TITLE 24
HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 24-01
STATE HIGHWAY SYSTEM

24-01-01. Declaration of legislative intent.

Adequate roads and streets provide for the free flow of traffic; result in low cost of motor vehicle operation; protect the health and safety of the citizens of the state; increase property value; and generally promote economic and social progress of the state. Therefore, the legislative assembly hereby determines and declares that an adequate and integrated system of roads and streets is essential to the general welfare of the state of North Dakota.

In designating the highway systems of this state, as hereinafter provided, the legislative assembly places a high degree of trust in the hands of those officials whose duty it is, within the limits of available funds, to plan, develop, operate, maintain, and protect the highway facilities of this state, for present as well as for future use. To this end, it is the intent of the legislative assembly to make the director of the department, and the department acting through the director, custodian of the state highway system and to provide sufficiently broad authority to enable the director of the department to function adequately and efficiently in all areas of appropriate jurisdiction with specific details to be determined by reasonable rules and regulations which may be promulgated by the director, subject to the limitations of the constitution and the legislative mandate hereinafter imposed.

It is recognized that the efficient management, operation, and control of our county roads, city streets, and other public thoroughfares are likewise a matter of vital public interest. Therefore, it is the further intent of the legislative assembly to bestow upon the boards of county commissioners similar authority with respect to the county road system and to local officials with respect to the roads under their jurisdiction.

While it is necessary to fix responsibilities for the construction, maintenance, and operation of the several systems of highways, it is intended that the state of North Dakota shall have an integrated system of all roads and streets to provide safe and efficient highway transportation throughout the state. To this end, it is the intent of the legislative assembly to give broad authority and definite responsibility to the director of the department and to the boards of county commissioners so that working together, free from political pressure and local interests, they may provide for the state an integrated system of state and county highways built upon a basis of sound engineering with full regard to the interest and well-being of the state as a whole.

Providing adequate public highway facilities, including rural and urban links, is hereby declared to be a proper public use and purpose and the legislative assembly hereby determines and declares that chapter 177 of the Session Laws of 1953 is necessary for the immediate preservation of the public peace, health, and safety, for the promotion of the general welfare, and as a contribution to the national defense.

24-01-01.1. Definition of words and phrases.

The following words and phrases when used in this title shall, for the purposes of this title, have the meanings respectively ascribed to them in this chapter:

1. "Abandonment" means cessation of use of right of way or activity thereon with no intention to reclaim or use again for highway purposes.
2. "Acquisition or taking" means the process of obtaining right of way.
3. "Arterial highway" means a general term denoting a highway primarily for through traffic, usually on a continuous route.
4. "Belt highway" means an arterial highway for carrying traffic partially or entirely around an urban area or portion thereof.
5. "Capacity" means the ability of a roadway to accommodate traffic.
6. "Commission" means the public service commission of the state of North Dakota.
7. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided in section 24-02-01.3.

8. "Consequential damages" means loss in value of a parcel, no portion of which is acquired, resulting from a highway improvement.
9. "Controlled-access facility" means a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason.
10. "County road system" means the system of secondary highways designated by the county officials, the responsibility for which is lodged with the counties.
11. "Department" means the department of transportation of this state as provided by section 24-02-01.1.
12. "Direct compensation" means payment for land or interest in land and improvements actually acquired for highway purposes.
13. "Director" means the director of the department of transportation of this state, acting directly or through authorized agents as provided in section 24-02-01.3.
14. "Divided highway" means a highway with separated roadways for traffic in opposite directions.
15. "Easement" means a right acquired by public authority to use or control property for a designated highway purpose.
16. "Employee compensation" includes vacation and sick leave.
17. "Expressway" means a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.
18. "Fee simple" means an absolute estate or ownership in property including unlimited power of alienation, except as to any and all lands acquired or taken for highway, road, or street purposes. Where lands are taken for such purposes, "fee simple" shall not be deemed to include any oil, gas, or fluid mineral rights.
19. "Freeway" means an expressway with full control of access.
20. "Frontage street or road" means a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.
21. "Grade crossing" means the intersection of a public highway and of the track or tracks of any railroad, however operated, on the same plane or level, other than a street railway within the limits of a city.
22. "Highway, street, or road" means a general term denoting a public way for purposes of vehicular travel, including the entire area within the right of way. A highway in a rural area may be called a "road", while a highway in an urban area may be called a "street".
23. "Intersection" means a general term denoting the area where two or more highways join or cross.
24. "Interstate system" or "interstate highway system" means that part of the state highway system designated as the North Dakota portion of the national system of interstate and defense highways as provided for in Public Law 85-767 [23 U.S.C. 101 et seq.].
25. "Local street or local road" means a street or road primarily for access to residence, business, or other abutting property.
26. "Major street or major highway" means an arterial highway with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.
27. "Market value" means the highest price for which property can be sold in the open market by a willing seller to a willing purchaser, neither acting under compulsion and both exercising reasonable judgment.
28. "Median" means the portion of a divided highway separating the traveled ways for traffic in opposite directions.
29. "Municipal corporation or municipality" means all cities organized under the laws of this state, but does not include any other political subdivisions.
30. "Outer separation" means the portion of an arterial highway between the traveled ways of a roadway for through traffic and a frontage street or road.

