



REPORT

of the

MINNESOTA LEGISLATIVE
INTERIM COMMISSION

on

HIGHWAY LAWS



Submitted to the Legislature of the State of Minnesota
November, 1958

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Members of the Senate

ARTHUR GILLEN
J. R. KELLER
NORMAN LARSON
ARCHIE H. MILLER
C. C. MITCHELL
HAROLD J. O'LOUGHLIN
CHARLES W. ROOT

State of Minnesota

Highway Laws Commission
State Capitol—St. Paul 1, Minnesota

CHARLES L. HALSTED, Chairman

NORMAN LARSON, Vice Chairman

BILL SHOVELL, Secretary

Members of the House

EVERETT BATTLES
AUBREY W. DURLAN
CHARLES L. HALSTED
ALVIN G. HOFSTAD
BILL SHOVELL
EDWARD J. TOMCZYK
C. J. VAN DE RIT

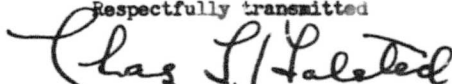
November 24, 1958

TO THE GOVERNOR OF THE STATE OF MINNESOTA
AND THE MEMBERS OF THE LEGISLATURE

Gentlemen:

Pursuant to Minnesota Laws 1957,
Chapter 828, the Highway Laws Commission trans-
mits herewith its report on the revision of
highway laws. A supplemental report will be
issued at a later date.

Respectfully transmitted



Charles L. Halsted,
Chairman



The Highway Law Commission

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Charles L. Halsted Chairman
Norman Larson Vice-Chairman
Bill Shovell Secretary

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Ward Gronfield Special Counsel
Gerald H. Swanson Executive Secretary
Helen Adams Stenographer
Myrtle Booth Stenographer

* Senator Herbert Rogers was appointed to the Commission on March 3, 1958, to succeed the late Senator Archie Miller.

INTRODUCTION

Recent statewide concern for an adequate transportation system in Minnesota brought about the passage of Constitutional Amendment No. 2 in 1956. This revision in fundamental highway law is generally related to a change in the distribution of highway tax funds between the county, municipal and trunk highway systems. Another and equally important aspect of the amendment, often overlooked, was the incorporation in the constitution of a new principle in administration by highway agencies. As changed by the amendment, the present constitutional provision is predicated on the establishment of a balanced and integrated system of highways composed of trunk routes, county roads and municipal streets.

State awareness of the need for an adequate system of transportation facilities is not a regional characteristic, but is also of national importance. After World War II the urgent and critical need for a system of highways traversing all the states became an area for Congressional action. As a result of extensive studies conducted by federal agencies, legislation was introduced initiating a tremendous expansion of federal participation in highway construction and maintenance. In addition to increased aids for the primary and secondary systems, including urban extensions, a vast and unprecedented program was authorized in 1956 for the creation of a national network of interstate highways. Again, the basic principle of this legislation is the creation of an integrated system of highways.

The additional funds made available by the new federal program and the increased portion of state funds for local road authorities have insured to some extent sufficient resources with which to accomplish structural adequacy on the interstate, trunk, county and municipal systems. The appropriation of additional revenues and changes in engineering standards by administrative agencies to correspond to traffic needs, however, will not result in overall highway efficiency.

The creation and operation of a highway system is not simply a legislative process of appropriation and delegation. The substance of this governmental function lies within a broad and comprehensive system of laws establishing and controlling highway systems and various state agencies. For each system of roads and for each type of governing authority specific laws are necessary to empower and direct proper function and control. Thus, administrative efficiency and highway adequacy are directly related to the effectiveness of highway laws. Any substantial change in the administration or function of highways can only be obtained through a corresponding revision of highway laws.

Immediate changes were required by the constitutional amendment to provide the legal background for the new method of tax distribution and for the creation of a system of county state-aid highways and municipal state-aid streets. Legislation was also required in order for the state to take advantage of the federal proposals for an interstate system. To a great extent these laws as enacted in 1957 were complete, yet the change in the objective of a major portion of the state's transportation system brought about many inconsistencies and inadequacies throughout the entire highway laws.

Report of the Highway Laws Commission

To accomplish the overall purpose of an integrated road network of various types of systems it became apparent during the 1957 legislative session that a comprehensive review and revision of existing highway laws would be necessary. This realization culminated in the creation of the Highway Laws Commission.

The revision as directed by the act creating this Commission is not limited to any one highway system or agency. "The Commission shall make a comprehensive, detailed and complete investigation and study of the highway laws, highway policies and rules and regulations promulgated in furtherance of such highway laws and policies, including enabling legislation for 'Amendment No. 2,' and legislation relating to access control and the interstate system enacted by the 1957 legislative session." With an assignment of this broad character confined to a biennial period, attempts were made during the first Commission meetings to glean background information from other states and the National Highway Research Board. Reports from these states and agency forewarned that complete revision of all facets of the highway laws would be impossible of completion in two years.

It was deemed necessary, therefore, to select those chapters more directly affected by the change in highway coordination brought about by the amendment and the new federal program. Those areas not in the study are cited in Part II of the report on page 204.

The study of the Commission was accomplished during eighteen meetings held throughout the biennium in addition to ten subcommittee meetings. Following the organization of the Commission, the initial meetings were devoted to the preparation of an outline of procedure to be used in analyzing each chapter. As a guide to a systematic analysis of the chapters selected for study, it was

decided to follow the three basic steps of rearrangement, review and analysis, and revision.

The rearrangement was accomplished by compiling the various provisions contained in Minnesota Statutes 1957, Chapters 160, 161, 162, 163, 164, and 166 into six articles according to subject matter. Subsequently, the substance of each new article was reviewed and evaluated by correlating the laws to existing practices and requirements, and to recent substantive changes suggested by attorney generals' opinions and court decisions. Whenever it appeared that personnel of the highway departments would be interested in possible changes or could assist the Commission in obtaining a full understanding of the law, local and state agencies were requested to appear before the Commission. Finally, the actual revision of each article was prepared within the framework of the rearrangement by incorporating into the law the changes recommended by the Commission. At the conclusion of these three steps, the entire revised articles were then reviewed and adopted by the Commission.

The revision as contained in Part I of the report is divided into the following six articles: I General Provisions; II Department of Highways and Trunk Highway System; III State Aid System; IV County Roads; V Town Roads; and VI Bridges.

In recognizing the need for a complete understanding and correct interpretation of the proposed revision, not only by legislators but also by lay and professional people working within the framework of highway laws, the various sections of the report contain a legal history and brief comments. The comments have been prepared to indicate whether or not any change has been made between the revised version and the existing law, and if so, the extent

of such changes. Detailed analyses of each portion in which substantive changes are proposed have been avoided. For those who desire more complete information, copies of the Commission files are preserved in the office of the Legislative Research Committee.

Part II of the report contains various recommendations of the Commission which could not be incorporated within any of the six articles. These include additions and changes in the trunk highway system, changes in laws which relate to but which are not part of the highway laws chapters, and other matters warranting legislative action. Part II of the report is explained in more detail on page 203.

The appendix beginning on page 215 includes the act creating the Commission and a comparative table showing the relation of existing laws to the particular sections of the proposed revision.

The procedural and substantive changes in highway laws proposed in this report were adopted by the unanimous consent of the Commission. The principle of an integrated and balanced system of highways was the major consideration of the Commission in arriving at each change, and it is believed that the adoption of the revision will create a system of laws through which this goal may be attained. It is recommended that the Legislature of the State of Minnesota approve the revision of highway laws contained in Part I and also the individual proposals contained in Part II.

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ARTICLE I

GENERAL PROVISIONS

Section 1. (SCOPE OF ACT) Subdivision 1. (DESIGNATION) For the purposes of Articles I through VI the roads of this state shall be designated and referred to as trunk highways, county state-aid highways, municipal state-aid streets, county highways and town roads. They shall be established, located, constructed, reconstructed, improved and maintained as provided in Articles I through VI and acts amendatory thereto.

Subd. 2. (CERTAIN STREETS EXCLUDED) The provisions of Articles I through VI do not relate to highways or streets established by, or under the complete jurisdiction of cities, villages and boroughs except when the provisions refer specifically to such highways or streets.

History: M. S. '57, Sec. 160.012.

COMMENT: The present law provides that Chapters 160 through 164 shall not relate to any roads within the limits of any city, village or borough except when specifically mentioned. Thus, although trunk highway and county roads extended within municipalities are under the jurisdiction of the State Department of Highways and the county road authorities respectively, the application of Chapters 160 through 164 to these extensions must be specifically mentioned in each case. Under Subdivision 2 of the proposed revision Articles I through VI apply to municipal extensions of trunk highways and county roads. Only those highways and streets established by or under the complete jurisdiction of cities, villages and boroughs are excluded from the application of Articles I through VI unless specifically mentioned.

Sec. 2. (DEFINITIONS) Subdivision 1. (PURPOSES) For the purposes of Article I the terms defined in this section have the meanings given them.

Subd. 2. "Trunk highways" includes all roads established or to be established under the provisions of Article XVI, Section 2 of the Constitution of the State of Minnesota.

Subd. 3. "County state-aid highways" includes all roads established in accordance with law as county state-aid highways.

Subd. 4. "County highways" includes those roads which have heretofore been or which hereafter may be established, constructed or improved under authority of the several county boards, including all roads lying within the county or on the line between counties established by judicial proceedings, except those roads established, constructed or improved by the counties that have been maintained by the towns for a period of at least one year prior to July 1, 1957. All roads heretofore designated prior to July 1, 1957 as county-aid highways shall be county highways until abandoned or changed in accordance with law.

Subd. 5. "Municipal state-aid streets" includes all streets within the cities, villages or boroughs having a population of 5,000 or more, established in accordance with law as municipal state-aid streets.

Subd. 6. "Town roads" includes those roads and cartways which have heretofore been or which hereafter may be established, constructed or improved under the authority of the several town boards, roads established, constructed or improved by counties that have been maintained by the towns for a period of at least one year prior to July 1, 1957, and all roads lying within the town established by user.

Subd. 7. "Road" or "highway" includes, unless otherwise specified, the several kinds of highways as defined in this section, and also cartways, together with all bridges or other structures thereon which form a part of the same.

Subd. 8. "Commissioner" means the commissioner of highways.

Subd. 9. "Road authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; and the governing bodies of cities, villages and boroughs when the governing bodies or city, village and borough streets are specifically mentioned.

Subd. 10. "Portage" means a passageway two rods in width extending from one public or navigable water to another public or navigable water or from a public or navigable water to a public highway.

Subd. 11. "Interstate bridge" means all bridges now existing or which shall be hereafter constructed across boundary waters between the State of Minnesota and any adjoining state thereby connecting highways of this state with the highway system of any adjoining state.

Subd. 12. "Controlled access highway" means any highway, street or road, including streets within cities, villages or boroughs, over, from or to which owners or occupants of abutting land or other persons have or are to have no right of access, or only a controlled right of the easement of access, light, air or view.

Subd. 13. "Public property" means any property except streets, roads or bridges owned by any subdivision of government, including but not limited to, the property of school districts however organized, towns, villages, boroughs, cities, municipalities, counties and any board or commission of any thereof, and public corporations created by the laws of this state.

History: Subdivisions 2, 3, 4, 5, 6, 7, 8 and 10 are taken from M. S. '57, Sec. 160.013; Subd. 9 is a new definition; Subd. 11 is taken from M. S. '57, Sec. 164.02; Subd. 12 is taken from M. S. '57, Sec. 160.701; Subd. 13 is taken from M. S. '57, Sec. 161.131.

COMMENT: No substantive change.

Sec. 3. (COMPENSATION FOR PUBLIC PROPERTY) Whenever public property is taken, damaged or destroyed for highway purposes, just compensation shall be paid therefor.

History: M. S. '57, Sec. 161.133.

COMMENT: No change.

Sec. 4. (WIDTH OF ROADS) Except as otherwise provided, all roads hereafter established, except cartways, shall be at least four rods wide. Additional right of way and easements, including easements needed for drainage, may be acquired by purchase, gift or eminent domain proceedings when necessary for construction, maintenance, safety or convenient public travel. The necessity for such additional right of way and easements shall be determined by the road authority having jurisdiction over the particular road involved.

History: M. S. '57, Sec. 160.021.

COMMENT: No substantive change.

Sec. 5. (DEDICATION OF ROADS) Subdivision 1. (SIX YEARS) When any road or portion thereof shall have been used and kept in repair and worked for at least six years continuously as a public highway, the same shall be deemed dedicated to the public to the width of two rods on each side of the center line thereof and be and remain, until lawfully vacated, a public highway whether the same has ever been established as a public highway or not; provided, that nothing herein contained shall impair the right, title or interest of the water department of any city of the first class secured under Special Laws 1885, Chapter 110. This section shall apply to roads and streets except platted streets within cities, villages and boroughs.

Subd. 2. (ROADS ON AND PARALLEL TO RAILROAD RIGHT OF WAY) The continued use of any road by the public upon and parallel to the right of way of any railway company shall not constitute such a road a legal highway or a charge upon the town in which the same is situated, and no right shall accrue to the public or any individual by such use.

History: M.S. '57, Sec. 160.121 and M.S. '57, Sec. 160.131.

COMMENT: No substantive change.

Sec. 6. (TRAIL OR PORTAGE DEDICATION) Any trail or portage between public or navigable bodies of water or from public or navigable water to a public highway in this state which has been in continued and uninterrupted use by the general public for 15 years or more as a trail or portage for the purposes of travel, shall be deemed to have been dedicated to the public as a trail or portage. This section shall apply only to forest trails on established canoe routes and the public shall have the right to use the same for the purposes of travel to the same extent as public highways. The width of all trails and portages dedicated by user shall be eight feet on each side of the center line of the trail or portage.

History: M. S. '57, Sec. 160.111.

COMMENT: No substantive change.

Sec. 7. (IMPROVEMENTS WITHIN OR WITHOUT BOUNDARIES) The road authority of any county, town, city, village or borough may appropriate and expend such reasonable sums as it may deem proper to assist in the improvement and maintenance of roads, bridges or ferries lying beyond the boundary of and leading into such county, town, city, village or borough.

History: M. S. '57, Sec. 163.10.

COMMENT: The present law applies to counties, towns, villages, boroughs, and to cities of the 4th class. The proposed revision broadens the law so that it

applies to any city, county, town, village or borough.

Sec. 8. (CONTROLLED ACCESS) Subdivision 1. (PLANS) The road authorities of the state, counties, cities, villages and boroughs acting either alone, or in cooperation with each other, or with any federal agency, or with any other state or subdivision of another state having authority to participate in the construction or maintenance of highways are authorized to plan for the designation, establishment, location, relocation, improvement and maintenance of controlled access highways for public use whenever the road authorities determine that traffic conditions, present or future, will justify such highways.

Subd. 2. (APPROVAL OF MUNICIPALITY) Except for trunk highway routes on the interstate system, no controlled access highway shall be constructed or improved within the corporate limits of any city, village or borough unless the plans therefor shall be first approved by the governing body of the city, village or borough.

Subd. 3. (TRAFFIC CONTROL) Such road authorities are authorized to so design any controlled access highway, and to so regulate, restrict or prohibit access as to best serve the traffic for which the highway is intended. Such road authorities are authorized to divide and separate any controlled access highway into separate roadways by the construction of raised curbing, central dividing sections or other physical separations, or by designating the separate roadways by signs, markers, stripes or other devices. No person shall have any rights of ingress or egress to, from or across controlled access highways to or from abutting lands, except at the designated points or roadways thereof where access is permitted by such road authorities upon such terms and conditions as such road authorities specify.

Subd. 4. (ACQUISITION OF PROPERTY) Property rights, including rights of access, air, view and light, may be acquired by said road authorities with respect to both private and public property by purchase, gift or condemnation.

Subd. 5. (ELIMINATION OF GRADE INTERSECTIONS; ADDITIONAL ACCESS OPENINGS; COMPENSATION) Such road authorities may locate, establish and construct controlled access highways, or may designate and establish an existing street or highway as a controlled access highway. Such road authorities are authorized to provide for the elimination of grade intersections of controlled access highways with other existing streets or highways of any kind or nature whatsoever. The elimination may be accomplished by the construction of grade separations, or the construction of an outer lane as part of the controlled access highway, or by closing off streets or highways at the right of way boundary of the controlled access highway. When an outer lane is constructed, the abutting owners shall have access to the outer lane unless the petition and notice in condemnation, or the highway deed in cases of purchase, clearly specifies that the right of access to the outer lane has been acquired. After the establishment of any controlled access highway no other street or highway or private entry shall be opened into or connected with any controlled access highway without the consent and prior approval of the road authority having jurisdiction over the controlled access highway. The consent and approval shall be given only if the public interest shall be served thereby after public hearing thereon. In the case of any elimination of existing access, air, view, light or other compensable property rights, the owner shall be compensated for the loss by purchase or condemnation.

Subd. 6. (CONSTRUCTION LIMITED) None of the provisions contained herein shall be construed to limit, restrict or nullify any rights or easements

of access heretofore acquired by the state or any of its political subdivisions.

History: M. S. '57, Sec. 160.702, subs. 1 through 5.

COMMENT: Subdivision 5 of the proposed revision provides that when an outer lane is constructed the abutting owners shall have access to the outer lane unless the petition and notice in condemnation or the highway deed in cases of purchase clearly specifies that the right of access to the outer lane has been acquired. There has been some question in the past as to whether or not the widening of a controlled access highway for the purpose of building the outer lane or service road actually serves the purpose desired. There also has been a question of whether or not the access follows the new acquisition since court decisions have indicated that the easement of access acquired is on the outer edge of the right of way. The proposed revision provides specifically that if an outer lane is constructed the abutting property owners would have access to that outer lane unless the petition and notice, or deed of purchase, clearly indicates otherwise.

Subdivision 6 is entirely new. It provides that none of the provisions of this section will in any manner be construed to limit, restrict or nullify any rights or easements of access acquired by the state or any political subdivisions prior to the enactment of this section.

Sec. 9. (CHANGE OF ROAD BY COUNTY OR TOWN BOARD) Subdivision 1.

(CHANGE IN LOCATION) When the road authority of a county or town changes the location of a highway or road under its jurisdiction, the old road shall remain open until the new road is opened for travel. The old road or any portion thereof shall not revert to the abutting owners until vacated by the road authority in accordance with law.

Subd. 2. (OLD ROADS TO REMAIN OPEN) When the new road does not provide access to property whose only means of access was the old road, then and in that event, the portion of the old road providing the access shall remain open for travel and shall be maintained by the county or town road authority until other means of access are provided after which it may be vacated as provided by law.

subd. 3. (NOT TO BE VACATED IN CERTAIN CASES) When a county highway or town road is the only means of access to any property or properties containing an area or combined area of five acres or more, the highway or road shall not be vacated unless other means of access are provided.

History: M. S. '57, Sec. 160.141.

COMMENT: The present law provides that when a county road is changed, the old road shall be kept open to public travel for two years from the date of the order changing the road. Our Supreme Court interpreted this to mean that after the two-year period the old road is no longer in existence. (See: Nelson v. County Board of Nicollet County, 154 Minn. 358; 191 NW 913.) The proposed revision provides that the old road shall remain open until the new road is opened to travel. It also provides that the old road will not revert to the owner until vacated by the road authority. It further provides that in those cases where the new road does not provide access to persons whose only means of access was the old road, then in that event the portion of the old road providing such access shall remain open for travel.

The 3rd subdivision of this section provides that when a county highway or town road is the only means of access to properties containing an area of five acres or more, then such county highway or town road shall not be vacated unless other means of access is provided. The present law provides that a cartway shall be constructed to provide a means of access for tracts of land containing at least five acres. (See M. S. '57, Sec. 163.15, subd. 2)

Sec. 10. (ROADS ON MINERAL LANDS) Subdivision 1. (CHANGE OF LOCATION)

When any road, including any street within a city, village and borough, crosses mineral land and the road interferes with mining operations on the land, the owner or lessee of the land may notify the road authority of the interference and request that the road be relocated. The road authority shall, thereupon, in the manner provided by law, relocate the road so as not to interfere with the mining operations. The relocated road shall be constructed to at least the engineering standards of the old road. All right of way needed for the relocation shall be provided by the owner or lessee of the land or shall be acquired by the road authority by gift, purchase or other manner provided by law.

Subd. 2. (RIGHT OF WAY TO BE PROVIDED) When any road crosses lands other than mineral lands outside the limits of any city, village or borough, and the road interferes with the placing of buildings, structures or other improvements on the land, the road authority may relocate the road upon the request of the owner of the land; provided that the safety and convenience of public travel shall not be impaired thereby.

Subd. 3. (SURETY BOND) Before relocating the road, the road authority may require of the owner or lessee a surety bond in a sum as the road authority deems sufficient, conditioned for the payment of all damages and all costs incident to the relocation.

Subd. 4. (CONSTRUCTION OF RELOCATED ROAD) The owner or lessee may choose to construct the relocated road with his own forces or by contract, or he may elect to have the construction done by the road authority.

Subd. 5. (APPROVAL OF PLANS AND INSPECTION OF CONSTRUCTION WORK) If the owner or lessee elects to construct the relocated road, the design and plans therefor shall first be approved by the road authority. The road authority shall have the right to inspect the construction work as it progresses, and the construction work shall be approved by the road authority prior to the road being opened for travel.

Subd. 6. (DAMAGES) All damages caused by the relocation, all right of way costs and all costs of right of way acquisition, and all construction costs shall be paid by the owner or lessee requesting the relocation; provided, that if the road authority determines that the relocation shall be constructed to a greater width or to a higher standard than the old road, the road authority shall pay the additional right of way or construction costs incurred thereby.

Subd. 7. (AGREEMENTS) When any road is to be established over mineral lands, or over lands containing gravel, the road authority and the owner or lessee of such lands may enter into equitable agreements to provide for the use of the lands for road purposes and for the relocation of the road whenever the road interferes with mining operations.

History: M. S. '57, Sec. 160.231.

COMMENT: The changes incorporated in the proposed revision provide that: the relocated road be constructed to at least the engineering standards of the old road; the road authority may require a surety bond; the road authority itself will relocate the road rather than the owner or lessee of the mineral lands; and, the owner or lessee of the mineral lands may choose to construct the relocated road with his own force or by contract or may elect to have the construction done by the road authority. The proposed revision also grants permissive authority to the road authority to relocate a road when the road interferes with the placing of a building or structure on mineral land or other lands outside the corporate limits of cities, villages and boroughs.

Sec. 11. (ROAD BUILDING MATERIALS) Subdivision 1. (ACQUISITION OF LANDS) When any road authority, including any road authority of cities, villages and boroughs, shall deem it necessary for the purpose of building or repairing public roads or streets under their jurisdiction, it may procure by purchase, gift or condemnation in the manner provided by law any lands within the state containing any material suitable for road purposes together with right of way to the same on the most practicable route to the nearest public road of sufficient width to allow teams, trucks or other vehicles to pass.

Subd. 2. (SALE OF ROAD BUILDING MATERIALS) The road authorities may engage in the manufacture of crushed rock or other road building material for use on public highways. The road authorities may by agreement sell to any other road authority any sand, rock, crushed rock, gravel or other earth material suitable for road purposes, upon terms and conditions as may be mutually agreed upon by the parties.

History: Subd. 1 from M. S. '57, Sec. 160.251;
Subd. 2. from M. S. '57, Sec. 161.033.

COMMENT: The present law limits the power of the road authorities in the acquisition of lands containing road building material. The amount of land in any one tract is limited to 40 acres. In many instances it becomes necessary for the road authority to acquire two different tracts of land because of the limitation. This results in additional expense and usually results in a higher cost for the same material. The proposed revision removes the 40-acre limitation, and also provides for agreements between road authorities for the sale of any sand, rock, crushed rock or any other processed material suitable for road purposes.

Sec. 12. (TEMPORARY ROADS AROUND CONSTRUCTION) When a road authority determines that construction or maintenance work on a public highway under its jurisdiction requires a temporary road around the portion of the highway under construction or maintenance, the road authority may by order or resolution establish and construct a temporary road adequate for such purpose and procure the necessary right of way therefor in the manner provided by law.

History: M. S. '57, Sec. 160.171, subd. 1.

COMMENT: The present law provides that the road authority may establish a temporary road when necessary around a portion of a highway under construction. The proposed revision broadens that power by giving the road authority the power to establish a temporary road around a portion of a highway under construction or maintenance when such temporary road is necessary.

Sec. 13. (LIGHTING AND MARKING HIGHWAYS) Road authorities may light or mark highways and appurtenances thereon and may install other safety devices as they deem necessary in the interests of safety and convenient public travel.

History: M. S. '57, Sec. 160.211, subs. 1 and 3.

COMMENT: M. S. '57, Sec. 160.211 relates to the removal of hedges and trees. Also incorporated within that

section is the authority to light dangerous places on public highways. Under the proposed revision a separate section authorizes lighting of highways.

Sec. 14. (MARKING BOUNDARIES OF HIGHWAYS) Subdivision 1. (PLACING MARKING DEVICES) Road authorities may place suitable monuments or other marking devices in such manner as to clearly establish the boundary lines of highways. The location of the boundary markings shall be described and filed with the register of deeds in the county where the highways are located.

Subd. 2. (SERVICE OF NOTICE UPON ABUTTING LAND OWNERS) The road authority shall serve written notice of such markings upon abutting land owners within 30 days after the placement of the marking devices. Unless written objections are served and filed within one year thereafter, as hereinafter provided, the boundary lines of the highways as marked shall be final and conclusive.

Subd. 3. (RESERVATION OF RIGHTS OF ABUTTING OWNERS) Within one year after the notice, any abutting owner may serve upon the road authority written objections to the highway boundaries as marked, specifying wherein he believes the boundaries as marked to be in error. A copy thereof shall be filed with the register of deeds in the county where the highway is located. The service and filing of the objections shall preserve the rights of the abutting owner in and to the land in controversy until the boundaries of the highway are judicially determined or until agreed to by the abutting owner and the road authority.

Subd. 4. (JUDICIAL DETERMINATION) At any time after the service and filing of the objections, the road authority or the abutting owner may bring the matter on for trial in district court to have the boundary lines judicially determined. When the matters shall have been finally determined, the

highway boundaries shall be marked in accordance therewith and the boundaries shall be final. A copy of the decree shall be filed by the road authority with the register of deeds.

History: New section.

COMMENT: This section was drafted to prevent encroachment on highways. Many states mark the right of way boundaries of their highways. Such a system prevents law suits and also prevents improper use of highways. In some instances in the past the Minnesota State Highway Department, as well as many county highway departments, have found buildings constructed within the limits of their highways. In many cases the property owner constructing the building was not at fault insofar as he had made a survey to determine the limits of the highway. Such surveys made without benefit of highway boundary markings sometimes differ from the survey made by the highway department. If the road authorities have the authority to place suitable monuments or other marking devices so as to clearly indicate the right of way boundaries of highways, it will be easier for abutting property owners to develop their property without the danger of encroachment on highways.

Sec. 15. (PRESERVATION OF SECTION OR QUARTER SECTION CORNERS)

Subdivision 1. (PERMANENT MARKING OF SECTION OR QUARTER SECTION CORNERS)

Whenever the construction, reconstruction or maintenance of a public highway, including city, village or borough streets, causes the destruction or obliteration of a known section or quarter section corner marking or monument, it shall be the duty of the road authority having jurisdiction over the highway or street to provide for the permanent marking of such corners and to place reference or witness monuments so that the corners can be readily located.

Subd. 2. (MANNER OF PLACEMENT) The permanent marking of the corners and establishment of reference or witness monuments shall be in the manner following: At the exact location of the corner there shall be placed a stone, concrete or metal marker not less than four inches in diameter at the top and

not less than 18 inches deep. In the case of a paved highway there shall also be placed over the marker and in the surface of the pavement a metallic plug not less than one inch in diameter and two inches in depth.

Subd. 3. (TIME OF PLACEMENT) Reference or witness monuments evidencing the location of the corner shall be established before the obliteration of the corner in at least two places most practicable and shall consist of stone, concrete or cast-iron.

Subd. 4. (FILING OF CERTIFICATE) The engineer or surveyor placing and establishing the markers or monuments shall file a certificate to that effect in the office of the register of deeds in the county or counties wherein the markers or monuments were placed. Each certificate shall contain only the record of markers and monuments at one corner. The register of deeds may charge a fee of 50 cents for each certificate filed.

Subd. 5. (CONTENTS OF CERTIFICATE) The certificates shall be on sheets of durable paper, which sheets shall be in size 11 by 11 inches with a margin at the left for binding of one and one-half inches. The certificates shall be substantially in the following form: "I hereby certify that on the ____ day of _____ I found the _____ corner of _____ which was evidenced by _____, and I further certify that to perpetuate the location of such corner, I did at the exact location thereof place a permanent marker consisting of _____. I further certify that I established _____ reference or witness monuments consisting of _____ which reference or witness monuments are located in the manner following: _____. Dated at _____ this _____ day of _____, 19____.

_____.
Title.

Subd. 6. (COST OF PLACING MARKERS) The cost of placing the markers and monuments, including filing fees, shall be paid out of the respective funds provided by law, or set aside for highway or street purposes.

History: M. S. '57, Sec. 381.14 through 381.18.

COMMENT: Present law places the duty of preserving corners on the commissioner when trunk highways are involved, and places that duty on the counties when any other roads are involved. The proposed revision places the duty on the road authority having jurisdiction over the highway or street effecting the section or quarter section corner markings.

Sec. 16. (WARNING SIGNS AND DETOUR SIGNS) Subdivision 1. (CONTRACT TO PROVIDE FOR WARNING SIGNS) Whenever the road authorities enter into a contract for the construction or improvement of any road, culvert or bridge thereon they shall, as a condition of the contract, provide therein that the contractor shall place suitable warning signs at the highways intersecting the road so to be constructed or improved warning the public that the road under construction or improvement is impassable at a designated place or distance from the warning sign. The signs shall be placed at such places as will obviate unnecessary travel by persons not otherwise aware of the impassable condition of the roads. Nothing in the provisions of Articles I through VI shall make any town, county, or the state liable in damages for the failure of the road authorities to provide in any contract for the erection of a warning sign as is herein provided for, or the failure of any contractor to erect same in accordance herewith.

Subd. 2. (CONTRACTOR TO PLACE DETOUR SIGNS) The contractor, foreman or person in charge of work or repairs on any public road shall, when the doing of the work or repairs necessitates the closing of a part of the road to traffic, post signs stating that the road is under repair and describing the direction

and distance of the detour necessary to avoid the part of the road being repaired. The signs shall be posted at the intersection of the road under repair with the road to be traveled while detouring and at appropriate intervals along the road.

Subd. 3. (BARRICADES) The road authorities may also provide, by contract or otherwise, for the erection of barricades, fences or other obstructions so as to prevent traffic from entering any impassable section of road or a section closed to public travel.

History: Subdivisions 1 and 2 from M. S. '57, Sec. 160.161; Subd. 3 from M.S. '57, Sec. 161.03, subd. 7.

COMMENT: The laws in two different chapters have been combined. Provisions covering misdemeanors have been omitted from this section of the proposed revision and are included in misdemeanor section at end of Article I.

Sec. 17. (ROAD CONSTRUCTION CONTRACTS - COUNTIES AND TOWNS)

Subdivision 1. (PLANS AND SPECIFICATIONS TO BE FILED IN CERTAIN CASES) No county or town shall contract for the construction or improvement of any road when the contract price therefor exceeds \$2500 unless the plans and specifications for the construction or improvement shall have first been made and filed with the county auditor in cases of county and county state-aid highways or with the town clerk in cases of town roads.

Subd. 2. (ADVERTISEMENT FOR BIDS) No county or town road contract for construction or improvement exceeding \$2500 shall be let without first advertising for bids in a newspaper of general circulation published in the county where the construction or improvement is proposed to be done. The advertisement shall be published once a week for three successive weeks, the last publication to be made at least 10 days before the time fixed for receiving bids and letting the contract. It shall specify, generally, the work

to be done, the place where the plans and specifications are on file, and the time and place of receiving bids and awarding the contract.

Subd. 3. (FINAL PAYMENT) Final payment shall not be made on any contract for road work by any county or town board until the engineer or person in charge of the work has certified to the county board or the town board, as the case may be, that the work has been done and performed according to contract and the certificate shall have been filed in the office of the county auditor or town clerk.

Subd. 4. (MISDEMEANORS) Any county auditor or any town clerk who issues a warrant or an order in final payment upon a road contract where the amount involved in the contract exceeds the sum of \$200 before the certificate provided for in subdivision 3 shall have been filed shall be guilty of a misdemeanor.

History: Subdivision 1 from M. S. '57, Sec. 160.301;
Subd. 2 is taken largely from M. S. '57, Sec. 164.22;
and Subds. 3 and 4 are taken from M.S.'57, Sec.160.311.

COMMENT: No substantive change.

Sec. 18. (ACCESS TO ROADS) Subdivision 1. (CULVERT TO BE FURNISHED ON EXISTING HIGHWAYS) Except when the easement of access has been acquired, the road authorities as to highways already established and constructed shall furnish one substantial culvert to an abutting owner in cases where the culvert is necessary for suitable approach to such highway.

Subd. 2. (APPROACHES TO NEWLY ESTABLISHED HIGHWAYS) Except when the easement of access has been acquired, the road authorities in laying out and constructing a new highway or in relocating an old highway shall construct suitable approaches thereto within the limits of the right of way where the approaches are reasonably necessary and practicable, so as to provide abutting owners a reasonable means of access to such highway.

History: Takes the place of M.S. '57, Sec. 160.241.

COMMENT: M. S. '57, Sec. 160.241 provides that, except where the easement of access has been acquired, the road authority shall provide suitable access to a road and install culverts where they are reasonably necessary. Such a law could be interpreted to mean that the road authority must provide a suitable approach to a highway on demand of the abutting property owner, whether it is practicable or not. In certain instances the cost of providing suitable access to property could be more than the value of the entire property. The proposed revision provides that in cases where a highway is already established and constructed the road authority shall furnish a substantial culvert where it is necessary for suitable approach to such highway, except where the easement of access has been acquired. It also provides, except when the easement of access has been acquired, that the road authority in laying out and constructing a new highway shall construct suitable approaches where they are necessary and practicable so as to provide abutting owners a reasonable means of access to such highway.

Sec. 19. (RAILROAD TO CARRY HIGHWAY DRAINAGE ACROSS ITS RIGHT OF WAY) When a road authority constructs a drainage ditch to drain a highway over lands acquired for that purpose and the ditch crosses the right of way of any railroad, it shall be the uncompensated duty of the railroad company upon demand of the road authority to forthwith carry the ditch under and across its right of way.

History: M. S. '57, Sec. 160.181, subd. 13.

COMMENT: No substantive change.

NOTE: The other portions of Sec. 160.181 are omitted from the proposed revision.

Sec. 20. (AGRICULTURAL DRAINAGE) Subdivision 1. (CONNECTING DRAINS TO HIGHWAY DRAINS) When the course of natural drainage of any land runs to a highway, the owner of the land shall have the right to enter upon the highway for the purpose of connecting his drain or ditch with any drain or ditch constructed along or across the highway, but before making the connections he

shall first obtain a written permit for the connections from the road authority having jurisdiction. The connections shall be made in accordance with specifications set forth in the permits. The road authority shall have power to prescribe and enforce reasonable rules and regulations with reference to the connections. The highway shall be left in as good condition in every way as it was before the connection was made.

Subd. 2. (CONSTRUCTING TILE DRAIN ACROSS HIGHWAY) If any person desires during construction or reconstruction of a highway to install a tile drain for agricultural benefits in a natural drainage line in lands adjacent to any highway, and if a satisfactory outlet cannot be secured on the upper side of the right of way and the tile line must be projected across the right of way to a suitable outlet, the expense of both material and labor used in installing the tile drain across the roadbed shall be paid from funds available for the roads affected provided the road authority is notified of the necessity of the tile drain in advance of the construction of the roadbed so that the drain may be placed and the roadbed constructed in the same operation.

