

# HIGHWAYS, BRIDGES, AND FERRIES

## CHAPTER 299

HOUSE BILL NO. 1109  
(Committee on Transportation)  
(At the request of the Secretary of State)

### MAPS OF HIGHWAYS, ROADS, AND STREETS

AN ACT to amend and reenact section 24-01-07 of the North Dakota Century Code, relating to maps of state, county, and municipal highway, road, and street systems.

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

SECTION 1. AMENDMENT. Section 24-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-07. Maps of state, county and municipal systems. The department at all times shall provide and maintain a map of the state, which shall show all the highways which have been designated, located, created, and constituted as part of the state highway system, the county road system, and the municipal arterial street system, and if practical the status of improvement thereof. ~~Not later than the fifteenth day of January of each odd-numbered year, it shall file a copy of such map in the office of the secretary of state and deposit another copy thereof with the state historical board-~~

Approved February 22, 1985

## CHAPTER 300

SENATE BILL NO. 2280  
(Lips)HIGHWAY COMMISSIONER RECORDS  
CONFIDENTIALITY

AN ACT to amend and reenact section 24-02-11 of the North Dakota Century Code, relating to confidentiality of certain records of the highway commissioner.

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

SECTION 1. AMENDMENT. Section 24-02-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-11. Records of department open to public - Certain records not open to public - Certified copies. The commissioner shall be custodian of, and shall preserve, the files and records of the department. The files and records of the department shall be open to public inspection under reasonable regulations. However, records relating to the financial condition of any party that has applied for prequalification as a bidder, or is designated as a prequalified bidder pursuant to this chapter are not open to public inspection. Copies of said files and records of the department, when certified by the commissioner as being true copies, shall be received in evidence in any court in the state with the same force and effect as the originals.

The books of account of the department shall be kept accurately and completely as shall be prescribed or approved by the state auditor, which shall show among other things the following facts:

1. The cost of maintaining the department, including the salaries and expenses of the individual members thereof.
2. The amounts of money expended for the construction or maintenance of the state highways, when and where, and upon what job or portion of the road expended, so that the cost per mile [1.61 kilometers] of such construction or maintenance can be ascertained with ease.
3. The amount of road equipment and materials purchased and when and where and from whom purchased. Such book also shall show the price paid for each item. The original invoice or a photographic copy thereof shall form a part of the permanent files and records in said department.

Approved March 22, 1985

## CHAPTER 301

HOUSE BILL NO. 1187  
 (Committee on Transportation)  
 (At the request of the Highway Department)

## HIGHWAY DEPARTMENT CONTRACT PAYMENT

AN ACT to amend and reenact section 24-02-13 of the North Dakota Century Code, relating to highway department estimates for payment.

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

SECTION 1. AMENDMENT. Section 24-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-13. Payment of estimates on contract or deposits in condemnation. Whenever any estimate or allowance for payment, except a final estimate or payment subsequent to a final estimate, is allowed, or granted, on a contract entered into by the department, or a deposit is to be made with the clerk of district court in a condemnation proceeding, and the same estimate is vouchered by the department for presentation to the department of accounts and purchases office of management and budget, instead of submitting the same estimate to the contractor or clerk of district court for certification by him, the chief engineer of said the department or the chief engineer's authorized designee shall make the following certificate, in lieu of the certificate otherwise required by law, which shall be printed on the said voucher or claim:

Estimate certificate. I hereby certify that the within estimate or claim is just and true, that the contractor herein named has rendered the services and furnished the material herein charged, that they are of the value claimed, that no part thereof has been paid, and that the foregoing estimate or claim is supported by a proper contract and bond on file in the department or that the purpose of the payment to a clerk of district court is pursuant to law and for the taking of property by condemnation.

-----  
 Chief Engineer, State Highway Department

After a certified estimate or deposit with a clerk of district court has been approved for payment by the commissioner, the same shall be

presented to the department of accounts and purchases office of management and budget for payment. The department of accounts and purchases office of management and budget thereupon shall prepare and issue a warrant therefor signed by the state auditor without submitting such the voucher or claim to the office of the budget for examination and allowance. The foregoing procedure shall not apply to the final estimate or allowance to a contractor, nor to any estimate or allowance subsequent or supplemental to such the final estimate, but such the final estimate or supplemental allowance, shall conform to the provisions of law relative to the certification and approval of any other claim or demand; nor shall such the procedure apply to payments to property owners involved in the taking of property in any condemnation proceeding.

Approved March 14, 1985

## CHAPTER 302

HOUSE BILL NO. 1138  
(Committee on Transportation)  
(At the request of the Highway Department)

### ADVERTISING FOR BIDS BY HIGHWAY COMMISSIONER

AN ACT to amend and reenact sections 24-02-17, 24-02-18, 24-02-19, and 24-02-23 of the North Dakota Century Code, relating to the award of contracts by the highway commissioner and when advertising for bids is necessary.

