

oners such sum as the county board may determine but not to exceed \$1 per day for other expenses incurred by such other county in providing jail facilities for such prisoners. The county board of the county from which such prisoners are sent, at its first session after their commitment, shall authorize the county auditor to issue to the sheriff of the county where they are committed orders upon the county treasurer for the maintenance of such prisoners while they remain in such jail.

Approved April 24, 1959.

CHAPTER 500—H. F. No. 38

[Coded]

An act relating to highways, appropriating money therefor, providing penalties for violation of certain provisions thereof; repealing Minnesota Statutes 1957, Sections 160.012 to 160.251; 160.271 to 160.441; 160.461 to 160.702; 161.01; 161.02; 161.03, except Subdivisions 21 and 23 thereof; 161.04 to 161.24; 162.01 to 162.45; 163.01 to 163.10; 163.12 to 163.20; 164.01 to 164.33; 166.01 to 166.15; 471.94; 381.14 to 381.18; and 366.26.

Be it enacted by the Legislature of the State of Minnesota:

ARTICLE I

Section 1. [160.01] **Scope of act.** Subdivision 1. **Designation.** For the purposes of Article 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.

Sec. 2. [160.02] **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.** "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.** "County state-aid highways" includes all roads established in accordance with law as county state-aid highways.

Subd. 4. **County highways.** "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.** "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.** "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.** "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.** "Commissioner" means the commissioner of highways.

Subd. 9. **Road authority.** "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.** "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.** "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.** "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.** "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.

Sec. 3. [160.03] **Compensation for public property.** Whenever public property is taken, damaged, or destroyed for highway purposes, just compensation shall be paid therefor.

Sec. 4. [160.04] **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.

Sec. 5. [160.05] **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 subdivision 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.

Sec. 6. [160.06] 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.

Sec. 7. [160.07] 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.

Sec. 8. [160.08] 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

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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 curbs, 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. 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.

Subd. 7. **No commercial establishment within right of way.** No commercial establishment, including but not limited to automotive service stations, for serving motor vehicle users shall be constructed or located within the right-of-way of, or on publicly-owned or publicly-leased land acquired or used for or in connection with, a controlled access highway.

Sec. 9. [160.09] **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 without the consent of the property owner unless other means of access are provided.

Sec. 10. [160.10] **Roads on mineral lands.** Subdivision 1. **Change of location.** When any road, including any street within a city, village, or 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 unless the road authority determines that such standards are not necessary for safety or for the convenience of public travel. All right of way needed for such 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 any lands including mineral lands outside the limits of any city, village, or borough, and such road interferes with the placing of buildings, structures, or other improvements on such 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 such road, the road authority may require of such 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 in whole or in part by the road authority. The owner or lessee and the road authority shall enter into an agreement setting forth the respective responsibilities of each in accord with the provisions of this section.

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. The owner or lessee shall be liable to the owner or occupant of any land abutting upon such road or any affected by such change to the extent of the damage sustained by reason of such change and for the recovery of which an action may be brought. 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 such relocation; provided, that if the road authority determines that such 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 including streets within cities, villages, or boroughs is to be established over mineral lands, or over lands containing gravel, the road authority and the owner or lessee may enter into equitable agreements to provide for the use of such lands for road purposes and for the relocation of the road whenever the road interferes with mining operations.

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Subd. 8. **Section construction.** Nothing in this section shall be construed to limit the power of any road authority including road authorities of cities, villages, or boroughs, to vacate a road by or under any other provision of law. Nothing herein shall affect contractual rights or obligations in existence as of the date of the passage of this section between the road authority and the owner or lessee of mining lands.

Sec. 11. [160.11] **Road building materials.** Subdivision 1. **Acquisition of lands.** When any county board, town board, or council of any village or city shall deem it necessary for the purpose of building or repairing public roads or streets within its jurisdiction, it may procure by purchase, gift, or condemnation in the manner provided by law any lands within the state containing any materials suitable for road purposes, together with the right of way to the same of sufficient width to allow teams, trucks, or other vehicles to pass, and on the most practicable route to the nearest public road.

Subd. 2. **Sale of road building materials.** The county board, town board or council of any city or village may engage in the processing of crushed rock or other road building material for use on public roads or streets within their respective jurisdictions; and may by agreement sell to any other county board, town board, city or village council 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.

The highway commissioner shall have the right to lease lands containing road building material or purchase by cubic yard or on a royalty basis crushed rock or other road building material needed for road base and surfacing purposes including borrow pit for grading fill:

Sec. 12. [160.12] **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.