History: M. S. '57, Sec. 160.191.

COMMENT: The only change is the requirement that the road authority be notified in advance of the necessity of a tile drain so that the drain may be placed and the roadbed constructed during the same operation.

Sec. 21 (SNOW REMOVAL) Subdivision 1. (AGREEMENTS) Road authorities, including road authorities of cities, villages and boroughs, may contract with each other for the construction and maintenance of, or removal of snow from, any or all highways under their supervision. Such road authorities may also contract with any agency or political subdivision of the state, including but not limited to school districts and public sanitoriums, for the removal of snow from publicly owned lands thereof.

Subd. 2. (REMOVAL FROM PRIVATE PROPERTY) The road authority of any county or town may remove snow from private property upon payment of not less than the cost thereof when such snow removal does not unduly delay or interfere with the removal of snow from public highways under its jurisdiction.

Subd. 3. (DISPOSITION OF MONEY) All money received for snow removal shall be paid into the respective funds provided by law, or set aside, for highway or street purposes.

Subd. 4. (EMERGENCY SNOW REMOVAL) Any road authority including road authorities of cities, villages and boroughs may remove snow from any road or highway in cases of emergency.

Subd. 5. (DEEMED EMPLOYEES OF HIRING AUTHORITY) All persons while engaged in snow removal shall be deemed for all purposes the employees of the road authority hiring them.

History: M. S. '57, Sec. 160.291; M. S. '57, Sec. 161.03, subd. 30; M. S. '57, Sec. 366.26.

COMMENT: This section combines several sections relating to snow removal. It provides that the road authorities may contract with each other for the construction, maintenance and removal of snow from highways under their supervision. It also grants the road authorities the power to contract with any agency or political subdivision of the state for the removal of snow from publicly owned lands.

Subdivision 2 provides that the road authority of any county or town may remove snow from private property upon payment of the cost thereof when the snow removal does not unduly delay or interfere with the removal of snow from public highways. The counties and towns under the present law have the power to remove snow from private property without any limitation other than payment therefor.

Subdivision 4 provides that any road authority may remove snow from any road in case of emergency. In the past there has been delay by reason of no express authority in the statutes allowing a road authority to remove snow in case of emergency from highways not under its jurisdiction.

Sec. 22.(TREES) Subdivision 1. (PLANTING OF TREES) Road authorities may plant and tend trees and shrubs along highways in rural areas in a manner so as to protect the highways from drifting snow. In like manner, with the written consent of the abutting landowner, trees and shrubs may be planted and tended outside the limits of the highways.

Subd. 2. (CONSENT FOR REMOVAL) The trees and shrubs shall not thereafter be removed without the consent of the road authority.

Subd. 3. (ACQUISITION OF TREES AND HEDGES) The road authorities may acquire by purchase, gift or condemnation all trees and hedges within the limits of a highway. Thereafter if the road authority determines that the trees and hedges acquired within the limits of a highway under its jurisdiction interfere with the safety and convenience of public travel thereon, or interfere with the construction, reconstruction or maintenance thereof, it may cut and remove the trees and hedges without notice, and may dispose of the trees and hedges in such manner as it deems proper.

Subd. 4. (REMOVAL OF TREES AND HEDGES NOT ACQUIRED BY ROAD AUTHORITIES) When the trees and hedges have not been acquired, the road authority may cut and remove trees and hedges from within the limits of highways under its jurisdiction when the road authority determines that the trees and hedges interfere with the maintenance or reconstruction of the highway or interfere with the safety and convenience of public travel thereon.

Subd. 5. (HEARINGS) Prior to ordering the cutting and removal of trees and hedges not acquired, the road authority shall fix a time and place

of hearing to consider the cutting and removal of such trees and hedges. The owners of the abutting land shall be given written notice of the hearing at least ten days prior to the date fixed therefor. At the hearing the abutting owners shall be given the opportunity to be heard.

Subd. 6. (NOTICE OF DETERMINATION) After the hearing the road authority shall serve notice upon the abutting owners of its determination as to the trees and hedges. A copy of the order or resolution shall be attached to the notice.

Subd. 7. (APPEAL FROM DETERMINATION TO REMOVE) Any abutting owner may, within 30 days from the receipt of the notice required in subdivision 6, appeal to the district court from the determination by filing with the clerk of the court a notice of appeal, together with a bond of not less than \$500, approved by the court, conditioned to pay all costs arising from the appeal in case the determination of the road authority is sustained. The notice of appeal shall state the grounds thereof and a copy shall be forwarded to the road authority. The appeal shall be entered upon the court calendar for trial at the next general term of court, and either party shall be entitled to a jury trial.

Subd. 8. (DISPOSITION OF TIMBER AND WOOD) If no appeal is taken, or if upon appeal the road authority's determination is sustained, the road authority may cut and remove the trees and hedges. The timber and wood thereof shall belong to the abutting owners, and the road authority shall cause the wood and timber to be placed upon the abutting owner's property adjacent to the highway, doing no unnecessary damage to such property. In case the abutting owner notifies the road authority that he does not want the timber or wood, the road authority shall dispose of the wood and timber in such manner as it deems proper.

Subd. 9. (REMOVAL OF TREES BY ABUTTING OWNER) No person shall cut or remove trees or hedges acquired by the road authority unless the road authority shall have first consented to the cutting or removal.

History: Subdivisions 1 and 2 from M. S. '57,
Sec. 160.201; remaining subds. from M. S. '57,
Sec. 160.211.

COMMENT: Subdivision 1 provides for the planting of trees outside the limits of the highway with the consent of the abutting property owner. Subdivision 2 provides that if trees are planted with the consent of the owner, they shall not be thereafter removed without the consent of the road authority. Subdivision 2 is not part of the present law. The remaining proposed subdivisions modify the existing law to a great extent.

The present law provides that trees and shrubs may only be cut and removed from the limits of the right of way when they interfere with the keeping of surfaces in good order or cause snow to drift and accumulate upon the road. It further provides that after a determination is made to cut down the trees, the road authority must notify the owner to remove the trees. If the owner fails, then the road authority may remove the trees, after another notification to the abutting owner to remove the same from the right of way limits within 30 days. If the timber and wood are not removed within such time, the road authority may remove the trees and must then sell the timber and pay over the proceeds to the owner after deducting the cost of cutting and sale. The present law, of course, also provides for an appeal by the owner from any determination of the road authority.

The proposed revision provides that the road authority may acquire the trees within the limits of the highway by purchase, gift or condemnation. It provides that thereafter if such trees interfere with the safety or convenience of public travel or interfere with the construction, reconstruction or maintenance of highways, the road authority may remove the trees without notice to the abutting property owner. It further provides that if the trees or hedges have not been acquired by the road authority and the road authority determines that the trees must be removed, a hearing will be had on the determination and the abutting owner shall be given an opportunity to be heard. It provides for service of the determination of the road authority on the abutting owner after the public hearing and provides for a method of appeal by the abutting owner to the district court.

Much of the trouble can be avoided if the road authority acquires the trees and hedges within the limits of the highway. The state highway department has been following this practice for a period of years and thereby has avoided the necessity of serving notice upon the abutting property owner. It has also avoided the time consuming method of ordering the owner to cut the trees, the wait of 30 days and thereafter removing the trees and attempting to sell the wood and timber. The method set up in this section gives the property owner at least as much protection as the old section and will provide an economical and practical method of handling this problem.

Sec. 23. (DESTRUCTION OF NOXIOUS WEEDS) Road authorities, including road authorities of cities, villages and boroughs, shall cause all noxious weeds on their respective highways and streets to be cut down or otherwise destroyed or eradicated as often as may be necessary to prevent the ripening or scattering of seed and other propagating parts of such weeds.

History: M. S.'57, Sec. 20.09.

COMMENT: In the present statutes this particular section of the law is not included within the highway provisions. Since it imposes a duty upon the road authorities to remove weeds on highways and streets, it is incorporated in the highway laws by this proposed revision.

Sec. 24. (LOGGING RAILROADS ACROSS HIGHWAYS) Subdivision 1. (PERMISSION TO LOCATE) The road authorities may grant to the owner of any logging railroad permission to locate, construct and maintain a logging railroad across any highway under their jurisdiction.

Subd. 2. (CONTENTS OF PERMIT) The permit shall specify the place at which such railroad shall cross the highway, the time during which it may be maintained thereon, which shall in no case exceed five years, the manner of its construction and maintenance, and the measures that shall be taken for the protection of the highways and of the public using the highways.

Subd. 3. (CONTROL BY ROAD AUTHORITY) The construction and maintenance of the railroad crossing shall be under the supervision and control of the road authority granting the permit.

Subd. 4. (REMOVAL FROM HIGHWAY) The person to whom the permit is granted shall, at the expiration of the time therein limited or at such earlier time as the crossing is no longer necessary, remove the railroad therefrom and restore the highway to such condition as the authority granting the permit shall require.

Subd. 5. (SURETY BOND) Every person to whom the permit is granted shall execute and deliver to the road authority granting the permit a good and sufficient surety bond in such sum as shall be fixed by the road authority granting the permit, conditioned for the compliance with and performance of all of the terms and conditions of the permit and of this section.

History: M. S. '57, Sec. 161.14 through 161.17.

COMMENT: The four sections of the present law have been incorporated into one section with five subdivisions. The proposed revision is shorter by reason of the removal of superfluous language. There has been no substantive change except that the authority to grant permits has been extended to include town boards.

Sec. 25. (TUNNELS UNDER HIGHWAYS) Subdivision 1. (PERMIT TO CONSTRUCT) The road authorities may permit any owner or lessee of land abutting both sides of a highway to tunnel under the highway for such purposes as the owner or lessee deems desirable in utilizing the lands. The tunnel and appurtenances thereto shall be constructed and maintained so as not to endanger or unduly inconvenience the public in the use of the highway and, except as hereinafter provided, shall be constructed by the owner or lessee at his expense.

Subd. 2. (CONTENTS OF PERMIT) The permit shall specify the location, size, kind, design, manner of construction of the tunnel and such safeguards for the traveling public that the road authority deems necessary. All tunnels, bridges and appurtenances thereto shall be constructed in accordance with the permit.

Subd. 3. (TUNNEL TO BE MAINTAINED BY ROAD AUTHORITY) Any tunnel constructed as provided in this section under any highway shall be maintained by the road authority having jurisdiction over the highway.

Subd. 4. (AGREEMENTS FOR CONSTRUCTION AND MAINTENANCE) When any road authority determines that the construction of such tunnel is necessary for the safety and convenience of public travel, it may construct and maintain the tunnel, or it may enter into agreements with the abutting landowners for the equitable division of the costs of the construction.

History: M. S. '57, Sec. 160.221.

COMMENT: The present law covers many matters which should be divided into subdivisions. By exclusion it does not give the state highway department the power to construct a tunnel at the expense of the state even though a tunnel would be necessary for the safety and convenience of public travel. The state has constructed tunnels at its own expense where necessary. There is definitely a question whether or not it has this power. The present law also provides that when a public road is not on a section or sectional subdivision line and a tunnel is constructed under it, the tunnel shall be maintained by the property owner for the first year and thereafter maintained by the road authority. Under the proposed revision any tunnel constructed under any highway shall be maintained by the road authority. The present law only gives authority to construct a tunnel under roads for the purpose of permitting cattle to pass from one side to the other. The proposed revision is broader insofar as it authorizes tunnels for purposes for which the land owner deems desirable in utilizing lands lying on either side of the road.

Sec. 26. (MOVING BUILDINGS OVER HIGHWAYS) Subdivision 1. (TO BE MOVED WITHOUT UNNECESSARY INTERFERENCE) Buildings or structures moved or caused to be moved upon, across or along any road or street, including city, village or borough streets, shall be moved in such manner as not to unnecessarily interfere with, damage or destroy any bridges, trees, hedges, fences, telephone or electric power poles, wires, cables, or any appurtenance upon the road or street.

Subd. 2. (PERMIT) Buildings or structures together with the vehicle or vehicles moving same of a size or weight exceeding the maximums specified in Chapter 169 and acts amendatory thereto shall not be moved or caused to be moved upon, across or along any road or street without first obtaining a written permit therefor from the road authority including road authorities of cities, villages and boroughs having supervision over such road or street. The county board as to highways under its jurisdiction may authorize the county engineer to issue the permits.

Subd. 3. (SURETY BOND) The road authority, as a condition to granting the permit, may require a surety bond in such sum as it deems necessary conditioned for the payment of all damages caused by the moving of the structures or buildings over the roads or streets.

Subd. 4. (COST OF REMOVING FENCES, POLES ETC.) No person, firm or corporation shall be required to displace or temporarily remove his or its fences, poles, wires, cables or other appurtenances to permit the moving of any building or structure upon, along or across the road or street, nor shall guard rails and appurtenances placed upon the road or street be displaced or moved for like reason until the reasonable cost of the displacement, removal and replacement shall have been paid or tendered.

Subd. 5. (NOT TO APPLY TO ROAD BUILDING OR MAINTENANCE EQUIPMENT) The provisions of this section shall not apply to road building or maintenance equipment while operating on a road or street under construction or maintenance.

History: M. S. '57, Sec. 160.281.

COMMENT: The present law provides that no person shall move any building or structure upon, across or along any public road in such manner as to obstruct traffic without first obtaining a permit. It appears that a permit is unnecessary until after a highway is obstructed and the damage done. The proposed revision provides that no building or structure, together with the vehicle moving same, of a weight or size

exceeding the maximums specified in the Highway Traffic Regulations Act shall be moved over, across or along a public road without first obtaining a permit. It also provides that the county board as to roads under its jurisdiction may authorize the county engineer to issue the permits. Road building and maintenance equipment are excepted from the provisions of this section.

Sec. 27. (PARTICULAR USES OF RIGHT OF WAY AND MISDEMEANORS) Sub-division 1. (PUBLIC NOTICES) With the approval of the proper road authority, billboards for the use and purpose of displaying public notices only may be erected within the limits of any public highway, including city, village or borough streets.

Subd. 2. (BENCHES AND SHELTERS FOR PERSONS WAITING FOR STREET CARS AND BUSES) Benches and shelters for the convenience and comfort of persons waiting for street cars or buses may be placed and maintained within the limits of any street or highway, including streets and highways within cities, villages and boroughs, when a license or permit therefor is first obtained from the road authority. The owners may place advertising on the benches if authorized by the license or permit. The benches shall not be placed or maintained on the portion of the highway or street prepared and maintained for vehicle traffic.

Subd. 3. (OUTDOOR TELEPHONE BOOTHS) Outdoor telephone booths may be placed and maintained within the limits of any public highway, including city, village or borough streets, when authorized by a written permit issued by the proper road authority.

Subd. 4. (MISDEMEANORS) Except for the actions of the road authorities, their agents, employees and contractors in carrying out their duties imposed by law or contract, and except as hereinbefore provided, it shall be unlawful to:

- (1) Obstruct any highway;
- (2) Plow or work the right of way of any highway;

- (3) Dig any holes in any highway;
- (4) Remove any earth, gravel or rock from any highway;
- (5) Obstruct any ditch draining any highway or drain any noisome materials into any ditch;
- (6) Place or maintain any building or structure within the limits of any highway;
- (7) Place or maintain any advertisement within the limits of any highway;
- (8) Paint, print, place or affix any advertisement or any object within the limits of any highway;
- (9) Deface, mar, damage or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guard-rails, drains or any other highway appurtenance on or along any highway;
- (10) Remove, injure, displace or destroy right of way markers, or reference or witness monuments, or markers placed to preserve section or quarter section corners;
- (11) Improperly place or fail to place warning signs and detour signs as provided by law;
- (12) Drive over, through or around any barricade, fence or obstruction erected for the purpose of preventing traffic from passing over a portion of a highway closed to public travel or to remove, deface or damage any such barricade, fence or obstruction.

Violations hereof shall be prosecuted by the county attorney of the county where the violations occur. Any person convicted of such violations shall be guilty of a misdemeanor.

Subd. 5. (REMOVAL OF UNAUTHORIZED ADVERTISEMENTS, BUILDINGS OR STRUCTURES IN OR ON A PUBLIC HIGHWAY) The road authorities may take down, remove or destroy any advertisement, building or structure in or upon any highway in violation of this section.

History: Subdivision 1 is from M. S. '57, Sec. 160.271, subd. 3; Subd. 2 is from M. S. '57, Sec. 160.271, subd. 3; Subd. 3 is from M. S. '57, Sec. 160.271, subd. 3; Subd. 4 is from M. S. '57, Sec. 160.161, Sec. 160.271 and Sec. 161.03, subd. 7; Subd. 5 is from M. S. '57, Sec. 160.271, subd. 3.

COMMENT: The present law has misdemeanor provisions scattered in various sections. The specified exceptions are also scattered as may be seen from the history set forth after this section. The exceptions are difficult to find since they are obscured within long subdivisions setting forth unlawful acts. The proposed revision authorizes in separate subdivisions certain specified acts that are necessary and that would otherwise come within the prohibitions set forth in subdivision 4.

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ARTICLE II

DEPARTMENT OF HIGHWAYS AND TRUNK HIGHWAY SYSTEM

Section 1. (DEFINITIONS) For the purposes of Article II the terms defined in Article I, Section 2 shall have the same meaning.

History: New.

COMMENT: In the present highway law definitions appear only in Chapter 160. There is no reference in the other chapters to the definitions contained in Chapter 160. The proposed revision of Section I will incorporate the definitions contained in Article I.

Sec. 2. (DEPARTMENT CONTINUED) The department of highways is continued under the supervision and control of the commissioner of highways who shall have and exercise the rights and powers and perform the duties prescribed by law.

History: M. S. '57, Sec. 161.01

COMMENT: No substantive change.

Sec. 3. (COMMISSIONER OF HIGHWAYS) Subdivision 1 (OFFICE CREATED)
The office of commissioner of highways is created. He shall be appointed by the governor with the consent of the senate for a four year term and until his successor is duly appointed and qualifies. During his term of office the commissioner shall be subject to removal by the governor only for malfeasance or nonfeasance in office, and shall be entitled to written notice of any such charges against him and allowed a reasonable opportunity to be heard thereon. Any vacancy in the office of commissioner shall be filled for the unexpired portion of the term.

Subd. 2. (SURETY BOND) Before entering upon the duties of his office the commissioner shall give bond to the State of Minnesota to be approved by the governor and filed with the secretary of state in the sum of \$50,000 conditioned for the faithful performance of his duties. If a surety bond is given, the premium thereon may be paid from the trunk Highway fund. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of the commissioner in the performance of his official duties may maintain an action on the bond for the recovery of damages so sustained.

Subd. 3. (OFFICIAL SEAL) The commissioner shall have an official seal with which he shall authenticate his official acts. There shall be engraved on the margin thereof the words "Commissioner of Highways - State of Minnesota" and in the center thereof the same device as is engraved on the great Seal of the State.

Subd. 4. (DEPUTY COMMISSIONER) The commissioner may appoint a deputy who shall serve in the classified service of the state. The deputy may perform and exercise every power, duty and responsibility imposed by law upon the commissioner when so authorized by the commissioner.

Subd. 5. (CONFIDENTIAL SECRETARY) The commissioner may appoint a confidential secretary who shall be in the unclassified service. He shall serve at the pleasure of the commissioner. His salary shall be fixed by the commissioner; provided that his salary shall not exceed \$9600 per annum.

Subd. 6. (ORGANIZATION OF DEPARTMENT) Subject to other applicable laws, the commissioner may organize the department and employ such assistants, officers, employees and agents as he deems necessary to carry out the duties of his office and the functions of the department, provided that there shall be one assistant commissioner in the classified service who

shall be a registered professional engineer. He may delegate to such assistants, officers, employees and agents any of his powers, duties and responsibilities, subject however to his supervision and control and under such conditions as he may prescribe.

Subd. 7. (SALARIES AND EXPENSES) All salaries and expenses connected with the department of highways shall be paid from the trunk highway fund, and such moneys as are necessary therefor are appropriated out of the trunk highway fund.

Subd. 8. (OFFICE TO BE IN CITY OF ST. PAUL) The commissioner shall maintain his office in the city of St. Paul.

History: M. S. '57, Sec. 161.02.

COMMENT: The present law contains matter that is unnecessary and obsolete. For example, the present law provides that bookkeepers shall not receive an annual salary of more than \$3,000; stenographers are not to receive an annual salary of more than \$1,500; and the total annual expenses of the highway department, exclusive of outside employees and assistants, shall not exceed the sum of \$150,000 per year. Obviously these provisions are obsolete. In one paragraph of subdivision 3 (M. S. '57, Sec. 161.02) of the present law reference is made to an assistant and a second assistant. Nowhere else is reference made to a second assistant. These various obsolete and unnecessary provisions have been deleted in the proposed revision.

The proposed revision includes the pertinent provisions of M. S. '57, Sec. 161.02. The section is divided into a number of subdivisions for clarification purposes. It provides for the appointment of a deputy commissioner in the classified service of the state and also provides for the appointment of an assistant commissioner of highways who shall be a registered professional engineer in the classified service. It further gives the commissioner authority to appoint a confidential secretary.

Sec. 4. (TRUNK HIGHWAY FUND) Subdivision 1. (COMPOSITION) The trunk highway fund shall consist of 62 per cent of the net highway user tax distribution fund as provided in Article XVI of the constitution; the proceeds

of the sale of any bonds authorized by Article XVI of the constitution; money received from the federal government as aid in the construction and maintenance of trunk highways; and any other money otherwise allotted, appropriated or legislated therefor.

Subd. 2. (INVESTMENT OF THE TRUNK HIGHWAY FUND) Upon the request of the commissioner, moneys in the trunk highway fund shall be invested by the state board of investments in the class of securities specified in Section 11.01 of the 1953 Minnesota Statutes and acts amendatory thereto. All interest and profits from such investments shall be credited to the trunk highway fund. The state treasurer shall be the custodian of all securities purchased under the provisions of this section.

History: M. S. '57, Sec. 160.411, subd. 1 and subd. 5.

COMMENT: Subdivisions 2, 3 and 4 of the present law have been omitted. These subdivisions provide for a sinking fund. Since its amendment in 1957 Article XVI of the constitution does not require a trunk highway sinking fund. Such a fund no longer serves a useful purpose and is not included in the proposed revision. The present law provides that money in the trunk highway fund may be invested upon request of the commissioner, the state treasurer and the state auditor. Since the commissioner of highways, from a practical standpoint, determines the moneys that should be invested, the proposed revision provides that the money shall be invested upon the request of the commissioner.

Sec. 5. (TEMPORARY LOANS) Subdivision 1. (LOANS FROM OTHER PUBLIC FUNDS) For the purpose of providing sufficient money in the trunk highway fund to meet the state's share of highway projects financed in part by federal funds, the state treasurer may borrow from other public funds a sum not exceeding in the aggregate the amount of federal aid allotted to the construction of trunk highways under project appropriation by the federal government. No fund shall be so impaired thereby that all proper demands thereon cannot be met.

Subd. 2. (INTEREST) All such loans shall bear interest at the average rate that the state treasurer has realized from the investment of surplus cash.

Subd. 3. (CERTIFICATE) Before the state treasurer shall make any such loan, the commissioner shall file with the state auditor and the state treasurer a certificate showing the amount of disbursements from the trunk highway fund which are to be repaid to the state by the federal government.

Subd. 4. (FEDERAL AID TO BE PAID TO STATE TREASURER) All funds received from federal aid allotted to the construction, reconstruction or maintenance of trunk highways shall be paid to the state treasurer and credited to the trunk highway fund.

Subd. 5. (REPAYMENT OF MONEYS BORROWED) When there is sufficient money in the trunk highway fund, the state treasurer shall transfer therefrom to such other public fund the amount of the loan together with interest thereon.

History: Subdivisions 1, 2, 4 and 5 are from M. S. '57, Sec. 160.241; Subd. 3 is from M. S. '57, Sec. 160.435.

COMMENT: Section 5 includes M. S. '57, Sections 160.241 and 160.435. The present law, specifically Sec. 160.421, has several provisos, and is confusing by reason of the lack of subdivisions. The proposed revision will clarify the meanings.

Sec. 6. (CONTINGENT FUND) Subdivision 1. (AMOUNT) The state auditor and the state treasurer are authorized and directed to make available to the department of highways out of moneys in the state treasury appropriated for trunk highway purposes the sum of \$5,000, or such lesser amount as the commissioner may request, to be used by said department as a contingent fund,

subject to such rules and regulations for its use as may be prescribed by the commissioner of administration.

Subd. 2. (USE) The commissioner may use the moneys in the contingent fund for trunk highway purposes in facilitating and expediting the business of the department of highways, particularly in the handling of garnishments, emergency labor payrolls, expense accounts of employees and in departmental litigation, and all acts of the commissioner heretofore performed in the use of the fund are in all things recognized and confirmed.

History: M. S. '57, Sec. 161.035.

COMMENT: No substantive change.

Sec. 7. (MANNER OF PAYMENTS) Subdivision 1. (ABSTRACT FOR PAYMENT) In all cases of payments to be made as herein authorized by the commissioner out of the trunk highway fund, the same shall be made in the following manner. The commissioner shall furnish verified abstracts of the same, prepared in triplicate, one of which shall be delivered to the state auditor, one to the state treasurer and one to be retained by the commissioner of highways. The abstract shall contain the name, residence and the amount due each claimant and designate the contract or purpose for which the payment is made.

Subd. 2. (PAYMENT) The copy of the abstracts delivered to the state auditor shall be accompanied by the original voucher or vouchers, together with the proof of claim for each item included in such abstracts. If there be sufficient money in the proper fund, the state auditor shall issue his warrant upon the state treasurer for the gross amount shown by such abstract. The state treasurer shall deliver checks to the several persons entitled thereto as shown by such abstracts, and he shall preserve

in his office a record of each check and remittance showing the date of each issue, the name of the payee and any other facts tending to evidence its payment.

History: M. S. '57, Sec. 161.03, subd. 16.

COMMENT: The present law is a subdivision with two paragraphs. The subdivision is changed to a section and divided into two subdivisions. There is no substantive change.

Sec. 8. (BOOKS OF ACCOUNT) The commissioner shall keep accurate and complete books of account of such character as may be prescribed by the public examiner, the same to show in detail itemized receipts and disbursements of the trunk highway fund. The books of account shall show the following facts, among others:

(1) The expenses of maintaining the highway department, including the salaries and expenses of the individual members thereof;

(2) The amounts of money expended in each county of the state for the construction or maintenance of trunk highways, and when, where and upon what job or portion of road expended so that the cost per mile of such construction or maintenance can be easily ascertained;

(3) Any other moneys expended by the state in connection with any roads other than trunk highways and when, where and upon what portion of road so expended; and

(4) The amount of road equipment and materials purchased, and when, where and from whom purchased, and the price paid for each item. The original invoices shall form a part of the permanent files and records in the department of highways and be open to public inspection.

History: M. S. '57, Sec. 161.03, subd. 10.

COMMENT: The present law contains an additional paragraph which provides that the public examiner shall examine the books of account, and that no moneys derived from the one mill road tax shall be expended on the trunk highway system except by act of a county board to which such moneys may be allotted. There is no longer a one mill road tax. As to the reference in the present law regarding the public examiner, the same matters are contained in the chapter on the public examiner. (See M. S. '57, Sec. 215.04.)

Sec. 9. (ORDERS, FILES AND RECORDS) Subdivision 1. (COMMISSIONER TO BE CUSTODIAN) The official acts and determinations of the commissioner shall be denominated orders. The commissioner shall be the custodian of and shall preserve such orders and the records and files of the highway department. Subject to reasonable regulations, the orders, records and files shall be open to public inspection.

Subd. 2. (COPIES AS EVIDENCE) Copies of the orders, records and files, certified by the commissioner as true copies, shall be received in evidence in any court in this state with the same force and effect as the originals.

History: M. S. '57, Sec. 161.03, subd. 9.

COMMENT: The present law provides that the attorney general be ex-officio attorney for the commissioner. It is unnecessary since the attorney general is attorney for all departments. (See M. S. '57, Sec. 8.06). Other than the omission there is no substantive change although the section has been shortened substantially.

Sec. 10. (ROAD MATERIALS; REPORTS) When practicable the commissioner shall investigate and determine the location of road material in the state, ascertain the most approved methods of construction and improvement of roads, investigate the most approved laws in relation to roads in other states and hold public meetings throughout the state when deemed advisable.

On or before October 1 in each even-numbered year he shall make a printed report to the governor stating the condition, management and financial transactions of his department, including a statement of the expense incurred in maintaining such department; the number of miles of roads built or improved during the preceding two fiscal years and their cost; the general character and location of material suitable for road construction; the general character and needs of the roads of the state; and recommend such legislation as he deems advisable. The report shall be transmitted by the governor to the legislature.

History: M. S. '57, Sec. 161.03, subd. 13.

COMMENT: No substantive change.

Sec. 11. (COMPENSATION INSURANCE IN CERTAIN CASES) Subdivision 1. (COMMISSIONER MAY PROCURE INSURANCE ON OPEN MARKET) The commissioner may procure on the open market a policy of insurance covering the payment of benefits accruing under the Workmen's Compensation Act to employees of the department of highways engaged in work on highways other than trunk highways pursuant to any agreements made for such work by the commissioner with any political subdivision or agency of the state.

Subd. 2. (PAYMENT OF PREMIUM AND REIMBURSEMENT) The commissioner may pay the premiums for any said policy of insurance out of the trunk highway fund. The political subdivision or agency of the state for whom work is performed by employees of the department of highways pursuant to any agreement therefor made with the commissioner shall pay to the trunk highway fund that portion of the premium for said policy of insurance directly attributable to the work performed for it.

History: M. S. '57, Sec. 161.03, subd. 31 and subd. 32.

COMMENT: Two subdivisions have been combined into one section since they deal with the same matters. There is no substantive change.

NOTE - - The section on legislative routes being, M. S. '57, Sec. 160.451 is not repealed. It is intended that Sec. 160.451 would follow Section 11 when the Minnesota Statutes are next published.

Sec. 12. (ADDITIONAL ROUTES ADDED TO TRUNK HIGHWAY SYSTEM) To take advantage of federal aid made available by the United States to the State of Minnesota for highway purposes, the following trunk highway routes are added to the trunk highway system which routes may be referred to as the interstate system:

Route No. 390. Beginning at a point on the boundary between the states of Minnesota and Iowa, southwesterly of Albert Lea; thence extending in a general northerly direction through the city of St. Paul; thence extending in a general northeasterly direction to a point in Duluth on the boundary between the states of Minnesota and Wisconsin.

Route No. 391. Beginning at a point on the boundary between the states of Minnesota and South Dakota, westerly of Luverne; thence extending in a general easterly direction to a point on the boundary between the states of Minnesota and Wisconsin, near LaCrescent.

Route No. 392. Beginning at a point on the boundary between the states of Minnesota and North Dakota in or near Moorhead; thence extending in a general southeasterly direction through the city of Minneapolis; thence in a general easterly direction through the city of St. Paul to a point on the boundary between the states of Minnesota and Wisconsin in or near Lakeland.

Route No. 393. Beginning at a point on Route No. 392, easterly of the city of St. Paul; thence in a general southerly and westerly direction

through the city of South St. Paul; thence in a general westerly direction to a point in Eden Prairie Township, Hennepin County; thence in a general northerly direction to a point in the village of Maple Grove, Hennepin County; thence in a general easterly direction to a point on Route No. 390; thence in a general easterly, southeasterly and southerly direction to the point of beginning on Route No. 392, easterly of St. Paul.

Route No. 394. Beginning at a point on Route No. 390, southerly of the Minnesota River; thence extending in a general northerly and northeasterly direction through the city of Minneapolis; thence continuing in a northeasterly direction to a point on Route No. 390, near Forest Lake and there terminating.

History: M. S. '57, Sec. 160.475.

COMMENT: The only change is the clause allowing these routes to be referred to as the interstate system.

Sec. 13. (CONNECTING ROUTES) Subdivision 1. (CERTAIN ROUTES MAY BE ADDED) Routes conforming to the standards and in the locations hereinafter prescribed may be added to the trunk highway system by order of the commissioner so as to provide an efficient, practicable and economical method of meeting situations and conditions that may arise during the periods between legislative sessions requiring connections between trunk highways on the interstate system and other trunk highways.

Subd. 2. (LOCATION) The commissioner may establish and thereafter construct, reconstruct and maintain routes connecting a trunk highway on the interstate system with another trunk highway in the vicinity of Geneva, Medford, White Bear, Rush City, Pine City and Wyoming. If after any such connecting route has been constructed, the trunk highway or portion thereof that is one terminus of such route is removed from the trunk highway system but remains a public road, the connecting route shall remain a trunk highway.

Subd. 3. (DEFINITE AND SPECIFIC LOCATIONS AND NUMBERING LEFT TO THE COMMISSIONER) The definite and specific locations of such routes and the numbering thereof shall be fixed and determined by order of the commissioner.

Subd. 4. (NOT TO EXCEED CERTAIN LENGTHS) No such route shall exceed five miles in length, and the total length of all such routes shall not exceed twenty-five miles.

History: New.

COMMENT: As the interstate routes are constructed, connections between the interstate routes and other trunk highways will be necessary if the interstate routes are to serve fully the purposes intended. In many instances the locations of the connecting routes cannot be determined until the interstate route is in the process of being constructed. The most economical, efficient and practicable method would be to construct the connecting route at that time. This may occur during the periods between legislative sessions. Connecting routes in the vicinity of certain cities or villages should be provided for in the next session of the legislature, leaving the specific location and the numbering up to the commissioner of highways. This is provided for in Section 13 of the proposed revision. It is to be noted in subdivision 2 that it is not mandatory that the commissioner establish and construct routes in the vicinities named. Definite locations of interstate routes not completely planned for at the present time may change and a connecting route at some of the places provided for may then no longer be necessary. (See recommendation 6 in Part II of this report.)

Sec. 14. (NAMES AND DESIGNATIONS OF CERTAIN HIGHWAYS) Subdivision 1. (THE CAPITOL HIGHWAY) The following route between the city of St. Paul and the south boundary of the State of Minnesota is hereby named and designated "The Capitol Highway:"

Beginning at the intersection of University Avenue and highway No.62 in Anoka County, thence southerly along University Avenue through Minneapolis, and thence southerly along University Avenue and Robert Street through St. Paul,

thence southerly along South Robert Street through West St. Paul, to a point at or near the northeast quarter-corner of section 19, township 27, range 22, thence southeasterly and southerly to a point at or near the southeast corner of section 35, township 113, range 19, thence southerly traversing in part the line between Rice and Goodhue counties, to trunk highway No. 21, thence southeasterly on such highway to trunk highway No. 56, thence southerly on trunk highway No. 56 through Dodge Center to Constitutional Route No. 9, now marked trunk highway No. 16, thence east on Constitutional Route No. 9, now marked trunk highway No. 16, to the northeast corner of section 2, township 102, range 17, thence in a southerly direction along county state-aid highway No. 19 to the junction of statutory route No. 81, now marked trunk highway 56, thence southeasterly along statutory route No. 81, now marked trunk highway No. 56, to the junction of county state-aid highway No. 12, thence southerly along county state-aid highway No. 12 to a point on the Iowa state line near the south quarter line of section 34, township 101, range 14.

Subd. 2. (THE COLVILL MEMORIAL HIGHWAY) The following described highway shall be known as "The Colvill Memorial Highway:"

Beginning at Gaylord and running thence in an easterly direction through Lonsdale, Northfield and Cannon Falls, terminating at the city of Red Wing.

