

HIGHWAYS, BRIDGES AND FERRIES

CHAPTER 326

SENATE BILL NO. 2207
(Committee on Transportation)
(At the request of the Highway Department)

HARVESTING HAY ON STATE HIGHWAY SYSTEM

AN ACT to provide for the removal of harvested hay on the rights of way of the state highway system and providing for the forfeiture of the hay upon failure to remove.

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

SECTION 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 the harvested hay on the rights of way for later removal, shall take measures to store the harvested hay near 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 commissioner may give notice to remove the stored hay.

SECTION 2. FORFEITURE.) Any hay improperly stored on the right of way or which has not been removed within two weeks of the notice to do so, shall be deemed forfeited and disposed of in a manner deemed proper by the commissioner.

Approved March 13, 1979

CHAPTER 327

SENATE BILL NO. 2268
 (Committee on Transportation)
 (At the request of the Highway Department)

HIGHWAY SIGNS

AN ACT to create and enact a new section to chapter 24-12 and to amend and reenact sections 24-03-09 and 24-12-04 of the North Dakota Century Code, relating to the payments of rewards in matters concerning highway vandalism and to provide for signing of highway construction projects.

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

SECTION 1. AMENDMENT.) Section 24-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-09. WARNING SIGNS OF ROAD CONSTRUCTION.) Whenever the department or any county or township shall enter into a contract for the construction and improvement of any road or culvert, or bridge thereon, it, as a condition of such contract, shall provide therein that the contractor shall place suitable warning signs which can be read for a distance of one hundred feet {30.48 meters} in daytime, and also shall erect and place at night a red or white lantern or a torch or other effective device, of a type approved by the department, at both ends of such construction work, no less than three hundred feet {91.44 meters} therefrom, warning the public that such road is under construction or improvement and either is closed, or hazardous for travel thereon, and when and devices which are in conformity with chapter 39-13 of this code. When a highway is so marked, the traveler shall proceed only with great care and diligence, but nothing contained in this section shall make any township, county or the state liable for the failure of any contractor to erect such warning signs.

SECTION 2. AMENDMENT.) Section 24-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-12-04. INJURY TO MILEBOARDS, GUIDEPOSTS, TRAFFIC-CONTROL SIGNALS, SIGNS, OR MARKINGS - REWARD.) No person shall remove, injure, or destroy any mileboard, milestone, or guidepost, traffic-control signals, signs, or markings, or any inscription thereon, erected or placed upon any highway, road or street by any public

authority or by any contractor, subcontractor or employee engaged in construction activities pursuant to a contract with a public authority therefor. ~~The highway commissioner or any political subdivision of this state is hereby authorized to offer a reward, the amount of which shall be determined by the highway commissioner or the governing body of the political subdivision not exceeding however the sum of three hundred dollars, for any information leading to the conviction of any person or persons violating the provisions of this section.~~

SECTION 3.) A new section to chapter 24-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

REWARDS AUTHORIZED.) The highway commissioner or any political subdivision of this state is hereby authorized to offer a reward, the amount of which shall be determined by the highway commissioner or the governing body of the political subdivision not exceeding however the sum of three hundred dollars, for any information leading to the conviction of any person or persons violating the provisions of this chapter.

Approved March 12, 1979

CHAPTER 328

HOUSE BILL NO. 1434
(Thompson)

COUNTY ROAD TAX AMOUNT

AN ACT to amend and reenact section 24-05-01 of the North Dakota Century Code, relating to the amount of the county road tax.

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

SECTION 1. AMENDMENT.) Section 24-05-01 of 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~~ five 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 auditor 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 8, 1979

CHAPTER 329

SENATE BILL NO. 2352
(Shablow)

COUNTY ROAD CONTRACT ADVERTISEMENT

AN ACT to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to when the board of county commissioners shall advertise for rental contracts or agreements for use of road machinery or articles for the improvement of highways.

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

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

24-05-04. CONTRACTS TO BE ADVERTISED - REQUIREMENTS FOR RENTAL CONTRACTS.) All purchases of county road machinery and all rental contracts or agreements for the use of road machinery and other articles or contracts for the improvement of the highways, except necessary repairs for such road machinery, which shall exceed the sum of ~~two-thousand-five-hundred~~ five thousand dollars, shall be advertised in the manner provided by law for the purchase of county supplies. The board of county commissioners shall not enter into 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 such 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 per centum per annum of the cash sale price thereof, which cash sale price of such road machinery and other articles shall be clearly set forth in all such rental contracts, and failure to include such data in any rental contract for the use of road machinery and other articles shall render any such rental contract null and void, and any payments made thereunder shall be recoverable from the county commissioners making such contract jointly and severally. Notwithstanding the provisions of this section relating to the duration of rental contracts, the board of county commissioners may enter into 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 five years from the date of the execution of the lease-purchase agreement according to the provisions of section 44-08-01.1.

Approved March 8, 1979

CHAPTER 330

SENATE BILL NO. 2235
(Schirado)

COUNTY BRIDGE REBUILDING OR REPAIR

AN ACT to amend and reenact sections 24-08-01 and 24-08-03 of the North Dakota Century Code, relating to authority of the board of county commissioners to construct, rebuild or repair a bridge under its own supervision.

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

SECTION 1. AMENDMENT.) Section 24-08-01 of 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 [4.83 kilometers] 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 readvertise 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.