Sec. 13. [160.13] **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.

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Sec. 14. [160.14] **Marking boundaries of highways.**
Subdivision 1. **Placing marking devices.** Road authorities may place and shall thereafter preserve and maintain suitable monuments or other marking devices in such manner as to clearly indicate 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 signed written objections to the highway boundaries as marked, specifying wherein he believes the boundaries as marked to be in error. A copy thereof executed in accordance with Minnesota Statutes 1957, Section 507.24 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.** Within 12 months after the service and filing of the objections, the road authority or the abutting owner shall serve and file a note of issue with the clerk of the district court in the county in which the land is located. The court shall determine the correctness of the placing of the monuments or marking devices. Except as hereinafter otherwise provided, the procedure shall be governed by the rules governing civil actions. When the matters shall have been finally determined, the location of such monuments or markers shall be in accordance with the court decree and the determination of the location shall be final. A copy of the court decree shall be filed by the road authority with the register of deeds.

Sec. 15. [160.15] **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....."

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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.

Sec. 16. [160.16] **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.

Sec. 17. [160.17] **Road construction contracts — counties and towns.** Subdivision 1. **Plans and specifications to be filed in certain cases.** No contract for the construction or improvement of any road by a county or town wherein the contract price exceeds \$2500 shall be let unless the plans and specifications for such construction or improvement are on file in the office of the county auditor and a true copy thereof available for reference in the office of the county highway en-

gineer with respect to county and county state aid highways, and with the town clerk with respect to 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 certificates 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.

Sec. 18. [160.18] 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 or reconstructing 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.

Subd. 3. Approaches to serve particular uses. The owner or occupant of property abutting upon a public high-

way, having a right of direct private access thereto, may provide such other or additional means of ingress from and egress to the highway as will facilitate the efficient use of the property for a particular lawful purpose, subject to reasonable regulation by and permit from the road authority as is necessary to prevent interference with the construction, maintenance and safe use of the highway and its appurtenances and the public use thereof.

Sec. 19. [160.19] 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.

Sec. 20. [160.20] 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.

Sec. 21. [160.21] 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 or other work as provided in this section shall be deemed for all purposes the employees of the road authority hiring them.

Sec. 22. [160.22] 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 in the county where the lands are located 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.

Sec. 23. [160.23] 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.

Sec. 24. [160.24] 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.

Sec. 25. [160.25] 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

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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.

Sec. 26. [160.26] 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.

Sec. 27. [160.27] Particular uses of right of way and misdemeanors. Subdivision 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. Customs inspection facilities. United States Customs inspection facilities may be placed and maintained within the limits of any public highway, including city, village, or borough streets, when a written permit is issued for such facilities by the proper road authority.

Subd. 5. Misdemeanors. Except for the actions of

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the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:

- (1) Obstruct any highway;
- (2) Plow or perform any other detrimental operation within the road right of way except in the preparation of the land for planting a perennial hay crop, and the harvesting of said crop;
- (3) Erect a fence on the right of way of a trunk highway, county state-aid highway or county highway, except to erect a lane fence to the ends of a livestock pass;
- (4) Dig any holes in any highway;
- (5) Remove any earth, gravel or rock from any highway;
- (6) Obstruct any ditch draining any highway or drain any noisome materials into any ditch;
- (7) Place or maintain any building or structure within the limits of any highway;
- (8) Place or maintain any advertisement within the limits of any highway;
- (9) Paint, print, place, or affix any advertisement or any object within the limits of any highway;
- (10) 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;
- (11) Remove, injure, displace, or destroy right of way markers, or reference or witness monuments, or markers placed to preserve section or quarter section corners;
- (12) Improperly place or fail to place warning signs and detour signs as provided by law;
- (13) 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. 6. **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.

ARTICLE II

Section 1. [161.01] **Definitions.** For the purposes of Article II the terms defined in Article I, Section 2 shall have the same meaning.

Sec. 2. [161.02] **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.

Sec. 3. [161.03] **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 highway or civil 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. He may provide in-service training for all employees of the department.

Subd. 7. **Salaries and expenses.** All salaries and expenses connected with the department of highways shall be paid from 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.

Sec. 4. [161.04] **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.

Sec. 5. [161.05] 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.

Sec. 6. [161.06] 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.

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Sec. 7. [161.07] **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.

Sec. 8. [161.08] **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.

Sec. 9. [161.09] **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.

Sec. 10. [161.10] **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.

Sec. 11. [161.11] **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

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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.