Subd. 3. (FLOYD B. OLSON MEMORIAL HIGHWAY) The following described highway shall be known as the "Floyd B. Olson Memorial Highway:"

Route No. 55, when permanently established, shall thereafter be known as the "Floyd B. Olson Memorial Highway" in addition to its statutory number.

Subd. 4. (THEODORE CHRISTIANSON DRIVE) The following route in the vicinity of Dawson is named and designated "The Theodore Christianson Memorial

Drive" in memory of the late Governor Theodore Christianson of Dawson, Minnesota, to-wit:

Beginning at a point on Constitutional Route No. 26, now marked trunk highway No. 12, at its intersection with Constitutional Route No. 66, now marked trunk highway No. 119, northerly of Appleton; thence extending in a southerly direction along Constitutional Route No. 66 to its intersection with Statutory Route No. 144, now marked trunk highway No. 119, at or near the south corporate limits of Appleton; thence extending southwesterly and southerly along said Statutory Route No. 144 to a point approximately six miles east of Madison; thence continuing southerly along present county state-aid highway No. 25 to its intersection with Constitutional Route No. 12, now marked trunk highway No. 212, at or near the westerly limits of Dawson; thence easterly along Constitutional Route No. 12 to its intersection with present county state-aid highway No. 23 in Dawson; thence continuing southerly along present county state-aid highways No. 23 and No. 11 to a point on Constitutional Route No. 48, now marked trunk highway No. 67.

Beginning at a point near the present junction of state trunk highway No. 40 and county state-aid highway No. 13 in Lac qui Parle County; thence extending in a general easterly direction along Statutory Route No. 276, now marked trunk highway No. 40 and county state-aid highway No. 20 in said county to a point at or near the Village of Lac qui Parle; thence continuing in a general easterly and northerly direction to county state-aid highway No. 33; thence continuing easterly across the Minnesota River and Dam to its intersection with state trunk highway No. 59; thence extending in a general easterly direction along state trunk highway No. 59 to the junction of state trunk highway No. 7 in the city of Montevideo; thence extending in a general easterly direction on state trunk highway No. 7 to a point at or near the city of Minneapolis and there terminating.

Subd. 5. (P. H. McGARRY MEMORIAL DRIVE) That portion of Constitutional Route No. 19, known as trunk highway No. 371, in Cass County from its south junction of Constitutional Route No. 34 to Walker is hereby named and designated as the "P. H. McGARRY MEMORIAL DRIVE."

Subd. 6. (EVERGREEN MEMORIAL DRIVE) That portion of Road No. 185, known as trunk highway No. 23 in St. Louis, Pine and Carlton Counties, is hereby named and designated as "Evergreen Memorial Drive" in memory of World War veterans of St. Louis, Pine and Carlton Counties.

Subd. 7. (PROHIBITION OF ADVERTISEMENTS) No advertisement or sign shall be displayed within a distance of 300 feet from the center of the traveled part of the Evergreen Memorial Drive, but this provision shall not apply within a municipality nor to any sign erected by public authority for the regulation of traffic nor to any advertisement or sign upon the wall of a building in which the goods advertised are offered for sale or the business advertised is conducted.

Subd. 8. (COMMISSIONER MAY REMOVE ADVERTISEMENTS) The commissioner shall remove or cause to be removed any advertisement or sign prohibited under this section.

History: M. S. '57, Secs. 160.481, 160.491, 160.501, 160.512, 160.513, and 160.511.

COMMENT: No changes made except to combine the six sections into one section of eight subdivisions and change the descriptions to conform to present markings and numbers.

Sec. 15. (SPECIFIC LOCATION; LIMITATION ON DEVIATIONS) THE commissioner may specifically and definitely locate all of the routes of the trunk highway system, but in so locating same, he shall not deviate from the starting points or terminals as set forth in the route descriptions; nor shall there be any deviation from the various villages and cities named therein through which such routes shall pass.

History: M. S. '57, Sec. 160.461.

COMMENT: The present law specifies that the commissioner may definitely locate routes enumerated in a specified section. There are other routes in another section. The proposed revision removes ambiguity by authorizing the commissioner to specifically and definitely locate all of the routes of the trunk highway system. The section has been shortened.

Sec. 16. (TEMPORARY TRUNK HIGHWAYS; DEFINITELY LOCATED TRUNK HIGHWAYS; VACATION AND REVERSION) Subdivision 1. (TEMPORARY TRUNK HIGHWAYS) Until such time as the commissioner definitely locates and constructs the several routes of the trunk highway system, he shall select practicable existing roads along the general location of such routes which he shall maintain for the benefit of the traveling public. Such roads shall be known as temporary trunk highways. The road authority which had jurisdiction over such road shall, thereupon, be relieved of responsibilities thereto; provided, however, if the definite location of the route shall be other than the location of the temporary trunk highway, the portion of the temporary locations which is not included in the definite location shall, upon notice of the commissioner, revert to the road authority unless the same lies within the corporate limits of a city, village or borough, in which case it shall become a street of the city, village or borough.

Subd. 2. (DESIGNATION AND LOCATION BY ORDER) The commissioner shall by order or orders designate such temporary trunk highways, and when he has determined the definite location of any trunk highway or portion thereof, the same shall also be designated by order or orders. The commissioner may, by order or orders, change the definite location of any trunk highway between the fixed termini, as fixed by law, when such changes are necessary in the interest of safety and convenient public travel. The commissioner shall file certified copies of such orders with the county auditor of the county wherein

such highways are located. Such certified copies shall become permanent records and shall not be removed from the office or offices wherein filed.

Subd. 3. (PUBLIC HEARING) When the county board of any county requests a public hearing in regard to the definite location or a change in the definite location of any trunk highway within its boundaries, the commissioner shall hold such hearing in such county before making his determination in such matters.

Subd. 4. (REVERSION TO ANOTHER ROAD AUTHORITY) When the commissioner shall make a change in the definite location of a trunk highway as provided herein, the portion of the existing road that is no longer a part of the trunk highway by reason of such change shall revert to the road authority originally charged with the care thereof. If such portion had its origin as a trunk highway, it shall become a county highway unless the same lies within the corporate limits of a city, village or borough, in which case it shall become a street of such city, village or borough.

Subd. 5. (DAMAGES DUE TO VACATION OF ROAD HAVING ORIGIN AS A TRUNK HIGHWAY) Damages occasioned by the vacation of any highway or street that had its origin as a trunk highway, if vacated by the county within one year after the commissioner relinquished jurisdiction thereof, shall be paid by the state out of the trunk highway fund. No award of damages determined by the county shall be made for such vacation without the concurrence of the attorney general, and no action brought to recover damages for such vacation shall be settled or otherwise disposed of without the consent of the attorney general. The attorney general may defend any action brought to recover damages for such vacation.

Subd. 6. (VACATION) When the definite location of any trunk highway takes the place of and serves the same purpose as any portion of an existing

road, however established, the commissioner may make an order vacating such portion of the road. A copy of the order shall be served upon the owners and occupants of the lands on which is located the portion of the road so vacated. A copy of the order, together with proof of service, or affidavit of publication if the owners are unknown or reside outside the state, shall be filed with the county auditor of the county in which such lands lie. Any person claiming to be damaged by the vacation may appeal at any time within 30 days after the service of the order to the district court of the county for a determination of his damages, by serving notice of the appeal on the commissioner and filing same with proof of service in the office of the clerk of the district court. The appeal shall be tried in the same manner as an appeal from an award in proceedings in eminent domain.

History: Subdivision 1 is taken in part from the first paragraph of M. S. '57, Sec. 161.03, subd. 3, and part from the second paragraph of Sec. 161.03, subd. 4 (a); Subd. 2 is taken in part from M. S. '57, Sec. 161.03, subd. 4 (a), and in part from Sec. 161.03, subd. 4 (b); Subd. 3 is taken in part from the first paragraph of M. S. '57, Sec. 161.03, subd. 4 (a); Subd. 4 is taken in part from the second paragraph of M. S. '57, Sec. 161.03, subd. 4 (a); Subd. 5 is new matter; Subd. 6 is taken from M. S. '57, Sec. 161.03, subd. 4 (b).

COMMENT: The present law is divided into subdivisions with several paragraphs contained in each. It contains a number of unrelated matters. For example, the second paragraph of M. S. '57, Sec. 161.03, subd. 3 provides that no trunk highway lying within the corporate limits of any city, village or borough shall be constructed, reconstructed or improved without the plans therefor being approved by the governing body of such city, village or borough. That particular paragraph has been omitted from the proposed revision of Sec. 16 and has been made into a separate section. (See: Section 17 of proposed revision.)

The present law only gives the commissioner of highways power to select practicable roads as temporary trunk highways on the constitutional routes. At the time that the additional routes were added by the legislature the provision that the commissioner be empowered

to select temporary locations for these additional routes was omitted. This omission has been corrected in the proposed revision. The proposed revision puts the two subdivisions into one section with six subdivisions.

The present law also provides that no change, except a minor change, in the definite location of a trunk highway shall be made without the approval and consent of the attorney general. That particular provision has been omitted.

Subdivision 5 is new matter providing that if a portion of a trunk highway that had its origin as a trunk highway (that is, an existing street or road not taken over as a trunk highway) reverts to another road authority as provided in subdivision 4, and if that road authority determines to vacate the portion within one year after the commissioner relinquished jurisdiction thereof, then any damages occasioned by such vacation shall be paid out of the trunk highway fund. It also provides that no award of damages shall be made for such vacation without the concurrence of the attorney general and also provides that the attorney general may defend any action brought to recover damages in those circumstances.

Sec. 17. (APPROVAL OF PLANS) Subdivision 1. (ROUTES OTHER THAN INTERSTATE SYSTEM) Except for routes on the interstate system, no portion of the trunk highway system lying within the corporate limits of any city, village or borough shall be constructed, reconstructed or improved unless the plans therefor shall be approved by the governing body of the city, village or borough before such work is commenced, nor shall the grade of such portion of the trunk highway system lying within such corporate limits be changed without the consent of the governing body of the city, village or borough. This section shall not be construed to limit the power of the commissioner otherwise provided by law to regulate traffic or install traffic control devices or other safety devices on trunk highways located within cities, villages or boroughs.

Subd. 2. (INTERSTATE SYSTEM) Plans and alternative plans for the construction, reconstruction or improvement of those portions of routes on the interstate system lying within the corporate limits of any city, village or borough shall be submitted for approval to the governing body of the city, village or borough before the work is commenced. If no agreement can be reached between the commissioner and the governing body as to the plans for a period of one year after submittal, and if after the year has expired the governing body refuses or neglects to approve the plans or alternative plans submitted, the commissioner may proceed with the construction, reconstruction or improvement without approval of the governing body.

History: Subdivision 1 is taken from the second paragraph of M. S. 157, Sec. 161.03, subd. 3; Subd. 2 is new.

COMMENT: Under present law no portion of the trunk highway system lying within the corporate limits of any city, village or borough can be constructed, reconstructed or improved nor the grade thereof changed without the approval of the governing body of the city, village or borough. The proposed revision provides an exception in the case of routes on the interstate system. The federal government anticipates that the routes on the interstate system will be constructed within a limited period of time. The federal government, through the Bureau of Public Roads, approves not only the plans but also as to general location of these routes. The present law, of course, gives the cities, villages or boroughs veto power whenever any trunk highway is to be constructed within its corporate limits. It is therefore probable that in certain instances an impasse may be reached with reference to the construction of an interstate highway within the corporate limits of a city, village or borough - the city may refuse to approve plans as required by the Bureau of Public Roads, and the bureau and the state highway department may refuse to go along with the demands of the city. To avoid the possible loss of federal aid in such a case, the proposed revision excludes the routes on the interstate system from the provisions of subdivision 1.

Another change has been made with the addition of the last sentence to subdivision 1. It provides that the section shall not be construed to limit the power of the commissioner of highways to regulate traffic and install traffic control devices or other safety devices on trunk highways located within a city, village or borough. (See Automatic Signal Advertising Co. v. Babcock, 166 Minn. 416; 208 NW 132, and Otten v. Big Lake Ice Co., 198 Minn. 356; 270 NW 133.)

Subdivision 2 is new. It assures that cities, villages and boroughs will be consulted in regard to the location and construction of the interstate system.

Sec. 18. (PRIOR EASEMENTS TO VEST IN STATE) When any road or highway, including any city, village or borough street or portion thereof, is taken over by the state as a trunk highway, the state as to any such road, street or highway or portion thereof, without compensation paid therefor, shall be vested with all rights, titles, easements and appurtenances thereto appertaining, held by or vested in any of the political subdivisions of the state prior to the time such road, street or highway is taken over by the state.

History: M. S. '57, Sec. 161.132 and Sec. 160.441.

COMMENT: A small change has been incorporated into the proposed section. The section now specifically includes those streets taken over from a city, village or borough. The existing law has been so interpreted, but specific mention of city, village or borough streets is not included therein.

Sec. 19. (CERTAIN RECORDS OBTAINED AND FILED) Upon the written request of the commissioner the clerk of any court, the auditor of any county, the clerk of any town, or the recorder or clerk of any city, village or borough shall furnish a copy of the proceedings, documents and plats, if any, relating to the establishment of any road or the procuring of the right of way of any road which has been or may be taken over by the state of Minnesota as a trunk

highway. The copy shall be filed in the records of the commissioner and shall be prima facie evidence of the existence of the road as described therein. The legal fee for the copies shall be paid from the trunk highway fund.

History: M. S. '57, Sec. 161.18.

COMMENT: The only change is in the last sentence. The present law provides that the legal fee for copies may be paid from the trunk highway fund. The word "may" has been changed to "shall."

Sec. 20. (GENERAL POWERS OF THE COMMISSIONER) Subdivision 1.

(TO CARRY OUT THE PROVISIONS OF CONSTITUTION) The commissioner shall carry out the provisions of Article XVI, Section 2 of the Constitution of the State of Minnesota.

Subd. 2 (ACQUISITION OF LANDS AND PROPERTIES NEEDED; BUILDINGS; STORAGE; AGREEMENTS WITH RAILROADS; CONTRACTS) He is authorized to acquire by purchase, gift or by eminent domain proceedings as provided by law, in fee or such lesser estate as he deems necessary, all lands and properties necessary in laying out, constructing, maintaining and improving the trunk highway system; to locate, construct, reconstruct, improve and maintain the trunk highway system; to purchase all road material, machinery, tools and supplies necessary for the construction, maintenance and improvement thereof; to construct necessary buildings, or rent or acquire by purchase, gift or condemnation, grounds and buildings necessary for the storing and housing of such material, machinery, tools and supplies or necessary for office space for employees; to maintain, repair or remodel such buildings as may be necessary; to contract on an equitable basis with railroad companies for the installation and reinstallation of safety devices at trunk highway-railroad grade crossings, and for the construction, reconstruction and maintenance of

bridges and approaches existing or necessary for the separation of grades at railroad and trunk highway intersections; and in carrying out his duties, to let all necessary contracts in the manner prescribed by law.

Subd. 3. (APPROPRIATIONS) The commissioner may expend trunk highway funds only for trunk highway purposes. There is appropriated annually out of the trunk highway fund the entire amount thereof or so much thereof as may be necessary for such purposes.

History: M. S. '57, Sec. 161.03, subd. 1.

COMMENT: The proposed revision divides M. S. '57, Sec. 161.03, subd. 1 into three subdivisions, and shortens and clarifies the present law. The present Sec. 161.03, subd. 1 has some clauses referring to interstate bridges; that matter has been omitted from the proposed revision since it is covered in Article VI.

The commissioner is given the power to acquire by eminent domain proceedings grounds and buildings necessary for maintenance sites. The proposed section also specifically gives the power to acquire the fee. The power to acquire the fee is implied in the eminent domain chapter. (See: M. S. '57, Sec. 117.18.)

Sec. 21. (STUDIES) The commissioner may make such studies and investigations as he deems necessary for the purpose of determining the most advantageous location of trunk highways from the standpoint of both present and future traffic needs, and in making such determinations he may take into consideration the probable future development of both urban and rural areas and the affect of such development on future traffic needs as indicated by such studies and investigations.

History: New.

COMMENT: There has been some question as to whether or not the commissioner of highways under the present law has the power to make studies with reference to

determining future traffic needs brought about by possible expansion and development of areas presently undeveloped. Since the development of areas has a tremendous impact upon highway design and location, the commissioner is given the power to take into consideration the probable future development as the same would affect the location of trunk highways.

Sec. 22. (APPRAISERS) The commissioner may employ full time appraisers on a salary basis, and until July 1, 1961 he may employ appraisers on a fee basis, for the purpose of ascertaining or estimating the costs of lands and properties needed for highway purposes. Appraisers may also be employed to make estimates whenever federal law or federal rules and regulations require estimates as a prerequisite to obtaining federal aid.

History: New.

COMMENT: The present laws granting powers to the commissioner have been interpreted as not to include the power to hire independent appraisers. Because of the manner in which federal aid funds have been used in the past, no need existed for such a power. Prior to 1956, the lump sum payments received by the state under the federal highway aid program were used entirely for construction. If the state had used a portion or all of the federal aid for right of way acquisition, it would have been required to submit cost estimates to the federal government before applying federal funds to this type of expenditure. These cost estimates would have required the state to employ additional appraisers.

The state will not be able to use the entire federal funds made available by the Federal Highway Acts of 1956 and 1958 on construction alone. Under these acts the federal government has anticipated that the federal aid for the interstate system will be paid according to a percentage of the total cost rather than a lump sum distribution. The cost of acquisition of right of way will be included in the total cost estimate. Use of federal aid for right of way, however, will require submission of cost estimates. Due to the extensive nature of the interstate system, the highway department does not have sufficient personnel with which to complete the survey of right of way costs. It will be necessary to hire additional appraisers. The Bureau of Public Roads has

indicated that appraisals made through some other state department may not be accepted. If this type of regulation is adopted, and if the State of Minnesota has not authorized the commissioner to hire independent appraisers, the state may lose several millions of dollars of federal aid. To avoid this predicament, the proposed revision empowers the commissioner to hire independent appraisers.

Sec. 23. (EXCESS ACQUISITION) Subdivision 1. (ACQUISITION OF ENTIRE TRACT) Whenever the commissioner of highways determines that it is necessary to acquire any interest in a part of a tract or parcel of real estate for trunk highway purposes, he may acquire in fee, with the written consent of the owner or owners thereof, by purchase, gift or condemnation the whole or such additional parts of such tract or parcel as he deems to be in the best interests of the state. Any owner or owners consenting to such excess acquisition may withdraw his or their consent at any time prior to the award of commissioners in the case of condemnation proceedings, or at any time prior to payment in the case of purchase. In the event of withdrawal the commissioner shall dismiss from the condemnation proceedings the portion of the tract in excess of what is needed for highway purposes.

Subd. 2. (CONVEYANCE OF EXCESS) If the commissioner of highways acquires real estate in excess of what is needed for trunk highway purposes as authorized in subdivision 1 hereof, he shall, within one year after the completion of the construction, reconstruction or improvement of the highway for which a portion of the real estate was needed and required, notify the governor that such excess real estate may be sold. The governor, in behalf of the state, after such notification may convey and quitclaim such excess real estate to the highest responsible bidder, after receipt of sealed bid following published notice of the sale for three successive weeks in a newspaper or trade journal of general circulation in the territory from which

bids are likely to be received. The deed may contain restrictive clauses limiting the use of such real estate in the interests of safety and convenient public travel when the commissioner finds that such restrictions are reasonably necessary.

Subd. 3. (LEASING) The commissioner may lease for a fair rental rate and upon such terms and conditions as he deems proper, any excess real estate acquired under the provisions of this section, and any real estate acquired in fee for trunk highway purposes and not presently needed therefor. All rents received from the leases shall be paid into the state treasury. Eighty per cent of the rents shall be credited to the trunk highway fund. The remaining twenty per cent shall be paid to the city, village, borough or township where the real estate is located.

Subd. 4. (LIMITATION ON CONSTRUCTION OF SECTION) Nothing contained in this section shall be construed to prevent the commissioner from acquiring lands, real estate, or interests in lands or real estate necessary for trunk highway purposes, without the consent of the owner or owners thereof.

History: New.

COMMENT: The proposed revision gives the commissioner of highways the power to acquire an entire tract with the consent of the owner or owners thereof when a part of the tract is necessary for trunk highway purposes. For example, if a part of lot A is necessary for highway purposes, the commissioner could acquire the entire lot A with the consent of the owner. By the same token, if no part of lot B was actually required for highway purposes, the commissioner could not acquire any of lot B. He would only be authorized to acquire lands in excess of what is needed when the owner of the tract gives his written consent. The owner may withdraw his consent to such additional lands at any time prior to the award of the commissioner in the case of condemnation proceedings or at any time prior to payment in the case of purchase. Within one year after the completion of the construction, reconstruction or improvement of the highway for which excess lands were acquired, the commissioner is required to notify the governor that the excess real estate may be sold.

There is a requirement that it will be sold on sealed bids after publishing notice for three weeks in a newspaper or trade journal of general circulation in the territory from which bids are likely to be received. The governor's deed may contain restrictive clauses limiting the uses of the land when the commissioner deems that such restrictions are in the interest of safety and convenient public travel.

The proposed section empowers the commissioner to lease not only such excess lands, but also lands and properties acquired in fee for trunk highway purposes in advance of actual construction needs.

The acquisition of an entire tract will prevent the unfortunate situation in which a farm is divided in two with no easy method of making proper use of the entire farm because of inaccessibility to the separate tracts. Especially is this so on the interstate system. The portion of a farm separated by a highway will have a limited number of buyers, and if the tracts are small, the owner will probably be at the mercy of his neighbor. Also, with a number of small tracts on one side of the highway, it may be that each individual ownership would have little value, whereas a combined tract containing these small tracts would have a substantial value.

Many damages, speculative in nature, could be avoided if the commissioner could acquire a severed portion of a farm. The owner, of course, would be paid for the value of the lands acquired.

With the power to place restrictions in a deed when excess lands are conveyed, the commissioner could prevent encroachments which may destroy the traffic potential of a highway. Prohibition of the development of auto graveyards, dumps and many other undesirable developments along the highway would preserve for the traveling public the scenic beauty. Needed facilities along our highways could be insured by restricting the use of excess lands when they are conveyed. Thus, on freeways where there will only be certain places where the traveling public can leave the highway for food, gasoline and other necessities a conveyance subject to conditions would prevent the limited areas near the highway from being utilized for undesirable purposes or for purposes not meeting the needs of the traveling public.

The Federal Highway Act of 1956 encourages the advance acquisition of right of way for the interstate system. Considering construction requirements and many other problems, the commissioner of necessity will acquire

lands in advance of construction. Considering the tremendous road-building program and the number of very valuable properties that will be acquired in advance, it would be a tremendous waste if these properties could not be leased and the facilities utilized during the period between acquisition and actual construction. Presently when the state acquires property much of that property lies vacant; the community suffers by reason of loss of tax revenue, the taxpayers are inconvenienced by reason of the fact that there is no present authorization allowing these properties to be rented. The revision provides that eighty per cent of the rents collected will be credited to the trunk highway fund and the remaining twenty per cent shall be paid to the city, village or township where the real estate is located.

Sec. 24. (CHANGES REQUIRED BY CONSTRUCTION OF TRUNK HIGHWAY)

Subdivision 1. (CHANGE OF GRADE ON INTERSECTING HIGHWAY OR STREET) When the construction or reconstruction of a trunk highway results in a change of grade which necessitates a change of grade in intersecting or connecting highways or streets, including city, village or borough streets, the cost of making the grade changes and any damages occasioned thereby shall be paid out of the trunk highway fund.

Subd. 2. (ACCESS TO ISOLATED PROPERTY) When the establishment, construction or reconstruction of a trunk highway closes off any other highway or street, including city, village or borough streets at the boundary of such trunk highway and the opposite terminal of the highway or street closed off is a cul de sac, and there are no connecting roads or streets between such cul de sac and the trunk highway, thereby isolating properties theretofore served by the highway or street closed off, the commissioner may, in mitigation of damages, construct a road either within or without the limits of the trunk highway, connecting the closed off highway or street with another public highway or street so as to provide road accessibility to such properties. All lands necessary therefor may be acquired by purchase, gift or condemnation.

Subd. 3. (MAINTENANCE) Any road so constructed outside the limits of the trunk highway shall be maintained by the road authority having jurisdiction over the highway or street closed off.

Subd. 4. (AGREEMENTS) The commissioner and the road authority affected may enter into agreements upon such terms as may be agreed upon, to provide for the construction by the road authority of such grade changes or connecting roads.

History: New.

COMMENT: The proposed revision provides that when the construction of a trunk highway necessitates a change of grade in an intersecting road or street, the cost of making such grade change and damages occasioned thereby will be paid out of the trunk highway fund. It further provides that if a trunk highway closes off another highway or street, thereby creating a cul de sac and there are no connecting roads or streets between the cul de sac and the trunk highway, then the commissioner in mitigation of damages may construct a road, either within or without the limits of the trunk highway, connecting the closed off street or highway with another public highway. The maintenance of such road shall be provided for by the road authority having jurisdiction over the highway or street closed off. The proposed section also provides for agreements between the commissioner and the other road authority to provide for the construction of such connecting road.

Sec. 25. (TEMPORARY TRUNK HIGHWAY DETOUR AND TEMPORARY TRUNK HIGHWAY HAUL ROAD) When the commissioner determines, for the purpose of constructing or maintaining any trunk highway, that any public street or highway is necessary for a detour or haul road, the commissioner may designate by order any such street or highway as a temporary trunk highway detour or as a temporary trunk highway haul road, and he shall thereafter maintain the same as a temporary trunk highway until he revokes the designation. Prior to revoking the designation the commissioner shall restore such streets or highways to as good condition as they were prior to the designation of same as temporary trunk

highways. Upon revoking the designations such streets or highways shall revert to the subdivision charged with the care thereof at the time it was taken over as a temporary trunk highway.

History: M. S. '57, Sec. 160.171, subd. 2.

COMMENT: No change.

Sec. 26. (HIGHWAY MAINTAINED ACROSS PORTION OF ADJOINING STATE)

When a state trunk highway route is so located that in order to properly connect the designated objectives it is advisable to construct and maintain the highway across a portion of an adjoining state, the commissioner is authorized to expend trunk highway funds therefor in the same manner as other expenditures for trunk highway purposes are made. No such highway or portion thereof shall be established or constructed in any adjoining state until the adjoining state shall first pass legislation consenting thereto and granting the commissioner necessary jurisdiction over the portion of the highway located in the adjoining state.

History: M. S. '57, Sec. 161.03, subd. 24.

COMMENT: The only change made is the addition of the last sentence. The sentence provides that whenever it is necessary to establish or construct a portion of a trunk highway in an adjoining state, it shall not be established or constructed until the adjoining state shall pass the necessary legislation permitting such construction and granting the commissioner jurisdiction.

Sec. 27. (TRUNK HIGHWAYS ACROSS BODIES OF WATER) Subdivision 1.

(PERMIT) The commissioner may establish, construct and maintain trunk highways into, through or across any lake and may alter and change the channel of any stream when necessary or expedient in the construction or maintenance of any trunk highway; provided that no such trunk highway improvement affecting public waters shall be made until a permit therefor is issued by the commissioner of conservation as provided by law.

Subd. 2. (ACQUISITION OF LANDS) For the purposes set forth in subdivision 1 the commissioner may acquire lands and properties or any interest therein by purchase, gift or condemnation.

History: M. S. '57, Sec. 161.034, subds. 1 and 2.

COMMENT: Section shortened. No substantive change.

Sec. 28. (ALTERATION OF PUBLIC DRAINAGE DITCH AFFECTING TRUNK HIGHWAY) Subdivision 1. (PETITION) Upon the filing of a petition by the commissioner with the county auditor in the case of a drainage system lying wholly within a county, or with the clerk of the district court having jurisdiction over the ditch in the case of a drainage system affecting two or more counties, therein setting forth that it would be advantageous or desirable in the construction or maintenance of a trunk highway to make a minor alteration or change in a public drainage system directly affecting a trunk highway and that the alteration or change will not affect the functioning or efficiency of the public drainage system, it shall be the duty of the auditor or the clerk with the approval of the judge, to fix a time and place for hearing thereon and to give notice of the hearing by publication, as defined in section 106.171. Upon the filing of the petition the commissioner shall also file a plan showing in detail the alteration or change petitioned for. If upon the hearing it appears to the county board or district court that the alteration or change in the public drainage system will not affect or impair the efficiency of the drainage system, the board or court shall make its order allowing the commissioner to make the alteration or change petitioned for. Upon the making of the order by the county board or the court, the commissioner may proceed at the sole cost and expense of the state to make the alterations or changes as may be in said order allowed, damages, if any, for any additional lands necessary for the change or

alteration being first duly paid or secured. Upon completion of the alteration or change the commissioner shall file with the auditor or clerk a map drawn to scale showing thereon the change or alteration made and shall also file a profile of all lines of the alteration or change in the ditch showing graphically the elevation of the ground and gradient, whether open or tiled, the size of tile and the bottom width and side slope of open ditch sections and such other information as may appear necessary for the understanding thereof. If the map and profile be filed with the clerk, duplicates thereof shall also be filed with the auditor of each county affected. Upon the completion of the alteration or change herein provided for, the ditch shall thereafter include such alteration or change as a part thereof with the same force and effect as though it had been originally so constructed and established.

Subd. 2. (RECOVERY OF DAMAGES) Within six years after completion of any alteration or change as provided in this section, any owner or owners of lands in the drainage system claiming damages by reason of the alteration or change may bring an action in the district court of the county in which the lands are located to compel the commissioner to pay damages, if any, caused by the alteration or change.

History: Subdivision 1 from M. S. '57, Sec. 106.492;
Subd. 2. from M. S. '57, Sec. 106.493.

COMMENT: No substantive change.

Sec. 29. (TOLL BRIDGE MAY BE PART OF TRUNK HIGHWAY SYSTEM) When the commissioner determines that it is in the best interests of the public and necessary in the location, construction, improvement or maintenance of any trunk highway, he may designate by order as a part of the trunk highway system any toll bridge situated wholly within the state, and he may acquire

by purchase, gift or condemnation, as provided by law, the necessary rights or easement in, to or over any such toll bridge as will enable the public to use the bridge for highway traffic free of toll.

History: M. S. '57, Sec. 161.05.

COMMENT: Present law limits this section to temporary trunk highways. The only change is to broaden it to include all trunk highways.

Sec. 30. (MARKING DESIGN) Subdivision 1. (COMMISSIONER TO ADOPT)

The commissioner shall adopt a suitable marking design with which he shall mark or blaze the trunk highway routes, and as the definite final location of each route is opened to traffic the markings shall be changed to such location.

Subd. 2. (REVISION AND CONSOLIDATION OF MARKING AND NUMBERING OF ROUTES) In order to coordinate the markings of the various existing routes, together with the new routes which have been or may be added, and in order to avoid duplication in numbers used on interstate routes, the commissioner may revise and consolidate the marking and numbering of the routes within the system from time to time. When the commissioner does so revise the marking or numbering he shall prepare a map showing the existing routes and identifying numbers and the routes and identifying numbers or design of the revised system. This map shall be authenticated by a certificate of the commissioner certifying the same as being the map showing the revised markings under the provisions of this section. This map and certificate shall be filed in the office of the commissioner and thereafter shall govern the identification of the several routes or portions thereof in the trunk highway system and all proceedings, records and accounts thereafter shall be governed accordingly. Proceedings pending and under way at the time such map is filed shall cite both the old and the new identifications.

History: M. S. '57, Sec. 161.03, subd. 5.

COMMENT: The subdivision of present law divided into two subdivisions under one section. No other change.

Section 31. (MAPS AND PAMPHLETS) Subdivision 1. (MAPS) The commissioner shall annually publish a map showing the location and status of improvements of the trunk highway system.

Subd. 2. (PAMPHLETS) The commissioner may print and distribute pamphlets containing information pertaining to the trunk highway system. The pamphlets shall be limited to information as to the location and use of trunk highway routes, the location and proper use of clover leaf intersections, speed laws and traffic restrictions, the meaning and use of traffic control devices and directional signs and other information that will contribute to safer and more convenient use of trunk highways through increased knowledge and better understanding of the traveling public. He may use other means of communication to disseminate such information when such other means are more practical and efficient.

History: Subdivision 1 from M. S. '57, Sec. 161.03, subd. 8; Subd. 2 New.

COMMENT: Subdivision 1 is taken from the present law, and there are no substantive changes. Subdivision 2 is new and provides for the dissemination of information regarding the trunk highway system. The additional authority is necessary by reason of the changing design and construction methods. It is purely an educational device to instruct in the proper use of the trunk highways.

Sec. 32. (MANNER OF CONDUCTING WORK ON TRUNK HIGHWAY) Subdivision 1. (ADVERTISEMENTS FOR BIDS) The commissioner may conduct the work or any part thereof incidental to the construction and maintenance of the trunk highways by labor employed therefor or by contract. In cases of construction work, the commissioner shall first advertise for bids for contracts, and if no satisfactory bids are received, he may either reject all bids and readvertise, or do the work by labor employed therefor. Except as hereinafter provided, when

work is to be done under contract, he shall advertise for bids once each week for three successive weeks prior to the date such bids are to be received. The advertisement for bids shall be published in a newspaper or other periodical of general circulation in the state. The plans and specifications for the proposed work shall be on file in the commissioner's office prior to the first call for bids.

Subd. 2. (EMERGENCIES) In cases of emergency, contracts may be let without advertising for bids. Emergency is defined as a condition on a trunk highway that necessitates immediate work in order to keep such highway open for travel. No such contract shall be let without advertising for bids except upon the written authority of the commissioner or his deputy.

Subd. 3. (REPAIR AND RESTORATION OF TRUNK HIGHWAYS DAMAGED BY SPRING BREAK-UP) Contracts may be let for the repair and restoration of trunk highways damaged by spring break-up upon advertisement for bids and publication thereof in a newspaper or periodical of general circulation for a period of one week prior to the date such bids are to be received, and upon the mailing of such advertisements to all contractors who have filed a written request therefor.

History: M. S. '57, Sec. 161.03, subd. 6.

COMMENT: In the proposed revision a separate section is provided and divided into three subdivisions. All of the matter contained in the proposed draft is presently in a single subdivision. The proposed revision clarifies and shortens the present law. It also requires the plans and specifications to be filed in the commissioner's office before the first call for bids. The provisions relating to relief work in the present law have been eliminated in the proposed revision.

Sec. 33. (EMPLOYEES NOT TO BE INTERESTED IN CONSTRUCTION CONTRACTS)

It shall be unlawful for any member or employee of the department of highways to be directly or indirectly interested in any contract for the construction or improvement of any public road or bridge, or in any contract for the repair,

purchase or sale of any road machinery, equipment, materials or supplies to be used thereon. Any person violating any of the foregoing provisions shall be guilty of a gross misdemeanor.

History: M. S. '57, Sec. 161.03, subd. 15.

COMMENT: No substantive change.

Sec. 34. (CLAIMS AGAINST THE STATE ARISING OUT OF CONTRACT)

Subdivision 1. (WAIVER OF IMMUNITY) When a controversy arises out of any contract for the construction or repair of state trunk highways entered into by the commissioner or by his authority, in respect to which controversy a party to the contract would be entitled to redress against the state, either in a court of law or equity if the state were suable, and when no claim against the state for the same redress has heretofore been made, the state hereby waives immunity from suit in connection with such controversy and confers jurisdiction on the district courts of the state to hear and try the controversy in the manner provided for the trial of causes in the district courts. Only a party to the contract shall have the right to bring action against the state.

Subd. 2. (WHEN ACTION MAY BE COMMENCED) No such action shall be maintained unless commenced within 90 days after the plaintiff has been furnished by the state with a final estimate under his contract, or, at the election of the plaintiff, within six months after the work provided for under his contract shall have been in all things completed.

