspaper of the county and in other newspapers as the board deems advisable. The first publication must be made at least fifteen days before the day set for the opening of the bids. For any contract for a highway improvement that exceeds fifty thousand dollars but does not exceed one hundred thousand dollars, the county, when possible, shall seek quotes from at least two contractors.
2. A purchase of county road machinery and any rental contract or agreement for the use of road machinery and other articles, except necessary repairs for road machinery, which exceeds the sum of fifty thousand dollars must be advertised as provided by law for the purchase of county supplies by publishing an advertisement for bids at least once each week for two consecutive weeks in the official newspaper of the county and in any other newspapers as the board deems advisable. The first publication must be made at least fifteen days before the day set for the opening of the bids. The board of county commissioners may not enter a rental contract or agreement for the use of road machinery and other articles for a longer period than twelve months from the date of the rental contract or agree to pay rental for the use of road machinery and other articles which would result in the lessor receiving rental at a rate in excess of twenty percent per year of the cash sale price of the road machinery or other articles. The cash sale price of the road machinery and other articles must be clearly set forth in any rental contract for road machinery and other articles and failure to include this data in any rental contract for the use of road machinery and other articles renders the rental contract void. A payment made under a void rental contract is recoverable from the county commissioners making the contract, jointly and severally.
- 2-3. Notwithstanding the provisions of this section relating to the duration of rental contracts, the board of county commissioners may enter lease-purchase agreements for the road machinery and articles covered by this section if

those agreements provide for the complete performance and full payment of the purchase price of the machinery or articles within seven years from the date of the execution of the lease-purchase agreement according to section 44-08-01.1.

4. Bids received under this section must be opened and awarded under the procedure provided in section 48-01.2-07.

SECTION 2. AMENDMENT. Section 48-01.2-07 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-07. Opening of bids - Award of contract.

At the time and place specified in the notice, a governing body or its designated agent shall open publicly and read aloud each responsible bid received ~~and~~. The governing body shall award the contract to the lowest responsible bidder. A governing body may reject any and all bids and readvertise for bids if no bid is satisfactory or if the governing body determines any agreement has been entered by the bidders or others to prevent competition. The governing body may advertise for new bids in accordance with this chapter until a satisfactory bid is received.

SECTION 3. REPEAL. Section 24-05-04.2 of the North Dakota Century Code is repealed.

Approved April 3, 2017

Filed April 4, 2017

CHAPTER 205

SENATE BILL NO. 2278

(Senators Campbell, Rust, Dotzenrod)
(Representatives Lefor, Maragos, Owens)

AN ACT to amend and reenact section 24-06-31 of the North Dakota Century Code, relating to the obstruction of a highway.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-06-31 of the North Dakota Century Code is amended and reenacted as follows:

24-06-31. Obstructions in highway.

Each overseer of highways having personal knowledge, or on being notified in writing, of any obstruction in the highway or public street in the overseer's district immediately shall remove or cause any such obstruction to be removed. The overseer's district may seek recovery of costs incurred for the removal of any obstruction from the individual who is responsible for causing or placing any obstruction in the highway or public street. If the individual responsible is an adjacent landowner, the removal cost may become a part of the taxes to be levied against the landowner for the ensuing year to be collected in the same manner as other real estate taxes are collected.

Approved April 4, 2017

Filed April 4, 2017

CHAPTER 206

HOUSE BILL NO. 1255

(Representatives D. Ruby, Owens, Weisz)
(Senators Campbell, Laffen)

AN ACT to create and enact a new chapter to title 24 and a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to the creation of a large truck primary highway network and the permitting of increased vehicle weights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 24 of the North Dakota Century Code is created and enacted as follows:

Primary network.

The department of transportation shall establish a limited transportation network within this state. The initial network consists of selected highways and the interstate system to serve as the foundation for this system. The department may modify the foundation through a public involvement process established by the department. The foundation for the system consists of:

1. United States highway 83 from the South Dakota border to Minot;
2. United States highway 85 from the South Dakota border to Williston;
3. United States highway 52 from Minot to the Canadian border;
4. United States highway 2 from the Montana border to the Minnesota border;
5. Interstate highway 94 from the Montana border to the Minnesota border, subject to federal approval; and
6. Interstate highway 29 from the South Dakota border to the Canadian border, subject to federal approval.

Process for modification.

1. The department of transportation shall establish a process to adjust the network by adding specific segments of the United States or state highway system. The process must include an advisory committee to provide input to the department in actions taken to adjust the system, taking into consideration the economic needs and benefits, investment and maintenance requirements, and safety.
2. The department shall establish a request mechanism for commercial entities and for individuals who reside in the state to request specific augmentations of the system based on economic need and outcomes.

Advisory committee.

1. The advisory committee must be chaired by the director of the department of transportation or a designee of the director and must consist of a representative appointed by:
 - a. The greater North Dakota chamber;
 - b. The North Dakota association of counties;
 - c. The agriculture commissioner;
 - d. The commerce commissioner;
 - e. The superintendent of the highway patrol;
 - f. The North Dakota motor carriers association;
 - g. The North Dakota league of cities; and
 - h. Representatives of short line railroads operating in this state.
2. The committee may be augmented by the department as deemed necessary in consultation with the advisory committee.

Conditional approval for interstate highway system within North Dakota.

The department may include the interstate highway system within the state as part of the primary foundation network if approved through passage of legislation by the Congress of the United States.

Authority to establish truck axle configuration and weight limits associated with the one hundred twenty-nine thousand pound network.

Notwithstanding any other provision of law, the department of transportation, in consultation with the advisory committee, may adopt rules to establish the required axle configurations and weight limit requirements for trucks weighing more than one hundred five thousand five hundred pounds [47854 kilograms] utilizing the network established by this chapter.

Preservation of existing truck weight provisions.

This chapter does not modify or authorize any change to the existing weight limitations for trucks with gross vehicle weight up to one hundred five thousand five hundred pounds [47854 kilograms].

¹⁰³ **SECTION 2.** A new subsection to section 39-12-05.3 of the North Dakota Century Code is created and enacted as follows:

The director may issue a permit for a truck with a gross weight that exceeds one hundred five thousand five hundred pounds [47854.00 kilograms], not to exceed one hundred twenty nine thousand pounds [58513.41 kilograms]. The monthly permit fee is one hundred dollars per month or seven hundred dollars annually. Vehicle weight under this subsection is determined according to the formula under subsection 2 of section 39-12-05.

Approved April 10, 2017

Filed April 10, 2017

¹⁰³ Section 39-12-05.3 was also amended by section 1 of House Bill No. 1321, chapter 272.