Sec. 12. [161.12] 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 form a part of the national system of interstate and defense highways and 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 La Crescent.

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.

Route No. 395. Beginning at a point on Route No. 390 at or near the intersection of Superior Street and Nineteenth Avenue West in the city of Duluth, thence extending in a northeasterly direction to a point on Route No. 103 at or near the intersection of Superior Street and Tenth Avenue East in the city of Duluth.

Sec. 13. [161.13] 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.

Sec. 14. [161.14] 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 direc-

tion 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

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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 advertisement. The commissioner shall remove or cause to be removed any advertisement or sign prohibited under this section.

Sec. 15. [161.15] 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 description; nor shall there be any deviation from the various villages and cities named in the routes through which such routes shall pass.

Sec. 16. [161.16] 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.

Sec. 17. [161.17] **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.** It is hereby declared that construction of the interstate system of highways will vitally affect the future development of the cities, villages, and boroughs through which these routes pass and such municipalities should have an important role in the development of this highway system; that on the other hand the future planning and programming of construction projects over a period of years is necessary to take maximum advantage of federal aid and to build a unified and coordinated interstate system; that excessive delay in local approval of plans for construction of one segment may seriously impede completion of the entire system and adversely affect other municipalities along the interstate routes; that the mutual exchange of information and close cooperation between the department and local governing bodies should be encouraged by improved administrative processes for securing orderly review of plans and the resolution of differences over interstate routes and projects; and that the provisions of subdivision 1 for local approval of trunk highway plans must be modified for the interstate highway system in the light of these various considerations. Before the commissioner proceeds with the preparation of the final plans for the construction, reconstruction, or improvement of any route on the interstate system lying within any city, village, or borough, he shall submit to its governing body preliminary plans covering the route location. The preliminary plans shall be submitted as part of a report containing such supporting data that the commissioner deems helpful to the governing body in appraising the plans submitted.

Any public hearing on location of an interstate route held in compliance with federal requirements shall be held at least one month after submission to the governing body of the report provided for in this subdivision. After the public hearing, when the commissioner has prepared final plans, he shall submit the final plans to the governing body for approval. If the governing body does not approve the final plans within three months after submitted, the commissioner may refer the plans to (1) the Twin Cities Metropolitan Area Planning Commission, if the project is within the area of its jurisdiction, or (2) the municipal advisory committee on state-aid rules and regulations established under Article III, Sec. 9, Subd. 2, if the project is elsewhere in the state. If a member of the advisory committee is from the municipality concerned he shall be excused. If the plans are so referred, the commission or committee shall give the commissioner and the governing body ample opportunity to present the case for or against approval of the plans so referred. Not later than three months after such hearings and independent study as it deems desirable, it shall approve or disapprove such plans, making such additional recommendations consistent with state and federal requirements as it deems appropriate, and it shall submit a written report containing its findings and recommendations to the commissioner and the governing body. The commissioner shall not proceed with the proposed construction, reconstruction, or improvement except in accordance with plans approved by the governing body or, if referred to the commission or committee, until after the commission or committee has made its report, and then only after the governing body has had an additional 90 days within which to consider the plans originally submitted or such modified plans as may be submitted to it by the commissioner following the report of the commission or committee. If within such 90 day period, the governing body does not approve the plans submitted to it, and if the commissioner then wishes to proceed with the project according to plans differing substantially from the plans recommended by the commission or committee in its report, he shall, before proceeding with the project, file a written report with the commission or committee and the governing body stating fully his reasons for doing so. Whenever plans are referred to the Twin Cities Metropolitan Area Planning Commission, the commission shall be reimbursed from the trunk highway fund for actual and necessary expenses incurred by the commission in staff work incident to consideration of the plans and action thereon by the commission. Whenever plans are referred to the advisory committee on rules and regulations, members of the committee shall be

paid their necessary expenses to the same extent and in the same manner as for its duties in considering the commissioner's rules and regulation.

Sec. 18. [161.18] 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.

Sec. 19. [161.19] 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.

Sec. 20. [161.20] 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 or for providing for driver license examinations; 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. The commissioner may make agreements with and cooperate with any governmental authority for the purpose of effectuating the provisions of this article.

Subd. 3. **Appropriations.** The commissioner may expend trunk highway funds only for trunk highway purposes.

Sec. 21. [161.21] **Studies.** The commissioner may make or cause to be made 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 effect of such development on future traffic needs as indicated by such studies and investigations.

Sec. 22. [161.22] **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.