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

24-08-03. SUPERVISION AND REPAIRS OF BRIDGE.) Any bridge built under the provisions of section 24-08-01 shall be under the supervision of the board of county commissioners, and the cost of rebuilding or repairing the same shall be paid by the county. Where the cost of rebuilding or repairing a bridge would exceed the sum of ~~fifteen~~ thirty thousand dollars on estimate of the county engineer and upon the approval of the estimate by the North Dakota highway department, the county commissioners shall advertise for bids and award the contract in the manner provided by section 24-08-01. When a bridge is destroyed by flood, fire, or other casualty and the public interest would suffer by delay, the county commissioners may proceed to contract for the rebuilding or repair of such bridge without advertising for bids, regardless of the cost. The board of county commissioners at least every two years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the county road system in the county. In case any bridge on the county road system shall be deemed unsafe for public use by the said board of commissioners, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the county road system shall be deemed unsafe for loads in excess of a certain weight, the board of commissioners forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight. The county shall not be immune from claims or suits for damages arising out of negligent failure to perform the inspection and repair duties set out above.

Approved March 22, 1979

CHAPTER 331

HOUSE BILL NO. 1543
(Representative Erickson)
(Senator Thane)

RAILROAD CROSSING WARNING SYSTEMS

AN ACT to create and enact section 24-09-01.1 of the North Dakota Century Code, relating to additional public highway-railroad crossing warning systems; to amend and reenact sections 24-09-02, 24-09-04, and 24-09-10 of the North Dakota Century Code, making the manual on uniform traffic control devices applicable to public highway-railroad crossings and public service commission jurisdiction to close railroad crossings; and to repeal section 49-11-16 of the North Dakota Century Code, relating to caution signs.

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

SECTION 1.) Section 24-09-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-09-01.1. ADDITIONAL RAILROAD CROSSING 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 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 state highway department, with the concurrence of the public service 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 state highway department

may screen, rate and prioritize said crossings for additional warning systems and establish an installation program in concurrence with the public service 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 North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-02. WARNING SIGNS AT RAILROAD CROSSINGS.) The ~~commission~~ public service commission shall adopt and prescribe uniform warning ~~signs~~ systems in conformity with sections 39-13-06 and 39-13-07 for use at public grade crossings in this state which will ~~furnish~~ be deemed adequate and appropriate warning of the existence and nature of such grade crossings for all purposes ~~whatsoever and shall make regulations as to the place of installation. There shall be at least three distinct types of such warning signs, to wit:~~

1. ~~Home crossing sign, for use in the immediate vicinity of the crossing.~~
2. ~~An approach crossing sign, to indicate the approach to a grade crossing.~~
3. ~~Stop sign, which shall have the word "stop" plainly appearing thereon, to indicate the necessity for persons on the highway approaching the crossing, whether in vehicles or otherwise, to come to a stop before proceeding over the grade crossing, according to the provisions of this chapter.~~

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

24-09-04. ~~ADDITIONAL SIGNS MAY BE REQUIRED BY PUBLIC SERVICE COMMISSION~~ ADVANCE WARNING SIGNS.) ~~At each grade crossing where, because of the conditions surrounding the same, the reasonable protection to life and property makes it necessary for additional warning signs to be placed on the highway at a greater distance from the crossing than the home signs, such approach warning signs shall be installed. The commission may designate any such grade crossings requiring such additional signs on either or both sides of said crossing. When the crossing is designated by the commission as requiring such additional protection, it shall notify the railway company operating the railroad thereat and the public authorities~~

~~having the care of the highway. Such railway company, within thirty days after such notification shall furnish the uniform signs to the public authorities, and the public authorities shall erect the signs in conspicuous places on the highway on either or both sides of the grade crossing, as the case may be, not less than two hundred feet {60.96 meters} from the crossing, and thereafter shall maintain the same. The sole signing duty of the road authority, except as otherwise designated by the public service commission, at each public grade crossing in the state shall be the erection and maintenance of advance warning signs. The road authorities shall have a reasonable length of time, not exceeding four years, in which to fully implement this requirement.~~

SECTION 4. AMENDMENT.) Section 24-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-10. CHANGING OR CLOSING RAILROAD CROSSING - POWER OF PUBLIC SERVICE COMMISSION - HEARING ~~CLOSING OLD CROSSINGS.~~) Whenever it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to establish, vacate, or relocate any crossing of a public highway and a railroad, or to separate grades, and an agreement cannot be reached between ~~such~~ the public official and the railway company, either as to the necessity for establishing, vacating, or relocating a crossing or for separating grades, as to place, manner of construction, or a reasonable division of the expense, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination. The commission, after ~~such~~ giving notice as it shall deem reasonable, shall conduct a hearing and shall issue its order determining whether there should be an establishment, vacation, or relocation of the crossing in question, or a separation of grades, and dividing the expense of ~~such~~ the establishment, ~~vacation~~, relocation, or separation of grades. Whenever a railroad crossing of any kind has been established, or relocated, in order to eliminate an adjacent or nearby crossing deemed by the commission to be unreasonably dangerous, the ~~said~~ commission shall have the power to order such the dangerous crossing closed. Irrespective of the establishment or relocation of a crossing, if the commission deems any railroad crossing to be unreasonably dangerous, it may order the crossing closed after reasonable notice and hearing. Whenever a final order is entered vacating or closing a crossing, it shall be vacated or closed at the railroad company's expense.

SECTION 5. REPEAL.) Section 49-11-16 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1979