31. "Partial taking" means the acquisition of a parcel of property.
32. "Person" means any person, firm, partnership, association, corporation, limited liability company, organization, or business trust.
33. "Radial highway" means an arterial highway leading to or from an urban center.
34. "Remainder" means the portion of a parcel retained by the owner after a part of such parcel has been acquired.
35. "Remnant" means a remainder so small or irregular that it usually has little or no economic value to the owner.
36. "Right of access" means the right of ingress to a highway from abutting land and egress from a highway to abutting land.
37. "Right of survey entry" means the right to enter property temporarily to make surveys and investigations for proposed highway improvements.
38. "Right of way" means a general term denoting land, property, or interest therein, acquired for or devoted to highway purposes and shall include, but not be limited to publicly owned and controlled rest and recreation areas, sanitary facilities reasonably necessary to accommodate the traveling public, and tracts of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the state highway system.
39. "Right-of-way appraisal" means a determination of the market value of property including damages, if any, as of a specified date, resulting from an analysis of facts.
40. "Right-of-way estimate" means an approximation of the market value of property including damages, if any, in advance of an appraisal.
41. "Roadside" means a general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.
42. "Roadway" means in general, the portion of a highway, including shoulders, for vehicular use. In construction specifications, the portion of a highway within limits of construction.
43. "Severance damages" means loss in value of the remainder of a parcel resulting from an acquisition.
44. "Shoulder" means the portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.
45. "State highway system" means the system of state principal roads designated by the director of the department, the responsibility for which is lodged in the department.
46. "Through street or through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highways and in obedience to either a stop sign or yield sign, when such signs are erected by law.
47. "Traffic lane" means the portion of the traveled way for the movement of a single line of vehicles.
48. "Traveled way" means the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

24-01-01.2. State highway system - Mileage.

The state highway system may not exceed seven percent of the entire road mileage of the state, whether such roads are township, county, or state roads, which may be functionally classified as to service, and in no case may such highway system exceed seven thousand seven hundred miles [12391.95 kilometers] in length.

24-01-02. Designation of state highway system.

The director is hereby vested with complete authority to designate, locate, create, and determine what roads, highways, and streets constitute the state highway system, subject however, to such conditions, requirements, and mileage limits as provided for by law. The total mileage of the state highway system may be increased by not more than fifty miles [80.47

kilometers] in any one calendar year. In designating, locating, creating, and determining the several routes of the state highway system, the director shall take into account such factors as the actual or potential traffic volumes, the type of service class, the construction of bypasses and alternate routes, the conservation and development of the state's natural resources, the general economy of the state and communities, and the desirability of fitting such system into the general scheme of the nationwide network of highways.

24-01-03. Responsibility for state highway system.

The director is responsible for the construction, maintenance, and operation of the state highway system and may enter a cooperative agreement with any municipality for the construction, maintenance, or repair of any urban connecting street. The director may not divest the state from responsibility for maintaining the structural integrity of any bridge over a navigable water of this state which is currently maintained by the state unless an agreement is reached with the municipality.

The jurisdiction, control, and duty of the state and municipality with respect to such urban connecting streets must be as follows:

1. The director has no authority to change or establish any grade of any such street without approval of the governing body of such municipality.
2. The municipality shall maintain at its own expense all underground facilities in such streets and has the right to construct such additional underground facilities as may be necessary in such streets.
3. The municipality has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby must be repaired promptly by said municipality at its direction and without cost to the department.
4. The municipality has exclusive right to grant franchises over, beneath, and upon such streets.

24-01-03.1. Highway performance classification plan.

To the extent possible, the department of transportation shall implement the highway performance classification plan.

24-01-04. Municipalities to develop master street plan.

Except for a municipality located within a designated metropolitan planning organization, each municipality of over five thousand population in this state, according to the latest available census, shall develop and adopt a master street plan cooperatively between the director and the municipal officials, which must ensure the proper location and integration of the state highway connections in the total city street plan. In selecting and designating the master street plan, the cooperating officials shall take into account the more important principal streets that connect the residential areas with business areas, and the streets that carry the important rural traffic into and across the city, to ensure a system of streets upon which traffic can be controlled and protected, in such a manner as to provide safe and efficient movement of traffic within a municipality.