Sec. 23. [161.23] **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.

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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 shall convey and quitclaim such excess real estate to the highest responsible bidder, after receipt of sealed bids 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 the term between the acquisition and sale thereof and 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. Seventy per cent of the rents shall be credited to the trunk highway fund. The remaining thirty 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.

Sec. 24. [161.24] 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, or private road includ-

ing city, village, or borough streets at the boundary of such trunk highway and the opposite terminal of the highway or street or private road closed off is a cul de sac, and there are no connecting road or streets between such cul de sac and the trunk highway, thereby isolating properties theretofore served by the highway or street or private road 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 or private road 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. Any private road constructed outside the limits of the trunk highway connecting the private road with a public highway shall be the responsibility of the property owner or owners served thereby.

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.

Sec. 25. [161.25] 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.

Sec. 26. [161.26] 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.

Sec. 27. [161.27] 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.

Sec. 28. [161.28] 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.

Sec. 29. [161.29] 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.

Sec. 30. [161.30] 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 dupli-

cation 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.

Sec. 31. [161.31] 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 traffic interchanges, 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.

Sec. 32. [161.32] Manner of conducting work on trunk highway. Subdivision 1. **Advertisement 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 gen-

eral 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 case 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.

Sec. 33. [161.33] 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.

Sec. 34. [161.34] 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.

Sec. 35. [161.35] 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.

Sec. 36. [161.36] 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.

Sec. 37. [161.37] 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.

Sec. 38. [161.38] 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 accommodate 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 funds 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 this section, 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.

Sec. 39. [161.39] Aid to other departments. Subdivision 1. **Technical and engineering assistance, surveys and plans.** Upon the 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.

Sec. 40. [161.40] Joint facilities with Department of Civil Defense. The Commissioner may enter into agreements with the State Department of Civil Defense to build, operate and maintain joint facilities in cases where the Department of Civil Defense contributes its proportionate financial share.

Sec. 41. [161.41] 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.

Sec. 42. [161.42] 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.

Sec. 43. [161.43] 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

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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.

Sec. 44. [161.44] 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.

Sec. 45. [161.45] Public utilities and works on trunk highways. 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 con-

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structed, 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 nor restrict the power and authority of the railroad and warehouse commission as provided for in other provisions of law.

Sec. 46. [161.46] Reimbursement of utilities. Subdivision 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.

Subd. 3. Inclusion of relocation work within construction project. The relocation work may be made a part of a state highway construction contract under applicable federal laws, rules and regulations if the owner or operator of the utility facility requests the commissioner to act as its agent for the purpose of relocating such facilities.

Sec. 47. [161.47] **Highway patrol.** Subdivision 1. [Subd. 4.] **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 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, to the county treasurer of the county where the violation occurred. Three-eighths of such receipts shall be credited to the general revenue fund of the county. The other five-eighths of such receipts shall be transmitted by that officer to the State treasurer and shall be credited to a separate account. All costs of participation in a nation-wide police communication system chargeable to the State of Minnesota shall be paid from such account. On the first day of each calendar month the money remaining in such account, 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 purposes, 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. 2. [Subd. 5.] **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. The commissioner in providing in-service training programs may acquire necessary lands and acquire or build a necessary building for one purpose.

Subd. 3. [Subd. 6.] **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. 4. [Subd. 7.] **Causes for discharge.** Causes for suspension, demotion, or discharge shall be:

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- (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. 5. [Subd. 8.] 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. 6. [Subd. 9.] 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, to-

gether 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. 7. [Subd. 10.] **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. 8. [Subd. 11.] **Application of Subdivisions 4 to 8.** Subdivisions 4 to 8 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.

Sec. 48. [161.48] **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.

Sec. 49. [161.49] **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.

Sec. 50. [161.50] Appropriations. Subdivision 1. **Annual appropriations out of trunk highway fund.** Subject to the limitations contained in Subdivisions 2 and 3, there is appropriated annually out of the trunk highway fund the entire amount thereof or so much thereof as may be necessary for trunk highway purposes including all salaries and expenses connected with the department of highways.

Subd. 2. Abolition of annual standing appropriations. Beginning on July 1, 1961, annual standing appropriations to the department of highways for the purposes enumerated in this subdivision are abolished; all other standing appropriations now existing or hereafter enacted from the trunk highway fund to the department of highways shall remain in full force and effect unless otherwise provided by law. The standing appropriations of moneys from the trunk highway fund abolished by this subdivision are:

(a) All moneys appropriated to the department of highways except moneys for the cost of land acquisition for roads and bridges and moneys for the construction, reconstruction, improvement, and maintenance of trunk highways, and for the personnel needed for such functions.