Subd. 3. (WHERE ACTION MAY BE BROUGHT) The action shall be brought at the election of the plaintiff in the district court of Ramsey county, or in the district court of the county where a major portion of the contract is performed, or in the district court of the county in which the plaintiff resides, or, if there be several plaintiffs residing in different counties, then in the

district court of the county of the residence of any one of them. The action shall be commenced by filing a complaint with the clerk of the court and serving summons and copy of the complaint upon the attorney general of the state at the state capitol. The state shall have 40 days from the date of such service within which to serve an answer upon the plaintiff, and thereafter the case shall proceed in the same manner as other actions at law in the court.

Subd. 4. (APPEAL TO SUPREME COURT) An appeal from any final order of judgment in such action shall lie to the supreme court of the state in the same manner as appeals in ordinary civil actions.

History: Subdivision 1 from M. S. '57, Sec. 161.03, subd. 17; Subd. 2 from M. S. '57, Sec. 161.03, subd. 18; Subd. 3 from M. S. '57, Sec. 161.03, subd. 19; Subd. 4 from M. S. '57, Sec. 161.03, subd. 20.

COMMENT: The present law has been interpreted to allow a party to a contract for the construction or repair of a trunk highway to bring action against the state. It has been generally held that a subcontractor having no privity of contract with the state could not bring an action on the contract. Subdivision 1 of the proposed revision clarifies any ambiguity in the present law by providing specifically that only a party to a contract shall have the right to bring action against the state. In subdivision 2 the same thought is carried out. In subdivisions 3 and 4, there are no substantive changes.

Sec. 35. (REGISTERED, PROFESSIONAL ENGINEERS EMPLOYED BY COMMISSIONER)

Until July 1, 1961 the commissioner is authorized to employ and engage the services of registered professional engineers, or engineering firms, to act as consultants in connection with and to prepare plans and specifications or to perform aerial photography and survey work preliminary to the preparation of plans and specifications themselves or by their organizations and employees for the construction of trunk highways, and the commissioner is authorized to negotiate for and agree upon the terms and compensation for such employment and services. If the commissioner employs and engages an engineering firm,

the person or persons in responsible charge of the work or services to be performed shall be registered professional engineers.

History: M. S. '57, Sec. 161.24.

COMMENT: Two subdivisions are combined. Present law will only continue in force until July 1, 1959. In the proposed revision the provisions of this section will continue in force until July 1, 1961. There is no other substantive change.

Sec. 36. (FEDERAL AID) Subdivision 1. (COMMISSIONER TO COOPERATE WITH THE U. S. GOVERNMENT) The commissioner may cooperate with the government of the United States and any agency or department thereof in the construction, improvement and maintenance of roads and bridges in the state of Minnesota and may comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such roads and bridges.

Subd. 2. (FEDERAL AID, ACCEPTANCE; COMMISSIONER AS AGENT) The commissioner may accept federal moneys and other moneys, either public or private, for and in behalf of the State of Minnesota or any governmental subdivision thereof, for the construction, improvement or maintenance of roads and bridges upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and is authorized to act as an agent of any governmental subdivision of the State of Minnesota upon the request of such subdivision in accepting the moneys in its behalf for road or bridge purposes, in acquiring right of way therefor, and in contracting for the construction, improvement or maintenance of roads or bridges financed either in whole or in part by federal moneys. The governing body of any such subdivision is authorized to designate the commissioner as its agent for such purposes and to enter into an agreement with him prescribing the terms and conditions of the agency in accordance herewith and with federal laws, rules and regulations.

Subd. 3. (COMMISSIONER AS AGENT IN CERTAIN CASES) The commissioner may act as the agent of any political subdivision of the state as provided herein for the construction of roads and bridges toward the construction of which no federal aid is available in the event that such construction shall adjoin or be connected with construction upon which federal aid is available and upon which he is then acting as agent.

Subd. 4. (STATE LAWS TO GOVERN) All contracts for the construction, improvement or maintenance of roads or bridges made by the commissioner as the agent of any governmental subdivision shall be made pursuant to the laws of the State of Minnesota governing the making of contracts for the construction, improvement and maintenance of roads and bridges on the trunk highway system of the state; provided, where the construction, improvement or maintenance of any road or bridge is financed wholly with federal moneys, the commissioner as the agent of any governmental subdivision may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder, notwithstanding any state law to the contrary.

Subd. 5. (FUNDS TO BE DEPOSITED IN STATE TREASURY) All moneys accepted for disbursement by the commissioner pursuant to this section shall be deposited in the state treasury and, unless otherwise prescribed by the authority from which the money is received, kept in separate accounts designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are appropriated for the purposes for which the same were made available to be expended in accordance herewith and with federal laws and regulations. The commissioner may, whether acting for the State of Minnesota or as the agent of any of its governmental subdivisions, or when requested by the United States government

or any agency or department thereof, disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

Subd. 6. (NO PERSONAL LIABILITY CREATED) Nothing in this section shall be construed as creating any personal liability upon the commissioner or in any way authorizing him to create any liability on the part of the State of Minnesota when he is acting as the agent of any governmental subdivision thereof, or when he is acting at the request of the United States.

History: Subdivision 1 is from M. S. '57, Sec. 161.03, subd. 25; Subd. 2 is from first paragraph of M. S. '57, Sec. 161.03, subd. 26; Subd. 3 is from second paragraph of M. S. '57, Sec. 161.03, subd. 26; Subd. 4 is from M. S. '57, Sec. 161.03, subd. 27; Subd. 5 is from M. S. '57, Sec. 161.03, subd. 28; Subd. 6 is from M. S. '57, Sec. 161.03, subd. 29.

COMMENT: No substantive change.

Sec. 37. (SURPLUS GOVERNMENT MATERIALS) Subdivision 1. (COMMISSIONER MAY ACCEPT) The commissioner may accept from the federal government allotments to the state of excess materials suitable for road construction and maintenance purposes.

Subd. 2. (COSTS INCURRED IN OBTAINING MATERIALS) Costs incurred in receiving, placing in use, delivering or purchasing spare parts for excess materials shall be paid out of the trunk highway fund; provided that any expense so incurred in receiving, delivering or purchasing spare parts for the material in behalf of any county shall be paid by the county, and payment received therefor shall be credited to the trunk highway fund.

History: M. S. '57, Sec. 161.04.

COMMENT: The proposed revision shortens the present law and broadens the authority to include any federal excess materials.

Sec. 38. (TRUNK HIGHWAYS IN MUNICIPALITIES, CONSTRUCTION AGREEMENTS, IMPROVING TRUNK HIGHWAYS TO GREATER THAN NORMAL WIDTH) Subdivision 1. (AGREEMENTS) Road authorities, including the road authorities of any city, village or borough, may enter into an agreement with the commissioner for the construction of a roadway or structure of greater width or capacity than would be necessary to accomodate the normal trunk highway traffic upon any trunk highway within its boundaries, and may appropriate from any funds available and pay into the trunk highway fund such sums of money as may be agreed upon. Nothing herein contained shall prevent any city, village or borough from constructing the portions of the street not included in the trunk highway system independent of any contract with the commissioner; provided the construction conforms to the reasonable regulations as the commissioner may prescribe as to grade and drainage.

Subd. 2. (MAINTENANCE AGREEMENTS) Where a trunk highway is located over or along a street in any city, village or borough which street is or may be improved to a width greater than the normal width of such trunk highway, the road authority of the city, village or borough may enter into an agreement with the commissioner for the maintenance of the additional width by the commissioner and shall in accordance with the agreement appropriate and pay into the trunk highway fund such sums of money as may be agreed upon. Nothing herein contained shall be construed to prevent any city or village maintaining such additional width at its own expense independent of any contract with the commissioner.

Subd. 3. (CONSTRUCTION AND MAINTENANCE AGREEMENTS) The commissioner for and on behalf of the state may enter into agreements with municipalities for the construction, improvement and maintenance of trunk highways within the

limits of said municipalities, including but not limited to agreements for the construction and maintenance of frontage roads upon and along trunk highways within the limits of said municipalities, and the municipalities are authorized to enter into such agreement with the commissioner for the performance and responsibility of the work upon such terms as may be agreed upon.

Subd. 4. (LETTING OF PUBLIC CONTRACT BY COMMISSIONER DEEMED TO COMPLY WITH STATUTORY OR CHARTER PROVISIONS REQUIRING CITY, VILLAGE OR BOROUGH TO DO CERTAIN THINGS) Whenever the road authority of any city, village or borough enters into an agreement with the commissioner pursuant to subdivisions 1 or 2 for the construction or maintenance of a roadway or structure of greater width or capacity than would be necessary to accommodate the normal trunk highway traffic, and a portion of the cost is to be assessed against benefited property, the letting of a public contract by the commissioner for the work shall be deemed to comply with statutory or charter provisions requiring the city, village or borough (1) to advertise for bids before awarding a contract for a public improvement, (2) to let the contract to the lowest responsible bidder, and (3) to require a performance bond to be filed by the contractor before undertaking the work. The contract so let by the commissioner and the performance bond required of the contractor by the commissioner shall be considered to be the contract and bond of the city, village or borough for the purposes of complying with the requirements of any applicable law or charter provision, and the bond shall inure to the benefit of the city, village or borough and operate for their protection to the same extent as though they were parties thereto.

Subd. 5. (DEFINITION OF "MUNICIPALITIES") For the purpose of this section the term "municipalities" shall include counties, cities, villages, boroughs and towns.

History: M. S. '57, Sec. 160.531.

COMMENT: No substantive change.

Sec. 39. (AID TO OTHER DEPARTMENTS) Subdivision 1. (TECHNICAL AND ENGINEERING ASSISTANCE, SURVEYS AND PLANS) Upon request of any road authority, including the road authority of any city, village or borough, the commissioner may provide technical and engineering advice, assistance and supervision to the road authority and may make surveys and prepare plans for the location, construction and reconstruction of any highway, street, road or bridge under the jurisdiction of the requesting road authority.

Subd. 2. (ADDITIONAL WORK) If so requested he may examine the whole or any part of the highway or street system under the jurisdiction of the road authority and recommend changes, alterations or additions thereto that he deems to be in the public interest and in the interest of safety and convenient public travel. The commissioner may make surveys, studies, investigations and perform work and services as are necessary in carrying out such requests.

Subd. 3. (ENGINEERING OR SURVEY SERVICES FOR STATE DEPARTMENTS) The commissioner shall render engineering or surveying services as the governor may require for any of the state departments or agencies.

Subd. 4. (PAVEMENT MARKING) The commissioner may pavement mark highways and streets off the trunk highway system and furnish the necessary equipment and operators therefor when any road authority, including road authorities of cities, villages, boroughs and state department or agencies

having jurisdiction over such highways or streets requests such pavement marking.

Subd. 5. (PAYMENT FOR SERVICES) The cost of the work or services performed under the provisions of this section shall be paid by the road authority, department or agency for which the work or services were performed. All money received therefor shall be credited to the trunk highway fund.

Subd. 6. (AGREEMENTS REGARDING SERVICES) The road authorities, including road authorities of cities, villages and boroughs, state departments or agencies may enter into agreements with the commissioner setting forth the work or services to be performed by the commissioner under the provisions of this section and providing for the method of reimbursement to the trunk highway fund of the cost thereof.

History: Subdivisions 1, 2, 3, and 5 from M.S. '57, Sec. 161.03, subd. 12; Subd. 4 from M. S. '57, Sec. 161.031; Subd. 6 is new.

COMMENT: The interpretation that has been placed on present Sec. 161.03, subd. 12 limits its application to counties and other state agencies. The proposed revision applies to cities, villages, boroughs and towns as well as counties and state agencies.

Subdivision 6 provides for agreements as to work and payment. Under the proposed revision all services to be provided within this section by the highway department would be paid for by the requesting road authority, state department or agency receiving the services. There is presently some ambiguity as to whether or not other state departments or agencies could reimburse the trunk highway fund for work performed under present law.

Sec. 40. (SURPLUS PROPERTY NOT NEEDED FOR TRUNK HIGHWAY PURPOSES)

Subdivision 1. (COMMISSIONER MAY DECLARE SURPLUS) The commissioner is authorized to declare as surplus any property acquired by the state for highway purposes, excluding real estate, which he determines by order to be no longer needed or necessary for state highway purposes.

Subd. 2. (DETERMINATION OF VALUE OF SURPLUS PROPERTY AND TRANSFERENCE)

The order shall direct that the value of the surplus property shall be determined, subject to the approval of the commissioner, by the district engineer in whose district the property is located, and shall authorize the district engineer to transfer the possession of the property to any state agency, or political subdivision of government or to the United States upon receipt of payment therefor in the amount so determined.

Subd. 3. (MONEY RECEIVED TO BE CREDITED TO TRUNK HIGHWAY FUND) Money received under this act shall be deposited by the district engineer with the state treasurer and credited to the trunk highway fund.

History: M. S. '57, Sec. 161.23.

COMMENT: No substantive change.

Sec. 41. (LEASING OR SALE OF SOUNDING AND TESTING EQUIPMENT) The commissioner may sell or lease to other road authorities sounding and testing equipment made by the highway department. Such equipment shall be sold for not less than the cost to the department. All money received from the sale or leasing of the equipment shall be paid into the trunk highway fund.

History: New.

COMMENT: The proposed section authorizes the commissioner to sell or lease to other road authorities sounding and testing equipment made by the highway department.

Sec. 42. (RELINQUISHMENT OF HIGHWAY EASEMENTS) The governor, in behalf of the state and upon recommendation of the commissioner of highways, may relinquish and quitclaim to the fee owner any easement or portion thereof owned but no longer needed by the state for trunk highway purposes, upon repayment to the state of at least the amount of money paid for the acquisition thereof. Whenever less than the easement as originally acquired is to be

relinquished and quitclaimed, the amount of moneys so to be repaid to the state shall not be a less proportion of the consideration paid therefor by the state than the proportion of the part so to be relinquished and quitclaimed bears to the easement as originally acquired. In determining the amount to be repaid, the estimated amount of money paid by the state for any improvement acquired in the original easement and not included in the reconveyance, and the estimated amount of money paid by reason of damages to remaining portions of the tract, if any, not mitigated by the reconveyance, shall first be subtracted from the total consideration paid by the state for the original easement.

History: M. S. '57, Sec. 161.061, subd. 1

COMMENT: The proposed revision removes certain ambiguities contained in Sec. 161.061, subd. 1. The present law provides that whenever less than the easement as originally acquired is to be relinquished and quitclaimed, the amount of money to be repaid to the state shall not be a less proportion of the consideration paid therefor by the state than the proportion of the part to be relinquished and quitclaimed bears to the easement as originally acquired. A new sentence has been added providing that the estimated amount of money paid by the state for any improvement acquired and not reconveyed, and the estimated amount of money paid by reason of damages to remaining portions of the tract, if not mitigated by reconveyance, shall first be subtracted from the total consideration paid by the state for the original easement. With this change there is no longer any possibility that a property owner receiving a reconveyance would be required to pay a proportionate share of the improvements on the land when acquired but not included in the reconveyance.

Sec. 43. (RELINQUISHMENT OF LANDS OWNED IN FEE) Subdivision 1.

(CONVEYANCE) The governor, in behalf of the state and upon recommendation of the commissioner, may convey and quitclaim any lands, including any improvements thereon, owned in fee by the state for trunk highway purposes but no longer needed therefor.

Subd. 2. (RECONVEYANCE WHEN REMAINDER OF TRACT OWNED BY VENDOR OR SURVIVING SPOUSE) If the lands were part of a larger tract and the remainder of the tract is still owned by the person or his surviving spouse from whom the lands were acquired, or if the lands constituted an entire tract, the lands shall first be offered for reconveyance to such previous owner or his surviving spouse. If the lands constitute an entire tract, the amount of money to be repaid therefor shall not be less than the amount paid by the state for such tract less the estimated value of any improvements acquired by the state not included in the reconveyance. If less lands than originally acquired are offered for reconveyance, the amount of money to be repaid therefor shall not be a less proportion of the consideration paid by the state than the proportion of the part so to be reconveyed bears to the entire property as originally acquired. In determining the amount to be repaid the estimated amount of money paid by the state for any improvements acquired in the original easement and not included in the reconveyance, and the estimated amount of money paid by reason of damages to remaining portions of the tract, if any, not mitigated by the reconveyance shall first be subtracted from the total consideration paid by the state for the original acquisition. The offer shall be made by registered mail addressed to such person at his last known address. Such person or his surviving spouse shall have 60 days from the date of mailing said offer to accept and to tender to the commissioner the required sum of money.

Subd. 3. (CONVEYANCE WHEN REMAINDER OF TRACT NO LONGER OWNED BY VENDOR OR SURVIVING SPOUSE) If the lands were part of a larger tract and the remainder of the tract is no longer owned by the person or his surviving spouse from whom the lands were acquired, the lands shall be offered for conveyance

to the person owning the remaining tract in the same manner and on the same terms as provided in subdivision 2.

Subd. 4. (CONVEYANCE WHEN REMAINDER OF TRACT HAS BEEN DIVIDED INTO SMALLER TRACTS) If the lands were part of a larger tract and if the tract has been platted or divided into smaller tracts and sold, the commissioner may offer the lands to the owners of the smaller tracts or lots abutting upon the lands in the same manner and on the same terms as provided in subdivision 2, or he may proceed to sell the lands to the highest responsible bidder or convey the lands to a political subdivision or agency of the state as provided in subdivisions 5 and 6.

Subd. 5. (CONVEYANCE TO HIGHEST BIDDER IN CERTAIN CASES) If the larger tract has been platted into lots or divided into smaller tracts and the commissioner elects to proceed under this subdivision, or if the lands constituted an entire tract and the person from whom the lands were acquired and his spouse are deceased, or if the offers as provided for are not accepted and the amount of money not tendered within the time prescribed, the lands may be sold and conveyed to the highest responsible bidder upon three weeks published notice of such sale in a newspaper or other periodical of general circulation in the general area where the lands are located. All bids may be rejected and new bids received upon like advertisement.

Subd. 6. (CONVEYANCE TO POLITICAL SUBDIVISIONS OR AGENCIES OF THE STATE) In lieu of the advertisement for sale and conveyance to the highest responsible bidder, the lands may be conveyed for public purposes to any political subdivision or agency of the state upon such terms and conditions as may be agreed upon between the commissioner and the political subdivision or agency.

Subd. 7. (RECEIPTS PAID INTO TRUNK HIGHWAY FUND) All moneys received from the sale of such lands and properties shall be paid into the trunk highway fund.

History: M. S. '57, Sec. 161.061, subds. 2 and 3.

COMMENT: The proposed revision completely changes the present law. It provides for the reconveyance of lands owned by the state in fee but no longer needed for trunk highway purposes to the original owner or his surviving spouse if they still own the remainder of the tract or if the lands acquired by the state constituted the entire tract. It provides for the amount of money to be paid but eliminates the possibility of the purchaser being required to pay for improvements not reconveyed or for damages not mitigated by such reconveyance.

It provides further that if the lands to be reconveyed were part of a larger tract and they are no longer owned by the person or his surviving spouse who owned the lands when the state acquired them, then the lands shall be offered to the person presently owning the remainder of the tract.

Subdivision 4 provides that if the lands were part of a larger tract and if the tract has been divided into smaller tracts and sold, then the commissioner may offer such lands to the owners of such smaller tracts or lots abutting upon the land to be reconveyed.

Subdivision 5 provides that the commissioner may sell the lands no longer needed to the highest responsible bidder if the lands so to be conveyed were part of a larger tract and that tract has been divided into smaller tracts. It also provides that in the event that none of the offers provided for in this section are accepted, then any such lands may be sold to the highest responsible bidder.

Subdivision 6 provides that in lieu of advertising and sale to the highest responsible bidder under the conditions set forth in subdivision 5, the lands may be conveyed for public purposes to political subdivisions or agencies of the state.

Sec. 44. (PUBLIC UTILITIES AND WORKS ON TRUNK HIGHWAYS) Subdivision 1.

(PUBLIC UTILITIES MAY BE PLACED ON TRUNK HIGHWAYS IN ACCORDANCE WITH RULES AND REGULATIONS) Except as otherwise provided in this section, electric transmission,

telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat or gas mains, flumes or other structures which, under the laws of this state or the ordinance of any village or city, may be constructed, placed or maintained across or along any trunk highway, or the roadway thereof, by any person, persons, corporation, or any subdivision of the state, may be so maintained or hereafter constructed only in accordance with such regulations as may be prescribed by the commissioner who shall have power to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining along, across or in any such trunk highway of any of the utilities hereinbefore set forth. Nothing herein shall restrict the actions of public authorities in extraordinary emergencies.

Subd. 2. (NOT TO BE PLACED OR ALLOWED TO REMAIN IF FEDERAL FUNDS WILL BE WITHHELD) Neither publicly owned nor privately owned utility facilities shall be placed or allowed to remain within the limits of a highway to be financed in whole or in part by federal funds when the grant of such funds will be withheld if the facilities are placed or allowed to remain within the limits of the highway.

Subd. 3. (NOT TO BE PLACED ON INTERSTATE SYSTEM WITHOUT CONSENT OF COMMISSIONER) No such facilities shall be placed within the limits of any route forming a part of the interstate system without the consent of the commissioner.

History: Subdivision 1 from M. S. '57, Sec. 161.13;
Subds. 2 and 3 are new.

COMMENT: Subdivision 2 provides that utility facilities shall not be placed or allowed to remain within the limits of a highway financed with federal funds when federal funds will be withheld if the facilities are placed or allowed to remain within the limits of the highway.

Subdivision 3 provides that no utility facilities will be placed within the limits of any route on the interstate system without the consent of the commissioner.

Sec. 45. (REIMBURSEMENT OF UTILITIES) § bdivision 1. (DEFINITIONS)

For the purposes of this section the following terms shall have the meanings ascribed to them:

(1) "Utility" means all publicly, privately and cooperatively owned systems for supplying power, light, gas, telegraph, telephone, water, pipeline or sewer service if such systems be authorized by law to use public highways for the location of its facilities.

(2) "Cost of relocation" means the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

Subd. 2. (RELOCATION OF FACILITIES; PROVISION FOR REIMBURSEMENT)

Whenever the commissioner shall determine that the relocation of any utility facility is necessitated by the construction of a project on the routes of federally-aided state trunk highways, including urban extensions thereof, which routes are included within the National System of Interstate Highways, the owner or operator of such utility facility shall relocate the same in accordance with the order of the commissioner. After the completion of such relocation the cost thereof shall be ascertained and paid by the state out of trunk highway funds; provided, however, the amount to be paid by the state for such reimbursement shall not exceed the amount on which the federal government bases its reimbursement for said interstate system.

History: Subdivision 1 is from M. S. '57, Sec. 161.131;
Subd. 2 is from M. S. '57, Sec. 161.134.

COMMENT: Subdivision 1, the definition of "public property" is not included in the proposed revision of this section since it appears in Definitions, Article I. Other than that, the proposed revision does not change the present law.

Sec. 46. (HIGHWAY PATROL) Subdivision 1. (DUTIES, NUMBER) The commissioner is hereby authorized to employ and designate not to exceed 297 persons and a chief supervisor, and such assistant supervisors and sergeants as hereinafter provided, who shall comprise the Minnesota Highway Patrol. The members of the Minnesota Highway Patrol shall have the power and authority:

(1) As peace officers to enforce the provisions of the law relating to the protection of and use of trunk highways.

(2) At all times to direct all traffic on trunk highways in conformance with law, and in the event of a fire or other emergency, or to expedite traffic or to insure safety, to direct traffic on other roads as conditions may require notwithstanding the provisions of law.

(3) To serve warrants and legal documents anywhere in the state in cases initiated by a member of the Minnesota Highway Patrol for offenses committed on trunk highways.

(4) To serve orders of the commissioner or his duly authorized agents issued under the provisions of the Drivers License Law, the Safety Responsibility Act, or relating to authorized brake and light testing stations, anywhere in the state and to take possession of any license, permit or certificate ordered to be surrendered.

(5) To conduct drivers license examinations anywhere in the state when specifically so directed by the commissioner.

(6) To inspect official brake and light adjusting stations.

(7) To make appearances anywhere within the state for the purpose of conducting traffic safety educational programs and school bus clinics.

(8) Upon all trunk highways the same powers with respect to the enforcement of laws relating to crimes, as sheriffs, constables and police officers have within their respective jurisdictions so far as may be necessary for the protection of life and property upon such trunk highways.

(9) Under instructions and regulations of the commissioner said employees shall cooperate with all sheriffs and other police officers, and to that end are authorized to exercise the powers herein conferred upon all trunk highways and, for the purpose of continuing pursuit from such trunk highways of offenders thereon, upon all public highways connecting and traversing such trunk highways, provided that said employees shall have no power or authority in connection with strikes or industrial disputes.

(10) To assist and aid any peace officer whose life or safety is in jeopardy.

Employees thus employed and designated shall subscribe on oath and furnish a bond running to the State of Minnesota, said bond to be approved and filed in the office of the secretary of state.

Subd. 2. (FINES AND FORFEITED BAIL MONEY) All fines and forfeited bail money from traffic and motor vehicle law violations collected from persons apprehended or arrested by such employees shall be paid into the state treasury by the justice of the peace or such other person or officer collecting such fines, forfeited bail money or installments thereof, within 15 days after the last day of the month in which such moneys were collected, and shall be credited to a separate fund hereby established for that purpose. Out of such fund shall first be paid to counties all costs and expenses incurred by them in the prosecution and punishment of persons so arrested and for which such counties have not been reimbursed by the payment of such costs and expenses by the person prosecuted, and so much of the fund as shall be necessary for the making of such reimbursement is hereby appropriated therefor.

Such payment shall be made by the state treasurer upon the claim of the county verified by the county auditor but no claim shall be made exceeding the amount provided in Chapter 641, Section 641.11 or Section 641.13 for board and lodging of a prisoner. All costs or participation in a nation-wide police communication system chargeable to the State of Minnesota shall also be paid from such fund. On the first day of each calendar month the money remaining in such fund, not needed for the purposes specified in this subdivision, shall be credited to that part of the trunk highway fund which is set apart for maintenance purpose; and so much of the maintenance fund as shall be necessary for the salaries and maintenance of such employees is hereby appropriated for that purpose.

Subd. 3. (SALARIES) (1) Commencing July 1, 1957, each such employee other than the highway safety director, chief supervisor, assistant supervisors and sergeants hereinafter designated shall be known as patrol officers, each of whom shall receive a basic salary of not less than \$355 per month and shall receive an annual raise of \$10 per month for each succeeding year of employment, such terms of employment to be computed from commencement of employment by such individual employee; except as provided herein for longevity the basic salary of no patrol officer shall exceed the sum of \$405 per month.

(2) The salary of the chief supervisor shall be \$750 per month.

(3) There may be appointed one chief assistant supervisor who shall receive a salary of \$590 per month; two assistant supervisors who shall receive a salary of \$550 per month; nine assistant supervisors who shall receive a salary of \$510 per month; and there may be appointed 15 sergeants, each of whom shall receive a salary of \$470 per month. The supervisors and sergeants shall be appointed by law and have such duties as the commissioner of highways may direct and shall be selected from the patrol officers, sergeants and supervisors who shall have had at least five years experience as either patrol officers, sergeants or supervisors.

(4) The salaries established herein are basic rates of pay for the state employees enumerated and shall be placed in effect by the commissioner on July 1, 1957. The highway safety director, supervisors, sergeants and patrolmen authorized by this act shall each receive the sum of \$3 per day subsistence while engaged in the performance of duty, and in addition thereto shall be reimbursed for all expenses necessarily incurred by them in excess of \$3 per day subsistence while engaged in performance of duty.

(5) Salaries provided by this subdivision shall be increased at the rate of \$10 per month for each employee who has completed ten years of service, and at the rate of an additional \$10 per month for each employee who has completed 20 years of service.

(6) Every person employed hereunder shall be subject to the terms and provisions of Laws 1935, Chapter 254, and acts amendatory thereto.

(7) In addition to the complement now authorized by law, the commissioner is authorized to employ and designate a highway safety director who shall supervise and coordinate the activities of the Minnesota Highway Patrol and the drivers license division and perform such other duties as the commissioner may prescribe. He shall have all the powers, duties and rights of a highway patrol member. His salary shall be \$850 per month.

Subd. 4. (TRAINING PROGRAMS) The commissioner may provide training programs for the purpose of obtaining qualified personnel for the highway patrol. Persons accepted by the commissioner of highways for training under such training program shall be designated highway patrol trainees and shall receive a salary not to exceed \$200 per month during the period of such training; and there is hereby appropriated out of the trunk highway fund a sufficient sum of money to carry out the provisions of this section. Nothing contained in

this subdivision shall be construed to prevent the commissioner from providing in-service training programs for highway patrol officers.

Subd. 5. (DISCHARGE OF PATROLMAN) Every person employed and designated as a state highway patrolman under and pursuant to the provisions of this section, after six months of continuous employment, shall continue in service and hold his position without demotion, until suspended, demoted or discharged in the manner hereinafter provided for one or more of the causes specified herein.

Subd. 6. (CAUSES FOR DISCHARGE) Causes for suspension, demotion or discharge shall be:

- (1) Conviction of any criminal offense in any court of competent jurisdiction subsequent to the commencement of such employment;
- (2) Neglect of duty or wilful violation or disobedience of orders or rules;
- (3) Inefficiency in performing duties;
- (4) Immoral conduct or conduct injurious to the public welfare, or conduct unbecoming an officer; or
- (5) Incapacity or partial incapacity affecting his normal ability to perform his official duties.

Subd. 7. (CHARGES AGAINST PATROLMEN) Charges against any state highway patrolman shall be made in writing and signed and sworn to by the person making the same, which written charges shall be filed with the commissioner. Upon the filing of same, if the commissioner shall be of the opinion that such charges constitute a ground for suspension, demotion or discharge, he shall order a hearing to be had thereon and fix a time for such hearing and may designate a subordinate as his deputy to conduct such hearing. Otherwise he shall dismiss the charges. At least ten days before the time appointed for the hearing, written notice specifying the charges filed and stating the name of the person making the charges, shall be served on the employee personally or by leaving a copy thereof at his usual place of abode with some person of

suitable age and discretion then residing therein. If the commissioner orders a hearing he may suspend such employee pending his decision to be made after such hearing.

Subd. 8. (HEARING ON CHARGES, DECISION, PUNISHMENT) The commissioner or his designated subordinate shall have power to compel the attendance of witnesses at any such hearing and to examine them under oath, and to require the production of books, papers and other evidence at any such hearing, and for that purpose may issue subpoenas and cause the same to be served and executed in any part of the state. The employee accused shall be entitled to be confronted with the witnesses against him and have an opportunity to cross-examine the same and to introduce at such hearing testimony in his own behalf, and to be represented by counsel at such hearing. If the hearing is conducted by a designated subordinate of the commissioner such designated subordinate upon completion of the hearing shall forthwith transmit a transcript of the testimony of the hearing, together with his recommendations, to the commissioner. The commissioner, within 25 days after such hearing, shall render his decision in writing and file the same in his office. If after such hearing he finds that any such charge made against such state employee is true, he may punish the offending party by reprimand, suspension without pay, demotion or dismissal.

Subd. 9. (RIGHT OF APPEAL) Any state highway patrolman who is so suspended, demoted or dismissed may have such decision or determination of the commissioner reviewed by a writ of certiorari in the district court of the county where such patrolman resides. If such decision or determination of the commissioner shall be finally rejected or modified by the court, the patrolman shall be reinstated in his position, and the commissioner shall pay to the patrolman so suspended out of the funds of the state the salary or wages withheld from him pending the determination of the charges or as may be directed by the court.

If upon any such hearing the commissioner shall find the charges made against such patrolman are not true, or dismiss such charges after such hearing, such patrolman shall be reinstated in his position and any salary or wages withheld from him pending the determination or decision of the commissioner upon such charges shall be paid to such patrolman by the commissioner out of state funds.

Subd. 10. (APPLICATION OF SUBDIVISIONS 6 to 10) Subdivisions 6 to 10 of this section shall apply to all persons employed and designated under and pursuant to this section, except the chief supervisor of the state highway patrol. If the chief supervisor is removed for other than cause as defined herein he shall be reinstated to the position that he held in the patrol prior to being promoted to the position of chief supervisor.

History: Subdivision 1 from M. S. '57, Sec. 161.03, subd. 21; Subd. 2 from M.S.'57, Sec. 161.03, subd.22; Subd. 3 from M.S.'57, Sec. 161.03, subd. 23; Subd. 4 from M.S.'57, Sec.161.121; Subd. 5 from M.S.'57, Sec. 161.07; Subd. 6 from M.S.'57, Sec. 161.08; Subd. 7 from M. S.'57, Sec. 161.09; Subd. 8 from M.S.'57,Sec. 161.10; Subd. 9 from M.S.'57, Sec.161.11; Subd. 10 from M.S.'57, Sec. 161.12.

COMMENT: A number of sections in various parts of Chapter 161 have been combined into one section since they all deal with the highway patrol. Other than combining the various sections and subdivisions into one section, there has been no change.

Sec. 47. (NATIONWIDE POLICE COMMUNICATION SYSTEM) The commissioner may enter into the necessary agreements and purchase the necessary equipment for participation in a nationwide police communication system. All costs of participation in such system chargeable to the State of Minnesota shall be paid from the fund in the state treasury credited with fines and forfeited bail money. There is hereby appropriated from said fund a sufficient amount of money to carry out the provisions of this section.

History: M. S. '57, Sec. 161.03, subd. 36

COMMENT: No substantive change.

Sec. 48. (RADIO REPEATER STATION IN WISCONSIN) Subdivision 1.

(AUTHORITY TO ACQUIRE SITE) The commissioner is authorized to acquire by gift or purchase for trunk highway uses and purposes such land in the state of Wisconsin as he may determine necessary for use as a site for and to construct, operate and maintain thereon a radio repeater station to be used in connection with the Minnesota statewide two-way radio system operated by the Minnesota State Highway Patrol.

Subd. 2. (PAYMENT OF TAXES AND ASSESSMENTS) The commissioner may in connection with the maintenance, operation and use of the radio repeater station as provided herein pay any and all taxes or special assessments, if any, that may be assessed against said property by the State of Wisconsin or its political subdivisions or taxing districts.

Subd. 3. (COST TO BE PAID OUT OF TRUNK HIGHWAY FUND) The cost of the land acquisition, the construction, operation and maintenance of the radio repeater station provided for herein shall be paid out of the trunk highway fund.

History: Subdivision 1 is from M. S. '57, Sec. 161.03, subd. 33; Subd. 2 from M. S. '57, Sec. 161.03, subd. 34; Subd. 3 from M. S. '57, Sec. 161.03, subd. 35.

COMMENT: No substantive change.

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ARTICLE III

STATE-AID SYSTEM

Section 1. (DEFINITIONS) For the purposes of Article III the terms defined in Article I, Section 2 shall have the same meaning.

History: New

COMMENT: This section provides a reference to definitions contained in Article I.

Sec. 2. (COUNTY STATE-AID HIGHWAY SYSTEM) Subdivision 1.

(CREATION) There is created a county state-aid highway system which shall be established, located, constructed, reconstructed, improved and maintained as public highways by the several counties under rules and regulations not inconsistent with this section made and promulgated by the commissioner as hereinafter provided. The several counties are vested with all rights, title, easements and appurtenances thereto appertaining, held by or vested in any of the towns or municipal subdivision thereof or dedicated to the public use prior to the time any such road or any portion thereof is taken over by the county as a county state-aid highway. If a county state-aid highway is established over a center portion of any street in a city, village or borough having a population of over 5,000, then the remaining portion of the street may be established as a municipal state-aid street.