24-01-04.1. Metropolitan planning organizations.

Metropolitan planning organizations shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas which encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas of this state while minimizing transportation-related fuel consumption, air pollution, and greenhouse gas emissions. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area. A metropolitan planning organization is a political subdivision for purposes of chapter 54-52.

24-01-05. Designation of county system - Removal from state highway system.

The director may designate, from time to time, those roads selected under section 24-05-16, as the county highway system not exceeding twenty-two thousand five hundred miles [36210.24 kilometers] in length on which federal aid funds must be expended as may be provided by such appropriations. In designating such system, the director may remove from the state highway system those parts which are low in standard of improvement and type of traffic service and which will be released from maintenance agreement or agreements with the federal government. No mileage on the state highway system may be placed on the county road system without the consent of the board of county commissioners of the county in which the road lies. The director may enter into an agreement with the board of county commissioners of any county providing for the transfer of highways from the state highway system to the county road system of such county.

24-01-06. Authority to abandon sections of routes.

The director has 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 recorder of each county in which the abandonment occurs.

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 must 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.

24-01-08. Uniform marking and erection of signs on highway.

Repealed by S.L. 1975, ch. 353, § 4.

24-01-08.1. Location of signs precluding the cultivation of right of way.

All signs erected by the department, after July 1, 1967, which give notice of the prohibition against the cultivation of the right of way, must be located as near as possible to right-of-way posts, or natural obstructions. All existing signs of such nature must be relocated according to the provisions contained in this section, and when requested by the landowner and a more suitable site can be agreed upon by the landowner and the department.

24-01-09. Authority to prescribe traffic-control signals.

Repealed by S.L. 1975, ch. 353, § 4.

24-01-09.1. State highway commissioner to adopt sign manual.

Repealed by S.L. 1975, ch. 353, § 4.

24-01-09.2. State highway commissioner to place signs on all state highways.

Repealed by S.L. 1975, ch. 353, § 4.

24-01-10. Local jurisdictions may provide additional capacity to state highway.

The governing board of any county, municipality, or township, as the case may be, may enter into a written agreement with the director for the construction of a roadway or structure of greater width or capacity than would be necessary to accommodate the normal state highway traffic, upon any state highway within its boundaries, and may appropriate from any funds available, and pay into the state highway fund, such sum or sums of money as may be agreed upon. Nothing herein contained prevents any such municipality from constructing the portions of the street not included in the state highway system independent of any contract with the

department, if such construction conforms to such reasonable regulations as the department may prescribe as to grade and drainage.

24-01-11. Maintenance of additional width of state highway system in municipalities.

The governing body of any municipality may enter into a written agreement with the department for the maintenance of such additional width by the department, and from time to time in accordance with such agreement shall appropriate and pay into the state highway fund such sums of money as may be agreed upon. Nothing herein contained may be construed to prevent any such municipality from maintaining such additional width at its own expense subject to the written approval of the department.

24-01-12. Regulation of advertising signs on highways.

No person, firm, corporation, or limited liability company may place, put, or maintain any sign, billboard, or advertisement within the limits of a public highway, or in any manner paint, print, place, put, or affix, or cause to be painted, printed, placed, or affixed, any advertisement on or to any stone, tree, fence, stump, pole, mileboard, milestone, danger sign, danger signal, guide sign, guidepost, billboard, building, or other object within the limits of a public highway, or place, put or maintain any sign or billboard upon private property within one thousand feet [304.8 meters] of any highway grade crossing in such place or manner as to obstruct or interfere with a free and clear view of such crossing from any highway or railroad intersecting thereat. None of the provisions of this section prohibit the placing of public notices on billboards erected for that purpose by authority of the governing body of a municipality. Any advertisement in or upon a public highway or private property which, in the judgment of the director, may be deemed to be a hazard to traffic, or in the future may tend to create a hazard to traffic, may be taken down, removed, or destroyed by direction or authority of the department in the case of the state highway system, by the board of county commissioners in the case of the county road system, and by the board of township supervisors in the case of township roads.

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, who stores the harvested hay on the rights of way for later removal, shall store the harvested hay at the outer edge of the rights of way. The director may remove 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.

24-01-12.2. Hay disposal.

Any stored hay remaining on the right of way on November first of each year must be disposed of in a manner deemed proper by the director.

24-01-12.3. Entry into no-mow agreements.

No state agency or political subdivision of the state may enter into any agreement to increase the no-mow acres contained in the rights of way of the state highway system.

24-01-13. Enforcement of highway laws - Vehicle size and weight controlled.