(b) Moneys appropriated for the state highway patrol and for the cost of administering laws relating to highway traffic regulation and safety, drivers license, and safety responsibility as provided by Minnesota Statutes 1957, Sections 171.26, 172.02, and other laws.

(c) Moneys appropriated for the highway patrol training program by Article II, Section 46, Subdivision 3,

and the nation-wide police communication system by Article II, Section 47. Moneys for the operation of those activities for which the appropriations are abolished by this subdivision shall be financed by specific appropriations which may be made therefor by the legislature from time to time and in the manner provided by law.

Subd. 3. Insufficient specific appropriations. If at any time after July 1, 1961, any specific appropriation made by the legislature from the trunk highway fund for the department of highways is insufficient to carry out any activity specifically enumerated in Subdivision 2, the commissioner of highways, with the approval of the governor, may expend any of the moneys appropriated to the department of highways in a standing appropriation for trunk highway purposes for any of such enumerated purposes. The governor shall only grant such approval after he has consulted with the legislative advisory committee and in the same manner in which he consults such committee in other matters as provided in Minnesota Statutes 1957, Chapter 356.

Subd. 4. Department of administration, application of statutory provisions. The department of highways shall continue to be subject to the terms and provisions of Minnesota Statutes 1957, Chapter 16, and acts amendatory thereof, to the extent that they are applicable.

ARTICLE III

Section 1. [162.01] Definitions. For the purposes of Article III the terms defined in Article I, section 2 shall have the same meaning.

Sec. 2. [162.02] 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 upon compliance with the provisions of Sec. 15.0412.

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 land 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 or as in Article IV, Section 12, Subdivisions 1 to 10 inclusive.

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, 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.

Sec. 3. [162.03] Establishment along common boundary lines. The county board 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.

Sec. 4. [162.04] 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.

Sec. 5. [162.05] 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.

Sec. 6. [162.06] 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 of 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.

Subd. 4. Recommendation of screening board. Each year the screening board, provided for in Sec. 7, Subd. 5, may recommend to the Commissioner a sum of money that the Commissioner shall set aside from the county state-aid highway fund and credit to a research account. The amount so recommended and set aside shall not exceed one-quarter of one percent of the preceding year's apportionment sum. Any money so set aside shall be used by the Commissioner solely for the purpose of conducting research in methods of and materials for the construction and maintenance of county state-aid highways. Any balance remaining in the research account at the end of each year shall be transferred to the county state-aid highway fund.

Sec. 7. [162.07] Apportionment of moneys to counties. Subdivision 1. Formula. After deducting for administrative costs and for the disaster account and research account as heretofore provided, the remainder of the total sum provided for in section 6, 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 87 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 sub-

mitted 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.

Sec. 8. [162.08] 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. Aid to townships. Any county that prior to July 1, 1957, distributed to the towns within the county a portion of the money apportioned to it out of the state road and bridge fund, or now seeks to turn roads back to the townships, may, by resolution, allocate to the towns within its bound-

aries so much of the money apportioned to it under the provisions of sections 8 and 9 that it deems necessary to aid the townships in the construction of town roads. The resolution shall set forth the amount of money or the percentage of its apportionment that the county has allocated to the towns. A certified copy of the resolution shall be forwarded to the commissioner on or before the second Tuesday of January of each year. Upon receipt of such resolution and as soon as he has determined the amount of money to be apportioned to the county, the commissioner shall certify to the state auditor the *amount of money, as set forth in the resolution, that is to be paid out of the county's apportionment for distribution to the towns.* The state auditor shall thereupon issue a warrant in that amount payable to the county treasurer, and the proceeds thereof shall be distributed by the county to the towns. All money so allocated and distributed shall be used by the towns solely for the construction of town roads in accordance with standards approved by the County Board. No part of the money allocated for expenditure solely within cities, villages and boroughs having a population of less than 5,000 shall be allocated or distributed to the towns. The Commissioner of Highways shall maintain a permanent record of the allocations of county state-aid highway funds to the townships in each county. In making the annual apportionments of county state-aid highway funds, he shall reduce the money needs of said counties in the amounts necessary to equalize their status with those counties not making such township allotments.