Subd. 2. (RULES AND REGULATIONS) The rules and regulations shall be made and promulgated by the commissioner acting with the advice of a committee which shall be selected by the several county boards acting through

the officers of the statewide association of county commissioners. The committee shall be composed of nine members so selected that each member shall be from a different state highway construction district. Not more than five of the nine members of the committee shall be county commissioners. The remaining members shall be county highway engineers. In the event that agreement cannot be reached on any rule or regulation the commissioner's determination shall be final. The rules and regulations shall be printed and copies thereof shall be forwarded to the county auditors and the county engineers of the several counties.

Subd. 3. (RULES AND REGULATIONS TO HAVE FORCE AND EFFECT OF LAW) The rules and regulations shall have the force and effect of law.

Subd. 4. (LOCATION AND ESTABLISHMENT) The county boards of the several counties shall by resolution and subject to the concurrence of the commissioner locate and establish a system of county state-aid highways in accordance with the rules and regulations made and promulgated by the commissioner. It shall be the duty of the commissioner to review each system considering the availability of funds and the desirability of each system in relation to an integrated and coordinated system of highways. After review the commissioner shall by written order approve each system or any part thereof which in his judgment is feasible and desirable. A certified copy of the order shall be filed with the county auditor and the county engineer.

Subd. 5. (ACQUISITION OF LANDS NECESSARY) The several county boards shall have power to acquire by purchase, gift or condemnation in accordance with the provisions of Chapter 117, and acts supplemental thereto, lands and properties necessary for the establishment, location, relocation, construction, reconstruction, improvement and maintenance of the county state-aid highway system.

Subd. 6. (SYSTEM TO INCLUDE CERTAIN ROADS) The system shall include all roads and extensions thereof which were designated on June 30, 1957 as state-aid roads, and which were on June 30, 1957 under the jurisdiction of the counties, and shall include all roads which were designated on June 30, 1957 as state-aid parkways; provided, that with the consent and approval of the commissioner, any roads made a part of the county state-aid highway system by the provision of this subdivision may be abandoned, changed or revoked by the county board having jurisdiction over such roads.

Subd. 7. (ESTABLISHMENT OF SYSTEM IN NEW LOCATION OR OVER ESTABLISHED ROADS) The county board of any county may establish and locate any county state-aid highway on new location where there is no existing road, or it may establish and locate the highway upon or over any established road or street or a specified portion thereof within its limits; provided, that no county state-aid highway shall be established or located within the corporate limits of any city, village or borough without the approval of the governing body of the city, village or borough. The approval shall be in the manner and form required by the commissioner.

Subd. 8. (APPROVAL BY CITY, VILLAGE OR BOROUGH) No portion of the county state-aid highway system lying within the corporate limits of any city, village or borough shall be constructed, reconstructed or improved nor the grade thereof changed without the prior approval of the plans by the governing body of such city, village or borough and the approval shall be in the manner and form required by the commissioner.

Subd. 9. (COMMISSIONER'S POWER) When it shall be made to appear to the commissioner that the county board of any county has refused to locate and establish a county state-aid highway which in the opinion of the commissioner

is necessary to provide an integrated and coordinated highway system, the commissioner may, until the county state-aid highway is located and established, withhold from the county so much of the county's share of the county state-aid highway fund as he deems advisable.

Subd. 10. (ABANDONMENT OR REVOCATION) County state-aid highways may be abandoned, changed or revoked by joint action of the county board and the commissioner. If a county state-aid highway is established or located within the limits of a city, village or borough, it shall not be abandoned, changed or revoked without the concurrence of the governing body of such city, village or borough; provided, that any county state-aid highway established or located within a city, village or borough may be abandoned, changed or revoked without concurrence if the city, village or borough refuses or neglects for a period of one year after submittal to approve plans for the construction of such highway which plans conform to the construction standards provided in the commissioner's rules and regulations.

History: M. S. '57, Sec. 160.541.

COMMENT: Very little has been changed in the proposed revision. One of the changes would permit the county to revoke a county state-aid highway directly rather than change it from a county state-aid highway to a county highway and then proceed under Article V to revoke the county highway.

Another change included in subdivision 10 provides that if a city, village or borough refuses or neglects, for a period of one year, to approve plans for the construction of a county state-aid highway, the county board may abandon or revoke the establishment without the concurrence of the city, village or borough. This authorization is necessary by reason of the refusal of some municipalities to approve plans meeting the minimum requirements for such highways. Some municipalities have approved the establishment of a county state-aid highway through the city and then have attempted to keep as a residential street the particular street over which

the county state-aid highway was established. The change will give the county board an alternative in such situations subject to the concurrence of the commissioner of highways.

Sec. 3. (ESTABLISHMENT ALONG COMMON BOUNDARY LINES) The county boards of two or more counties may with the consent of the commissioner establish and locate a county state-aid highway along or near the common boundary line of the counties. The county boards of the counties may enter into agreements providing for the division of costs and responsibility to be borne by each for right of way, construction, improvement and maintenance of such county state-aid highway.

History: M. S. '57, Sec. 160.551.

COMMENT: No substantive change.

Sec. 4. (LIMITATION ON PAYMENT OF CONTRACT PRICE) Whenever the construction or improvement of any county state-aid highway is to be done by contract, the county board may agree in the contract to pay the contractor on account an amount not to exceed 90 per cent of the value of the work from time to time actually completed as shown by monthly estimates thereof, made by the county engineer on the basis of the contract prices. In such case it shall be lawful for the county auditor to issue a warrant on the county treasurer to the contractor for an amount equal to the specified percentage of the value of the work so completed and specified in the engineer's monthly estimate without allowance of a claim therefor by the county board.

History: M. S. '57, Sec. 160.561.

COMMENT: No substantive change.

Sec. 5. (PAYMENTS INTO COUNTY STATE-AID HIGHWAY FUND) In addition to the 29 per cent of the net highway user tax distribution fund there shall

be paid into the county state-aid highway fund all moneys accruing from the income derived from the investments in the internal improvement land fund.

HISTORY: M. S. '57, Sec. 160.571.

COMMENT: No change.

Sec. 6. (EXPENDITURE OF MONEYS TRANSFERRED FROM STATE ROAD AND BRIDGE FUND TO COUNTY STATE-AID HIGHWAY FUND) Subdivision 1. (TRANSFERENCE) All moneys transferred to the county state-aid highway fund on July 1, 1957, from the state road and bridge fund shall be forthwith set aside and expended as hereinafter provided in this section.

Subd. 2. (MONEYS APPORTIONED AND ALLOTTED TO COUNTY PRIOR TO JULY 1, 1957 RATIFIED AND CONFIRMED) The portions of the money specially allotted to any county prior to July 1, 1957, and any money apportioned to any county prior to July 1, 1957, and not heretofore paid are ratified and confirmed. Such money shall be retained in a separate account to the credit of the county to be used for the purposes for which it was allotted and apportioned regardless of any change in the status or designation of the roads upon which the money was to be expended and shall be paid to the county in accordance with rules and regulations of the commissioner; provided, that any such money not so used by December 31, 1958, shall be transferred to the county state-aid highway fund for apportionment among the several counties as hereinafter provided.

Subd. 3. (STATEMENTS) On July 1, 1957, or as soon thereafter as practicable, the commissioner shall prepare a statement setting forth the amount of money retained in the separate account to the credit of each county. The statement shall be forwarded to the state auditor and certified copies

thereof shall be mailed to the county auditor and county engineer of each county.

History: M. S. '57, Sec. 160.581.

COMMENT: No substantive change.

Sec. 7. (ACCRUALS TO COUNTY STATE-AID HIGHWAY FUND) Subdivision 1. (ESTIMATE) On or before the second Tuesday of January of each year the commissioner shall estimate the probable sum of money that will accrue to the county state-aid highway fund during the first six months of each year ending June 30. To such estimated amount he shall add the sum of money already accrued in the county state-aid highway fund for the last preceding six month period ending December 31 of each year. The total of such sums except for deductions to be first made as provided herein shall be apportioned to the several counties as hereinafter provided.

Subd. 2. (REIMBURSEMENT OF ADMINISTRATIVE COSTS OF STATE HIGHWAY DEPARTMENT) From the total of such sums the commissioner shall deduct a sum equal to one and one-half per cent the total sum. The sum so deducted shall be set aside in a separate account and shall be used to reimburse the trunk highway fund for administrative costs incurred by the state highway department in carrying out the provisions relating to the county state-aid highway system. On the 31st day of December of each year any money remaining in the account not needed to reimburse the trunk highway fund as heretofore provided shall be transferred to the county state-aid highway fund.

Subd. 3. (DISASTER ACCOUNT) After deducting administrative costs as provided in subdivision 2 of this section, the commissioner shall set aside a sum of money as is necessary to provide for the calendar year a disaster account of \$300,000. This sum shall be used to provide aid to any

county encountering floods or other disasters affecting its county state-aid highway system. Any county desiring aid by reason of disaster shall request the aid in the form required by the commissioner. Upon receipt of the request the commissioner shall appoint a board consisting of three county engineers and three county commissioners from counties other than the requesting county. The board shall investigate the matter and report its findings and recommendations in writing to the commissioner. Final determination of the amount of aid, if any, to be paid to the county from the disaster account shall be made by the commissioner. If the commissioner determines to aid any such county he shall certify to the state auditor the amount of the aid, and the state auditor shall thereupon issue a warrant in that amount payable to the county treasurer of the county. Money so paid shall be expended on the county state-aid highway system in accordance with the rules and regulations of the commissioner.

History: N.S. '57, Sec. 160.591.

COMMENT: No substantive change.

Sec. 3. (APPORTIONMENT OF MONEYS TO COUNTIES) Subdivision 1.

(FORMULA) After deducting for administrative costs and for the disaster account as heretofore provided, the remainder of the total sum provided for in Section 7, Subdivision 1, shall be identified as the apportionment sum and shall be apportioned by the commissioner to the several counties on the basis of the needs of the counties as determined in accordance with the following formula:

(1) An amount equal to ten per cent of the apportionment sum shall be apportioned equally among the 27 counties.

(2) An amount equal to ten per cent of the apportionment sum

shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its motor vehicle registration for the calendar year preceding the one last past, determined by residence of registrants, bears to the total statewide motor vehicle registration.

(3) An amount equal to 30 per cent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its total miles of approved county state-aid highways bears to the total miles of approved statewide county state-aid highways.

(4) An amount equal to 50 per cent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its money needs bears to the sum of the money needs of all of the individual counties; provided, that the percentage of such amount that each county is to receive shall be adjusted so that each county shall receive in 1958 a total apportionment at least ten per cent greater than its total 1956 apportionments from the state road and bridge fund; and provided further that those counties whose money needs are thus adjusted shall never receive a percentage of the apportionment sum less than the percentage that such county received in 1958.

Subd. 2. (MONEY NEEDS DEFINED) For the purpose of this section, money needs of each county are defined as the estimated total annual costs of constructing, over a period of 25 years, the county state-aid highway system in that county. Costs incidental to construction, or a specified portion thereof as set forth in the commissioner's rules and regulations may be included in determining money needs. When a county state-aid highway

is located over a street in a city, village or borough having a population of 5,000 or more, only the construction costs of the center 24 feet of the street shall be included in the money needs of that county; provided, that when traffic volumes warrant multiple or divided lane highways the construction costs of the necessary number of 12 foot lanes required for through traffic may be included in the money needs. When a county state-aid highway is located over a street in any city, village or borough of less than 5,000 population, the construction costs of the entire width of the roadway or street surface shall be included in the money needs of that county. To avoid variances in costs due to differences in construction policy, construction costs shall be estimated on the basis of the engineering standards developed cooperatively by the commissioner and the county engineers of the several counties.

Subd. 3. (COMPUTATION FOR RURAL COUNTIES) A two mill levy on each rural county's total taxable valuation for the last preceding calendar year shall be computed and shall be subtracted from such county's total estimated construction costs. The result thereof shall be the money needs of such county. For the purpose of this section, rural counties shall be construed to mean all counties having a population of less than 200,000.

Subd. 4. (COMPUTATION FOR URBAN COUNTIES) A one and two-tenths mill levy on each urban county's total taxable valuation for the last preceding calendar year shall be computed and shall be subtracted from such county's total estimated construction costs. The result thereof shall be the money needs of the county. For the purpose of this section urban counties shall be construed to mean all counties having a population of 200,000 or more.

Subd. 5. (SCREENING BOARD) On or before September 1 of each year the county engineer of each county shall forward to the commissioner, on forms prepared by the commissioner, all information relating to the mileage of the county state-aid highway system in the county, and the money needs of the county that the commissioner deems necessary in order to apportion the county state-aid highway fund in accordance with the formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board consisting of nine county engineers. The board shall be so selected that each county engineer appointed shall be from a different state highway construction district. No county engineer shall be appointed so as to serve consecutively for more than two years. The board shall investigate and review the information submitted by each county and shall on or before the first day of November of each year submit its findings and recommendations in writing as to each county's mileage and money needs to the commissioner on a form prepared by the commissioner. Final determination of the mileage of each system and the money needs of each county shall be made by the commissioner.

Subd. 6. (ESTIMATES TO BE MADE IF INFORMATION NOT PROVIDED) In the event that any county shall fail to submit the information provided for herein, the commissioner shall estimate the mileage and the money needs of the county. The estimate shall be used in determining the apportionment formula. The commissioner may withhold payment of the amount apportioned to the county until the information is submitted.

History: M. S. '57, Sec. 160.601.

COMMENT: No substantive change.

Sec. 9. (ALLOCATION OF APPORTIONMENTS) Subdivision 1. (ALLOCATION)

When the commissioner has determined the sum of money to be apportioned to each county as hereinbefore provided, he shall allocate a percentage of such sum for expenditure solely on those portions of each county's county state-aid highways located within cities, villages and boroughs having a population of less than 5,000, according to the last federal decennial census. The percentage so allocated shall equal the percentage that the total needs of the county state-aid highway system in such cities, villages and boroughs bears to the total county state-aid highway needs in each county. Money so allocated shall be set apart and credited to the municipal account of each county.

Subd. 2. (STATEMENT) As soon as the commissioner has determined the amount of money to be apportioned to each of the counties, and as soon as he has determined of such amount the sum to be allocated for expenditure on those county state-aid highways located within cities, villages and boroughs having a population of less than 5,000, he shall forthwith send a statement of the amount to the state auditor, and the county auditor and county engineer of each county. The amounts so apportioned and allocated to each county shall be paid by the state to the treasurer of each county out of the county state-aid highway fund as hereinafter provided, and in accordance with rules and regulations made and promulgated by the commissioner not inconsistent herewith.

Subd. 3. (PURPOSES) Money so apportioned and allocated to each county shall be used for aid in the establishment, location, construction, reconstruction, improvement and maintenance of the county state-aid highway

system within each county; provided, that in the event of hardship, or in the event that the county state-aid highway system of any county is improved to the standards set forth in the commissioner's rules and regulations, a portion of the money apportioned other than the money allocated for expenditures within cities, villages and boroughs having a population of less than 5,000, may be used on other roads within the county with the consent and in accordance with the commissioner's rules and regulations. If the portion of the county state-aid highway system lying within cities, villages and boroughs having a population of less than 5,000 is improved to the standard set forth in the commissioner's rules and regulations, a portion of the money credited to the municipal account may be used on other county highways or other streets lying within such cities, villages and boroughs with the consent and in accordance with the commissioner's rules and regulations.

Subd. 4. (ADVANCES TO MUNICIPAL ACCOUNT) Any county may make advances from other funds to the municipal account for the purpose of completing work on any portion of its county state-aid highway system within cities, villages and boroughs having a population of less than 5,000. The total advances made by any county shall never exceed 30 per cent of the county's last apportionment preceding the first advance. Any advances shall be repaid by deducting an amount equal thereto from money accruing to the municipal account. Advances heretofore made shall be repaid in like manner.

Subd. 5. (COUNTY MAY APPROPRIATE ADDITIONAL MONEY) The amount of money to be appropriated by the counties from other funds for use in the establishment, location, construction, reconstruction, improvement and maintenance of the county state-aid highway system is left to the discretion of

the individual county boards. Nothing contained herein shall restrict or prohibit a county board from using money collected from county road and bridge levies to provide, by mutual agreement, financial assistance or services not otherwise prohibited by law to townships and municipalities within its borders.

Subd. 6. (MAINTENANCE) Not more than 40 per cent of the money so apportioned and allocated to each county shall be set aside in separate accounts for the maintenance of the county state-aid highway system in the counties; provided, that upon good cause shown and in accordance with the commissioner's rules and regulations, the commissioner may set aside an additional percentage for the maintenance of any county state-aid highway system. Money so set aside shall be paid to the several counties in accordance with the rules and regulations of the commissioner.

Subd. 7. (PROJECT APPROVAL, REPORTS) When a county board of any county determines to do any construction work on a county state-aid highway or other road eligible for the expenditure of state aid funds within the county, and desires to expend on such work a portion of the money apportioned or allocated to it out of the county state-aid highway fund, the county shall first obtain approval of the project by the commissioner. Thereafter the county engineer shall make such reports in such manner as the commissioner requires under his rules and regulations. Upon receipt of satisfactory reports, the commissioner shall certify to the state auditor the amount of money that is eligible to be paid from the county's apportionment or allocation for the work under contract or actually completed. The state auditor shall thereupon issue a warrant in that amount payable to the

county treasurer. In no event shall the warrant with all other warrants issued exceed the amount apportioned and allocated to the county.

Subd. 8. (STATE AUDITOR NOT TO ISSUE WARRANTS WITHOUT CERTIFICATION)

The state auditor shall not issue any warrants without the certification of the commissioner.

History: M. S. '57, Sec. 160.611.

COMMENT: The only substantive change made is provided in subdivision 4 permitting the counties to make advances from other funds to the municipal account for the purpose of completing work on portions of the county state-aid highway system within cities, villages and boroughs having a population of less than 5,000.

Sec. 10. (MUNICIPAL STATE-AID STREET SYSTEM) Subdivision 1.

(CREATION) There is created a municipal state-aid street system within cities, villages and boroughs having a population of 5,000 or more. The system shall be established, located, constructed, reconstructed, improved and maintained as public highways within such cities, villages and boroughs under rules and regulations, not inconsistent with this section, made and promulgated by the commissioner as hereinafter provided.

Subd. 2. (RULES AND REGULATIONS) The rules and regulations shall be made and promulgated by the commissioner acting with the advice of a committee which shall be selected by the governing bodies of such cities, villages and boroughs, acting through the officers of the statewide association of municipal officials. The committee shall be composed of 12 members, so selected that there shall be one member from each state highway construction district and in addition one member from each city of the first class. Not more than six members of the committee shall be elected officials of the cities, villages and boroughs. The remaining

members of the committee shall be city, village and borough engineers. In the event that agreement cannot be reached on any rule or regulation the commissioner's determination shall be final. The rules and regulations shall be printed and copies thereof shall be forwarded to the clerks and engineers of the cities, villages and boroughs.

Subd. 3. (RULES AND REGULATIONS TO HAVE FORCE AND EFFECT OF LAW)

The rules and regulations shall have the force and effect of law.

Subd. 4. (FEDERAL DECENNIAL CENSUS TO BE CONCLUSIVE) In determining whether any city, village or borough has a population of 5,000 or more, the last federal decennial census shall be conclusive: provided, that if an entire area not heretofore incorporated as either a city, village or borough is incorporated as such during the ten year interval between federal decennial censuses, its population shall be determined by its incorporation census. The incorporation census shall be determinative of the population of the city, village or borough only until the next federal decennial census.

Subd. 5. (JOINT COUNTY STATE-AID HIGHWAY AND MUNICIPAL STATE-AID STREET) In the event that any county establishes and locates a county state-aid highway upon and over a center portion of a street within such city, village or borough, the remaining portion of the street may be a municipal state-aid street.

Subd. 6. (ESTABLISHMENT) The governing bodies of such cities, villages and boroughs shall by resolution and subject to the concurrence of the commissioner locate and establish a system of municipal state-aid streets in accordance with the rules and regulations of the commissioner. A certified copy of the resolution shall be transmitted to the commissioner.

Upon receipt of the resolution it shall be the duty of the commissioner to review each system, considering the availability of funds and the desirability of each system in relation to an integrated and coordinated system of highways. After review, the commissioner shall, by written order, approve each system or any portion thereof which in his judgment is feasible and desirable. A certified copy of the order shall be filed with the clerk and the engineer of the city, village or borough.

Subd. 7. (ACQUISITION OF LANDS AND PROPERTIES NEEDED) The governing bodies of such cities, villages or boroughs shall have the power to acquire by purchase, gift or eminent domain proceedings, lands and properties necessary for the establishment, location, relocation, construction, reconstruction, improvement and maintenance of the municipal state-aid street system.

Subd. 8. (ESTABLISHMENT OVER EXISTING STREETS OR NEW LOCATION) The governing body of any such city, village or borough, subject to the concurrence of the commissioner, may establish and locate any municipal state-aid street on new locations where there is no existing street, or it may establish and locate such street upon and over any established street or specified portion of any street within its limits.

Subd. 9. (ABANDONMENT OR REVOCATION) Any municipal state-aid street may be abandoned, changed or revoked as such by joint action of the commissioner and the governing body of the city, village or borough within which the street is located.

Subd. 10. (ESTABLISHMENT ON COMMON BOUNDARY LINE) The governing bodies of two or more of such cities, villages or boroughs, with the consent

of the commissioner, may establish and locate a municipal state-aid street along or near the common boundary line of the cities, villages or boroughs. The governing bodies of the cities, villages or boroughs may enter into agreements providing for the division of costs and responsibilities to be borne by each for right of way, construction, improvement and maintenance of such municipal state-aid streets.

History: M. S. '57, Sec. 160.621.

COMMENT: No substantive change.

Sec. 11. (LIMITATION ON PAYMENT OF CONTRACT PRICES) Whenever the construction or improvement of any municipal state-aid street is to be done by contract, the governing body of the city, village or borough may agree in the contract to pay the contractor an amount not exceeding 90 per cent of the value of the work from time to time actually completed, as shown by monthly estimates thereof made by the engineer of the city, village or borough on the basis of the contract prices. In such case it shall be lawful for the appropriate disbursing officers of the city, village or borough to pay the contractor an amount equal to the specified percentage of the value of the work so completed and specified in the engineer's monthly estimate without allowance of a claim therefor by the governing body of the city, village or borough.

History: M. S. '57, Sec. 160.631.

COMMENT: No substantive change.

Sec. 12. (PERCENTAGE OF HIGHWAY USER DISTRIBUTION FUND PAID TO MUNICIPAL STATE-AID STREET FUND) Nine per cent of the net highway user tax distribution fund shall be paid into the municipal state-aid street fund.

History: M. S. '57, Sec. 160.641.

COMMENT: No change.

Sec. 13. (ACCRUALS TO MUNICIPAL STATE-AID STREET FUND) Subdivision 1. (ESTIMATE OF ACCRUALS) On or before the second Tuesday of January of each year the commissioner shall estimate the probable sum of money that will accrue to the municipal state-aid street fund during the first six months of each year ending June 30. To the estimated amount he shall add the sum of money already accrued in the municipal state-aid street fund for the last preceding six month period ending December 31. The total of such sums, except for deductions to be first made as provided herein, shall be apportioned by the commissioner to the cities, villages and boroughs having a population of 5,000 or more as hereinafter provided.

Subd. 2. (ADMINISTRATIVE COSTS OF STATE HIGHWAY DEPARTMENT) From the total of such sums the commissioner, each year, shall deduct a sum of money equal to one and one-half per cent of the total sums. The sum so deducted shall be set aside in a separate account and shall be used to reimburse the trunk highway fund for administration costs incurred by the state highway department in carrying out the provisions relating to the municipal state-aid street system. On the 31st day of December of each year, any money remaining in the account not needed to reimburse the trunk highway fund as heretofore provided shall be transferred to the municipal state-aid street fund.

Subd. 3. (DISASTER ACCOUNT) After deducting administrative costs as provided in subdivision 2 of this section, the commissioner shall set aside each year a sum of money equal to two per cent of the remaining money in the municipal state-aid street fund to provide for a disaster account; provided, that the total amount of money in the disaster account shall never exceed five per cent of the total sums to be apportioned to the cities,

villages and boroughs having a population of 5,000 or more. The disaster account shall be used to provide aid to any such city, village or borough encountering floods or other disaster affecting the municipal state-aid street system of the city, village or borough. Any such city, village or borough desiring aid by reason of disaster shall request aid in the form required by the commissioner. Upon receipt of the request the commissioner shall appoint a board consisting of three engineers and three members of the governing bodies of the cities, villages and boroughs from cities, villages and boroughs other than the requesting city, village or borough. The board shall investigate the matter and report its findings and recommendations in writing to the commissioner. Final determination of the amount of aid, if any, to be paid to the city, village or borough from the disaster account shall be made by the commissioner. If the commissioner determines to aid the city, village or borough, he shall certify to the state auditor the amount of aid, and the state auditor shall thereupon issue a warrant in that amount payable to the fiscal officer of the city, village or borough. Money so paid shall be expended on the municipal state-aid street system in accordance with rules and regulations of the commissioner.

History: M. S. '57, Sec. 160.651.

COMMENT: No substantive change.

Sec. 14. (FORMULA) Subdivision 1. (FACTORS IN FORMULA) After deducting for administrative costs and for the disaster fund as heretofore provided, the remainder of the total sum provided for in subdivision 1 of section 13 shall be identified as the apportionment sum, and shall be apportioned by the commissioner to the cities, villages and boroughs having a population of 5,000 or more, in accordance with the following formula:

(1) An amount equal to 50 per cent of such apportionment sum shall be apportioned among the cities, villages and boroughs having a population of 5,000 or more so that each such city, village or borough shall receive of such amount the percentage that its money needs bears to the total money needs of all such cities, villages and boroughs.

(2) An amount equal to 50 per cent of such apportionment sum shall be apportioned among the cities, villages and boroughs having a population of 5,000 or more so that each such city, village or borough shall receive of such amount the percentage that its population bears to the total population of all such cities, villages and boroughs.

Subd. 2. (MONEY NEEDS DEFINED) For the purpose of this section money needs of each city, village or borough having a population of 5,000 or more are defined as the estimated cost of constructing and maintaining over a period of 25 years the municipal state-aid street system in such city, village or borough. Right of way costs and drainage shall be included in money needs. Lighting costs and other costs incidental to construction and maintenance, or a specified portion of such costs, as set forth in the commissioner's rules and regulations, may be included in determining money needs. When a county locates a county state-aid highway over a portion of a street in any such city, village or borough and the remaining portion is designated as a municipal state-aid street only the construction and maintenance costs of the portion of the street other than the portions taken over by the county shall be included in the money needs of the city, village or borough. To avoid variances in costs due to differences in construction and maintenance policy, construction and maintenance costs shall be estimated on the basis of

the engineering standards developed cooperatively by the commissioner and the engineers, or a committee thereof, of the cities, villages and boroughs.

Subd. 3. (SCREENING COMMITTEE) On or before September 1 of each year, the engineer of each city, village and borough having a population of 5,000 or more shall forward to the commissioner on forms prepared by the commissioner, all information relating to the money needs of the city, village or borough that the commissioner deems necessary in order to apportion the municipal state-aid street fund in accordance with the apportionment formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board of city, village or borough engineers. The board shall be composed of one engineer from each state highway construction district, and in addition thereto, one engineer from each city of the first class. The board shall investigate and review the information submitted by each city, village or borough. On or before November 1 of each year, the board shall submit its findings and recommendations in writing as to each city's, village's or borough's money needs to the commissioner on a form prepared by the commissioner. Final determination of the money needs of each city, village or borough shall be made by the commissioner. In the event that any city, village or borough shall fail to submit the information provided for herein, the commissioner shall estimate the money needs of the city, village or borough. The estimate shall be used in solving the apportionment formula. The commissioner may withhold payment of the amount apportioned to the city, village or borough until the information is submitted.

History: M. S. '57, Sec. 160.661.

COMMENT: No substantive change.

Sec. 15. (APPORTIONMENT TO CITIES AND VILLAGES) Subdivision 1.

(STATEMENT) As soon as the commissioner has determined the amount of money to be apportioned to each of the cities, villages or boroughs having a population of 5,000 or more, he shall forthwith send a statement of the amount to the state auditor and to the clerk and engineer of each such city, village or borough. The amount so apportioned to each city, village or borough shall be paid by the state to the fiscal officer of the city, village or borough out of the municipal state-aid street fund as hereinafter provided and in accordance with rules and regulations promulgated by the commissioner, not inconsistent herewith.

Subd. 2. (PURPOSES FOR WHICH MONEY IS APPORTIONED) Money so apportioned to each such city, village or borough shall be used for aid in the establishment, location, construction, reconstruction, improvement and maintenance of the municipal state-aid street system within each city, village or borough, provided that in the event of hardship or in the event that the municipal state-aid street system of any municipality is improved to the standards set forth in the commissioner's rules and regulations, and subject to the consent of the commissioner and under rules and regulations of the commissioner, a portion of the money so apportioned may be used on other streets or roads within the city, village or borough. The amount of money to be appropriated by such cities, villages and boroughs from other funds for use in the establishment, location, construction, reconstruction, improvement and maintenance of the municipal state-aid street system within the city, village or borough is hereby left to the direction of the individual governing bodies of the cities, villages and boroughs.

Subd. 3. (MAINTENANCE) The proportion of each such city's, village's and borough's annual apportionment to be used for maintenance on its respective municipal state-aid street system shall be a joint determination of the commissioner and the governing body of each city, village and borough. In the event that agreement cannot be reached, the determination of the commissioner shall be final.

Subd. 4. (PROJECT APPROVAL AND REPORTS) When the governing body of any such city, village or borough determines to do any construction work on any municipal state-aid street or other streets within the city, village or borough upon which money apportioned out of the municipal state-aid street fund may be used as provided in subdivision 2, the governing body shall first obtain the approval of the commissioner. Thereafter, the engineer of the city, village or borough shall make reports in such manner as the commissioner requires in accordance with the commissioner's rules and regulations. Upon receipt of satisfactory reports, the commissioner shall certify to the state auditor the amount of money that is eligible to be paid from the city's, village's or borough's apportionment for the work under contract or actually completed. The state auditor shall thereupon issue a warrant in that amount payable to the fiscal officers of the city, village or borough. In no event shall the warrant with all other warrants issued exceed the amount apportioned to the city, village or borough.

Subd. 5. (STATE AUDITOR NOT TO ISSUE ANY WARRANTS WITHOUT CERTIFICATE) The state auditor shall not issue any warrants as provided for in subdivision 4 without the prior certification of the commissioner.

History: M. S. '57, Sec. 160.651.

COMMENT: No substantive change.

Sec. 16. (ADMINISTRATIVE COSTS) The necessary personal expenses of the members of any boards appointed by the commissioner shall be considered administrative costs of the department of highways, and reimbursement of the expenses shall be made from the sums deducted for administrative costs as heretofore provided.

History: M. S. '57, Sec. 160.681.

COMMENT: No substantive change.

Sec. 17. (INVESTMENT OF MONEY IN COUNTY STATE-AID HIGHWAY FUND OR MUNICIPAL STATE-AID STREET FUND) Upon request of the commissioner, money in the county state-aid highway fund and money in the municipal state-aid street fund shall be invested by the state board of investments in the class of securities specified in Minnesota Statutes, Section 11.01 and acts amendatory thereto. All interest and profits from the investments shall be credited to the fund on which the interest or profits are earned. The state treasurer shall be the custodian of all securities purchased under the provisions of this section.

History: M. S. '57, Sec. 160.401, subd. 4.

COMMENT: No substantive change.

Sec. 18. (AGREEMENTS BETWEEN COUNTY BOARDS AND CITIES AND VILLAGES)

Subdivision 1. (AGREEMENTS WITH CITIES, VILLAGES OR BOROUGHs HAVING A POPULATION OF 5,000 OR MORE) The governing body of any city, village or borough having a population of 5,000 or more may enter into cooperative agreements with the county board of the county in which the city, village or borough is located, providing for the division of costs and responsibilities to be borne by each for right of way, construction, improvement and maintenance, including

snow removal, of county state-aid highways and municipal state-aid streets established and located within such cities, villages and boroughs.

Subd. 2. (AGREEMENTS WITH CITIES, VILLAGES OR BOROUGHES HAVING A POPULATION OF LESS THAN 5,000) The governing body of any city, village or borough having a population of less than 5,000 may enter into an agreement with the county board of the county in which it is located for the construction of any county state-aid highway within the corporate limits of the city, village or borough. The plans and specifications for the construction shall be prepared by the county engineer or by an engineer employed by the city, village or borough as may be agreed upon by the governing body of the city, village or borough and the county board, and shall be approved by the governing body and the county board. It may be agreed that the city, village or borough shall perform the construction and that the county shall reimburse the city, village or borough for its share thereof as may be agreed upon, or that the county shall perform the construction and that the city, village or borough shall reimburse the county for its share thereof as may be agreed.

Subd. 3. (MAINTENANCE AGREEMENTS) The governing body of any city, village or borough having a population of less than 5,000 may enter into an agreement with the county board of the county in which it is located for the maintenance of and snow removal from any county state-aid highway within the corporate limits of the city, village or borough. The agreement may provide that the maintenance and snow removal be performed by the county board at the sole expense of the county, or that the city, village or borough perform the snow removal and maintenance and the county pay to the city, village or borough such sum as may be agreed.

Subd. 4. (MAINTENANCE AND SNOW REMOVAL; DETERMINATION OF COST THEREOF) It shall be the primary duty of the county to maintain and to remove snow from all county state-aid highways within the corporate limits of any city, village or borough having a population of 5,000 or more in the county. If no agreement therefor be made with the governing body of the city, village or borough, the county board may elect as to such cities, villages or boroughs in the county, either that the county perform the snow removal and maintenance or, in lieu thereof, that the county pay to the city, village or borough annually, an amount per mile of the county state-aid highway within the corporate limits thereof, not less than the average annual cost per mile of maintaining and removing snow from all county state-aid highways of the county outside the corporate limits of any such city, village or borough therein. If the latter election be made by the county board of any county, the governing body of any city, village or borough affected shall be responsible for and shall maintain and remove the snow from the county state-aid highways within its corporate limits. On or before September 1 of each year, the county board shall notify the governing body of each city, village or borough affected within the county of its election for the ensuing calendar year made pursuant to the provisions of this section.

Subd. 5. (COUNTY CONTRACT IN CERTAIN CASES TO BE DEEMED IN COMPLIANCE WITH STATUTORY OR CHARTER PROVISIONS OF CITY, VILLAGE OR BOROUGH) Whenever the governing body of a city, village or borough enters into an agreement with a county as provided herein, it may appropriate to the county from any funds available such sums of money as it has agreed to pay. When a portion of the costs agreed to be paid by a city, village or borough is to be assessed against benefited property, the letting of a public contract

by the county for the work shall be deemed to be in compliance with statutory or charter provisions requiring the city, village or borough:

- (1) to advertise for bids before awarding a contract for a public improvement,
- (2) to let the contract to the lowest responsible bidder, and
- (3) to require a performance bond to be filed by the contractor before undertaking the work.

Subd. 6. (BOND TO INURE TO BENEFIT OF CITY, VILLAGE OR BOROUGH)

The contract so let by the county and the performance bond required of the contractor by the county shall be considered to be the contract and bond of the city, village or borough for purposes of complying with the requirements of any applicable law or charter provision, and the bond shall inure to the benefit of the city, village or borough and operate for their protection to the same extent as though they were parties thereto. Nothing herein contained is a limitation of the power of any county to appoint the commissioner of highways its agent to accept federal funds and award contracts for the construction, improvement or maintenance of county state-aid highways pursuant to law, and any contract let by the commissioner of highways as the agent of a county shall be construed hereunder as having been let by the county.