The director and each officer and inspector of the department designated by the director have general police powers with respect to enforcement of all laws pertaining to the use of motor vehicles and trailers, other than passenger cars and motorcycles, upon the highways, roads, and streets of this state and may:

1. Classify highways and enforce limitations as to weight and load of vehicles thereon as provided for under section 39-12-01.
2. Issue special written permits authorizing the operation of oversized or overweight vehicles as provided for under section 39-12-02.
3. Prohibit the operation or may impose restrictions on vehicular use of highways during certain seasons of the year as provided for under section 39-12-03.

24-01-14. Speed research.

The director may conduct investigations, research, and analysis of speed limits on any highway.

24-01-15. Director to designate through highways.

The director, with reference to highways under the director's jurisdiction, may designate as through highways any state highway or part thereof and erect stop signs or yield signs at specified entrances thereto where vehicles are not otherwise required by law to stop or yield right of way.

24-01-16. Erection and maintenance of guardrails.

The director has the authority to erect and maintain guardrails, stretch wires, and other devices on all highways under the director's jurisdiction, in the interest of public safety.

24-01-17. Grade crossing elimination.

The director has the authority to contract, on an equitable basis with any railway company, and to let all the necessary contracts for the construction of bridges, underpasses, and approaches necessary for the separation of grades at points of intersection between railroads and the state highways.

24-01-18. Right of way and materials may be acquired by purchase or eminent domain.

The director, by order, on behalf of the state, and as part of the cost of constructing, reconstructing, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining a state highway, or of providing a temporary road for public use, may purchase, acquire, take over, or, subject to section 32-15-01, condemn under the right and power of eminent domain, for the state, any and all lands in fee simple or such easements thereof which the director deems necessary for present public use, either temporary or permanent, or which the director deems necessary for reasonable future public use, and to provide adequate drainage in the improvement, construction, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining of a state highway, provided, however, as to any and all lands acquired or taken for highway, road, or street purposes, the director may not obtain any rights or interest in or to the oil, gas, or fluid minerals on or underlying said lands. No county may be required to participate in the cost or expense of right of way for the state highway system. By the same means, the director may secure any and all materials, including clay, gravel, sand, or rock, or the lands necessary to secure such material, and the necessary land or easements thereover, to provide ways and access thereto. The director may acquire such land or materials notwithstanding that the title thereto may be vested in the state or any division thereof; provided, however, that no interests in gas, oil, or fluid minerals may be acquired by this procedure.

24-01-18.1. Right of way adjacent to customs and immigration.

Whenever the director finds that it will facilitate travel and promote public convenience or that it will avoid the need for additional road building, the director may procure rights of way and other interests in land adjacent to established public highways for the location of custom and immigration buildings to be erected by the federal government. The director is hereby vested with like power in the acquisition of such lands as the director may have in acquiring rights of way and land for highway purposes.

24-01-18.2. Sites for customs and immigration - Governor to convey.

When the federal government has requested title to any lands acquired by the director under the provisions of sections 24-01-18.1 and 24-01-18.2 and the director certifies that the establishment of custom and immigration points of entry thereon will facilitate travel and promote public convenience or will avoid the need for additional road building, the governor is

authorized to convey to the United States of America such sites as may be required for the location of such buildings and accessory facilities including means of access thereto.

24-01-19. Board of county commissioners may determine damages.

If the director is unable to purchase land or materials with the necessary ways and access thereto, at what the director deems a reasonable valuation, then the board of county commissioners of the county wherein such land or materials may be situated, on petition of the director, shall proceed to ascertain and determine the damages and make awards in the manner provided by chapter 24-07 for lands taken for highway purposes as hereby modified or amended. Within fifteen days after the filing of such petition with the county auditor, the board of county commissioners shall fix a time and place, not later than sixty days from and after the filing of such petition, for a hearing of all persons interested or aggrieved by such taking, and shall cause to be published in the official newspaper of the county, at least once a week, for three successive weeks, prior to such hearing, a notice of such hearing, stating the time and place where the same shall be held, together with a description of the property to be taken. Such published notice must be in lieu of all other notices, and when so published must give the said board of county commissioners full and complete jurisdiction to proceed with the determination of awards of damages. A copy of such notice must be served personally upon all known owners residing or found within the state, and upon the occupant of the land, not less than fifteen days prior to such hearing, in the manner provided for the service of a summons in the district court, and in case of personal service of such notice upon all persons interested in any manner in said real property, as disclosed by the records in the office of the recorder of the county wherein said property is located, no publication of such notice may be made.

24-01-20. Damages to be paid into court.

When the award of damages for the taking of land or materials, or both, has been completed by the board of county commissioners, the director shall pay, or cause to be paid from the state highway fund, into court, for the benefit of the owners of land to whom such awards have been made, by depositing with the clerk of court of such county cash in the amount of such award or awards.

24-01-21. Receipt to be signed by owner or clerk of court.

Every owner entitled to an award for damages, before the same is paid to the owner by the clerk of court, shall sign and execute a receipt therefor. Such receipt must contain a description of the premises covered by the award. In case the owner fails or refuses to accept such award and execute such receipt therefor, the clerk of court shall execute a receipt, reciting the deposit of such award with the owner and the description of the premises covered by the award.

24-01-22. Title vests after thirty days if no appeal taken.

At the expiration of thirty days from the award by the board of county commissioners from which no appeal has been taken as provided in section 24-01-23, whenever such money has been deposited in the office of the clerk of court, the receipt of the owners of said property, or of such clerk of court, must be recorded in the office of the recorder of the county in which such real estate is situated, and the title to the land or materials thereupon must be vested in the state.

24-01-22.1. Appeal after deposit for taking.

Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for a taking of right of way as authorized by section 16 of article I of the Constitution of North Dakota, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury is waived, in the manner prescribed for trials under chapter 32-15.

24-01-23. Appeals from decision of board of county commissioners - Procedure - Special term of court.

Any party aggrieved by the proceedings of the director in the taking of land or materials, or by the estimate of damages and the award of the board of county commissioners has the remedies provided in this title for appeal from any determination of a board of county commissioners in the taking of land for highway purposes. Service of a written or printed notice of such appeal must be made upon the chairman of the board of county commissioners and the director. An appeal from the award by the board of county commissioners, without filing a cost bond, may be taken by the director, by service of notice of appeal upon the chairman of the board of county commissioners and the owner of the property, in the manner provided by law for the service of a summons in a civil action. Upon any appeal, the director, on application to the judge of the district court, must be granted a special term of court, in the manner provided in cases of eminent domain in chapter 32-15.

24-01-24. Appeal does not stay condemnation proceedings.

Repealed by omission from this code.

24-01-25. Fees not charged for recording instruments.

No fees may be charged or collected by the county auditor, the recorder, or the clerk of court for any services rendered for the recording or filing of any document required under this chapter.

24-01-26. Grants of rights of way confirmed.

The following grants of rights of way heretofore made by the legislative assembly are hereby confirmed:

1. For a highway across the military encampment grounds at Rock Island in Ramsey County as set forth in chapter 134 of the Session Laws of 1901.
2. For a highway across Devils Lake as set forth in chapter 141 of the Session Laws of 1903.
3. For a highway across Des Lacs Lake as set forth in chapter 57 of the Session Laws of 1905.

24-01-27. Survey - Plat - Damages from survey.

Whenever the director determines by order that public exigency requires the taking of land or materials as provided in section 24-01-18, the director shall cause the same to be surveyed and described, and a plat thereof approved by the county auditor and the said description must be recorded in the office of the recorder of the county wherein the same is located. When such plat has been approved and recorded, any description of the property in accordance with the parcel or lot number and description set forth in such plat must be deemed a good and valid description of the lots or parcels of land so described. No such plat or description may bear the name or number which has been applied to any plat or description previously made and recorded. The director, or the director's duly authorized agents, may enter upon any land for the purpose of making surveys, examinations, or tests. In case of any damages to said premises, the director forthwith shall pay to the owner of said premises the amount of such damages.

24-01-28. Vacating highways by director - Sale of property.

The director may vacate any land or part thereof, or rights in land taken or acquired for highway purposes under the provisions of this title, by executing and recording a deed thereof, and the vacation revests the title to the land or rights in the persons, their heirs, successors, or assigns, in whom it was vested at the time of the taking. As oil, gas, and fluid minerals are not a part of and essential for highway purposes, all such rights heretofore taken, if any, are hereby vacated and returned to the person or persons in whom the title was vested at the time of taking, their heirs, administrators, executors, or assigns. Such reconveyance is subject to any existing contracts or agreements covering the property, and all rights and benefits thereof accrue to the grantee. The governor, on recommendation of the director, may sell and convey

on behalf of the state the interests of the state in property acquired by purchase under this title and deemed no longer necessary for the purposes thereof, and the proceeds of the sale so far as practicable must be credited to the funds from which the purchase was made originally. With the consent of the persons, their heirs, successors, or assigns in whom the title or rights to the land were vested at the time of the purchase or acquisition, the director may vacate land acquired by purchase under this title which is deemed no longer necessary for highway purposes and which the director has determined that the cost of the sale exceeds the estimated value of the property, by executing and recording a deed thereof, and the vacation revests the title to the land or rights in those persons, their heirs, successors, or assigns.

24-01-29. Temporary acquisition of rights of way or easements for detours.

The director, by order, and as part of the cost of constructing, reconstructing, or repairing a state highway or any part thereof, may acquire by gift, permission, purchase, lease, or condemnation, temporary easements or rights of way for the purpose of providing a temporary detour at such location as the director designates.

24-01-30. Authority to establish controlled-access facilities.

The highway authorities of the state, counties, and municipalities of North Dakota, acting alone or in cooperation with each other or with any federal, state, or local agency, or any other state having authority to participate in the construction and maintenance of highways, are hereby authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities, provided that within municipalities such authority is subject to such municipal consent as may be provided by law. Said highway authorities of the state, counties, and municipalities, in addition to the specific powers granted by law, also have and may exercise, relative to controlled-access facilities, any and all additional authority now or hereafter vested in them relative to highways or streets within their respective jurisdictions. Said units may regulate, restrict, or prohibit use of such controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with the definition of a controlled-access facility.

24-01-31. Design of controlled-access facility.

The highway authorities of the state, or any county, or municipality are authorized to so design any controlled-access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended. In this connection such highway authorities are authorized to divide and separate any controlled-access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person has any right of ingress or egress to, from or across controlled-access facilities to or from abutting lands, except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

24-01-32. Acquisition of property and property rights.

For the purposes of chapter 177 of the 1953 Session Laws, the highway authorities of the state, or any county, or municipality may acquire private or public property and property rights for controlled-access facilities and service roads, including rights of access, air, view, lights, and such advertising rights outside of the right of way as may be determined by the director to be in the public interest, by gift, devise, purchase, or condemnation in the same manner as such units are now or hereafter may be authorized by law to acquire such property or property rights in connection with highways and streets within their respective jurisdictions. All property rights acquired under the provisions of chapter 177 of the 1953 Session Laws must be in fee simple, provided, however, as to any and all lands acquired or taken for highway, road, or street purposes, they may not obtain any rights or interest in or to the oil, gas, or fluid minerals underlying said lands. In connection with the acquisition of property or property rights for any

controlled-access facility or portion thereof, or service road in connection therewith, the state, county, or municipal highway authority may, in its discretion, acquire an entire lot, block, or tract of land, if, by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right of way proper.

24-01-33. New and existing facilities - Grade crossing elimination.

The highway authorities of the state, or any county, or municipality may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within a controlled-access facility. The state or any of its subdivisions has authority to provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads, and municipal streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary lines of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility may intersect the same at grade. No municipal, county, or state highway, or other public way may be opened into or connected with any such controlled-access facility without the consent and previous approval of the highway authority in the state, county, or municipality having jurisdiction over such controlled-access facility. Such consent and approval may be given only if the public interest is served thereby.

24-01-34. Authority of local units to consent.

The highway authorities of the state, or any county, or municipality are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of controlled-access facilities or other public ways in their respective jurisdictions.

24-01-35. Local service roads.

In connection with the development of any controlled-access facility the state, county, or municipal highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets or to designate as local service roads and streets any existing road or street, and to exercise jurisdiction over service roads in the same manner as is authorized over controlled-access facilities, if, in their opinion, such local service roads and streets are necessary or desirable. Such local service roads or streets must be of appropriate design and must be separated from the controlled-access facility proper by means of all devices designated as necessary or desirable by the proper authority.

24-01-36. Bridges may be built separately.

While the necessary bridges on any state highway must be construed and considered a part of such highway, nevertheless, such bridges may be designed, erected, and contracts awarded separately therefor, and such bridges may be designed, erected, and contracted irrespective of the time when the highway contiguous thereto has been or may have been improved. All necessary fills and approaches to any bridge must be construed and considered as part of such bridge.

24-01-37. Inspection of bridges.

The department, at least every four years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the state highway system in the state. In case any bridge on the state highway system is deemed unsafe for public use by the said department, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the state highway system is deemed unsafe for loads in excess of a certain weight, the department forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight.

24-01-38. Bridge across Yellowstone River in McKenzie County.

Repealed by S.L. 1963, ch. 212, § 1.

24-01-39. Use of right of way for utilities subject to regulations by department.

Electric transmission, telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat, or pipelines, gas mains, flumes, or other structures outside of the limits of any municipality which under the laws of this state, may be constructed, placed, or maintained across or along any highway which is a part of the state highway system, by any person, persons, corporation, limited liability company, or subdivision of the state, may be so maintained or constructed only in accordance with such regulations as may be prescribed by the department, which has power to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining along, across, or on any such state highway any of the utilities hereinbefore set forth. Nothing herein restricts the action of public authorities in extraordinary emergencies. Nothing in this chapter contained may be construed as modifying or abridging the powers conferred upon the public service commission in title 49, the intent of this section being that the powers hereby granted to the department may be exercised only in such manner as not to conflict with valid exercise by the public service commission of the powers granted to it.

24-01-40. Right of way for utilities - Granted by director.

The director may grant to any person, who is a resident of this state, or to any corporation organized under the law of this state, or licensed to do business within this state, the right of way for the erection of a telephone line or electric line over or upon any state highway or structure constituting part of such highway or to lay pipes, conduits, or tunnels in, through, or over any such state highway or structure, or to erect, construct, and maintain any bridge, conduit, or other crossing in, under, or over such state highway or structure and in accordance with the rules and regulations therefor.

24-01-41. Relocation of utility facilities.

1. Whenever the director determines and orders that any utility facility which now is, or hereafter may be, located in, over, along, or under the national system of interstate and defense highways, or urban extension thereof, qualifying for federal aid should be changed, removed, or relocated to accommodate the construction of a project on the national system of interstate and defense highways, including extensions thereof within urban areas, the utility owning or operating such facility shall change, relocate, or remove the same in accordance with the order of the director; provided that the costs of the change, relocation, or removal, including the costs of installing such facilities in a new location, must be ascertained and paid to the affected utility by the state out of state highway funds as part of the cost of such federally aided project, unless such payment would violate a legal contract between the utility and the state.
2. As used in this section, the term "utility" includes all cooperatively, municipally, publicly, or privately owned utilities, for supplying water, sewer, light, gas, power, telegraph, telephone, transit, pipeline, or like service to the public or any part thereof. "Cost of change, relocation, or removal" includes the entire cost incurred by such utility properly attributable to such change, relocation, or removal after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.
3. The department, in cooperation with utilities, shall develop or adopt procedures for administration of utility facility relocation. The procedures must comply with federal law. At a minimum, the procedures must address notification, coordination, billing, and payment. The department shall coordinate with utilities that are affected by the construction project as early as possible in the project development process.
4. The department shall coordinate utility facility relocations with the affected utility in an effort to minimize cost associated with utility facility relocations.
5. When a utility facility needs to be relocated, the department shall enter an agreement with the utility indicating if the utility facility relocation work is eligible for reimbursement, the estimated cost for the work, the anticipated construction schedule, and the location of the work.

6. This section does not affect in any way the right of any utility to receive just compensation for the expense of changing, removing, or relocating its facilities located in a private right of way.

24-01-41.1. Relocation of property other than utilities.

The legislative assembly assents that highway relocation assistance payments, as provided in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [Pub. L. 91-646; 84 Stat. 1894; 42 U.S.C. 4601 et seq.], and such changes or amendments thereof which Congress may hereafter enact, are to be considered a necessary cost in the construction or reconstruction of public highways which are eligible for federal aid funds. The director is authorized and empowered to expend highway funds for the cost of the state's participation in highway relocation assistance payments. Relocation assistance payments as provided in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and such changes or amendments thereof which Congress may hereafter enact, may not be construed as creating any element of damages recognized in eminent domain.

24-01-41.2. Relocation of utility facilities - Political subdivision roads.

1. Whenever a political subdivision determines and orders that any utility facility that is or may be located in, over, along, or under a road right of way under its authority, qualifying for federal aid, should be changed, removed, or relocated to accommodate the construction of a project, the utility owning or operating the facility shall change, relocate, or remove the utility facility in accordance with the order of the political subdivision; provided that the costs of the change, relocation, or removal, including the cost of installing the facilities in a new location, must be ascertained and paid to the affected utility by the political subdivision as part of the cost of the federally aided project unless the payment would violate a legal contract between the utility and the political subdivision or where the roadway existed before the utility facility.
2. As used in this section:
   a. "Cost of change, relocation, or removal" includes the entire cost incurred by such utility properly attributable to such change, relocation, or removal after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.
   b. "Political subdivision" includes a county, city and county, city, home rule city, service authority, school district, local improvement district, law enforcement authority, water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district, or any other municipal, quasi-municipal, or public organization.
   c. "Utility" includes all cooperatively, municipally, publicly, or privately owned utilities for supplying water, sewer, light, gas, power, telegraph, telephone, transit, pipeline, or like service to the public.
3. The political subdivision, in cooperation with utilities, shall develop or adopt procedures for administration of utility facility relocation. The procedures must comply with federal law. At a minimum, the procedures must address notification, coordination, billing, and payment. The political subdivision shall coordinate with utilities that are affected by the construction project as early as possible in the project development process.
4. The political subdivision shall coordinate utility facility relocations with the affected utility in an effort to minimize costs associated with utility facility relocations.
5. When a utility facility needs to be relocated, the political subdivision shall enter an agreement with the utility indicating if the utility facility relocation work is eligible for reimbursement, the estimated cost for the work, the anticipated construction schedule, and the location of the work.
6. This section does not affect in any way the right of any utility to receive just compensation for the expense of changing, removing, or relocating its facilities located in a private right of way.

24-01-42. Construction of utility facility - Limitation.

No person, firm, or association may construct any electrical supply or communication line, gas, oil, or water, or other pipeline parallel to and within one hundred feet [30.48 meters] of the centerline of any state highway right of way or within seventy-five feet [22.86 meters] of the centerline of any county highway right of way without first obtaining the consent of the director or board of county commissioners except that such prohibition does not apply to highways or streets located within areas platted as townsites or additions and subdivisions thereof.

24-01-43. Utility facility - Removal.

Any utility or transmission line hereinafter constructed contrary to the provisions of section 24-01-42 must be removed at the expense of the utility, when such removal is required for purposes of highway expansion.

24-01-44. Utility facility - Right of way for relocation.

Whenever highway improvements require the relocation of utility facilities, and it is deemed to be in the best interest of the state, the director or the board of county commissioners may acquire such right of way as may be required for such relocation, in the manner they are authorized by law to acquire highway right of way.

24-01-45. Controlled-access facility - Commercial establishments prohibited.

No automotive service station or other commercial establishment for serving motor vehicle users may be constructed or located within the right of way of, or on publicly owned or publicly leased land acquired or used for or in connection with, a controlled-access facility.

24-01-46. Clearing record title of right of way.

Any political subdivision, department, or agency of the state, holding an interest of record in any part of the right of way for any highway on the state highway system, shall upon application of the director, cause such interest to be conveyed to the state of North Dakota for the use and benefit of the department of transportation and no consideration for such conveyance may be required. This section may not be construed to require that lands or interest therein held by political subdivisions, departments, or agencies of the state, for other than highway purposes, be conveyed to the state without full consideration.

24-01-47. Legislative intent - Access routes.

It is the intent of the legislative assembly that the director have sufficiently broad authority to provide, within means available, and with cooperation from political subdivisions, for an integrated highway system, including reasonable access from the interstate highways to the municipalities most directly affected by the construction of such highway.

24-01-48. Access routes to controlled-access facility.

Whenever the construction of an interstate, controlled-access highway, results in the removal from the state highway system, a highway which passes through or approaches within one mile [1.61 kilometers] of any incorporated municipality, the director may if conditions warrant, expend state highway funds to the extent of not over twenty-five percent of the cost to construct access routes on the federal aid secondary county system. Only such access routes may be constructed as are not over three miles [4.83 kilometers] in length and are necessary to provide as good or better access from such municipalities to the network of the state highway system, as existed prior to the construction of such interstate highway.

Such access routes may be constructed from the municipal limits to the interstate highway or in such other locations as will, in the opinion of the director, comply with the intent of the provisions of sections 24-01-47 and 24-01-48.

24-01-49. Approach or escape road to be built at all dead end roads or intersections of county and state highways.

Whenever any highway on the state or county highway system has an intersection or dead end, there must be constructed, whenever feasible, an approach or escape road, and when not feasible, other protective devices such as warning signs, rumble strips, or barricades. This section applies to new road construction and reconstruction after July 1, 1975.

24-01-50. No-mow transfer to interstate highways.

The department, in consultation with the game and fish department, shall negotiate with the United States fish and wildlife service and any other appropriate federal agency for the purposes of substituting the no-mow acres contained in the rights of way of United States highway 2 and United States highway 83 to the rights of way of interstate highway 94 or interstate highway 29, or both.

24-01-51. Haying of no-mow areas.

Notwithstanding any other provision of law, a person owning land adjacent to an area within the right of way of a highway which is designated as a no-mow or managed-mow area may hay the no-mow or managed-mow area after July fifteenth without any payment or penalty.

24-01-52. Multilane highway for United States highway 52.

The director of the department of transportation shall include, as part of the department's project development process, a four-lane alternate when it develops the environmental document for the next major reconstruction project for United States highway 52 from reference point 52-101.683 to reference point 52-122.789. It is recommended that the four-lane alternative be selected as the preferred alternate and be constructed if environmental clearance is obtained.

24-01-53. Cost recovery for relocation of utility facilities due to implementation of the American Recovery and Reinvestment Act of 2009.

Expired under S.L. 2009, ch. 231, § 2.

24-01-54. Theodore Roosevelt expressway - United States highway 85.

Notwithstanding any previous designation, the department shall designate United States highway 85 from the South Dakota border to the junction of United States highway 2 and United States highway 2 from the Montana border to the junction of United States highway 85 as the Theodore Roosevelt expressway and at a minimum shall place signs along the highway designating that name and may use any appropriate signs donated to the department.

24-01-55. Yellowstone trail - United States highway 12.

The department shall designate United States highway 12 from the South Dakota border to the Montana border as the Yellowstone trail and at a minimum shall place signs along the highway designating that name and may use appropriate signs donated to the department.