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

SECTION 1. AMENDMENT. Section 24-02-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-17. ~~Contracts - Bids.~~ Whenever the cost of any construction improvement shall exceed the sum of five thousand dollars, the department shall proceed to advertise the same, request bids, and award such contracts in the manner provided in this chapter. ~~Whenever any proposed contract or work of the department shall be for a sum less than five thousand dollars, it shall be discretionary with the department whether the same shall be awarded after advertising for bids. The department shall award such contracts in the manner provided in this chapter, but where contracts are in excess of three thousand dollars, the department shall request bids from as many contractors, manufacturers, and dealers as can be requested conveniently.~~

SECTION 2. AMENDMENT. Section 24-02-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-18. Reconstruction work without letting contract. The department may, in any case where, in the opinion of the commissioner, the public interest and the preservation of the state highways from deterioration requires it, do the work necessary for minor grading reconstruction on any established secondary state highway without letting a contract for such reconstruction work, or the commissioner may, in his discretion, contract with the county in which any such reconstruction project is located, to perform such reconstruction work on a cost basis. Any such reconstruction projects may include any project that is eligible for federal aid.

Any funds available for highway reconstruction purposes may be expended in carrying out the provisions of this section.

**SECTION 3. AMENDMENT.** Section 24-02-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-02-19. Request for bids - How advertised.** Any request for bids for construction work or the improvement of any state highway, or any structure in excess of ~~two thousand dollars~~ the amount specified in section 24-02-17, shall be advertised by publication once a week for a period of ~~two~~ three successive weeks, prior to the opening of such bids, in the official newspaper of the county in which the project is located. Such advertisement shall state where the bidder may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened. Such place shall be the office of the department. All requests for bids for the purchase of equipment, materials, and supplies, exclusive of repairs to equipment in excess of the sum of two thousand dollars shall be advertised in the official newspaper of Burleigh County once a week for a period of two successive weeks prior to the opening of such bids.

**SECTION 4. AMENDMENT.** Section 24-02-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-02-23. Award of contracts - Bonds.** Each and every contract in excess of the sum of ~~five thousand dollars~~ specified in section 24-02-17 shall be awarded by the department to the responsible bidder submitting the lowest and best bid, but said department may reject all bids. If no satisfactory bid or bids shall be received, new bids may be called for. The successful bidder shall be required to furnish a suitable bond in at least the amount of the contract and with such surety as may be determined by the department and as shall be approved by it.

Approved February 4, 1985

## CHAPTER 303

HOUSE BILL NO. 1137  
(Committee on Transportation)  
(At the request of the Highway Department)

## CLAIMS ON HIGHWAY DEPARTMENT CONSTRUCTION PROJECTS

AN ACT to amend and reenact section 24-02-25.1 of the North Dakota Century Code, relating to claims on state highway department construction projects.

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

SECTION 1. AMENDMENT. Section 24-02-25.1 of the 1983 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 notice of the claim shall be made by registered 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 ninety one hundred eighty days from the date on which the person completed the contribution giving rise to the claim.

Approved March 14, 1985

## CHAPTER 304

HOUSE BILL NO. 1141  
(Committee on Transportation)  
(At the request of the State Highway Department)

## HIGHWAY DEPARTMENT SCHOLARSHIPS

AN ACT to amend and reenact section 24-02-42 of the North Dakota Century Code, relating to highway department scholarships.

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

SECTION 1. AMENDMENT. Section 24-02-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-42. Engineering and technician scholarships authorized. The commissioner is hereby authorized to establish not over sixteen continuing scholarships for study in civil engineering, civil engineering technology, construction engineering, construction management, 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 department, which shall provide that such student shall upon graduation accept employment with the department for a period of time at least equal to the time he received scholarship benefits, the salary to be in the amount equalling current salaries paid to civil engineering graduates grade established for the classification assigned. 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 department as above provided, such student shall repay the 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 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 February 22, 1985

## CHAPTER 305

HOUSE BILL NO. 1233  
(Murphy, Whalen, O. Hanson, Thompson)

## COUNTY ROAD MACHINERY BIDS

AN ACT to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to value of county contracts for use of road machinery for which competitive bidding is required.

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

SECTION 1. AMENDMENT. Section 24-05-04 of the 1983 Supplement to 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 ~~ten~~ fifteen 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 April 4, 1985

## CHAPTER 306

HOUSE BILL NO. 1263  
(R. Anderson)

## CATTLE GUARD MAINTENANCE

AN ACT to amend and reenact sections 24-10-02 and 24-10-07 of the North Dakota Century Code, relating to maintenance of cattle guards and cattle ways.

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

SECTION 1. 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~~ - Construction - Maintenance - 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 [91.44 meters] 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. The person who applied for permission to erect the cattle guard shall maintain the cattle guard and gateway, unless application is otherwise assigned. 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 2. AMENDMENT. Section 24-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-10-07. Failure to keep cattle way in repair. If the person on whose land a cattle way is constructed fails to keep the same cattle way in repair, the overseer of highways shall make all necessary repairs, and shall charge the same expenses to the owner of the land upon which such way is constructed person who requested the way be constructed or to that person's assignee. Upon his refusal by that person to pay, the county or township board in which such the cattle way is situated shall recover the same expenses in an action brought in the name of such the county or township and the state's attorney shall prosecute such the action. Such The money, when collected, shall be expended in improving or repairing the public roads in the road district where such the cattle way is constructed.

Approved March 22, 1985