History: Subdivisions 1, 2, 3 and 4 from M. S. '57, Sec. 160.691; Subds. 5 and 6 from M. S. '57, Sec. 435.36.

COMMENT: No substantive change.

Sec. 19. (BONDS) Subdivision 1. (LIMITATION ON AMOUNT) Any city or village having a population of 5,000 or more, except a city now or hereafter having a population of 500,000 or more, may in accordance with

Minnesota Statutes, Chapter 475, except as otherwise provided herein, issue and sell its obligations for the purpose of establishing, locating, relocating, constructing, reconstructing and improving municipal state-aid streets therein. In the resolution providing for the issuance of the obligations, the governing body of the municipality shall irrevocably pledge and appropriate to the sinking fund from which the obligations are payable, an amount of the moneys allotted or to be allotted to the municipality from its account in the municipal state-aid street fund sufficient to pay the principal of and the interest on the obligations as they respectively come due. The obligations shall be issued in amounts and on terms such that the amount of principal and interest due in any calendar year on the obligations, including any similar obligations of the municipality which are outstanding, shall not exceed 50% of the amount of the last annual allotment preceding the bond issue received by the municipality from the construction account in the municipal state-aid street fund. All interest on the obligations shall be paid out of the municipality's normal maintenance account in the municipal state-aid street fund. The obligations may be made general obligations, but if moneys of the municipality other than moneys received from the municipal state-aid street fund, are used for payment of the obligations, the moneys so used shall be restored to the appropriate fund from the moneys next received by the municipality from the construction or maintenance account in the municipal state-aid street fund which are not required to be paid into a sinking fund for obligations.

Subd. 2. (NOT INCLUDED IN NET DEBT OF MUNICIPALITY FOR PURPOSE OF ANY STATUTORY OR CHARTER LIMITATION) Obligations issued hereunder may be authorized by resolution of the governing body without authorization by the

electors, and shall not be included in the net debt of the municipality for the purpose of any statutory or charter limitation on indebtedness. Expenditures made from the proceeds of the obligations shall not be considered as part of the cost of government of the municipality within the meaning of any statutory or charter limitation on expenditures.

Subd. 3. (PROCEEDS TO BE USED FOR SPECIFIC PURPOSES) Moneys received from the sale of the obligations shall be spent only in accordance with other provisions of law and the rules and regulations of the highway commissioner relating to the establishment, location, relocation, construction, reconstruction and improvement of municipal state-aid streets within the municipality issuing the obligations.

Subd. 4. (CERTIFICATION TO COMMISSIONER) On or before March 1 of each year, any municipality issuing and selling such bonds shall certify to the commissioner the amount of money required for the payment of principal and interest on the obligation. Upon receipt thereof, the commissioner shall certify to the state auditor the sum of money needed for the principal and interest, provided that the amount certified by the commissioner shall not exceed the limit heretofore specified. The state auditor shall thereupon issue a warrant in the amount certified payable to the fiscal officer of the municipality, and the amount thereof shall be deposited by the fiscal officer in the sinking fund from which the obligations are payable.

Subd. 5. (POWERS TO BE IN ADDITION) The powers granted in this section are in addition to all powers granted by charter or other laws.

History: M. S. '57, Sec. 471.94.

COMMENT: The only substantive change is to provide in subdivision 1 that the interest on the obligations shall be paid out of the municipality's normal maintenance account in the municipal state-aid street fund.

Sec. 20. (APPROPRIATION) Moneys in the county state-aid highway fund and municipal state-aid street fund are appropriated annually for the purposes for which the funds have been established.

History: M. S. '57, Sec. 160.692.

COMMENT: Specifically appropriates money for the county state-aid highway fund and municipal state-aid street fund.

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ARTICLE IV
COUNTY ROADS

Section 1. (DEFINITIONS) For the purposes of Article IV the terms defined in Article I, Section 2 shall have the same meaning.

History: New.

COMMENT: This section provides a reference to definitions contained in Article I.

Sec. 2. (GENERAL POWERS OF COUNTY BOARD) Subdivision 1. (ESTABLISHMENT AND SUPERVISION) County highways shall be established, located, relocated, constructed, reconstructed, improved, maintained, revoked or vacated by the several counties. The several county boards shall have general supervision over county highways, including those highways other than cartways within their respective counties established by judicial authority, and they may appropriate and expend sums of money from their respective county road and bridge funds as they deem necessary for the establishment, location, construction, reconstruction, improvement and maintenance or vacation of such highways.

Subd. 2. (ACQUISITION) They may acquire by purchase, gift or eminent domain proceedings as provided by law, all necessary right of way for such highways, purchase all necessary road material, machinery, tools and supplies needed therefor; and may construct buildings or rent, or acquire by purchase, gift or eminent domain proceedings, grounds and buildings necessary for the storing and housing of such material, machinery, tools and supplies.

Subd. 3. (LOAD RESTRICTIONS) The county board, or the county engineer if so authorized by the board, may impose weight and load restrictions on any highway under its jurisdiction.

History: M. S. '57, Sec. 162.01, subd. 1.

COMMENT: The proposed revision broadens the powers of the county boards. Subdivision 2 gives them specific powers to construct buildings or rent or acquire buildings necessary for storing and housing material, machinery, tools and supplies.

Sec. 3. (COUNTY ROAD AND BRIDGE FUND) The county board shall provide and set apart a fund to be known as the county road and bridge fund. Any money remaining in the county-aid road fund of any county may be transferred by the county board to the county road and bridge fund. All warrants for the establishment, location, vacation, construction, reconstruction, improvement and maintenance of county state-aid highways and county highways and bridges shall be drawn on the county road and bridge fund.

History: M. S. '57, Sec. 162.01, subds. 4 and 9.

COMMENT: This section combines two subdivisions. No substantive change.

Sec. 4. (EXPENDITURES) Subdivision 1. (GENERAL) The county board may appropriate and expend sums of money from the county road and bridge fund as it deems necessary for establishing, locating, constructing, improving and maintaining any county highway or county state-aid highway, including those within the corporate limits of any city, village or borough in the county.

Subd. 2. (LOCAL ROADS OR STREETS) The county board of any county may appropriate from its road and bridge fund to any town, village, borough or city of the second, third or fourth class in its county, such sums of

money as are available and which it deems advisable to aid such towns, villages, boroughs or cities of the second, third or fourth class in the construction and maintenance of roads, streets or bridges therein, and the appropriations may be directly expended by the county board, upon the roads, streets or bridges as shall be designated by the governing bodies of the towns, villages, boroughs or cities of the second, third and fourth classes. In counties having a population of 400,000 or over, the county aid may be expended in accordance with the provisions of Laws 1905, Chapter 164, as amended. No village, borough or city of the second, third or fourth class shall receive, except as otherwise authorized by law, an appropriation hereunder exceeding 20 per cent of the annual county tax levy for road and bridge purposes paid by the village, borough, or city of second, third or fourth class.

Subd. 3. (EXPENDITURES ON BRIDGES WITHIN CERTAIN CITIES, VILLAGES AND BOROUGHES) When the council of any village, borough or city of the third or fourth class may determine that it is necessary to build or improve any bridge or bridges, including approaches thereto, and any dam or retaining works connected therewith, upon or forming a part of streets or highways either wholly or partly within its limits, the county board shall appropriate one-half of the money as may be necessary therefor from the county road and bridge fund, not exceeding during any year one-half the amount of taxes paid into the county road and bridge fund during the preceding year, on property within the corporate limits of the village, borough or city. The appropriation shall be made upon the petition of the council, which petition shall be filed by the council with the county board prior to the fixing by the board of the annual county tax levy. The county board shall determine the plans and specifications, shall let all necessary contracts,

shall have charge of construction, and upon its request, warrants in payment thereof shall be issued by the county auditor, from time to time, as the construction work proceeds. Any unpaid balance may be paid or advanced by the village, borough or city. On petition of the council, the appropriations of the county board, during not to exceed three successive years, may be made to apply on the construction of the same items and to repay any money advanced by the village, borough or city in the construction thereof. None of the provisions of this section shall be construed to be mandatory as applied to any village, borough or city whose assessed valuation exceeds \$500 per capita of its population.

History: Subdivision 1 is taken largely from M. S. '57, Sec. 162.21, subd. 2; Subd. 2 is taken in part from M. S. '57, Sec. 162.01, subds. 1 and 2; Subd. 3 is taken entirely from M. S. '57, Sec. 162.02.

COMMENT: Subdivision 1 broadens the power of the county board. The present law restricts the power of the county board to establish county highways within the corporate limits of cities and villages. From a practical standpoint there are a number of county highways located within the cities and villages due, in large measure, to the fact that when those county highways were originally established there was no incorporated village at that time. The revision removes the restrictions on the establishment of a county highway within the corporate limits of a city, village or borough.

Sec. 5. (TAXATION) Subdivision 1. (LEVY) The county board at its July meeting may include in its annual tax levy an amount for the county road and bridge fund which shall not exceed the amount provided under the following classification of counties.

Subd. 2. (COUNTIES HAVING POPULATION OF MORE THAN 300,000) In counties having a population of more than 300,000 the amount to be levied

for the road and bridge fund shall not exceed ten mills on the dollar of the taxable valuation of the county.

Subd. 3. (COUNTIES HAVING POPULATION OF MORE THAN 100,000 AND NOT MORE THAN 300,000) In counties having a population of more than 100,000 and not more than 300,000 the amount to be levied for the county road and bridge fund shall not exceed fifteen mills on the dollar of the taxable valuation of the county.

Subd. 4. (ALL OTHER COUNTIES) Except as provided in Subdivision 5, in all other counties the amount to be levied for the county road and bridge fund shall not exceed twenty-five mills on the dollar of the taxable valuation of the county.

Subd. 5. (SPECIAL LAWS TO REMAIN IN EFFECT UNTIL JULY 1, 1961) Those counties authorized to levy an amount in excess of twenty-five mills for their county road and bridge fund by specific legislative enactment may levy the amount provided therein until July 1, 1961.

Subd. 6. (ROAD AND BRIDGE TAXES TO BE ADDITIONAL) The taxes provided herein may be additional to the amount permitted by law to be levied for other county purposes.

History: M. S. '57, Sec. 162.01, subd. 5.

COMMENT: The permissive road and bridge levy has not been increased in those counties having a population of more than 300,000. In counties having a population of more than 100,000 and not more than 300,000, the proposed revision raises the permissive levy from twelve mills to fifteen mills. In all other counties the proposed revision provides for a permissive levy of not to exceed 25 mills. The present general law provides a maximum in all other counties of 20 mills with exceptions and provisos so that a number of counties have a smaller permissive levy than the 20 mills. In addition to the exceptions and provisos, there are a number of special laws authorizing specific counties to levy additional

taxes for road and bridge purposes. Those special laws relating to specific counties authorize a mill levy from 20 mills up to 30 mills. Some of the special laws are for a specific period of time; others do not limit the period of time for which the additional taxes are allowed. The proposed revision provides that those counties authorized to levy an amount in excess of 25 mills by special act may continue to levy the amount provided in the special act until July 1, 1961.

The question of the increase to 25 mills was submitted to the counties by the County Commissioners Association. The overwhelming majority of those answering the questionnaire (approximately 3/4 of the counties) favored a permissive levy of 25 mills.

Sec. 6. (TAXATION IN UNORGANIZED TOWNSHIPS) Subdivision 1.

(LIMITATION, EXCEPTION) The county board of any county in which there are unorganized townships may levy a tax for road and bridge purposes not exceeding 21 mills on the dollar of the taxable valuation of all the real and personal property in such unorganized townships, exclusive of money and credits taxed under the provisions of Chapter 285; provided that in any county having an assessed valuation of over \$10,000,000 and less than \$14,000,000 exclusive of money and credits, having a population of over 23,000 and less than 25,000 according to the 1950 federal census, and having over 25 and less than 40 full and fractional congressional townships, the tax levy may exceed 21 mills but shall not exceed 31 mills.

Subd. 2. (TAX TO BE IN ADDITION) The tax, if levied, is additional to the tax which the counties may levy for the county road and bridge funds and is additional to the amount permitted by law to be levied for other county purposes. The tax may be levied on any or all unorganized townships within a county, provided that no such tax shall be levied on only a part of an unorganized township within a county.

Subd. 3. (EXTENDING THE TAX LEVY) If any county deems it desirable to levy such a tax, it may at the time it levies the county taxes, by resolution reciting such fact, determine the amount so to be levied in each unorganized township for the current year. It shall be the duty of the county auditor to extend the tax so levied upon the tax books of the county, at the same time and in the same manner as other taxes for county purposes are extended as to property in such unorganized townships, and the tax shall be collected and payment thereof enforced at the same time and in the same manner as other county taxes on such property and with like penalties for nonpayment at the time prescribed by law.

Subd. 4. (SEPARATE FUND) The tax collected from each unorganized township shall be set apart in a separate fund in the county treasury, and each shall be designated as the road and bridge fund of the unorganized township from which the tax was collected.

Subd. 5. (EXPENDITURE OF FUND) Except as hereinafter provided, each fund shall be expended under the direction of the county board for the construction, improvement and maintenance of roads and bridges in the unorganized township for which the fund was designated. If so requested by petition signed by a majority of the resident taxpayers of any unorganized township, the county board may expend all or part of the road and bridge fund of the unorganized township upon roads or bridges in an adjoining organized or unorganized township.

Subd. 6. (EXPENDITURE IN CERTAIN COUNTIES) In any county having not less than 95 nor more than 105 full and fractional townships, and having an assessed valuation of not less than \$3,000,000 nor more than \$5,000,000, exclusive of money and credits, the county board, by resolution, may expend

the funds provided in subdivision 4 in any organized or unorganized township or portion thereof in such county.

History: Subdivision 1 is taken from M. S. '57, Sec. 162.04, subs. 1 and 2; Subd. 2 is taken in part from M. S. '57, Sec. 162.04, subd. 1, and in part from M. S. '57, Sec. 162.08; Subd. 3 is taken from M. S. '57, Sec. 162.05; Subd. 4 is from M. S. '57, Sec. 162.06; Subds. 5 and 6 are from M. S. '57, Sec. 162.07.

COMMENT: A number of sections have been combined in one section since they relate to the same matter. They have been shortened and clarified.

Sec. 7. (COUNTY HIGHWAY ENGINEER) Subdivision 1. (APPOINTMENT)

The county board of each county shall appoint and employ, as hereinafter provided, a county highway engineer who shall have charge of the highway work of the county and the forces employed thereon, and who shall make and prepare all surveys, estimates, plans and specifications which are required of him. The county highway engineer may be removed by the county board during the term of office for which he is appointed only for incompetency or misconduct shown after a hearing upon due notice and upon stated charges. The burden of proving incompetency or misconduct shall rest upon the party alleging the same.

Subd. 2. (QUALIFICATIONS, SALARY AND TERM) The county highway engineer may be selected from a list of eligible registered highway engineers. The list shall be submitted by the commissioner of highways to any county board requesting same. The county board may appoint a new county engineer for a term of only one year. All reappointments shall be for a term of four years, and shall be made in May of the year in which the term expires. The county highway engineer shall be a citizen and resident of this state. His salary shall be fixed by the county board and shall be

payable the same as other county officers are paid. His salary shall not be reduced during his term of office.

Subd. 3. (LEAVE OF ABSENCE FROM STATE SERVICE) Any engineer employed by the state when properly certified by the commissioner of highways may be employed as county highway engineer, and during the period of such employment and for the purposes of such employment he may be granted leave of absence from the state service, notwithstanding any limitation on leaves of absence contained in the civil service act.

Subd. 4. (CIVIL SERVICE CLASSIFICATION) The director of civil service shall allocate a state civil service classification to any city, village or county highway engineer as may be from time to time requested by the commissioner of highways. The allocation shall be made on the same basis and subject to the same provisions of law as pertain to engineering and similar positions in the state classified service. The director shall give consideration to the education, professional attainments and experience of the city, village or county highway engineer for purposes of transfer to the state service. All city, village or county highway engineers who have had not less than two years service prior to the transfer may be transferred to the state classification so allocated without examination, but subject to a six months probationary period, in the state classified service. The director of civil service shall establish procedure for the transfer.

Subd. 5. (PROMOTIONAL EXAMINATION) The commissioner of highways may certify any city, village or county highway engineer that he may deem qualified to the director of civil service as eligible to take any specific promotional examination held for civil engineer or civil engineering aid as classified by the state civil service commission. The service rating of such

engineer shall include past service with the state and as city, village or county highway engineer, if he had prior service with the state highway department as a supervisory engineer.

Subd. 6. (DUTIES) The county highway engineer shall devote his entire time to his official duties and, before entering upon the duties of his office, give bond to the state in the penal sum of \$25,000, to be approved and filed in the same manner as are the bonds of the other county officers. All premiums for the bond shall be paid by the county. The state, the several governmental subdivisions thereof or any person damaged by any wrongful act or omission of the county highway engineer in the performance of his official duties may maintain an action on his bond for the recovery of the damages so sustained.

Subd. 7. (REPORTS) The county highway engineer shall prepare and submit to the county board annually a full and complete report covering all county highway work, and he shall prepare and submit such other reports relating to the county highway system as the county board directs.

Subd. 8. (BRIDGE INSPECTIONS) The county highway engineer shall each year so far as time and conditions permit cause an inspection to be made of all bridges exceeding ten feet in length on all public roads and streets within the county other than trunk highways and other than streets or highways within a municipality employing a registered professional engineer, in which latter case the inspection shall be made by the municipal engineer. The engineer making the inspection shall file a copy of the report of the examination and recommendations with the auditor of the county or the governing body of the municipality in which the bridge is situated if the structure is found to be under-strength or unsafe.

COMMENT: The proposed revision shortens the present law. It removes many provisions that are obsolete. The proposed revision does not require the commissioner to send a list of eligible registered highway engineers to the counties unless a county board requests the list. The present law provides that the county highway engineer be a citizen and that he be a resident of the state for not less than three years immediately preceding the date of his appointment. The proposed revision merely provides that he shall be a citizen and resident of this state.

In subdivision 7 the proposed revision provides that the county engineer shall prepare and submit, in addition to the annual report, such other reports as the county board directs. The present law provides for a number of reports that in many instances the county board does not require. The proposed revision also increases the county engineer's bond from the sum of \$3,000 to \$25,000. It provides that the premium for such bond be paid by the county. This is the actual practice.

Sec. 8. (CONSULTING ENGINEER) Upon request of the county highway engineer the county board of any county is authorized to employ and engage the services of registered professional engineers to act as consultants in connection with, and to prepare plans and specifications themselves or by their organization and employees for the construction of roads and bridges on county and county state-aid highways, and the county board is authorized to negotiate for and agree upon the terms and compensation for such employment and service.

History: M. S.'57, Sec. 160.521.

COMMENT: No change.

Sec. 9. (PAYMENTS) Subdivision 1. (APPLICATION) The county board of any county may adopt a payroll system for the payment of claims for labor, whether skilled or unskilled, employed by the county in any capacity in connection with the construction or maintenance of highways within the county

and for the payment of claims of persons who have furnished tractors, trucks, teams, wagons, plows, scrapers or any other equipment for the performance of work on the highways. The payroll shall be in such forms and supported by such records as the public examiner prescribes. It shall contain the name and rate of pay of each claimant together with the total amount of each claim.

Subd. 2. (METHOD) The payroll shall be prepared by the county engineer either monthly or semi-monthly as directed by the county board. It shall be certified by the county highway engineer as being true and correct and shall be presented by him to the county auditor for payment. It shall thereupon be lawful for the county auditor and county treasurer to pay the claims as set forth in the payroll without allowance therefor by the county board. Upon presentation to the county auditor of the payroll, he shall forthwith issue to the several claimants whose names appear therein his warrant in payment of their respective claims.

History: M. S. '57, Sec. 162.18, subd. 8.

COMMENT: The present law provides for payroll system, time-check system and modified time-check system. The majority of the counties have adopted a payroll system rather than the cumbersome and obsolete time-check system. The proposed revision eliminates the time-check method. It broadens the payroll method so as to include all types of labor and also provides for payment of claims of persons who have furnished equipment for the performance of work on the county highways. It provides that the payroll system shall be in such form and supported by such records as the public examiner prescribes.

A questionnaire was submitted to the counties requesting opinions on the payroll method and the time-check method. With the exception of only one county, the payroll method was preferred. It is thought that the one system will provide for uniformity and a more efficient method of payment.

Sec. 10. (PAYMENT; HENNEPIN COUNTY) Subdivision 1. (APPLICATION)

In any county of this state now or hereafter having a population of 400,000 or over, the county board may provide that all claims for labor, whether skilled or unskilled, employed by such county in any capacity in connection with the construction or maintenance of roads therein, and the claims of persons who have furnished tractors, trucks, teams, wagons, plows, scrapers or any other equipment for the performance of the work, may be paid in the manner hereinafter provided.

Subd. 2. (METHOD) The foreman in charge of each crew shall transmit daily to the county auditor a report showing the name of each person working under his supervision, the number of hours and character or kind of work performed by each, together with the rate of pay of each. From these cards the county auditor shall make a semi-monthly payroll for each crew in such form as may be approved by the public examiner. The payroll shall be verified by the foreman from whose daily reports the same shall have been compiled. These payrolls shall then be presented to the county board for allowance or disallowance. On the allowance of a payroll by the county board, the county auditor shall forthwith issue to the several claimants whose names appear therein, his warrants in payment of their respective claims.

History: M. S. '57, Sec. 162.19.

COMMENT: No substantive change.

Sec. 11. (ESTABLISHMENT, ALTERATION, VACATION, REVOCATION) Subdivision

1. (RESOLUTION) County highways may be established, altered, vacated or revoked by resolution of the county board. Any public highway within the county, other than a trunk highway, municipal state-aid street, or county state-aid highway, may be taken over as a county highway by resolution of the county board.

Subd. 2. (CONTENTS OF RESOLUTION) The resolution shall contain a description of the highway. In the case of a newly established highway or the alteration of a highway, the resolution shall also contain a description of the several tracts of land through which the highway passes, the names of all persons known by the board to be the owners and occupants of each tract, and a description of the right of way, if any, needed therefor from each tract and the interest or estate therein to be acquired.

Subd. 3. (LANDS OR PROPERTIES MAY BE ACQUIRED UNDER PROVISIONS OF CHAPTER 117) All lands or properties needed for the establishment or alteration of a county highway may be acquired by purchase, gift or eminent domain proceedings as provided in Chapter 117 and acts amendatory thereto.

Subd. 4. (VACATION) When a newly established, relocated or altered county highway is opened for travel which takes the place of and serves the same purpose as any portion of another county highway, the county board may vacate any such portion of the other highway by resolution. The board shall cause personal service of the resolution to be made upon each occupant of land through which the vacated portions passed and shall also post notice of the resolution for at least 10 days. A copy of the resolution together with proof of service and affidavit of posting shall be filed in the county auditor's office. Within 30 days after the service, any person claiming to be damaged by the vacation may appeal to the district court of the county for a determination of his damages by serving notice of the appeal upon the county board and filing same with proof of service in the office of the clerk of the district court. The appeal shall state the nature and the amount of damages claimed. It shall be tried in the same manner as an appeal from an award in eminent domain proceedings.

Subd. 5. (REVOCATION AND REVERSION) The county board, by resolution, may revoke any county highway. The highway shall thereupon revert to the town in which it is located; provided that any such revoked highway or portion thereof lying within the corporate limits of any city, village or borough shall become a street of such city, village or borough. Roads or streets or any portion thereof so revoked and turned over to the town, city, village or borough may be vacated by the town, city, village or borough in the same manner as other town roads or city, village or borough streets are vacated. If the vacation occurs within one year after the revocation by the county, damages occasioned by the vacation shall be paid by the county out of its road and bridge fund. No award of damages shall be made by the town, city, village or borough for such vacation without the concurrence of the county board, and no action brought to recover damages for the vacation shall be settled or otherwise disposed of without the consent of the county board. The county board may defend any action brought to recover damages for the vacation in the same manner and to the same extent as in a proceeding to vacate a county highway.

Subd. 6. (PRIOR ACTS CONFIRMED) Any prior action taken by any county board revoking any county highway and turning over such highway to any township as a town road is hereby recognized and confirmed.

History: New.

COMMENT: The present law provides that before a county board can establish, alter or vacate a county highway (other than a county state-aid highway) a petition signed by 24 freeholders must be presented to the county board. The county board is required to examine the petition and the proposed route, and if it grants the petition it may enter into agreements with property owners to pay damages. If no agreement can be reached, the county board

then determines the amount of damages to be sustained by a property owner and files a report containing that information. Since there is no provision for a proceeding under Chapter 117, it is extremely doubtful that the counties have the power to acquire the necessary lands and properties under Chapter 117. (See Minn. Statutes '57, Sec. 117.01.) The proposed revision grants the county board the power to establish, alter or vacate necessary roads without waiting for a petition, and specifically provides that the counties have the power to acquire the necessary lands or properties under the provisions of Chapter 117. It provides for the vacation of a county highway when it is no longer necessary by reason of the construction of another county highway that takes the place of and serves the same purpose. It provides for a court determination of any damages claimed by the vacation.

Subdivision 5 provides that the county board may revoke any county highway which shall thereupon revert to the town in which it is located unless the revoked highway or a portion thereof lies within a corporate city, village or borough in which case the portion shall become a street of the city, village or borough. If the town, city, village or borough vacates the revoked highway within one year, the county shall pay for any damages occasioned by the vacation. The county board is granted the power to defend any action brought to recover damages under this particular subdivision. It further provides that there will be no settlement of damages for such vacation without the concurrence of the county board.

Sec. 12. (ALTERNATIVE PROCEDURE FOR ACQUISITION) Subdivision 1.

(COUNTY BOARD MAY ELECT) If the county board so elects, it may adopt the procedure hereinafter set forth for the acquisition of lands or properties needed for the establishment or alteration of a county highway.

Subd. 2. (TIME AND PLACE FOR HEARING) Upon passage of the resolution specified in Section 11, Subd. 2., the board shall fix the time and place it will meet. Notice of the meeting, together with a copy of the resolution, shall be served upon each occupant of each tract of land through which the highway passes at least ten days before the meeting. Ten days

posted notice of the meeting shall also be given. Proof of service and affidavit of posting shall be filed with the county auditor.

Subd. 3. (HEARING) The county board shall meet at the time and place designated and shall proceed to view the premises affected. It shall hear all interested parties regarding damages occasioned by the establishment or alteration of the highway.

Subd. 4. (DAMAGES MAY BE DETERMINED BY WRITTEN AGREEMENT) The damages may be determined by written agreement. Every such agreement shall be filed with the county auditor and shall be final as to the matters therein contained.

Subd. 5. (COUNTY BOARD'S DETERMINATION OF DAMAGES) The county board shall determine the damages of those with whom no agreement can be reached or who are unknown. In making the determination the board shall deduct from the damages sustained by each tract the money value of the benefits, if any, accruing thereto, and award the difference as damages.

Subd. 6. (AWARDS TO BE FILED; NOTIFICATION) The award of damages shall be filed with the county auditor. Within seven days after filing the county auditor shall notify, in writing, each known owner and occupant of each tract of the filing of the awards. The notification shall set forth the date of the filing, the amount of the award of damages and any terms or conditions of the award.

Subd. 7. (APPEAL FROM AWARD) Within forty days after the filing of the award of damages, any owner or occupant may appeal from the award by filing a notice of the appeal with the clerk of the district court of the county where the lands lie. The notice of appeal shall be accompanied by a bond of not less than \$250, with sufficient surety approved by the judge or by the county auditor,

conditioned to pay all costs arising from the appeal in case the award is sustained. A copy of the notice together with a copy of the bond shall be served upon the county auditor. The notice of appeal shall specify the award or failure to award appealed from, the land to which it relates, the nature and amount of the claim of appellant, and the grounds of the appeal.

Subd. 8. (RIGHT TO JURY TRIAL) The appeal shall be entered upon the calendar for trial at the next general term of court occurring more than twenty days after the appeal is perfected. The appellant and the county shall be entitled to a jury trial as a matter of right. The court or jury shall reassess the damages basing its determination upon the same principles which the board was required to follow as set forth in subdivision 5. The prevailing party shall recover costs and disbursements to be fixed and allowed as in other civil cases and judgment shall be entered upon the verdict.

Subd. 9. (PAYMENT) Upon final judgment the county board shall promptly pay the amount of the judgment. If no appeal is taken from an award, the county board shall pay the award within twenty days after the time for appeal has expired. The duty of the county board to pay the award or final judgment shall be held and construed to be just compensation or the securing of just compensation within the meaning of the constitution.

Subd. 10. (APPEAL NOT TO DELAY PROSECUTION OF IMPROVEMENT) After the award of damages has been filed, the board may proceed to open, construct, alter or change the highway. An appeal from the award of damages shall not delay the prosecution of the proposed improvement, and the county board may proceed as if no appeal had been taken.

History: M. S. '57, Sec. 162.21.

COMMENT: This section of the proposed revision provides the county boards with an alternative method of acquiring lands and properties needed for the establishment or alteration of a county highway. The section provides a method similar to the method now in use, and in conjunction with section 11 the county board also will have the power to proceed under Chapter 117.

There are some additional provisions that are not in the present law. The proposed revision provides for notification of the award, and the appeal period has been changed from 30 days to 40 days. The property owner and the county are given, in case of appeal, the right to a jury trial. If no appeal is taken from an award, the county shall pay the award within 20 days after the time for appeal has expired.

Sec. 13. (PETITION FOR HIGHWAYS OR PORTAGES) Subdivision 1.

(CONTENTS OF PETITION) Any person who owns real estate in a county may petition the county board to establish, alter or vacate a county highway or portage. The petition shall set forth the beginning, course and termination of the highway or portage with reasonable definiteness. It shall be filed with the county auditor and shall be considered at the next regular county board meeting. The board shall hear all interested persons at that meeting or at such continued meetings as the board deems necessary.

Subd. 2. (RESOLUTION OF COUNTY BOARD, PROCEDURE) After investigating the matters contained in the petition, and after hearing all interested persons, the board, by resolution, shall make its determination. If it determines to grant the petition it shall proceed as provided in section 11 or as provided in section 12.

Subd. 3. (APPEAL) If the board denies the petition, any person aggrieved thereby, within 30 days after the denial, may appeal to the district court of the county by filing a notice of appeal with the clerk of the district court, together with a bond of not less than \$250, with sufficient surety approved by the judge or by the county auditor, conditioned to pay all costs

arising from the appeal in case the determination of the board is sustained. A copy of the notice of appeal and a copy of the bond shall be served on the county auditor.

Subd. 4. (TRIAL) The appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than 20 days after the appeal is perfected. The determination of the board shall not be reversed except upon a clear showing of arbitrary, capricious or fraudulent action. The prevailing party shall be entitled to costs and disbursements to be fixed and allowed as in other civil cases.

Subd. 5. (BOARD PROCEDURE ON REVERSAL) If the determination of the board is reversed, it shall proceed in accordance with the decision of the court.

History: It is largely new, but see: M.S. '57, Sec. 162.21 and M. S. '57, Sec. 160.321.

COMMENT: The petition provisions are retained under the revision. In the present law 24 petitioners are required to sign a petition for the establishment, alteration or vacation of a county highway, and 10 petitioners are required for the establishment, alteration or vacation of a portage.

The proposed revision provides for appeal to the district court from an adverse determination of the board. The determination of the board shall not be reversed by the court except upon a showing of arbitrary, capricious or fraudulent action. This is a statement of the law as it presently exists under court decisions.

Sec. 14. (HIGHWAYS RUNNING INTO OR THROUGH TWO OR MORE COUNTIES OR ON OR ALONG THE BOUNDARY LINE BETWEEN SUCH COUNTIES) Subdivision 1. (JOINT RESOLUTIONS) The county boards of two or more counties by joint resolution, may establish, alter, improve or vacate a county highway running into or through such counties or running on or along the line between such counties.

Subd. 2. (AGREEMENTS FOR DIVISION OF COSTS) Such county boards, in behalf of their respective counties, may enter into agreements with each other providing for an equitable division of the costs to be borne by each for the right of way, construction, improvement or vacation of the highway. If the agreement provides for the establishment or alteration of a highway, the agreement may provide for the letting of a joint construction contract covering all or part of the work to be performed on the highway.

Subd. 3. (PROCEDURE) The joint resolution shall contain the same matters required in section 11, subdivision 2. Upon passage of the joint resolution the boards shall thereafter proceed in the manner and subject to the same review provided in section 11 or as provided in section 12.

Subd. 4. (MAINTENANCE) Each county shall maintain the portion of the highway lying within its boundaries. If the highway runs along the line between the counties, the county boards may enter into an agreement providing for the maintenance by each county of specified portions of the highway. The highway shall thereafter be maintained in accordance with the agreement.

History: New.

COMMENT: The proposed revision takes the place of A. S. '57, Sec. 162.20 and provides for the establishment, alteration or vacation of a highway running into or through two or more counties or on the line between two or more counties. It provides for a joint resolution of county boards, and provides that the counties may enter into agreements with each other providing for the division of costs to be borne by each. They may let a joint construction contract covering all or part of the work on such highways. After the passage of the joint resolution, the boards will proceed to acquire the necessary lands either under Chapter 117 or under the alternative method provided in section 12. Each county will maintain the portion of such highway lying within its boundaries.

Sec. 15. (BRIDGES ACROSS DIVERSION CHANNELS) Whenever any county has been authorized by the commissioner of conservation to divert the channel of a navigable stream for the purpose of improving a county road and the board of commissioners of such county has by resolution ordered diversion of the navigable stream across private property so that the stream and the channel thereof when so diverted deprives the owner of the private property of access to the county road, the owner of the private property may grant to the county a perpetual easement for road purposes across his private property commencing at a point 50 feet distant from the relocated or diversion channel, thence crossing the relocated or diversion channel and intersecting the county road so to be improved; and the road easement shall extend for a distance of two rods on each side of the center line thereof and be and remain a public road. The county shall forthwith establish and construct a highway upon the strip of land pursuant to law, build a suitable bridge, including approaches thereto, across the channel and at public expense thenceforth maintain the road and bridge so established in a safe condition so as to afford the owner of the private property access to the improved county road.

History: Not coded. Laws of 1955, Chapter 117.

COMMENT: No substantive change.

Sec. 16. (IMPASSABLE ROADS) Subdivision 1. (COMPLAINT) When a written complaint, signed by five or more freeholders of any town is presented to the county board stating that a described town road in or on the line of the town has not been opened and constructed or is not properly maintained, and because of such neglect is not reasonably passable, the county board by resolution, shall fix a time and place for hearing the complaint. The county

auditor shall mail a copy of the complaint, together with notice of the time and place of hearing on the complaint, to the town clerk. All persons signing the complaint shall also be notified of the time and place of the hearing by the county auditor.

Subd. 2. (HEARING ON COMPLAINT) At the designated time and place the county board shall consider the complaint and hear and consider such testimony as may be offered by the officers of the town and the complainants relative to the matters set forth in the complaint. The chairman of the county board, or the presiding officer thereof, may administer oaths to witnesses and require them to testify under oath. The county board may drive over the road and make such further investigations as it deems necessary.

Subd. 3. (DETERMINATION, STATEMENT OF COSTS, PAYMENT TO BE MADE BY TOWN) If upon the hearing and investigation the county board shall be of the opinion that the complaint is well founded, it shall by resolution direct the town board to do such work or to make such improvements as it shall deem necessary to put the road in a passable condition. The resolution shall specify generally the work which is deemed necessary. The county auditor shall cause a copy of the resolution to be mailed to the clerk of the town. If the town for a period of 30 days after the mailing of the notice, fails or neglects to do the work or make the improvements set forth in the resolution, the county board may cause the work to be done or the improvements made, and the cost thereof shall be paid from the county road and bridge fund; provided that no such work shall be performed by the county when the cost thereof exceeds \$3,000 per mile.