Subd. 4. **Purposes.** Except as provided in subdivision 3 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 including the expense of signals and safety devices on such system approved by the commissioner; 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. 5. Advances to municipal account. Any county may make advances from any available funds, including funds made available by a city, village or borough pursuant to subdivision 6 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 of such advances made by any county to the municipal account shall never exceed 30 percent 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. 6. Advances of city, village or borough funds—financing. Any city, village, or borough having a population of less than 5,000 may, by agreement with the county pursuant to section 17, subdivision 2 and under rules and regulations of the commissioner and with his consent, use available funds for the purpose of accelerating construction of any portion of the county state-aid highway system within its limits. To finance such construction, the city, village, or borough may issue its obligations to the same extent and in the same manner as for financing construction of any other street. By such agreement, the county may pledge itself to use any part of one or more future allotments to its municipal account to reimburse the city, village, or borough for all or any portion of the money so spent by the city, village, or borough, not including interest on obligations issued to finance the project. A copy of the agreement shall be filed with the commissioner. Thereafter, as allotments are credited annually to the municipal account of the county, the commissioner shall certify to the state auditor that payments to the county may be made in the amounts and at the times specified in the agreement within the limits of the amounts so credited. The county shall pay funds so received to the city, village, or borough in accordance with the terms of the agreement.

Subd. 7. Advances other than to municipal account. Any county may make advances from any available funds for the purpose of expediting the construction, reconstruction, improvement and maintenance of its county state-aid highway system. Total advances, together with any advances to the municipal account, as provided in subdivisions 5 and 6, shall never exceed 40% of the county's last apportionment preced-

ing the first advance. Advances made by any county as provided herein, other than advances made to the municipal account, shall be repaid out of subsequent apportionments to the county's maintenance or construction account in accordance with the commissioner's rules and regulations.

Subd. 8. 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. 9. Maintenance. Not more than 40 percent 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. 10. Project approval, reports. When the 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. 11. State auditor not to issue warrants without certification. The state auditor shall not issue any warrants without the certification of the commissioner.

Sec. 9. [162.09] 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 upon compliance with the provisions of Section 15.0412.

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 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.

Sec. 10. [162.10] 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.

Sec. 11. [162.11] 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.

Sec. 12. [162.12] 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.

Subd. 4. Recommendation of screening board. Each year the screening board, provided for in Sec. 13, Subd. 3, may recommend to the Commissioner a sum of money that the Commissioner shall set aside from the municipal state-aid street fund and credit to a research account. The amount so recommended and set aside shall not exceed one-quarter of one percent of the preceding year's apportionment sum. Any money so set aside shall be used by the Commissioner solely for the purpose of conducting research in methods of and materials for the construction and maintenance of municipal state-aid streets. Any balance remaining in the research account at the end of each year shall be transferred to the municipal state-aid street fund.

Sec. 13. [162.13] Formula. Subdivision 1. **Factors in formula.** After deducting for administrative costs and for the disaster fund and research account as heretofore provided, the remainder of the total sum provided for in sub-

division 1 of section 12 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.

Sec. 14. [162.14] 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 including the expense of signals and safety devices on such system approved by the commissioner, 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 governing body of any such city, village, or borough may, subject to the con-

sent of the commissioner, and under the rules and regulations of the commissioner, use a portion of the money so apportioned on any state trunk highway or county state-aid highway 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.

Sec. 15. [162.15] 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.

Sec. 16. [162.16] Investment of money in county state-aid highway fund or municipal state-aid street fund. Upon the 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.

Sec. 17. [162.17] 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 boroughs 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 an amount determined in accordance with the provisions of Subd. 4 hereof.

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 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.

Sec. 18. [162.18] 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 per cent 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 mu-

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 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.

Sec. 19. [162.19] 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.

ARTICLE IV

Section 1. [163.01] **Definitions.** For the purposes of Article IV the terms defined in Article I, section 2 shall have the same meaning.

Sec. 2. [163.02] **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.

Sec. 3. [163.03] **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.

Sec. 4. [163.04] **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 boroughs. 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 man-

datory as applied to any village, borough, or city whose assessed valuation exceeds \$500 per capita of its population.

Sec. 5. [163.05] 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 twelve 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 20 mills on the dollar of the taxable valuation of the county.

Subd. 5. Special laws to remain in effect. Those counties authorized to levy an amount in excess of 20 mills for their county road and bridge fund by specific legislative enactment may levy the amount provided in such specific legislative enactments.

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.

Sec. 6. [163.06] 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 town-

ships, 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.

Sec. 7. [163.07] 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 shall be a registered highway or civil engineer, registered under the laws of the State of Minnesota. He may be selected from a list of eligible registered highway engineers prepared by the commissioner of highways. 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.