Subd. 4. (STATEMENT OF COST; TAX LEVY) When any county board shall have performed any work or made any improvement on any such road, it

shall cause to be prepared in duplicate an itemized statement of the cost of the work or improvement. The statement shall be filed with the county auditor and a copy thereof shall be mailed by the county auditor to the clerk of the town. The town clerk shall forthwith notify the several members of the town board that such a statement has been filed and that a meeting of the town board to act thereon will be held at a time to be specified in the notice, not later than ten days after the receipt of the notice from the county auditor. The town board shall meet at the time and place specified in the notice so given by the clerk and levy a special tax upon all the taxable property in the town in an amount sufficient to pay the amount expended by the county in performing the work or making the improvement. The tax so levied shall be certified to the county auditor on or before October 15 next succeeding, and the county auditor shall extend the same with other town taxes upon the tax list of the town. If the town board shall for any reason fail to act as herein provided, the county auditor is hereby authorized and directed to levy the tax and extend the same with other town taxes upon the tax list of the town. The tax shall be collected and the payment thereof enforced in the same manner and subject to the same penalties and interest as other town taxes. When collected the tax shall be paid into the county treasury and credited to the county road and bridge fund.

History: M. S. '57, Sec. 162.24.

COMMENT: The present law provides that no work shall be performed by a county on an impassable township road if the cost thereof exceeds \$1,000 per mile. The limitation in the proposed revision has been raised from the \$1,000 per mile to \$3,000 per mile.

Sec. 17. (DRAINAGE SYSTEMS AFFECTING HIGHWAYS; ALTERATIONS) Upon the filing of a resolution by the county board of any county with the county auditor, in the case of a public ditch system lying wholly within a county, or with the clerk of the district court having jurisdiction over said ditch in the case of a ditch system affecting two or more counties, therein setting forth that it would be advantageous or desirable in the construction or maintenance of a highway under the jurisdiction of the county to make a minor alteration or change in a public ditch system directly affecting the highway, and that the alteration or change will not affect the functioning or efficiency of the ditch system, it shall be the duty of the auditor, or the clerk with the approval of the judge, to fix a time and place for hearing thereon and to give notice of hearing by publication as defined by Minnesota Statutes, Section 106.011, subdivision 2. Upon the filing of the resolution, the board shall also cause to be filed a plan showing in detail the alteration or change therein described. If upon the hearing it shall appear to the county board or district court that the alteration or change in the public ditch system will not affect or impair the efficiency of the ditch system, the board or court shall make its order authorizing the county to cause the alteration or change to be made. Upon the making of the order by the county board or the court, the county board may proceed at the sole cost and expense of the county to make the alterations or changes as may be in the order allowed; damages, if any, occasioned thereby being first duly paid or secured by the county. Upon completion of the alteration or change, the county board shall cause to be filed with the auditor or clerk, a map and profile

drawn to scale showing thereon the change or alteration made. If the map and profile be filed with the clerk, duplicates thereof shall also be filed with the auditor of each county affected. Upon the completion of the alteration or change herein provided for, the ditch shall thereafter include the alteration or change as part thereof with the same force and effect as though it had been originally so constructed and established.

History: M. S. '57, Sec. 106.496.

COMMENT: No substantive change.

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ARTICLE V

TOWN ROADS

Section 1. (DEFINITIONS) For the purposes of Article V the terms defined in Article I, Section 2 shall have the same meaning.

History: New.

COMMENT: This section provides a reference to definitions contained in Article I.

Sec. 2. (TOWN ROADS) Subdivision 1. (ESTABLISHMENT AND SUPERVISION)

Town roads shall be established, located, relocated, constructed, reconstructed, improved and maintained or vacated by the several towns. The town boards shall have supervision over town roads, and they may employ such men as they deem necessary to carry out their duties. They may appropriate and expend such sums of money from their respective town road and bridge funds as they deem necessary for the establishment, location, relocation, construction, reconstruction, improvement and maintenance or vacation of such roads.

Subd. 2. (ACQUISITION) They may acquire by purchase, gift or eminent domain proceedings, as provided by law, all necessary right of way for such roads, purchase all necessary road material, purchase or rent machinery, tools and supplies needed therefor, and may construct buildings, or rent or acquire by purchase, gift or condemnation grounds and buildings necessary for the storing and housing of the material, machinery, tools and supplies.

History: M. S. '57, Sec. 163.01, subd. 1;
Subd. 2 is new.

COMMENT: The powers of the town board have been broadened. In subdivision 1 the town board is empowered to employ such men as they deem necessary to carry out their duties. This sentence takes the place of the present M. S. '57, Sec. 163.07 which provides for a road overseer. The language of the revision is broad enough to give the townships the power to supervise the construction or maintenance of roads themselves, or if they so desire, to hire a road overseer.

Sec. 3. (EXPENDITURES) Subdivision 1. (APPROPRIATION OF MONEY TO AID COUNTY HIGHWAY OR COUNTY STATE-AID HIGHWAY) When authorized by a vote of the electors at any annual meeting or at any special meeting called for that purpose, the town board of any town may appropriate money from the town road and bridge fund to aid in the construction, improvement or maintenance of any county highway or county state-aid highway located within the town.

Subd. 2. (APPROPRIATION OF MONEY TO COUNTY FOR USE ON TOWN ROADS) When authorized by the electors, and with the consent of the county board, the town board may appropriate money to the county from the town road and bridge fund for the construction, improvement and maintenance of town roads designated by the town board.

Subd. 3. (SPECIFIC USES OF MONEY APPROPRIATED) Any money so appropriated shall be paid into the county road and bridge fund and shall be used only for the purposes designated by the town board at the time it made such appropriation.

Subd. 4. (REPORT) The town board shall render to the annual town meeting a written report containing:

(1) The amount of road taxes levied and the amount collected during the preceding year and all money paid into the road and bridge fund from all other sources;

(2) A statement of the improvements needed on roads, cartways and bridges for the ensuing year, with an estimate of their probable expense;

(3) A statement of all expenses and damages occasioned by establishing, altering or vacating roads and of all sums expended for machinery, implements, tools, stone, gravel and other material during the year, with an estimate of the amount required for the ensuing year; and,

(4) A statement of the improvements made on roads, cartways and bridges during the preceding year, with a statement of expenditures therefor.

A copy of the report shall be filed with the county auditor.

History: Subdivision 1 in part from M. S. '57, Sec. 163.01, subd. 2; Subd. 2 is from M. S. '57, Sec. 163.02 and M. S. '57, Sec. 163.03; Subd. 3 is taken from M. S. '57, Sec. 163.01, subd. 1 and M. S. '57, Sec. 163.02, subd. 4 and M. S. '57, Sec. 163.01, subd. 3.

COMMENT: No substantive change.

Sec. 4. (TAXATION) Subdivision 1. (ROAD TAXES; PAYMENT) All real and personal property in each town liable to taxation shall be taxed for road purposes, and all road taxes hereafter levied shall be paid in cash.

Subd. 2. (FIXED AT ANNUAL TOWN MEETING) The electors of each town shall have power at their annual town meeting to determine the amount of money which shall be raised by taxation for road and bridge purposes, not exceeding 25 mills per dollar on the taxable property of the town. The tax so voted shall be extended, collected and payment thereof enforced in the same manner and at the same time as is provided by law for the extension, collection and enforcement of other town taxes.

Subd. 3. (EMERGENCIES) In case of emergency after the town meeting, but not later than October 1 in the same year, the town board may levy a tax

on the property in the town for road and bridge purposes, in addition to any tax voted at the annual town meeting for road and bridge purposes, in an amount not to exceed five mills on the dollar of the assessed value of the property in the town. Any tax so levied shall forthwith be certified to the county auditor for extension and collection. The town board may thereafter pledge the credit of the town by issuing town orders, not exceeding the amount of the additional tax so levied for road and bridge purposes, in payment for the emergency work done or material used on the roads within the town.

History: M. S. '57, Sec. 163.05.

COMMENT: Subd. 3 of the present M. S. '57, Sec. 163.05 has been omitted because the exception provided for in that subdivision no longer serves a purpose.

Sec. 5. (TOWN ROAD DRAINAGE TAX) Subdivision 1. (POWERS) In any town wherein the voters shall at the annual town meeting vote as hereinafter provided to authorize the town board so to do, the town board may levy and assess on the real and personal property in the town, other than money and credits taxed under the provisions of Chapter 285, a tax not to exceed in amount ten mills on the dollar of the assessed value of such property, which tax so levied shall be known as the town road drainage tax. Such tax shall be additional to all other taxes which the town is or may hereafter be authorized to levy, and the amount of such tax so levied and collected shall be deemed to have been levied and collected for road and bridge purposes within the meaning of any law limiting the amount of taxes which may be levied or voted at the annual town meeting; provided, that in towns having an assessed valuation of not less than \$1,000,000, nor more than \$8,000,000,

and which otherwise come under the provisions of sections 368.02 to 368.11 the amount of such tax so levied and collected shall not be deemed to have been levied and collected for road and bridge purposes within the meaning of any law limiting the amount of taxes which may be levied or voted at the annual town meeting.

Subd. 2. (COLLECTION) Such tax shall be certified to the county auditor, extended and collected and paid over to the town treasurer in the same manner as other town taxes and payment thereof shall be enforced in the same manner and with like penalties and interest as other town taxes. The proceeds of such tax shall constitute the town road drainage fund, which shall be expended by the town board in paying the cost and expenses of draining the public roads within the town.

Subd. 3. (PETITION) When a petition signed by ten or more freeholders and voters of a town shall be presented to the town clerk at least 20 days before the time of holding the annual town meeting, praying that the question of authorizing the town board to levy and assess a town road drainage tax be submitted to the voters of such town, the town clerk shall include in his notice of such annual town meeting a notice that such question will be voted on at such meeting. Such question shall be voted on by ballot and it shall be the duty of the clerk to provide at the expense of the town a suitable number of ballots, which may be printed or written or partly printed and partly written, in substantially the following form:

"Shall the town board be authorized to levy and (Yes____
assess a Town Road Drainage Tax? (No____"

Subd. 4. (AUTHORIZATION) If a majority of the votes cast on the proposition be in the affirmative, the town board shall have authority to

levy annually a tax as hereinbefore provided until such time as the electors, at an annual town meeting upon like procedure, shall have voted, by a majority vote of those voting on the question, to withdraw from the town board authority to levy such town road drainage tax. The votes on such question shall be canvassed and the result declared and recorded in the manner provided by law with reference to the election of town officers.

History: M. S. '57, Sec. 163.12.

COMMENT: No change.

Sec. 6. (ESTABLISHMENT, ALTERATION OR VACATION) Subdivision 1.
(RESOLUTION) The town board of any town may establish, alter or vacate any town road or cartway within the town by resolution.

Subd. 2. (CONTENTS OF RESOLUTION) The resolution shall contain a description of the road. In the case of a newly established road or the alteration of a road, the resolution shall also contain a description of the several tracts of land through which the road passes, the names of all persons known by the board to be the owners and occupants of each tract, and a description of the right of way, if any, needed therefor from each tract, and the interest or estate therein to be acquired. The resolution shall be recorded by the town clerk and filed and preserved in the county auditor's office.

Subd. 3 (ACQUISITION OF LANDS OR PROPERTIES) All lands or properties needed for the establishment or alteration may be acquired by purchase, gift or eminent domain proceedings as provided in Chapter 117 and acts amendatory thereto.

Subd. 4. (VACATION) In case of the vacation of a road the board shall cause personal service of the resolution to be made upon each occupant

of the land through which the vacated road ran, and shall also post notice of the vacation for at least ten days. A copy of the resolution together with proof of service and affidavit of posting shall be filed with the county auditor of the county in which the lands lie. Within 30 days after the service, any person claiming to be damaged by the vacation may appeal to the district court of the county for a determination of his damages by serving notice of the appeal upon the town board and filing same with proof of service in the office of the clerk of the district court. The appeal shall state the nature and the amount of damages claimed. It shall be tried in the same manner as an appeal from an award in eminent domain proceedings.

History: New.

COMMENT: The present law requires a petition of not less than eight voters of the town before the town board can establish, alter or vacate a town road. The proposed revision provides that the town board may establish, alter or vacate any town road or roadway by resolution. The proposed revision specifically gives the towns the power to proceed under Chapter 117 for the acquisition of lands and properties needed for road purposes. The proposed revision also provides for the vacation of a road by the town board and provides for a court determination if any person claims to be damaged by that vacation.

Sec. 7. (ALTERNATIVE PROCEDURE FOR ACQUISITION OF LANDS OR PROPERTIES NEEDED) Subdivision 1. (ELECTION BY BOARD) If the board so elects, it may adopt the following procedure for the acquisition of lands or properties needed for the establishment or alteration of a town road, or for the determination of damages occasioned by the vacation of a town road.

Subd. 2. (BOARD TO FIX TIME AND PLACE OF HEARING) Upon passage of the resolution specified in section 6, subdivision 2, the board shall fix the time and place it will meet. Notice of the meeting, together with a copy of

the resolution, shall be served upon each occupant of each tract of land through which the road passes at least ten days before the meeting. Ten days posted notice of the meeting shall also be given. Proof of service and affidavit of posting shall be filed with the clerk of the town board.

Subd. 3. (HEARING) The town board shall meet at the time and place designated and shall proceed to view the premises affected. It shall hear all interested parties regarding damages occasioned by the establishment, alteration or vacation of the road.

Subd. 4. (DAMAGES MAY BE DETERMINED BY AGREEMENT) The damages may be determined by written agreement. Every agreement shall be filed with the town clerk and shall be final as to the matters therein contained.

Subd. 5. (DAMAGES FIXED BY TOWN BOARD) The town board shall determine the damages of those with whom no agreement can be reached or who are unknown. In making the determination the board shall deduct from the damages sustained by each tract the money value of the benefits, if any, accruing thereto, and award the difference in damages.

Subd. 6. (FILING OF AWARD; NOTIFICATION) The award of damages shall be filed with the town clerk. Within seven days after filing the town clerk shall notify, in writing, each known owner and occupant of each tract of the filing of the award of damages. The notification shall set forth the date of the award, the amount of the award of damages and any terms or conditions of the award.

Subd. 7. (APPEAL) Within 40 days after the filing of the award of damages any owner or occupant may appeal from the award by filing a notice of appeal with the clerk of the district court of the county where the lands lie. The notice of appeal shall be accompanied by a bond of not less than \$250, with sufficient surety approved by the judge or the county auditor

conditioned to pay all costs arising from the appeal in case the award is sustained. A copy of the notice together with a copy of the bond shall be served upon the town clerk. The notice of appeal shall specify the award or failure to award appealed from, the land to which it relates, the nature and amount of the claim of appellant, and the grounds of the appeal.

Subd. 8. (TRIAL) The appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than 20 days after the appeal is perfected. The appellant and the town shall be entitled to a jury trial as a matter of right. The court or jury shall reassess the damages basing its determination upon the same principles which the board was required to follow as set forth in subdivision 5. The prevailing party shall recover costs and disbursements as in other civil cases and judgment shall be entered upon the verdict.

Subd. 9. (PAYMENT) Upon final judgment the town board shall promptly pay the amount of the judgment. If no appeal be taken from an award, the town board shall pay the award within 20 days after the time for appeal has expired. The duty of the town board to pay the award or final judgment shall be held and construed to be just compensation or the securing of just compensation within the meaning of the Constitution.

Subd. 10. (APPEAL NOT TO DELAY PROSECUTION OF IMPROVEMENT) After the award of damages has been filed, the board may proceed to open, construct, alter or change the highway. An appeal from the award of damages shall not delay the prosecution of the proposed improvement, and the town board may proceed as if no appeal had been taken.

History: M. S. '57, Sec. 163.13.

COMMENT: The proposed revision gives the town board an alternative procedure similar to the procedure

provided for in M. S. '57, Sec. 163.13. The town clerk is required to notify property owners of any award filed within 7 days after filing. Instead of the 30 day period to appeal provided in M. S. '57, Sec. 163.13, there is a 40 day appeal period. If an appeal is taken the appellant and the town are entitled to a jury trial as a matter of right. If no appeal is taken the town board must pay the award within 20 days after the time for appeal has expired. Subdivision 10 provides that an appeal from the award of damages shall not delay the prosecution of the proposed improvement.

Sec. 8. (PETITION) Subdivision 1. (CONTENTS) Any person who owns real estate in a town may petition the town board to establish, alter or vacate a town road or cartway. The petition shall set forth the beginning, course and termination of the road or cartway with reasonable definiteness. It shall be filed with the town clerk and shall be considered at the next town board meeting. The town board shall hear all interested persons at that meeting or at such continued meetings as the board deems necessary.

Subd. 2. (BOARD'S DETERMINATION) After investigating the matters contained in the petition and after hearing all interested persons, the board shall make its determination by resolution. If it determines to grant the petition it shall proceed as provided in section 6 or as provided in section 7.

Subd. 3. (APPEAL FROM BOARD'S DETERMINATION) If the board denies the petition, any person aggrieved thereby may appeal within 30 days after the denial to the district court of the county by filing a notice of appeal with the clerk of the district court together with a bond of not less than \$250, with sufficient surety approved by the judge or by the town clerk, conditioned to pay all costs arising from the appeal in case the determination of the board is sustained. A copy of the notice of appeal and a copy of the bond shall be served on the town clerk.

Subd. 4. (TRIAL) The appeal shall be entered upon the calendar for trial at the next general term of court occurring more than 20 days after the appeal is perfected. The determination of the board shall not be reversed except upon a clear showing of arbitrary, capricious or fraudulent action. The prevailing party shall be entitled to costs and disbursements to be fixed and allowed as in other civil cases.

Subd. 5. (PROCEDURE ON REVERSAL) If the action of the board is reversed, the board shall proceed in accordance with the decision of the court.

History: New.

COMMENT: The proposed revision retains the petition method and provides that any person who owns real estate in a town may petition the town board to establish, alter or vacate a town road. If the board denies the petition, the person may appeal to the district court. The court is only given the power to reverse the board if there is a clear showing of arbitrary, capricious or fraudulent action on the part of the board.

Sec. 9. (CARTWAYS) Subdivision 1. (MAY BE ESTABLISHED IN CERTAIN INSTANCES) The town board by resolution may establish a cartway two rods wide and not more than 1/2 mile in length upon petition presented to the town board signed by at least five voters, freeholders of the town, requesting the cartway on a section line to serve a tract or tracts of land consisting of at least 150 acres of which at least 100 acres are tillable. If the petition is granted the proceedings of the town board shall be in accordance with section 6 or section 7.

Subd. 2. (SHALL BE ESTABLISHED IN CERTAIN INSTANCES) Upon petition presented to the town board by the owner of a tract of land containing at least five acres, who has no access thereto except over the lands of others,

the town board by resolution shall establish a cartway at least two rods wide connecting the petitioner's land with a public road. The proceedings of the town board shall be in accordance with section 6 or section 7.

History: M. S. '57, Sec. 163.15, subds. 1 and 2.

COMMENT: The present law provides that the town board shall establish a cartway upon receipt of a petition filed by at least 5 voters when the cartway petitioned for is on a section line and will serve a tract or tracts of land containing at least 150 acres of which at least 100 acres are tillable. The town board is required to establish the cartway whether the tract or tracts of land in question had adequate roads or not. In the proposed revision the mandatory requirement in such a case has been changed to permissive action on the part of the board. Subdivision 2 of the present law provides that the town board is required to establish a cartway to serve a tract of land containing at least 5 acres having no other access thereto, and provides that the amount of damages, if any, is to be paid by the petitioner. In the proposed revision the petitioner is not required to pay the damages caused by reason of establishment of a cartway giving him road accessibility.

Sec. 10. (JOINT CARTWAYS) Subdivision 1. (JOINT RESOLUTION)

The town boards of adjoining towns by joint resolution may establish a cartway commencing in one such town and terminating in another such town when the cartway will provide access to a tract or tracts of land of not less than five acres which have no access to a public road except over the lands of others.

Subd. 2. (AGREEMENTS) The town boards, in behalf of their respective towns, may enter into agreements with each other providing for the equitable division of the costs and responsibilities to be borne by each for the right of way, construction and maintenance of the cartway. The agreement may also provide for the letting of a joint construction contract covering all or part of the work to be performed on the cartway.

Subd. 3. (PROCEDURE) After entering into the agreement the town boards shall proceed in the manner and subject to the same review provided in section 6 or section 7.

History: New.

COMMENT: This section takes the place of M.S. '57, Chapter 166. The proposed revision provides for a joint resolution establishing a joint cartway. It gives the boards the power to enter into agreement with each other, provides for division of costs and responsibilities, and also provides for the letting of joint construction contracts.

Sec. 11. (EXPENDITURE OF FUNDS ON CARTWAYS) Any town board may expend town road and bridge funds upon a legally established cartway the same as on town roads if, in the judgment of the board the public interests require it; provided, that where any town board has refused to allocate funds for the upkeep of a cartway, then, upon the petition of ten taxpayers of the town, the town board shall present for the approval of the voters, after due notice, at the annual town meeting the petition for allocation of funds, and at the town meeting the electors of the town shall allow or reject the petition. If the majority of those voting approve the petition for allocation of funds, the town board shall expend road and bridge funds on the cartway.

History: M. S. '57, Sec. 163.15, subd. 3.

COMMENT: No substantive change.

Sec. 12. (LANDS DEDICATED AS ROADS OR STREETS; IMPROVEMENT) Land dedicated to public use as a street, road or cartway, if not less than 30 feet in width, shall be deemed a legal cartway and subject to improvement by the town board as in the case of cartways two or more rods in width.

History: M. S. '57, Sec. 163.16.

COMMENT: No change.

Sec. 13. (ROAD ON TOWN LINE) Subdivision 1. (PROPOSAL TO ESTABLISH) When adjoining towns propose to establish, alter or vacate a road on or along the line between such towns they shall proceed as hereinafter provided.

Subd. 2. (DIVISION OF RESPONSIBILITIES) The town boards shall divide the length of the road proposed to be established, altered or vacated into two parts. When it is proposed to establish or alter a road, the division shall be made so as to divide as nearly equal as possible the cost of right of way, construction and maintenance of the entire road. If the proposal is to vacate a road, the division shall be made so as to divide as nearly equal as possible any damages that may be occasioned thereby.

Subd. 3. (AGREEMENT) After the division the boards shall enter into an agreement specifying which part shall be vacated, or opened, constructed and maintained by each. Thereafter, each board shall proceed in the manner and subject to the same review as provided in section 6 or section 7.

Subd. 4. (JOINT CONTRACT) When a town line road is established or altered as provided herein, the boards may jointly let a contract covering all or part of the work to be performed on the road. If a joint contract is not let each town board shall open and construct its portion thereof as expeditiously as possible.

Subd. 5. (FAILURE TO AGREE) When the town boards cannot agree upon a division as provided herein, or upon the petition of either town board when division previously agreed upon has proved to be inequitable,

the county board, or where the road is on a county line the county boards of the counties concerned, shall determine the proper division of responsibility. Where deemed necessary the services of the county engineer may be used.

History: M. S. '57, Sec. 163.17, subds. 1 through 6.

COMMENT: The proposed revision shortens and clarifies the present law. It provides for the letting of a joint contract covering the work to be performed on the town line road.

Sec. 14. (EXPENSES OF CERTAIN TOWNSHIP LINE ROADS) Subdivision 1.

(BRIDGES) In all cases where a road other than a county road, a county state-aid highway or trunk highway is on the line between two towns, whether the towns are in the same county or not, it shall be the duty of the towns to bear jointly and in equal shares the expense of constructing and maintaining any bridge on the road as made necessary by the construction of a drainage ditch or by reason of the changing, widening or alteration of any drainage ditch, or by reason of the altering or changing of any watercourse.

Subd. 2. (DITCHES) In any proceeding for the establishment and construction of any drainage ditch or the changing, widening or alteration of any such ditch, or the altering of any watercourse, as specified in this section, each of the towns charged by the provisions of this section with the obligation of constructing and maintaining any bridge because of any such improvements, shall be awarded and paid one-half of the total damages awarded for the construction of the bridge by reason of the obligation to construct and maintain the bridge.

History: M. S. '57, Sec. 163.09.

COMMENT: No substantive change.

Sec. 15. (ROAD ON LINE BETWEEN TOWN AND ADJOINING CITY OR VILLAGE)

Subdivision 1. (PROPOSAL TO ESTABLISH) When a town and an adjoining city or

village propose to establish, alter or vacate a road on or along the line between the town and the adjoining city or village, they may proceed as hereinafter provided.

Subd. 2. (AGREEMENTS) The town board and the governing body of the adjoining city or village may enter into agreements providing for the equitable division of the costs and responsibilities to be borne by each for the establishment, alteration or vacation of the road. If the agreement provides for the establishment or alteration of such a road, the agreement may also provide for the letting of a joint construction contract covering all or part of the work to be performed on the road. The agreement may also provide for a division of the costs of subsequent improvement and maintenance of the road.

Subd. 3. (JOINT RESOLUTION) After entering into the agreement the town board and the governing body of the city or village, by joint resolution shall establish, alter or vacate the road in accordance with the agreement. The town board shall proceed in the manner and subject to the same review as provided in section 6 or section 7, and the city or village shall proceed in the manner provided by law for the establishment, alteration or vacation, as the case may be, of city or village streets.

History: M. S. '57, Sec. 163.17, subd. 7.

COMMENT: The proposed revision provides for the establishment of a road along the line between a town and an adjoining city or village by joint resolution. The town and the city or village may enter into agreements providing for the division of costs and responsibilities to be borne by each, and may enter into a joint construction contract. It further provides that they may enter into agreements for future maintenance of the road.

Sec. 16. (DEDICATION OF LAND FOR ROAD) Subdivision 1. (APPLICATION)

One or more owners may dedicate land for a road or cartway by making application therefor in writing to the town board, describing the land, the purpose of its dedication and filing the application with the clerk. The clerk shall present the same to the town board which, within ten days after the filing, may pass a resolution declaring the land described to be a public road or cartway. When so declared the land shall be deemed duly dedicated for the purpose expressed in the application and no damages shall be assessed or allowed therefor.

Subd. 2. (BRIDGE OVER LAKE) Any person owning land to exceed 40 acres constituting part of an island within any meandered lake may at his own expense erect a bridge across such portion of the lake as may separate his land from the nearest town road on shore, provided the structure shall not interfere with the use of that part of the lake for the passage of such water craft as would otherwise pass that point. Before proceeding with the construction of the bridge, proper plans and specifications therefor shall be prepared and submitted to and approved by the town board of the town in which the bridge is to be constructed. If public waters are involved, the plans shall first be approved by the commissioner of conservation. Upon the completion of the bridge in accordance with the plans and specifications, the town board shall approve the same and endorse its approval upon the plans and specifications therefor; and thereupon the same shall be filed in the office of the clerk of the town in which the bridge is located and the bridge shall thereupon become a part of the town road and open to the use of the public as such.

History: L. S. '57, Sec. 163.14.

COMMENT: No substantive change, except the requirement that if public waters are involved the plans must first be approved by the commissioner of conservation.

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ARTICLE VI

BRIDGES

Section 1. (DEFINITIONS) For the purposes of Article VI the terms defined in Article I, Section 2 shall have the same meaning.

History: New.

COMMENT: This section provides a reference to definitions contained in Article I.

Sec. 2. (POWERS OF ROAD AUTHORITIES) The road authorities may construct, reconstruct, improve and maintain bridges whenever they deem bridges to be necessary.

History: New.

COMMENT: The substance of Section 2 is implied in the present law since a bridge is part of a highway

Sec. 3. (STRENGTH OF BRIDGES) All bridges hereafter constructed on any public highway or street, including streets within cities, villages and boroughs, shall be at least of sufficient strength to support with safety any vehicle with a weight of 20 tons on two axles with ten foot centers, with not to exceed three-fourths of the weight concentrated on one axle, when driven at a speed of not to exceed three miles an hour.

History: M. S. '57, Sec. 104.23.

COMMENT: No substantive change.

Sec. 4. (BRIDGES, CULVERTS; WIDTHS) Except for railroad-highway grade separations, all bridges and culverts on any trunk highway, county state-aid highway or municipal state-aid street hereafter established,

constructed or improved shall be at least 24 feet wide between curbs, and approaches thereto shall be at least 28 feet wide shoulder to shoulder. Except for railroad-highway grade separations, all bridges, culverts and approaches thereto on all other roads, except cartways, hereafter established, constructed or improved shall be at least 20 feet wide.

History: M. S. '57, Sec. 160.031.

COMMENT: Changes that have been made have been largely for clarification purposes.

Sec. 5. (RAILROAD BRIDGES OVER HIGHWAYS) Subdivision 1. (WIDTH)

Any railroad bridge hereafter constructed or substantially reconstructed over a public highway including city, village or borough streets, shall be constructed so as to leave a clear opening for the highway at least four feet wider than the surfaced portion of the highway, but in no event less than 28 feet wide; provided that the requirement that the clear opening for the highway be at least four feet wider than the surfaced portion of the highway may be modified by the commissioner in accordance with plans approved by him.

Subd. 2. (CLEAR SPACE BETWEEN HIGHWAY AND BOTTOM OF BRIDGE)

Such bridge shall provide at least 14 feet clear space from the surface of the highway to the bottom of the bridge.

History: M. S. '57, Sec. 160.041.

COMMENT: Changes are largely for clarification purposes.

Sec. 6. (HIGHWAY BRIDGES AND APPROACHES OVER RAILROAD) Subdivision 1.

(WIDTH OF BRIDGE) The clear roadway width between curbs on any bridge hereafter constructed on any public highway, including city, village or borough streets, over the tracks of any railroad shall be at least four feet wider than the surface portion of the highway, but in no event less than 28 feet;

provided that the requirement that the width of the bridge be at least four feet wider than the surface portion of the highway may be modified by the commissioner in accordance with plans approved by him.

Subd. 2. (APPROACHES) The approaches to the bridge shall be at least eight feet wider than the surfaced portion of the roadway, but not less than 32 feet wide, and the grade of the approach shall not exceed five feet rise in 100 feet. It shall leave a clear space from the railroad rails of at least 22 feet measured vertically.

History: M. S. '57, Sec. 160.051.

COMMENT: The width of the approaches has been increased from 28 feet to 32 feet. An additional requirement has been added that the approaches shall be at least 8 feet wider than the surfaced portion of the roadway.

Sec. 7. (INTERSTATE BRIDGES) Subdivision 1. (PURPOSE) The purpose of this section is to connect the highway system of this state with the highway system of adjoining states by means of interstate bridges.

Subd. 2. (INTERSTATE BRIDGES AS PART OF HIGHWAY SYSTEM) When any trunk highway, county state-aid highway, or municipal state-aid street leads to or connects with an interstate bridge, other than an interstate bridge owned privately or operated as a toll bridge, the bridge or so much thereof as lies within the boundaries of this state shall be part of the highway or street leading to it.

Subd. 3. (ACQUISITION OF BRIDGES OWNED BY VILLAGES OR CITIES IN ADJOINING STATE) Any road authority, including the road authority of any city, village or borough, having jurisdiction over a highway or street connecting with an interstate bridge owned by an adjoining state or political subdivision thereof, may acquire the bridge or any portion thereof from the

adjoining state or political subdivision thereof upon such terms and conditions as the road authority deems just and equitable.

Subd. 4. (ACQUISITION OF TOLL OR PRIVATELY OWNED BRIDGES) Any road authority, including the road authority of any city, village or borough, having jurisdiction over any highway or street connecting with an interstate bridge that is owned privately or operated as a toll bridge, may acquire the bridge in cooperation with the authorized authorities of the adjoining state connected by the bridge, when the road authority determines that the acquisition is required in the interests of public travel. The bridge may be acquired by purchase, gift or eminent domain proceedings as provided by law.

Subd. 5. (COOPERATION WITH AUTHORIZED AUTHORITIES OF ADJOINING STATE) Road authorities, including road authorities of cities, villages and boroughs, having jurisdiction over any highway or street connecting with an interstate bridge shall cooperate with the authorized authorities of the adjoining state connected by the bridge in the maintenance, improvement or reconstruction of the bridge. If any highway or street runs to boundary waters of this state and an adjoining state where no interstate bridge exists, the road authorities, in cooperation with the authorized authorities of the adjoining state, may construct and thereafter maintain an interstate bridge connecting the highway or street with the highway system of the adjoining state when the road authority determines that the bridge is necessary in the interests of public travel. The location of the bridge shall be determined by the road authority in cooperation with the authorities of the adjoining state.

Subd. 6. (JOINT ACQUISITION) Counties, towns, cities, villages and boroughs bordering on boundary waters of this state may jointly acquire, construct, reconstruct, improve or maintain an interstate bridge in cooperation with the authorized authorities of the adjoining state; provided that county state-aid highway funds or municipal state-aid street funds shall not be expended on interstate bridges other than those connecting with a county state-aid highway or municipal state-aid street.

Subd. 7. (AGREEMENTS WITH AUTHORITIES OF ADJOINING STATES) The road authorities, including the road authorities of cities, villages and boroughs, may enter into equitable agreements with the authorized authorities of adjoining states in all matters pertaining to interstate bridges.

Subd. 8. (TRUNK HIGHWAYS TO BE LOCATED OVER BRIDGES) When any route of the trunk highway system runs into or through any city, village or borough owning an interstate bridge connecting such city, village or borough with the highway system of an adjoining state, the commissioner shall specifically locate the route so that it shall run to the state boundary over the bridge.

History: M. S. '57, Sec. 164.01 through 164.12.

COMMENT: This section takes the place of a number of sections in the present M. S. '57, Chapter 164. Subdivision 8 of the proposed revision provides that when any route of the trunk highway system runs through any city, village or borough where an interstate bridge is located, the commissioner shall specifically locate the route so that it shall run to the state boundary over the bridge. The present law is in conflict. M.S. '57, Sec. 164.09 limits the routes to the routes described in the Constitution. M. S. '57, Sec. 161.03, subd. 1 provides that all routes shall run to the boundary over interstate bridges when the route goes into a city, village or borough owning an interstate bridge.

Sec. 8. (BRIDGES OVER WATERS BETWEEN THIS STATE AND ADJOINING NATION OR PROVINCE) When a trunk highway leads to waters forming the boundary between this state and an adjoining nation or province thereof, and the Congress of the United States has authorized the construction of a bridge or bridges over the waters, the commissioner may enter into equitable agreements with the authorized authorities of the nation or province providing for the construction, reconstruction, maintenance, repair and operation of the bridge or bridges, and for the division of costs and responsibilities to be borne by each therefor. The bridge or bridges shall thereafter be constructed, reconstructed, maintained, improved and operated in accordance with the agreement.

History: New.

COMMENT: The commissioner presently does not have the authority to enter into agreements for the construction of a bridge over waters forming the boundary between this state and an adjoining nation. The United States has authorized the construction of at least one bridge between Canada and the State of Minnesota. Section 8 gives the commissioner the needed authority to enter into equitable agreements with authorized authorities of an adjoining nation or province and to thereafter construct, reconstruct, maintain, improve and operate bridges in accordance with the agreement. The commissioner's authority, of course, is predicated upon authorization of Congress.

Sec. 9. (JOINT ESTABLISHMENT OF BRIDGES OVER NAVIGABLE STREAMS; SECURING THE FREE PUBLIC USE OF TOLL BRIDGES) Subdivision 1. (JOINT ACQUISITION, CONSTRUCTION AND MAINTENANCE) Counties, towns, cities, villages and boroughs interested, jointly or separately, may lease, acquire, construct, reconstruct, improve and maintain bridges over any navigable stream and may construct, reconstruct and maintain suitable approaches thereto. Such approaches may include the improvement of main highways for a distance not exceeding ten miles from the bridge.

Subd. 2. (WHAT CONSTITUTES INTEREST IN BRIDGES) A county, town, city, village or borough shall be deemed interested in bridges located outside of and within three miles of its corporate boundaries as well as those within or along its boundaries.

Subd. 3. (BRIDGES OVER MINNESOTA OR MISSISSIPPI RIVERS) Before any bridge is erected over the Minnesota or Mississippi Rivers, the location and plan thereof shall be approved by the commissioner. Bridges over the Minnesota River below the city of Chaska shall be built with a suitable draw of not less than 80 feet opening or, in lieu of such opening, built at such clear height above the ordinary high-water stage as will be sufficient to accommodate the ordinary navigation of the river.

Subd. 4. (DRAWS TO BE OPENED ON REASONABLE SIGNAL) All draws shall be opened on reasonable signal or notice to allow the passage of vessels.

Subd. 5. (APPROVAL OF THE SECRETARY OF ARMY) All bridges over navigable waters of the United States shall receive the approval of the Secretary of Army before construction.

Subd. 6. (SECURING FREE PUBLIC USE OF TOLL BRIDGES) Counties, towns, cities, villages and boroughs interested may secure the free public use of any toll bridge built across any stream in this state. They may secure the free public use of any bridge by purchase, gift or eminent domain proceedings as provided by law.

History: M. S. '57, Sec. 164.24.

COMMENT: The proposed revision divides the present M. S. '57, Sec. 164.24 into a number of subdivisions. The bond provisions contained in Sec. 164.24 have been omitted since M. S. '57, Chapter 475 covers those matters. The provisions relating to toll rates in M. S. '57, Sec. 164.24 have also been omitted.

Sec. 10. (BONDS) Subdivision 1. (CERTAIN COUNTIES MAY ISSUE AND SELL) The county board of any county having no outstanding road and bridge bonds may issue and sell county road bonds in an amount not exceeding one-half of one per cent of the assessed valuation of the taxable property within the county exclusive of money and credits, for the purpose of constructing, reconstructing, improving or maintaining any bridge on any highway under its jurisdiction, without submitting the matter to a vote of the electors of the county.

Subd. 2. (BONDS TO BE ISSUED AND SOLD AS PROVIDED IN M. S. '57, CHAPTER 475) Such bonds shall be issued, sold and retired in the manner provided in Chapter 475.

History: M. S. '57, Sec. 164.21; M. S. '57, Sec. 164.24; and M. S. '57, Sec. 164.18.

COMMENT: M. S. '57, Chapter 475 provides for the issuance and sale of bonds by counties for road and bridge purposes, and specifically provides that a referendum is necessary before any bonds are sold unless some other existing law provides that a referendum is unnecessary. Section 9 of the proposed revision was drafted to retain those provisions contained in M. S. '57, Sections 164.21, 164.24 and 164.18 allowing the county board of certain counties to issue and sell bonds without submitting the matter to a vote.

Sec. 11. (TOWN BRIDGES DESTROYED BY UNUSUAL FLOOD OR CALAMITY; AGREEMENTS FOR RECONSTRUCTION) When a bridge on a town road over a natural water course has been destroyed by unusual flood or calamity and the county in which such bridge is situated contributed to the original cost of construction thereof, and the town resolves to reconstruct the bridge, the county board and the town board by agreement shall determine the costs and responsibilities to be borne by each in the reconstruction of the bridge. The costs agreed upon to be paid by the town and the county shall be paid out of their respective road and bridge funds.

History: M. S. '57, Sec. 164.19, subd. 3.

COMMENT: The present law provides that when a bridge on a town road has been destroyed by unusual flood or calamity the county, if it contributed to the original cost of the bridge, shall reimburse the township for the cost of reconstruction in the same proportion that it contributed to the cost of the original bridge.

Sec. 12. (MAINTENANCE OF BRIDGES ON TOWN ROADS) Subdivision 1.

(DUTY OF COUNTY WHEN TOWN FAILS) When it becomes necessary to reconstruct or repair a bridge on any town road in any town or upon any town line in this state, and the bridge is unsafe for travel or has been condemned by the proper authorities, and the town or towns charged with the duty of maintaining the bridge fail, neglect or omit to construct, reconstruct or repair the same or provide for the expense or cost of so constructing, reconstructing or repairing the same, the county board of the county in which the town or towns are located shall have the power and authority to reconstruct and repair the bridge upon giving notice to the town board of the town or towns of its intention to do so and fixing a time and place for a hearing as to the necessity and advisability of the reconstruction or repair.

Subd. 2. (ITEMIZED STATEMENT) When any county shall have reconstructed or repaired any such bridge, the county board shall prepare an itemized statement of the cost thereof. The original shall be filed with the county auditor. Certified copies shall be filed with the clerk of the town or towns charged with the responsibility of maintaining the bridge. If two or more towns were responsible for the bridge the statement shall also show the portion of the cost apportioned to each town. The proportion of the cost to be apportioned to each town shall be determined at the hearing provided in subdivision 1.

Subd. 3. (SPECIAL TAX) The town clerk, upon receipt of the statement, shall forthwith notify the several members of the town board that a

statement has been filed, and that a meeting of the town board to act thereon will be held at a time and place specified in the notice. The meeting shall be held not later than ten days after the filing of the statement. The town board shall meet at the time and place specified in the notice so given by the clerk, and shall levy a special tax upon all the taxable property of the town in an amount sufficient to pay one-half of the amount expended by the county. If two or more towns were responsible for the bridge, each town shall levy a tax in an amount sufficient to pay one-half of the cost apportioned to it.

Subd. 4. (COUNTY AUDITOR MAY LEVY IF TOWN BOARD FAILS TO LEVY)

The tax so levied shall be certified to the county auditor on or before October 15 next succeeding, and the county auditor shall extend the same with other town taxes upon the tax list of the town. If the town board, for any reason, fails to act as herein provided, the county auditor shall levy the tax provided herein and shall extend the same with other town taxes upon the tax list of the town.

Subd. 5. (COLLECTION AND PAYMENT) The tax shall be collected and the payment enforced in the same manner and subject to the same penalties and interest as other town taxes. When collected the tax shall be paid into the county treasury and credited to the county road and bridge fund.

History: M. S. '57, Sec. 164.23, subds. 2 and 3.

COMMENT: The proposed revision clarifies existing law.

Sec. 13. (CONDEMNATION OF BRIDGES) Subdivision 1. (COMPLAINT)

Upon the complaint of any road authority as to highways under its jurisdiction, including the road authority of any city, village or borough having a population of 5,000 or more as to municipal state-aid streets, filed with the railroad and warehouse commission, that any highway bridge over any railroad is

unsafe for the accommodation of the travel thereon by reason of the strength or width thereof, the manner of construction, or grade of the approaches thereto, the clearance thereof above the rails, or for any other cause, the railroad and warehouse commission shall forthwith proceed to investigate the matters contained in the complaint, giving the complainant and the railroad company an opportunity to be heard, at a time and place to be fixed by it, after such notice as it may deem reasonable. Upon the hearing, or any appeal from the order of the railroad and warehouse commission made thereon, a certified copy of any order of the commissioner of highways or resolution of the county board, town board, or governing body of any city, village or borough having a population of 5,000 or more, as the case may be condemning such bridge on account of its noncompliance with the provisions of any existing law relating to the construction of bridges or highways shall be deemed prima facie evidence of the facts therein recited and that the bridge is unsafe for travel.

Subd. 2. (RECONSTRUCTION OF BRIDGES) Upon the hearing the railroad and warehouse commission shall decide the matters set forth in the complaint and make a report in writing thereof, including findings of fact. If it finds the facts set forth in the complaint to be true, it shall make its order directing the railroad company within a time set forth therein to reconstruct or repair the bridge in such manner as it may direct.

Subd. 3. (APPEAL) Any railroad company, or such road authorities making the complaint, may appeal from an order of the railroad and warehouse commission to the district court of the county in which the bridge is located; and, in case of appeal, the same proceedings shall be had as are now provided by law for an appeal from orders of the railroad and warehouse commission, except as herein otherwise provided.

Subd. 4. (PENALTY FOR FAILURE TO COMPLY) Any railroad company failing to comply with any order of the railroad and warehouse commission shall be liable to a penalty of \$50 for each and every day of noncompliance. The penalty may be collected by the road authorities in a civil action brought therefor. Any penalties collected shall be credited to the fund provided by law, or set aside for street or highway purposes.

History: M. S. '57, Sec. 164.30 through 164.33.

COMMENT: A number of sections in the present law have been combined into one section in the proposed revision. The governing bodies of cities, villages and boroughs having a population of 5,000 or more are included within the proposed revision.

Sec. 14. (REPEALER) M. S. '57, Sections 160.012 to 160.251; Sections 160.271 to 160.441; Sections 160.461 to 160.702; Sections 161.01 to 161.24; Sections 162.01 to 162.45; Sections 163.01 to 163.10; Sections 163.12 to 163.20; Sections 164.01 to 164.33; Sections 166.01 to 166.15; Section 471.94; Sections 381.14 to 381.18; and Section 366.26 are repealed.

Sec. 15. (EFFECTIVE DATE) This act takes effect July 1, 1959.

Part II

The Report of The Minnesota
Legislative Interim Commission
on Highway Laws

REPORT OF THE HIGHWAY LAWS COMMISSION

PART II

Due to the requirements of topical arrangements in statutory codification, not all of the necessary changes in the highway laws are included in Part I of the report. A number of extraneous matters indirectly relating to the state's highway system were examined by the Commission and revised. Although these revised sections of the law are essential to complete the legal background for certain aspects of the system, statutory arrangement dictates that the sections remain in other chapters of the statutes. Also, the Commission studied the laws relating to trunk highways established pursuant to the constitutional authority covering the addition of statutory routes. In order to avoid the reprinting of the entire list of statutory routes and yet incorporate additions and clarifications, it was necessary to proceed by the method of substitution and abolishment rather than by repeal and reenactment. Another method which would have avoided reprinting the entire list of statutory routes was not used since the rules of the House and Senate prevent amendments to individual highway routes. In following the method of substitution and abolishment, changes in the statutory routes could not be included in Part I since revisions in this portion of the report are based on repeal and reenactment. Other provisions not subject to incorporation in the main body of Part I are discussed and set forth in Part II. Each change proposed by the Commission is set out by a recommendation. The reasons for

the change are indicated in the discussion which follows the recommendation. The necessary bills to implement the recommendations are not included in Part II; instead, these bills will be individually presented to the 1959 Legislature.

(1) CONTINUATION OF THE HIGHWAY LAWS COMMISSION TO REVISE THE LAWS RELATING TO MOTOR VEHICLES, TRAFFIC REGULATIONS, SAFETY RESPONSIBILITY, DRIVER'S LICENSE, AND SUCH OTHER RELATED MATTERS AS DEEMED NECESSARY.

As indicated in the introduction to this report, the Commission was compelled to delay the review and revision of a number of chapters relating to highway transportation. Included in the material not covered by the study are city and village streets, motor vehicle registration and taxation, traffic regulations, safety responsibility and driver's license. It is deemed necessary that these chapters should also be studied for possible inconsistencies and obsolete provisions.

Secondly, the proposed revision contained in Articles I through VI set forth in Part I of the report will require continued surveillance to insure that the changes made are operative.

Driving habits will change with the change in highway design and function brought about by the Interstate System. Traffic regulations should correspondingly be revised to insure the ultimate in the safety of motor vehicle travel. As evidenced by the increased traffic accidents within the past year, a comprehensive study of statutory safety and traffic regulations is necessary. Although the state rate of deaths per 100,000,000 vehicle miles is less than the national average, current indications reveal a marked tendency toward an increase in the total number of deaths. Much

can be done within the realm of statutory traffic and safety regulations to implement a concerted effort on the part of the state and local governmental agencies to reduce traffic deaths and property damage.

In the light of the above circumstances, numerous suggestions have been made to this Commission that the legislature continue the Highway Laws Commission.

(2) IT IS RECOMMENDED THAT MINNESOTA STATUTES 1957, SECTION 160.401, SUBDIVISIONS 2 AND 3 BE REMOVED FROM WITHIN THE HIGHWAY LAWS AND PLACED WITHIN APPROPRIATE SECTIONS OF THE LAWS.

The present Minnesota Statutes 1957, Section 160.401, Subdivision 2 relates to the power of the state treasurer to temporarily borrow from other public funds to meet any deficiencies in payments from the highway user tax distribution fund. Subdivision 3 of Minnesota Statutes 1957, Section 160.401 relates to the power of the state auditor to set aside a sufficient sum from the highway user taxes to provide for the payment of collection costs and tax refunds as authorized by law. The present codification of these subdivisions within the highway laws does not conform to the principles of topical arrangements. Subdivision 2 should be incorporated within the provisions covering the powers and duties of the state treasurer. Subdivision 3 properly belongs within the statutory provisions authorizing the tax collection and refund, or the provisions covering the powers and duties of the state auditor.

(3) IT IS RECOMMENDED THAT A GENERAL REFERENCE TO HIGHWAY LAWS BE SUBSTITUTED FOR THE PRESENT ENUMERATION OF HIGHWAY LAW SECTION NUMBERS WITHIN OTHER CHAPTERS OF THE STATUTES.

Many other sections of the statutes relate in some way to the highway

laws. Where other sections are dependent on some part of the highway laws it has been the practice in the past to specifically cite the section number of the highway laws. Although this practice facilitates cross-reference to the specific section of the highway laws, oftentimes amendments to one section are not properly recorded in the other section. Substantive amendments to the highway laws may adversely affect the intent of some other dependent section. Also, for the purposes of statutory coordination as performed by the revisor of statutes, when amendments to the principal section are made it is necessary to examine other chapters which may conceivably contain references to the section amended. In order to avoid the danger of making inadvertent changes in sections of the law, a general reference to the highway laws is deemed advisable. Numerous instances of this have been discovered by this Commission and the necessary bills have been prepared for introduction during the 1959 Legislature.

(4) IT IS RECOMMENDED THAT THE REQUIREMENT THAT COUNTY BOARDS GIVE 15 DAYS POSTED NOTICE IN TOWNS WHERE ROAD CONSTRUCTION IS TO BE DONE BE DELETED.

In addition to the requirement that three weeks published notice be given of road construction to be performed under the auspices of certain county boards, Minnesota Statutes 1957, Section 375.21, Subdivision 1 also requires that posted notice be given for 15 days in the town where the road work is to be performed. The extent of notice contemplated by this section is obtained by three weeks of published notice, and the additional notice by posting is unnecessary.

(5) IT IS RECOMMENDED THAT THE WIDTH OF OVERHEAD BRIDGES REQUIRED BY THE RAILROAD AND WAREHOUSE COMMISSION BE INCREASED TO 28 FEET.

The present general laws specifying standards for bridge construction requires that overhead and underground bridges be at least 28 feet in width. The Railroad and Warehouse Commission has authority to require the construction of overhead bridges of at least 18 feet in width. In order to conform all laws relating to bridge construction to the presently accepted standards, Minnesota Statutes 1957, Section 219.40 should be amended to read 28 rather than 18 feet.

(6) IT IS RECOMMENDED THAT THE ADDITIONAL STATUTORY ROUTES LISTED BELOW BE ADOPTED BY THE LEGISLATURE.

Since the inception of the state trunk highway system in 1921, the State of Minnesota through the Department of Highways has continually engaged in the construction and maintenance of highways connecting principal cities, villages and recreational areas of the state with each other, and with similar transportation networks of bordering states and provinces. The two-fold objective of the creation and improvement of this system has been to provide for both intrastate and interstate trade and travel. As a result there exists today almost 12,000 miles of trunk highway routes. To a great extent the system outlines the necessary routes of travel and facilitates trunk highway access to most of the major metropolitan, industrial and recreational areas of the state.

Changes in traffic patterns, construction of new highways in bordering states and provinces, and the construction of the Interstate System

in Minnesota will require changes and additions in the trunk highway system if it is to continue to serve efficiently as the primary highway network. In an effort to study recent developments of these types which may affect the maximum use of the system, the commission created a sub-committee to proceed jointly with the Department of Highways in a review and analysis of existing traffic patterns. This committee conducted numerous hearings throughout the biennium and compiled a list of all additions that were proposed by various state agencies and civic organizations. Each additional segment was subjected to critical analysis by the Department of Highways, both at the main office and at the regional engineering offices. Present road conditions, traffic counts, areas of population to be served by the addition, and projected plans for future highway development were used as a basis of establishing the merits of the proposals. As a result, the Department of Highways submitted its recommendations in each case along with the opinions of the district engineers. Based on this analysis and the testimony before the committee, recommendations are made for the addition of approximately 50 miles of highways.

The additional miles comprise three different types of situations. These include: extensions and additions of trunk highways along the state border to meet highways in foreign states; changes and additions of trunk highways to accommodate changes in traffic patterns; and, extensions and additions of trunk highways to provide access to the Interstate System. The additions listed below are placed under the appropriate headings. It should be noted that under Article II, Section 13, of the proposed revision, the commissioner of highways is given authority to construct trunk highway

links between the Interstate System and other trunk highways within the areas cited. The definite location of these additions are left to the discretion of the commissioner.

Extensions and additions of trunk highways along the state border to meet highways in foreign states and provinces:

- (1) Extend statutory route No. 276 from Marietta to the South Dakota border.
- (2) Add a new route within the City of International Falls leading to Fort Francis, Canada.
- (3) Add a new route from Warroad to the Canadian border.

Changes and additions of trunk highways to accommodate changes in traffic patterns:

- (1) Add a new route from Red Wing to Hastings.
- (2) Add a new route to provide access to the proposed Bethel Airport.
- (3) Extend statutory route No. 136 north from Roseau to take the place of statutory routes Nos. 218 and 308.

Extensions and additions of trunk highways to provide access to the Interstate System:

- (1) Extend statutory route No. 98 at or near Forest Lake to Interstate Route No. 390.
- (2) Extend statutory route No. 124 at or near Alden to Interstate Route No. 391.
- (3) Extend statutory route No. 135 at or near Osakis to Interstate Route No. 392.
- (4) Extend statutory route No. 180 at or near Ashby to Interstate Route No. 392.

- (5) Extend statutory route No. 253 at or near Bricelyn to Interstate Route No. 391.
- (6) Extend statutory route No. 254 at or near Frost to Interstate Route No. 391.
- (7) Extend statutory route No. 263 at or near Ceylon and Welcome to Interstate Route No. 391.
- (8) Extend statutory route No. 264 at or near Round Lake to Interstate Route No. 391.
- (9) Add a new route at or near Iota to Interstate Route No. 391.
- (10) Add a new route at or near the Moose Lake State Hospital to Interstate Route No. 390.

(7) IT IS RECOMMENDED THAT THE CHANGES LISTED BELOW IN THE DESCRIPTIONS OF STATUTORY TRUNK HIGHWAYS BE ADOPTED:

- (1) Delete the word "present" in the description of the following statutory routes: 102, 103, 104, 107, 108, 110, 111, 112 and 114.
- (2) Change the description of statutory route No. 242 to begin on route No. 3 at or near Anoka.
- (3) Change the description of statutory route No. 283 to begin on route No. 242 in the City of Anoka.
- (4) Clarify the description of statutory route No. 95 to begin on route No. 94 at or near Point Douglas.
- (5) Change the description of statutory route No. 129 to conform to the present temporary location in Brooklyn Center.
- (6) Change the description of statutory route No. 309 at the Erainerd State Hospital to provide a circuit driveway.

(8) IT IS RECOMMENDED THAT THE LEGISLATURE AUTHORIZE THE COMMISSIONER OF HIGHWAYS TO ENTER INTO AN AGREEMENT WITH THE PROVINCE OF MANITOBA, CANADA, FOR THE CONSTRUCTION AND MAINTENANCE OF A HIGHWAY IN MANITOBA LEADING TO THE NORTHWEST ANGLE, SUBJECT TO CONGRESSIONAL APPROVAL AND APPROPRIATION OF FEDERAL FUNDS SUFFICIENT TO COVER THE COST THEREOF.

The Northwest Angle has for many years been a tourist attraction because of its geographic significance and natural beauty. This 150-square mile area is separated from the rest of the state by the Lake of the Woods and is bounded on the west side by the Province of Manitoba. Presently, no highway for general public travel exists in Manitoba which would provide access on the west side. Travel between the Northwest Angle and the rest of Minnesota has been limited to boat, plane, or over the ice of Lake of the Woods during the winter.

In response to a keen interest shown by officials of Manitoba, a number of meetings have been held by the Mississippi Parkway Commission concerning the possibility of establishing a highway through this northern wilderness. As a result of these meetings, highway engineers in Canada surveyed the topographic features of the area and concluded that a route of trunk highway standards could be constructed without major difficulties. Preliminary estimates indicated a cost of approximately \$1,600,000 for a highway of 32 miles in length ending near the Northwest Angle Inlet. An additional 7 miles of road would be necessary to link this route with the interior of the Northwest angle. The overall plans include a highway leading north to the Trans-Canadian Highway 1, thus forming a highway circuit in and across Canada back to Minnesota on the east side of the state.

The initial Congressional consent has already been granted under Public Law 85-877, 85th Congress. The law authorizes the negotiation of a compact between the state and the Province of Manitoba, but requires additional Congressional approval before such a compact will become operative.

It is the recommendation of this Commission that the Legislature authorize an agreement between the State of Minnesota and the Province of Manitoba, Canada providing for the division of costs and responsibilities to be borne by each for the construction, maintenance and operation of the highway in Manitoba leading to the Northwest Angle. The agreement shall not be binding or obligatory on the State of Minnesota until the Congress of the United States grants its approval of the terms of the agreement and appropriates federal funds sufficient to meet Minnesota's share of the cost of such highway.

(9) IT IS RECOMMENDED THAT THE DEPARTMENT OF HIGHWAYS AND OTHER ROAD AUTHORITIES STUDY THE POSSIBLE USE OF LOW GRADE SANDS AND GRAVELS STABILIZED WITH OTHER MATERIAL AS A BASE FOR HIGHWAY CONSTRUCTION.

The construction of Minnesota's highways in the past has been on beds composed almost entirely of crushed gravel and sand. With the expansion of the transportation industry, greater demands have been placed on the structural quality of highways. As a result, the depth of gravel bases has increased from 2 and 3 inches to 6 inches. The increased consumption of gravel for road construction has seriously depleted the vast quantities of good gravel located in the state. Construction in certain

parts of the state requires the transportation of gravel and high grade sand from many miles around at a greatly increased cost. The State Department of Highways estimates that trunk highway construction under present standards requires a consumption of 5,000,000 tons of gravel within a year. Continued use of this quantity of gravel in each year will result in a definite depletion of high grade sands and gravels, and eventually this source of road materials will be nonexistent.

Other states, including Minnesota, have experimented with the possible use of low grade gravels and sands, even blow sands, mixed with a stabilizing substance. The results of these experiments indicate that this type of mixture creates as substantial a base as a similar quantity of high grade sand and gravel at approximately 50 per cent of the cost. In view of the greatly expanded program in state and federal highway construction, this Commission recommends that the Department of Highways and other road authorities employ the use of low grade sands and gravels mixed with stabilizing substances wherever possible and continue in the development of this method of road bed construction.

APPENDIX

COMPARATIVE TABLES

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
160.012	1	I	1	1
	2	I	1	2
160.013	1	I	2	1
	2	I	2	2
	3	I	2	3
	4	I	2	4
	5	I	2	5
	6	I	2	6
	7	I	2	7
	8	I	2	8
	9	I	2	10
160.021		I	4	
160.031		VI	4	
160.041		VI	5	1 and 2
160.051		VI	6	1 and 2
160.061		IV	2	1
160.071		V	2	1
160.081		(IV	11	(Note *1)
		(V	6	(Note *1)

*1 - Article IV Section 11 and Article V section 6 empowers the county board and the town board to establish highways by resolution.

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
160.091	1-5	IV	12	7-10
		V	6	7-10
160.101		IV	12	7
		V	6	7
160.111		I	6	
160.121		I	5	1
160.131		I	5	2
160.141		I	9	1-3
160.151		Repealed. Not included in Code		
160.161	1-2	I	16	1-2
		I	27	4 (11)
160.171	1	I	12	
	2	II	25	
160.181	1-12	Repealed. Not included in Code		
	13	I	19	
160.191	1-2	I	20	1-2
160.201		I	22	1-2
160.211	1-4	I	22	3-9
160.221		I	25	1-4
160.231		I	10	1-7
160.241		I	18	1-2
160.251		I	11	1
160.261		Not repealed. Not included in Code (Note *2)		

*2 - Section 160.261 should be incorporated in the Chapter relating to the powers of the Railroad and Warehouse Commission.

PRESENT LAW

PROPOSED REVISION

<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
160.271	1	I	27	2, 4
	2	I	27	4
	3	I	27	1,2,3,4
160.281		I	26	1-5
160.291	1-3	I	21	1-5
160.301		I	17	1
160.311		I	17	3-4
160.321)		(
160.331)		(
160.341)		(IV	13	1-5
160.351)		(
160.361)		(
160.371)		(
160.381)		(IV	13	1-5
160.391)		(
160.401	1	Repealed.	Not included in Code	
	2	Repealed.	Separate bill drafted	
	3	Repealed.	Separate bill drafted	
	4	III	17	
160.411	1	II	4	1
	2	Repealed.	Not included in Code	
	3	Repealed.	Not included in Code	
	4	Repealed.	Not included in Code	
	5	II	4	2

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
160.421		II	5	1,2,4,5
160.435		II	5	3
160.441		II	18	
160.451		Not repealed.		(Note *3)
160.461		II	15	
160.471		Repealed. Not included in Code		
160.475		II	12	
160.481		II	14	1
160.491		II	14	2
160.501		II	14	3
160.511	1-3	II	14	6-8
160.512		II	14	4
160.513		II	14	5
160.521		II	34	
160.531	1-5	II	38	5
160.541	1-10	III	2	1-10
160.551		III	3	
160.561		III	4	
160.571		III	5	
160.581	1-3	III	6	1-3
160.591	1-3	III	7	1-3
160.601	1-6	III	8	1-6
160.611	1-6	III	9	1-8

*3 - Section 160.451 should be incorporated in the Statutes immediately following Section 11 of Article II.

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
160.621	1-10	III	10	1-10
160.631		III	11	
160.641		III	12	
160.651	1-3	III	13	1-3
160.661	1-3	III	14	1-3
160.671	1-5	III	15	1-5
160.681		III	16	
160.691	1-4	III	18	1-4
160.692		III	20	
160.701		I	2	12
160.702	1	I	8	1
	2	I	8	2
	3	I	8	3
	4	I	8	4
	5	I	8	5
	6	Repealed. Not in Code		
161.01		II	2	
161.02	1	II	3	1
	2	Repealed. Not included in Code		
	3	II	3	2,3
	4	II	3	4,5,6
	5	II	3	7,8
161.03	1	II	20	1,2,3
	2	Repealed. Not included in Code		

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
161.03 (Cont.)	3	(II ((II	16 17	1
	4	II	16	1,2,3,4,6
	5	II	30	1,2
	6	II	32	1,2,3
	7	(I ((I	16 27	3 4 (12)
	8	II	31	1
	9	II	9	1,2
	10	II	10	
	11	Repealed. Not included in Code		
	12	II	39	1,2,3,5,6
	13	II	10	
	15	II	33	
	16	II	7	1-2
	17	II	34	1
	18	II	34	2
	19	II	34	3
	20	II	34	4
	21	II	46	1
	22	II	46	2
	23	II	46	3
	24	II	26	
	25	II	36	1
	26	II	36	2-3

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
161.03 (Contd.)	27	II	36	4
	28	II	36	5
	29	II	36	6
	30	I	21	1
	31	II	11	1
	32	II	11	2
	33	II	48	1
	34	II	48	2
	35	II	48	3
	36	II	47	
161.031		II	39	4,5
161.032		II	39	6
161.033		I	11	2
161.034		II	27	1-2
161.035		II	6	1-2
161.04		II	37	1-2
161.05		II	29	
161.061	1	II	42	
	2	II	43	1-6
	3	II	43	7
161.07		II	46	5
161.08		II	46	6
161.09		II	46	7
161.10		II	46	8
161.11		II	46	9

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
161.12		II	46	10
161.121	1-2	II	46	4
161.13		II	44	1-3
161.131	1	II	45	1
	2	I	2	13
	3	II	45	1
	4	II	45	1
161.132		II	18	
161.133		I	3	
161.134		II	45	2
161.135		II	20	
161.14		I	24	1
161.15		I	24	2,3,4
161.16		I	24	5
161.17		I	24	1-5
161.18		II	19	
161.19	1-4	Repealed. Not included in Code		
161.23	1-3	II	40	1-3
161.24		II	35	
162.01	1	(IV	2	1,3
		(
		(IV	4	2
	2	IV	4	2
	3	I	7	
	4	IV	3	
	5	IV	5	1-6
	9	IV	3	

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
162.015		Repealed. Not included in Code		
162.02		IV	4	3
162.04	1-2	IV	6	1,2
162.05		IV	6	3
162.06		IV	6	4
162.07		IV	6	5-6
162.08		IV	6	2
162.09	1-5	Repealed. Not included in Code		
162.11	1	IV	7	1
	2	IV	7	2-5
	3	IV	7	6
	4	IV	7	7
	5	Repealed. Not included in Code		
	6	IV	7	7
	7	IV	7	6
	8	IV	7	8
162.12		Repealed. Not included in Code		
162.18	1-7	Repealed. Not included in Code		
	8	IV	9	1-2
162.19		IV	10	1-2
162.20	1-6	(Repealed. Not included in Code (Article IV Section 14 takes its place		
162.21	1	IV	2	1
	2	IV	11	1
	3	IV	14	1-4
	4-11	IV	11 and 12	

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
162.22		Repealed. Not included in Code		
162.23		Repealed. Not included in Code		
162.24	1-3	IV	16	1-4
162.38		Repealed. Not included in Code		
162.39		Repealed. Not included in Code		
162.40		Repealed. Not included in Code		
162.41		Repealed. Not included in Code		
162.42		Repealed. Not included in Code		
162.43		Repealed. Not included in Code		
162.44		Repealed. Not included in Code		
162.45		Repealed. Not included in Code		
163.01	1	V	2	1
	2	V	3	1,3
	3	V	3	4
163.02		V	3	2,3
163.03		V	3	2
163.04	1-2	Repealed. Not included in Code		
163.05	1-4	V	4	1-3
163.06		Repealed. Not included in Code		
163.07		Repealed. Not included in Code (Note *4)		
163.08		I	13	
163.09	1-2	V	14	1-2
163.10		I	7	

*4 - Section 2, Subd. 1 authorizes town board to hire such men as are necessary to carry out their duties.

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
163.11		Not Repealed. Not included in Code (Note *5)		
163.12	1-4	V	5	1-4
163.13	1	V	6	1-2
	2-9	V	7	1-10
163.131		V	6	1-3
163.132		V	6	1-3
163.14	1-2	V	16	1-2
163.15	1-2	V	9	1-2
	3	V	11	
163.16		V	12	
163.17	1-6	V	13	1-4
	7	V	15	1-3
163.18		I	2	6
163.19		Repealed. Not included in Code (Note *6)		
163.191		Repealed. Not included in Code (Note *6)		
163.20		Repealed. Not included in Code		
164.01		VI	7	1
164.02		I	2	11
164.04		VI	7	2
164.05		VI	7	5,7
164.06		VI	7	5
164.07		Repealed. Not included in Code		
164.08		VI	7	3

*5 - Section 163.11 has to do with municipal streets. It should be placed in the appropriate chapter by the revisor of statutes.

*6 - Article V, Section 6 authorizes a town board to vacate a town road.

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
164.09		VI	7	8
164.10		VI	7	5,8
164.11		VI	7	4
164.12		VI	7	6
164.13		VI	7	6
164.14		Repealed. Not included in Code		
164.15		Repealed. Not included in Code		
164.16		Repealed. Not included in Code		
164.17		Repealed. Not included in Code		
164.18		VI	10	1-2
164.19	1-2	Repealed. Not included in Code		
	3	VI	11	
164.20		Repealed. Not included in Code		
164.21		Repealed. Not included in Code		
164.22		I	17	2
164.23		VI	3	
164.24	1	VI	9	1-5
	2-3	Repealed. Not included in Code		
164.25		VI	9	6
164.26		Repealed. Not included in Code (Note *7)		
164.27		Repealed. Not included in Code		
164.28	1	Repealed. Not included in Code		
	2-3	VI	12	1-5
164.29		Repealed. Not included in Code		

*7 - Matter contained in Section 164.26 covered in Section 106.271.

PRESENT LAW		PROPOSED REVISION		
<u>Section</u>	<u>Subdivision</u>	<u>Article</u>	<u>Section</u>	<u>Subdivision</u>
164.30		VI	13	1
164.31		VI	13	2
164.32		VI	13	3
164.33		VI	13	4
166.01-166.15		Repealed. Not included in Code (Note *8)		
366.26		I	21	1,5
381.14		I	15	1-3
381.15		I	15	4
381.16		I	15	5
381.17		I	15	6
381.18		I	27	4 (10)
471.94	1-4	III	19	1-5

*8 - Article V Section 10, Subdivision 1 through 3 drafted to take the place of Sections 166.01 through 166.15.

AN ACT

CREATING A COMMISSION ON HIGHWAYS COMPOSED OF MEMBERS OF THE HOUSE AND SENATE, DIRECTING SUCH COMMISSION TO PREPARE A BILL REVISING AND CODIFYING THE HIGHWAY LAWS FOR PRESENTATION AT THE NEXT LEGISLATIVE SESSION, AND APPROPRIATING MONEY THEREFOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. A Commission on Highways to investigate, study, revise and codify highway laws is hereby created. The Commission shall consist of seven members of the Senate to be appointed by the Committee on Committees, and seven members of the House of Representatives to be appointed by the Speaker. The appointment of such Commission shall be made upon the passage of this act. Any vacancies that may occur in the membership of the Commission shall be filled by the appointing authority.

Sec. 2. The Commission shall make a comprehensive, detailed, and complete investigation and study of the highway laws, highway policies, and rules and regulations promulgated in furtherance of such highway laws and policies, including enabling legislation for "Amendment No. 2," and legislation relating to access control and the interstate system enacted during the 1957 legislative session.

Sec. 3. The Commission shall hold meetings at such time and place as it may designate. It shall select a chairman, a vice-chairman and such other officers from its membership as it may deem necessary.

Sec. 4. The Commission may subpoena witnesses and records and may employ such assistants as it deems necessary to effectively perform its duties. It may do all things necessary and convenient to enable it to adequately and fully accomplish its purposes and the purposes of this act. The Commission shall use the available facilities and personnel of the Legislative Research Committee unless the Commission by resolution determines a special need or reason exists for the use of other facilities or personnel.

Sec. 5. Every state, county, town and municipal officer is directed to cooperate with the Commission created herein and make available to said Commission, upon request by it, all records and information which are under the control of such officers.

Sec. 6. The Commission shall make a report to the legislature not later than the opening day of the next regular legislative session. Such report shall contain therein a draft of the bill, or bills, revising and codifying the highway laws, together with such explanation thereof as may be necessary.

Sec. 7. The members of the Commission shall be reimbursed for all expenses actually and necessarily incurred in the performance of their duties. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.

Sec. 8. After July 1, 1957, the sum of \$35,000 is hereby appropriated from the Highway User Tax Distribution Fund in the state treasury, all to the Commission on Highways created herein for use in performing the duties imposed under the provisions of this act. For the payment of all expenses incurred in carrying out the provisions of this act, the Commission shall draw its warrant upon the state treasurer, which warrant shall be signed by the chairman and at least one other member of the Commission, and the state auditor shall then approve, and the state treasurer shall pay such warrants as and when presented. A general summary or statement of expenses incurred by the Commission and paid shall be included with the Commission's report.

Approved April 29, 1957