Sec. 8. [163.08] 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.

Sec. 9. [163.09] 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.

Sec. 10. [163.10] 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 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.

Sec. 11. [163.11] 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.

Sec. 12. [163.12] 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 and county state aid highways.

Subd. 2. Time and place for hearing. Upon passage of the resolution specified in section 11, 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 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 40 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 20 days after the appeal is perfected. It shall be tried in the same manner as an appeal in eminent domain proceedings under chapter 117. 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 stipulation in lieu of judgment or upon final judgment, the county board shall promptly pay the amount so stipulated or the amount of the judgment. If no appeal is taken from an award, the county board shall pay the award within 20 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.

Sec. 13. [163.13] 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 determina-

tion of the board is sustained. A copy of the notice of appeal 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 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.

Sec. 14. [163.14] 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 of each county of specified portions of the highway. The highway shall thereafter be maintained in accordance with the agreement.

Sec. 15. [163.15] Bridges across diversion channels. Whenever any county has been authorized by the commis-

sioner 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.

Sec. 16. [163.16] 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.

Sec. 17. [163.17] **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.

ARTICLE V

Section 1. [164.01] **Definitions.** For the purposes of Article V the terms defined in Article I, Section 2 shall have the same meaning.

Sec. 2. [164.02] **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.

Sec. 3. [164.03] 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.

Sec. 4. [164.04] 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.

Sec. 5. [164.05] 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 (Yes____
and 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.

Sec. 6. [164.06] Establish or alter by resolution. In addition to the methods herein provided, the town board, when thereunto duly authorized by a vote of the electors at any annual meeting, or at any special meeting called for that

purpose, may establish or alter a town road by resolution, and may acquire such right of way as may be necessary for such road by gift, purchase or eminent domain proceedings as provided in Chapter 117 and acts amendatory thereto.

Sec. 7. [164.07] Establishment, alteration, or vacation. Subdivision 1. **Petition.** Any town board may alter or vacate a town road or establish a new road in its town upon a petition of not less than eight voters of the town, who own real estate, or occupy real estate under the homestead or preemption laws or under contract with the state, within three miles of the road proposed to be established, altered, or vacated; provided, that in any town not having eight voters who own real estate or occupy real estate under the homestead or preemption laws or under contract with the state, within three miles of any proposed road, the town board of such town may alter or vacate a town road, or establish a new road in the town upon a petition signed by a less number of voters of such town, who own real estate or occupy real estate under the homestead or preemption laws or under contract with the state, in such town. Such petition shall contain a description of the road, and what part thereof is to be altered or vacated, and, if a new road, the names of the owners of the land, if known, over which such road is to pass, its point of beginning, general course, and termination.

Subd. 2. **Hearing.** The Petition shall be filed with the town clerk, who shall forthwith present it to the town board. The town board within 30 days thereafter shall make an order describing as nearly as practicable the road proposed to be established, altered, or vacated and the several tracts of land through which it passes, and fixing a time and place when and where it will meet and act upon the petition. The petitioners shall cause personal service of such order to be made upon each occupant of such land at least ten days before such meeting and cause ten days' posted notice thereof to be given.

Subd. 3. **Examination of proposed road.** At the time and place designated, the town board shall meet and, on proof by affidavit of the giving of such notice, it shall examine the road proposed to be established, altered, or vacated, hear all parties interested, and determine whether it will grant or refuse the petition. If it be refused, the fact shall be noted on the back thereof.

Subd. 4. **Survey.** If the petition be granted, the town board, if it deem it necessary, shall cause a survey to be made. When the center of such road does not follow a section line, or

some subdivisional line of a section, the surveyor shall note the distance to the point on any course at which such course will intersect a section line, and the distance of such point of intersection from the most convenient section, quarter-section, or meander corner, as established by government survey; and the notes of such intersections, and a description of the road so established, altered, or vacated shall be incorporated in an order to be signed by the town board.

Subd. 5. Damages. The damages sustained by reason of establishing, altering, or vacating any road may be ascertained by the agreement of the owners and the town board; and unless such agreement is made, or the owners release in writing all claims to damages, the same shall be assessed and awarded before such road is opened, worked, or used. Every agreement and release shall be filed with the town clerk and be final as to the matters therein contained. The town board shall assess the damages of each claimant with whom it cannot agree, or who is unknown, specifying the amount awarded to each and briefly describing each parcel of land. In ascertaining the damages which will be sustained by any owner the town board shall determine the money value of the benefits which the establishment, alteration, or vacation, as the case may be, will confer, and deduct the benefits, if any, from the damages, if any, and award the difference, if any as 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 shall be mailed by registered or certified mail to the town clerk or any member of the town board. 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. It shall be tried in the same manner as an appeal in eminent domain proceedings under chapter 117. The prevailing party shall recover costs and disbursements as in other civil cases and judgment shall be entered upon the verdict.

Subd. 9. Payment. If no appeal is taken within the appeal period, the award shall be considered the same as a judgment. The provisions of section 365.41 and section 365.42 shall apply as to payment of all awards and judgments; and such award or judgment shall draw interest at the rate of 6% per annum to date of payment. 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.

Subd. 11. Order. The order establishing, altering or vacating any road shall be recorded by the town clerk, and a copy thereof preserved in the county auditor's office. The order or a certified copy shall be received in all courts as competent evidence of the facts therein contained and be prima facie evidence of the regularity of the proceedings prior to the making thereof, except upon the hearing of an appeal.

Subd. 12. Refusal to establish. The determination of a town board refusing to establish, alter or vacate any road shall be final, unless appealed from, for one year from the filing of its order; and no petition for establishing, altering, or vacating such road shall be acted upon within that time. In case its determination granting a petition is appealed from and reversed, it shall not within one year from date of such determination entertain a petition having the same or a similar object.

Sec. 8. [164.08] 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 one-half 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 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 7. The amount of damages, if any, shall be paid by the petitioner to the town before such cartway is opened.

Sec. 9. [164.09] 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 accordance with the agreement to construct and maintain the joint cartway.

Sec. 10. [164.10] 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.

Sec. 11. [164.11] 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.

Sec. 12. [164.12] 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. Division of responsibilities if portion of road taken over by state or county. If a portion of a town line road is taken over by the state as a trunk highway, or by a county as a county state-aid highway or county highway, the town boards concerned shall divide the portions of the town line road not taken over by the state or county, so that the cost of construction, reconstruction, and maintenance thereof will be apportioned as nearly equal as possible. After such division the boards shall enter into an agreement specifying which part shall be constructed and maintained by each.

Subd. 6. Failure to agree. When the town boards cannot agree upon a division as provided in subdivision 2 or subdivision 5, or upon the petition of either town board when a division previously agreed upon has proved to be inequi-

table, 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. In making such division the county board or boards shall follow the procedure provided for in subdivision 2 or subdivision 5. Where deemed necessary the services of the county engineer may be used.

Sec. 13. [164.13] 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.

Sec. 14. [164.14] 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.

Sec. 15. [164.15] Dedication of land for road. Sub-division 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.

ARTICLE VI

Section 1. [165.01] Definitions. For the purposes of Article VI the terms defined in Article I, Section 2 shall have the same meaning.

Sec. 2. [165.02] Powers of road authorities. The road authorities may construct, reconstruct, improve, and maintain bridges whenever they deem bridges to be necessary.

Sec. 3. [165.03] 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.

Sec. 4. [165.04] 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.

Sec. 5. [165.05] 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 16 feet clear space from the surface of the highway to the bottom of the bridge.

Sec. 6. [165.06] 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, provided that the requirement that the grade of the approach may be modified by the commissioner in accordance with plans approved by him. It shall leave a clear space from the railroad rails of at least 22 feet measured vertically.

Sec. 7. [165.07] 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.

Sec. 8. [165.08] 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.

Sec. 9. [165.09] 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.

Sec. 10. [165.10] **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 or bridges 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 Minnesota Statutes 1957, Chapter 475.** Such bonds shall be issued, sold and retired in the manner provided in Chapter 475.

Sec. 11. [165.11] **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.

Sec. 12. [165.12] **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.

Sec. 13. Repealer. Minnesota Statutes 1957, Sections 160.012 to 160.251; 160.271 to 160.441; 160.461 to 160.702; 161.01; 161.02; 161.03—except subdivisions 21 and 23 thereof; 161.04 to 161.24; 162.01 to 162.45; 163.01 to 163.10; 163.12 to 163.20; 164.01 to 164.33; 166.01 to 166.15; 366.26; 381.14 to 381.18; and 471.94 are repealed.

Sec. 14. Effective date. This act takes effect July 1, 1959.

Approved April 24, 1959.

CHAPTER 501—S. F. No. 165

An act relating to fees of county treasurers; amending Minnesota Statutes 1957, Section 272.47.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 272.47, is amended to read: