

AN ACT

ENTITLED, An Act to repeal, update, and make form and style revisions to certain statutes related to the Department of Transportation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-44-4 be amended to read as follows:

1-44-4. There is created the Transportation Commission within the Department of Transportation. The Transportation Commission consists of nine members. The Governor shall appoint the members. All members are full voting members of the commission. Not all members of the commission may be from the same political party. No two members may at the same time be a resident of the same county.

Section 2. That § 1-44-6 be amended to read as follows:

1-44-6. Terms of members of the Transportation Commission are four years. Any member appointed to fill a vacancy arising from other than the natural expiration of a term shall serve for only the unexpired portion of the term.

Section 3. That § 1-44-7 be amended to read as follows:

1-44-7. The Transportation Commission shall annually elect from its members such officers as it deems advisable. A majority of the commission members constitute a quorum. The commission shall exercise such functions as are provided by this chapter and such other functions as may be assigned to it by law. The commission shall hold meetings at the call of the chair or a majority of the members.

Section 4. That § 1-44-7.1 be repealed.

Section 5. That § 1-44-8 be amended to read as follows:

1-44-8. Notwithstanding other provisions of this title, the Transportation Commission has final authority within the Department of Transportation over the allocation of all funds for the

construction of transportation facilities.

Section 6. That § 1-44-13 be repealed.

Section 7. That § 1-44-14 be repealed.

Section 8. That § 1-44-14.1 be repealed.

Section 9. That § 1-44-25 be amended to read as follows:

1-44-25. The South Dakota State Railroad Board is created. The board consists of seven members to be appointed by the Governor. Members shall serve a four-year term. No more than five members may be of the same political party. Any member appointed to fill a vacancy arising from other than the natural expiration of a term shall serve only for the unexpired term, but may be reappointed to a full term. The board shall annually choose from its membership a chair, a vice chair, and a secretary-treasurer. No member may be removed from office except for cause.

Section 10. That § 31-1-1 be amended to read as follows:

31-1-1. Every way or place of whatever nature open to the public, as a matter of right, for purposes of vehicular travel, is a highway. The term, highway, does not include a roadway or driveway upon grounds owned by private persons, colleges, universities, or other institutions, but the term includes a roadway or driveway upon grounds owned by any state agency, college, university, or institution if the governing agency, board, or commission by resolution so determines and the Department of Transportation concurs.

Section 11. That § 31-1-2 be amended to read as follows:

31-1-2. Bridges and culverts erected or maintained by the public constitute a part of the public highway. The terms, road or highway, whenever used in this title include any bridge upon or which form a part of the road or highway constructed, maintained, or to be improved; also any subway or underpass and any overhead crossing.

Section 12. That § 31-2-8 be repealed.

Section 13. That § 31-2-18 be amended to read as follows:

31-2-18. The Department of Transportation may contract for the services of any person with a developmental disability as defined in chapter 27B-1, for the performance of any work under the supervision and control of the department, without competitive bids, if the department determines that the work can be performed by the person with a developmental disability at a cost substantially equal to the ordinary cost.

Section 14. That § 31-2-39 be amended to read as follows:

31-2-39. No execution may issue against the state on any final judgment obtained under the provisions of this chapter. However, if final judgment against the state has been obtained in any such action as provided by this chapter, the clerk of the court, wherein the final judgment was obtained, shall forthwith send a certified copy of the judgment by registered or certified mail to the secretary of transportation, and to the state auditor. The auditor shall audit the amount of damages and costs therein finally awarded. The state treasurer shall pay the damages and costs out of the state highway fund.

Section 15. That § 31-4-2 be repealed.

Section 16. That § 31-4-5 be amended to read as follows:

31-4-5. If any state trunk highway includes a connecting street within a municipality over twenty-five hundred population, the Department of Transportation shall maintain the street. However, the snow removal from the street is the duty of the first or second class municipality within whose boundaries the street lies.

Section 17. That § 31-4-6 be amended to read as follows:

31-4-6. No change may be made so that the state trunk highway system ceases to interconnect every county seat or to connect every first or second class municipality having a population of twenty-five hundred or more by the last federal census.

Section 18. That § 31-4-8 be amended to read as follows:

31-4-8. The department may reroute portions of the state trunk highway system onto the national system of interstate highways. The department may delete portions of the state trunk highway system if they have been rerouted onto the national system of interstate highways if feasible and in the best interest of the State of South Dakota.

Section 19. That § 31-4-9 be repealed.

Section 20. That § 31-4-10 be repealed.

Section 21. That § 31-4-11 be repealed.

Section 22. That § 31-4-12 be repealed.

Section 23. That § 31-4-14 be amended to read as follows:

31-4-14. All marking, surveying, construction, repairing, and maintenance of the state trunk highway system is under the control and supervision of the department. The department shall administer the laws relative thereto.

Section 24. That § 31-4-15 be repealed.

Section 25. That § 31-5-1 be amended to read as follows:

31-5-1. The Department of Transportation shall maintain, and keep in repair, all highways or portions of highways, including the bridges and culverts, on the state trunk highway system.

Section 26. That § 31-5-2 be repealed.

Section 27. That § 31-5-3 be repealed.

Section 28. That § 31-5-4 be repealed.

Section 29. That § 31-5-5 be amended to read as follows:

31-5-5. The department may enter into an agreement with any county to provide that each may perform work or submit monetary contributions for the completion or improvement of a certain part of the state trunk highway within the county.

Section 30. That § 31-5-7 be repealed.

Section 31. That § 31-5-8 be amended to read as follows:

31-5-8. All moneys levied and collected by the state by general state taxation for state highway purposes, or received from the sale of bonds, or appropriated for state highway purposes, shall be expended only in the laying out, marking, constructing, reconstructing, or maintaining public highways forming the trunk highway system and for the expenses of the Transportation Commission. However, twenty-five percent of all such moneys accruing to the state highway fund, other than from federal funds, may be used by the department in marking, constructing, reconstructing, repairing, or maintenance of highways of the state.

Section 32. That § 31-5-9 be repealed.

Section 33. That § 31-5-11 be amended to read as follows:

31-5-11. Payments from all funds made available for road and bridge construction contracts for the trunk highway system shall be made from time to time by the state treasurer upon estimates approved by the department. Upon partial payments made upon signed contracts, the approval of the department on such partial payment vouchers is sufficient proof of correctness, and the oath of the payee is not required in this case.

Section 34. That § 31-5-12 be repealed.

Section 35. That § 31-5-13 be repealed.

Section 36. That § 31-5-14 be repealed.

Section 37. That § 31-5-15 be repealed.

Section 38. That § 31-5-17 be repealed.

Section 39. That § 31-5-19 be amended to read as follows:

31-5-19. To more effectually preserve the historical, archaeological, and paleontological remains of the state, the department may enter into agreements with the appropriate agencies of the state

charged with preserving historical, archaeological, and paleontological remains to have these agencies remove and preserve such remains disturbed or to be disturbed by highway construction and to use highway funds, if appropriated, for this purpose. This authority specifically extends to highways which are part of the National System of Interstate and Defense Highways as defined in the Federal Aid Highway Act of 1956, Public Law 627, 84th Congress, and the use of state funds on a matching basis with such federal funds.

Section 40. That § 31-6-1 be amended to read as follows:

31-6-1. In order that the state may, through the Department of Transportation, more fully cooperate with the federal government in its program for extending aid in construction of certain roads designated by Title 23, United States Code as secondary roads, the department may participate and assist in the program to the extent provided by this chapter.

Section 41. That § 31-6-2 be amended to read as follows:

31-6-2. The department may cooperate with the various boards of county commissioners, and other appropriate local road officers of the state, and the Federal Highway Administration, in the selection of a system of secondary roads as set out in Title 23, United States Code, and may submit to the Federal Highway Administration in the same manner as other federal aid projects are now submitted, projects for improving any roads on the principal secondary roads, rural free delivery mail, and public school bus routes, either outside of municipalities or inside of municipalities of less than five thousand population, and which are not on the federal aid primary highway system or state trunk highway system.

Section 42. That § 31-6-3 be amended to read as follows:

31-6-3. Before any project under the provisions of this chapter may be submitted to the Federal Highway Administration, a request for the submission of the project shall be embodied in a resolution passed by the governing body of the county having control of the highway upon which

the project is desired, and a certified copy shall be filed with the department, together with an agreement by the county to reimburse the department for any costs over and above those costs covered by the federal-aid secondary funds available to the county plus the state highway funds matching those federal-aid secondary funds to carry out the project to the beginning of construction. However, if the county petitioning for the project desires to use its own highway organization for the making of the preliminary survey, plans, and estimates, the county may do so, but the survey, plans, and estimates shall be submitted in detail to the department for approval.

Section 43. That § 31-6-4 be amended to read as follows:

31-6-4. In case any secondary road project is approved by the Federal Highway Administration, the department may call for bids and let a contract for the work in the same manner as now provided for federal aid projects. However, no contract may be let until the county having jurisdiction of the highway has fully and legally provided for the payment of any project costs over and above those costs covered by the federal-aid secondary funds available to the county plus the state highway fund matching those federal-aid secondary funds. However, no such contract may be let until the political subdivision under whose jurisdiction the highway upon which the project is to be constructed has entered into a binding agreement to maintain the project when completed at the subdivision's own cost and expense in such manner as may be agreeable to the federal highway administration and the department.

Section 44. That § 31-6-5 be amended to read as follows:

31-6-5. The jurisdiction and control of the highways upon which any secondary road projects may be approved or constructed, is and shall remain in the county or other political subdivision as it was, and to the extent it was at the time of the setting up of the project. However, the department may enter into a project agreement with the Federal Highway Administration, contract for construction of the project, and supervise, control, and oversee the construction of the project in

accordance with their agreement with the Federal Highway Administration.

Section 45. That § 31-6-6 be amended to read as follows:

31-6-6. The State of South Dakota is not ultimately liable for the costs of any secondary road project not redeemable from public road funds including the state match of those funds. The department shall act as agent for the county affected in submission of the project, letting of the contract, and the supervision and control of the construction. The county originating the project shall reimburse the state for the state's share of all money expended and not redeemable from federal funds plus state match in bringing the project to the construction stage regardless of whether the contract is finally let. The county requesting the project shall reimburse the department in case the contract is let for all expenses incurred in supervising or controlling the construction work, and for all money paid out or advanced at any time in carrying out the construction of the project and not redeemable from federal funds including the state match of those funds.

Section 46. That § 31-6-7 be amended to read as follows:

31-6-7. Nothing in this chapter may be construed to bind the State of South Dakota, or the department to pay the cost of maintenance of any secondary road project when completed. The political subdivision under whose jurisdiction the highway is at the time maintenance work is required is responsible for the maintenance cost of the project.

Section 47. That § 31-6-9 be amended to read as follows:

31-6-9. The Transportation Commission shall provide sufficient funds from the state highway fund to match all federal-aid secondary funds used to construct a project under this chapter.

Section 48. That § 31-7-1 be amended to read as follows:

31-7-1. Terms used in this chapter mean:

- (1) "National system of interstate highways," includes all highways that have been or may become eligible for development with funds provided by federal highway acts for use on

the interstate system;

- (2) "Control areas," a control area is a metropolitan area, first or second class municipality, or industrial center, defense installation, a topographic feature such as a mountain pass, a favorable river crossing, a hub road which would result in material traffic increment on the interstate route, a section of completed expressway, or a place on the common boundary of two states agreed to by the states concerned;
- (3) "Intermediate control points," an intermediate control point is either end of an acceptable section on final location of an interstate route;
- (4) "Department," the Department of Transportation.

Section 49. That § 31-7-2 be amended to read as follows:

31-7-2. The department may employ such assistants, agents, engineers, and engineering consultants and to enter into such contractual relations in behalf of the state and to do and perform all such acts as are necessary for the public good agreeable to the provisions of this chapter.

Section 50. That § 31-7-3 be amended to read as follows:

31-7-3. The department, in cooperation with the Federal Highway Administration of the United States Department of Transportation, or other agencies of the United States government, may locate and construct the South Dakota sections of the National System of Interstate Highways according to American Association of State Highway and Transportation Officials Standards peculiar to that system and shall operate and maintain the highways as toll-free facilities.

Section 51. That § 31-7-4 be amended to read as follows:

31-7-4. The department may determine the location of toll-free highways along alignments consistent with interstate highway standards.

Section 52. That § 31-7-5 be amended to read as follows:

31-7-5. The department may acquire right-of-way, borrow pits, and other land and materials

under the provisions of §§ 31-19-1 to 31-19-19, inclusive.

Section 53. That § 31-7-6 be amended to read as follows:

31-7-6. The department may designate locations and establish, limit, and control points of ingress and egress to ensure proper operation of highways of the national system of interstate highways and prohibit entrance to or egress from the highways at points not so designated.

Section 54. That § 31-7-7 be amended to read as follows:

31-7-7. The department may construct grade separations at intersections with other public roads and to adjust the lines and grades of such other roads so as to accommodate the design of toll-free roads of the national system of interstate highways.

Section 55. That § 31-7-8 be amended to read as follows:

31-7-8. The department, in cooperation with the United States government and adjacent states, may establish control areas and control points between control areas as set forth in this chapter and program the construction on the interstate system in a manner that will permit use of new construction on sections connecting the intermediate control points.

Section 56. That § 31-7-9 be amended to read as follows:

31-7-9. The department may mark the highways with the names or numbers that are selected for use as identification of the highways by the states through which the interstate routes pass.

Section 57. That § 31-7-10 be amended to read as follows:

31-7-10. The department may use such state highway funds as are required by federal highway acts for matching federal funds allocated for construction on the interstate system.

Section 58. That § 31-7-11 be amended to read as follows:

31-7-11. Maintenance expense of the interstate system shall be from state highway funds. However, highway funds of counties, townships, and municipalities may be used in the maintenance of local service roads, overpasses, and underpasses constructed in connection with the interstate

system, unless federal funds are made available for this purpose.

Section 59. That § 31-7-13 be amended to read as follows:

31-7-13. Counties, townships, and municipalities may expend highway funds for the maintenance of local service roads, overpasses, and underpasses constructed in connection with the interstate highway system upon assuming maintenance obligations by agreement with the department.

Section 60. That § 31-7-14 be amended to read as follows:

31-7-14. The provisions of this chapter do not alter the duties of the department in laying out, constructing, or maintaining the state trunk highway system, nor do they prohibit or require that the interstate system follow or cease to follow any of the designated portions of the state trunk system.

Section 61. That § 31-7-15 be amended to read as follows:

31-7-15. No person may camp at any rest area established by the department within and adjacent to the national system of interstate highways in South Dakota. A violation of this section is a petty offense.

Section 62. That § 31-7-17 be amended to read as follows:

31-7-17. No person temporarily resting in any vehicle is in violation of the provisions of § 31-7-15. For purposes of this section, temporarily resting means stopping, parking, or otherwise keeping or occupying any vehicle in a rest area, or any portion thereof not officially designated for camping, for not more than three consecutive hours or, if the driver of a commercial motor vehicle subject to the provisions of 49 C.F.R. Part 395, as of January 1, 2009, for not more than ten consecutive hours.

Section 63. That § 31-7-18 be amended to read as follows:

31-7-18. Any person violating the provisions of § 31-7-15, in addition to the penalty provided by § 22-6-7, may be fined an amount as determined by the court which may be necessary to reimburse the department for the expense of repairing any damage to such rest area resulting from such violation.

Section 64. That § 31-8-2 be amended to read as follows:

31-8-2. Any highway or street constituting a controlled-access facility may be a freeway open to use by all customary forms of street and highway traffic or the highway or street may be a parkway from which trucks, buses, and other commercial vehicles are excluded.

Section 65. That § 31-8-3 be amended to read as follows:

31-8-3. The highway authorities of the state, counties, and municipalities, acting alone or in cooperation with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, may plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use wherever the authority is of the opinion that traffic conditions, present or future, will justify the special facilities. However, within a municipality that authority is subject to any municipal consent as may be required by law.

Section 66. That § 31-8-5 be amended to read as follows:

31-8-5. The highway authorities of the state, counties, and municipalities may design any controlled-access facility and regulate, restrict, or prohibit access as to best serve the traffic for which the facility is intended. In this connection the highway authorities may divide and separate any controlled-access facility into separate roadways by the construction of raised curbing, central dividing sections, or other physical separations, or by designating separate roadways by signs, markers, stripes, and the proper lane for traffic by appropriate signs, markers, stripes, and other devices.

Section 67. That § 31-8-6 be amended to read as follows:

31-8-6. No person has any right of ingress or egress to, from or across any controlled-access facility to or from any abutting land, except at any designated point at which access may be permitted.

Section 68. That § 31-8-7 be amended to read as follows:

31-8-7. For the purposes of this chapter, the highway authorities of the state, counties, or municipalities may acquire private or public property rights for any controlled-access facility and service road, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation as may be authorized by law to acquire such property or property rights in connection with any highway and street within their respective jurisdictions.

Section 69. That § 31-8-8 be amended to read as follows:

31-8-8. In connection with the acquisition of property or property rights for any controlled-access facility or portion thereof, or service road in connection therewith, the state, county, city, or town highway authority may acquire an entire lot, block, or tract of land, if, by so doing, the interests of the public will be best served, even though the entire lot, block, or tract is not immediately needed for the right-of-way proper.

Section 70. That § 31-8-9 be amended to read as follows:

31-8-9. Any court proceeding necessary to acquire property or property rights for purposes of this chapter may take precedence over all other causes not involving the public interest in all courts, to the end that the provision of controlled-access facilities may be expedited.

Section 71. That § 31-8-10 be amended to read as follows:

31-8-10. The highway authority of the state, county, or municipality may designate and establish any controlled-access highway as a new and additional facility or may designate and establish an existing street or highway as included within a controlled-access facility.

Section 72. That § 31-8-11 be amended to read as follows:

31-8-11. The state or any of its subdivisions may provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads, and city or town streets, by grade separation or service road, or by closing off the roads and streets at the right of way boundary

line of such controlled-access facility. After the establishment of any controlled-access facility, no highway or street which is not a part of the facility may intersect the facility at grade.

Section 73. That § 31-8-12 be amended to read as follows:

31-8-12. No municipal street, county or state highway, or other public way may be opened into or connected with any controlled-access facility without the consent and previous approval of the highway authority in the state, county, or municipality having jurisdiction over the controlled-access facility. The consent and approval shall be given only if the public interest is served thereby.

Section 74. That § 31-8-13 be amended to read as follows:

31-8-13. The highway authorities of the state, counties, or municipalities may enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of a controlled-access facility or other public way in their respective jurisdictions to facilitate the purpose of this chapter.

Section 75. That § 31-8-14 be amended to read as follows:

31-8-14. In connection with the development of any controlled-access facility the state, county, or municipal highway authorities may plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets or designate as local service roads and streets any existing road or street, and exercise jurisdiction over service roads in the same manner as is authorized over any controlled-access facility under the terms of this chapter, if, in their opinion, the local service roads and streets are necessary or desirable. The local service road or street shall be of appropriate design, and they shall be separated from the controlled-access facility proper by means of all devices designated as necessary or desirable by the proper authority.

Section 76. That § 31-8-16 be amended to read as follows:

31-8-16. No automotive service station or other commercial establishment for serving motor vehicle users may be constructed or located within the right-of-way of, or on publicly owned or

publicly leased land acquired or used for or in connection with, a controlled-access highway. This section does not apply to a vending facility, vending soft drinks only, operated for the benefit of any vendor who is blind or visually impaired licensed by the Division of Service to the Blind and Visually Impaired. A violation of this section is a Class 2 misdemeanor.

Section 77. That § 31-9-1 be amended to read as follows:

31-9-1. The Department of Transportation and the board of county commissioners of an affected county, may relinquish to the United States for use and construction and control of highways by the secretary of interior, acting through the national park service, all of the interest of the state and the county in such portions of public highways lying within the boundaries of national parks and national monuments. The relinquishment of interest in the highways shall operate as a cession to the United States of jurisdiction for highway purposes over such portions of the highways lying within said national parks or national monuments.

Section 78. That § 31-9-2 be repealed.

Section 79. That § 31-9-3 be repealed.

Section 80. That § 31-10-1 be amended to read as follows:

31-10-1. Terms used in this chapter mean:

- (1) "Bridge," a structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, the structure having a length measured along the center of the roadway of more than twenty feet between undercopings of abutments or extreme ends of openings for multiple boxes and pipes where the clear distance between openings is less than half of the smaller contiguous opening;
- (2) "Culvert," any structure not classified as a bridge which provides an opening under any roadway;
- (3) "Department," the Department of Transportation.

Section 81. That § 31-10-2 be amended to read as follows:

31-10-2. For the purposes of §§ 31-10-2 to 31-10-11, inclusive, the following terms mean:

- (1) "Boundary state highway bridge," a highway bridge over a stream, river, or lake on the boundary line between the State of South Dakota and an adjoining state, which bridge is located or to be located on a state highway or an extension of such highway and constitutes or will constitute a connecting link between the state highway system of this state and an adjoining state;
- (2) "Bridge," in addition to its ordinary meaning, the term includes the substructure, superstructure, approach spans, approach fills and roadway, right-of-way, and all other items necessary to make such structure complete and accessible to traffic.

Section 82. That § 31-10-3 be amended to read as follows:

31-10-3. The department may acquire by purchase or condemnation, construct, and maintain boundary state highway bridges.

Section 83. That § 31-10-4 be amended to read as follows:

31-10-4. In the purchase, acquisition, construction, or maintenance under §§ 31-10-2 to 31-10-11, inclusive, of any boundary state highway bridge or approaches thereto, the department may purchase, or institute and maintain proceedings for the condemnation of the necessary right-of-way therefor. All the provisions of the law relating to the condemnation of real or personal property for public state purposes apply and may be exercised by the department for the carrying out of the purposes of §§ 31-10-2 to 31-10-11, inclusive.

Section 84. That § 31-10-6 be amended to read as follows:

31-10-6. The department may not purchase, acquire by condemnation, or construct any bridge under the provisions of §§ 31-10-2 to 31-10-11, inclusive, until such time as the adjoining and contracting state furnishes its proportionate share of the purchase price or cost of construction, or

signify its intention, by and through its proper department, of acquiring title through the exercise of the power of eminent domain of the portion of any existing bridge situate in the adjoining state.

Section 85. That § 31-10-8 be amended to read as follows:

31-10-8. Any bridge purchased or constructed under §§ 31-10-2 to 31-10-11, inclusive, shall be free from tolls. However, tolls may be collected on the traffic crossing the bridge until such time as the net sum of tolls so collected plus funds paid as provided in §§ 31-10-6 and 31-10-7, equals the cost of the structure plus a reasonable rate of interest on deferred installments of the cost. The portion of the net tolls collected on the bridge, going to the State of South Dakota shall be credited to the state highway fund.

Section 86. That § 31-10-9 be amended to read as follows:

31-10-9. Any agreement entered into under §§ 31-10-2 to 31-10-11, inclusive, by the department, for the purchase or construction of any bridge, may provide for one or more annual payments, but not exceeding ten. A reasonable rate of interest may be paid on deferred installments to be paid under any agreement.

Section 87. That § 31-10-10 be amended to read as follows:

31-10-10. The State of South Dakota is under no obligation to make any payments on account of any agreement entered into under §§ 31-10-2 to 31-10-11, inclusive, out of any fund other than the state highway fund.

Section 88. That § 31-10-11 be amended to read as follows:

31-10-11. Before the department enters into any contract for the purchase of any bridge, under the provisions of §§ 31-10-2 to 31-10-11, inclusive, an appraisal shall be made of the bridge and its approaches, or the portion of the bridge and approach thereto situate in this state. No contract may be entered into or any money used for such purchase exceeding the appraised value of that portion of the bridge situate within the State of South Dakota.

Section 89. That § 31-10-12 be amended to read as follows:

31-10-12. The State of South Dakota, by and through the department, may accept title to and responsibility for the repair, maintenance, and ownership of that portion of any existing toll bridge situated within the boundaries of the State of South Dakota, if:

- (1) That portion of the bridge is offered to this state by its owners free of existing bonded indebtedness and current costs of operation; and
- (2) Any adjoining state in which the remainder of the bridge is situated signifies its intention, by and through its proper governmental instrumentality, having control and supervision over state bridges, of accepting title to and responsibility for the repair, maintenance, and ownership of the portion of the bridge situated in the adjoining state.

Section 90. That § 31-10-13 be amended to read as follows:

31-10-13. Subsequent to the acceptance of title to and responsibility for that portion of any bridge, in the manner set forth in § 31-10-12, the department may operate the bridge, in conjunction with the proper governmental authority of an adjoining state, free of tolls.

Section 91. That § 31-10-14 be amended to read as follows:

31-10-14. The department shall repair and maintain and assume ownership of that part of any bridge situated within the State of South Dakota after acceptance as provided in § 31-10-12.

Section 92. That § 31-10-15 be amended to read as follows:

31-10-15. The cost of operation and maintenance of that part of any bridge situated within the State of South Dakota after acceptance, as provided in § 31-10-12, shall be paid by the department out of the state highway fund.

Section 93. That § 31-10-16 be amended to read as follows:

31-10-16. The department may enter into a reciprocity agreement and any other agreement with the proper governmental authorities of an adjoining state for the sharing of the cost of joint

operation, repair, and maintenance pursuant to § 31-10-13.

Section 94. That § 31-14-1 be amended to read as follows:

31-14-1. Terms used in this chapter mean:

- (1) "Bridge," a structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, the structure having a length measured along the center of the roadway of more than twenty feet between undercopings of abutments or extreme ends of openings for multiple boxes and pipes where the clear distance between openings is less than half of the smaller contiguous opening;
- (2) "Culvert," any structure not classified as a bridge that provides an opening under any roadway;
- (3) "Department," the Department of Transportation.

Section 95. That § 31-14-4 be amended to read as follows:

31-14-4. Any bridge, abutment, and approach or repair to a bridge required in any county of this state, shall be constructed in accordance with plans and specifications prepared by the department or a registered engineer retained by the board of county commissioners for such purpose. The plans and specifications shall show and describe the style and size thereof, the kind, weight, and quality of all materials to be used in the construction and the proper proportion of the ingredients for mixture and reinforcements.

Section 96. That § 31-14-5 be amended to read as follows:

31-14-5. The profile, location, soundings, and estimated watershed provided for in § 31-14-3 may then be forwarded to the department together with a request for plans and specifications for such bridge or abutments, piers, or other related piece of work, or may be used by a registered engineer retained by the board of county commissioners in preparing plans and specifications for such work. Plans and specifications prepared by a registered engineer retained by the board of county

commissioners shall conform to the design requirements of the American Association of State Highway and Transportation Officials. The plans and specifications, whether prepared by the department or by a registered engineer retained for that purpose, shall be forwarded to the proper county auditor who shall place them on file in the auditor's office.

Section 97. That § 31-14-11 be amended to read as follows:

31-14-11. Promptly at the hour specified, the board of county commissioners in open session shall proceed to examine all sealed bids and notify the successful bidder that the bid has been accepted, subject to the approval of the department as provided for in § 31-14-12. Upon being so notified, the successful bidder shall forthwith enter into a contract with such county in accordance with the bid, and the successful bid, together with the plans and specifications upon which the bid was based, is deemed a part of the contract.

Section 98. That § 31-14-12 be amended to read as follows:

31-14-12. Before any contract for a bridge or piece of work, entered into by and between any successful bidder and the board of county commissioners, the total amount of which exceeds the sum of two thousand dollars, is valid, it shall first have the approval of the department. If the department finds upon examination of the contract that the contract price is too high, taking into account the material used and existing circumstances, the department shall inform the board of county commissioners of its reason for rejecting the contract and advise a method of proceeding in the matter. Whenever bids are rejected as being too high, the work may be let at private contract if so recommended and approved by the department.

Section 99. That § 31-14-19 be amended to read as follows:

31-14-19. The county highway superintendent shall keep a detailed account of all material found necessary to add to or deduct from each and every structure as set forth in the plans and specifications, and on completion, a detailed statement of the cost of the structure, including the

additions or reductions from the contract price, and compensation to the inspector, if any, shall be filed with the county auditor by the county highway superintendent. The county auditor shall forward a copy of the cost statement to the department.

Section 100. That § 31-14-21 be amended to read as follows:

31-14-21. In lieu of accepting any bids received upon any bridge, approach, or abutment, or repair to bridge, or in case of emergency, the board of county commissioners may, if in their judgment the bridge or piece of work may be procured for less money than the amount of any bid submitted, cause the same to be built by day labor by regular county labor and county-owned equipment. The construction shall be in charge of the county highway superintendent. The superintendent shall hire a foreman, purchase the necessary material, and hire the necessary labor for the construction of each such bridge, or piece of work, and such work shall be done in accordance with plans and specifications furnished by the department the same as any other bridge or piece of work let by contract.

Section 101. That § 31-14-22 be amended to read as follows:

31-14-22. The county highway superintendent shall keep a careful and itemized account of the quantity and cost of all materials and labor used in the construction of each such bridge or piece of work, in a standard form prescribed by the department. The cost statement shall be filed with the county auditor and a copy transmitted to the department as in the case of the cost statement of any other bridge or piece of work as provided in this chapter.

Section 102. That § 31-14-23 be amended to read as follows:

31-14-23. If it is deemed advisable by the board of county commissioners, the board may purchase such materials as cement, sand, stone, metal, culverts, reinforcement steel, or other material to be used in the construction of roads, bridges, and culverts, in quantities sufficient to meet the estimated demand of the county for such materials for the next succeeding twelve months. Before

purchasing any such materials, however, the board of county commissioners shall first have an estimate prepared by the county highway superintendent setting forth the needs of the county during the twelve months. The county highway superintendent shall prepare specifications of the quality of all materials, such specifications to be approved by the department. No patented material may be specified to the exclusion of unpatented material.

Section 103. That § 31-14-25 be amended to read as follows:

31-14-25. Before any contract is let by any board of county commissioners under § 31-14-24, the necessity for the emergency contract shall first be approved by the department and any contract let thereunder shall in all respects be first approved by the department.

Section 104. That § 31-14-36 be amended to read as follows:

31-14-36. In making such apportionment of any highway or meandered stream constituting the county line between two or more counties, as provided by § 31-14-35, the respective boards of county commissioners shall take into consideration the number of streams crossing the highway and the probable necessity of the number of bridges to be constructed and to be kept in repair upon the county line. In apportioning the highway or stream, the boards shall equalize, as near as possible, the burden of building and maintaining the bridges on the highways of the county line. In case of a failure to apportion any such highway or meandered stream, as provided in § 31-14-35, the same shall be apportioned by the department.

Section 105. That § 31-17-1 be amended to read as follows:

31-17-1. If any portion of a county highway system lies on a state line, the Department of Transportation may confer with the authorities of the bordering state and agree upon the assignment of portions of the highway to the counties of the two states for construction, repair, and maintenance.

Section 106. That § 31-17-2 be amended to read as follows:

31-17-2. Subject to approval of the department, boards of county commissioners of adjoining

counties shall make proper connections between roads which cross county lines and which afford continuous routes of travel; adopt plans and specifications for highway construction, reconstruction, and repairs upon highways along and across county boundary lines, and make an equitable division between such counties of the cost and work of execution of such plans and specifications. In case of disagreement on the division, the Transportation Commission shall make the division.

Section 107. That § 31-17-3 be amended to read as follows:

31-17-3. If boards of county commissioners fail to perform the duty prescribed by § 31-17-2, or in case of disagreement by such boards, an appeal may be made to the Transportation Commission by one of them. The commission shall notify the county auditors of the counties concerned that the commission will, on a day not less than ten days thereafter, at a named time and place within one of such counties, hold a hearing to determine all matters involved. At the hearing the commission shall fully investigate all questions involved, and shall, as soon as practicable, certify its decision to the different boards. The decision is final, and such boards shall comply.

Section 108. That § 31-17-4 be amended to read as follows:

31-17-4. Any portion of a county highway system lying on a county line and assigned to a county by the Transportation Commission for construction and maintenance shall be considered as lying fully within the county and all procedure and requirements apply as if the road lay wholly within the limits of one county.

Section 109. That § 31-19-22 be repealed.

Section 110. That § 31-19-39 be repealed.

Section 111. That § 31-19-41 be repealed.

Section 112. That § 31-20-1 be amended to read as follows:

31-20-1. If deemed necessary by the Department of Transportation in order to avoid natural obstructions, to make a shorter system route, to eliminate curves, or to avoid valuable improvements,

a highway may be located over and across any common school, endowment, or other state lands in the manner provided by law for laying out public highways, subject to the approval of the commissioner of school and public lands.

Section 113. That § 31-24-1 be amended to read as follows:

31-24-1. If the construction, improvement, and repair of any public highway by the state, or by any county or township, leaves a ditch or elevation along the roadside and deprives any abutting landowner of easy and convenient access from the owner's land to the highway, the highway authority, except as provided by chapters 31-7 and 31-8, shall provide the owner of the abutting tract or farm, as well as each church, school, park, playground, or other public building or ground, with one point of easy and convenient access to a public highway by constructing at the public expense, such grades, approaches, bridges, culverts, or other structures as may be necessary for that purpose. However, the provision authorizing construction of entrances at the expense of the authority having charge of the maintenance only applies to new construction.

Section 114. That § 31-24-2 be amended to read as follows:

31-24-2. Approaches required by § 31-24-1 shall be built by the highway authority constructing the highway if the building of such approach becomes necessary as a result of highway construction. In all cases any such structure, culvert, bridge, or approach so constructed shall be maintained and kept in repair by the highway authorities who are charged with the maintenance of the highway.

Section 115. That § 31-24-3 be amended to read as follows:

31-24-3. The owner, as a matter of right, is not entitled under § 31-24-1 to the construction of more than one farm entrance on any one tract or parcel of land at the expense of the public authority whose duty it is to maintain the highway. However, the owner may at the owner's expense upon making application to and receiving written consent of the authority construct other entrances if the entrances are constructed at the place and in the manner designated by the authority in its written

permit.

Section 116. That § 31-24-4 be amended to read as follows:

31-24-4. Notwithstanding § 31-24-3, if at the time of the construction, improvement, or repair of any public highway the abutting owner has more than one farm entrance to the highway, which entrance has been in reasonably constant use for more than two years prior to the new construction the owner shall be furnished a like number of entrances by the authority having charge of the construction, improvement, or repair, if the entrances do not materially add to the hazard of public travel on the highway. However, no owner of property adjoining the highway is entitled to more than two such entrances at the expense of the authority charged with the maintenance of the highway, on any one continuous half mile of adjoining property.

Section 117. That § 31-24-5 be amended to read as follows:

31-24-5. No connecting structure or approach described by § 31-24-1 may be constructed by the highway authorities upon private property nor beyond the right-of-way line.

Section 118. That § 31-24-6 be amended to read as follows:

31-24-6. If any public highway as already constructed is of such character as to deprive the owner of the abutting land of easy and convenient access from the owner's land to the highway, the owner of the land may, at the owner's expense, except as provided by chapters 31-7 and 31-8, construct an entrance to the abutting land. However, no entrance may be constructed until the landowner has obtained a permit from the authority whose duty it is to maintain the highway for the construction of the entrance. The entrance shall be constructed in accordance with plans approved by the authority. The authority shall fix the width and location of the entrance and the entrance shall be constructed in accordance therewith.

Section 119. That § 31-24-7 be amended to read as follows:

31-24-7. No entrance may be so constructed pursuant to § 31-24-6 as to interfere with the proper

and necessary drainage of the highway. No portion of the right-of-way of the highway other than that necessary for the entrance shall be occupied or used for business purposes.

Section 120. That § 31-24-8 be repealed.

Section 121. That § 31-24-9 be amended to read as follows:

31-24-9. Township supervisors, county commissioners, the Department of Transportation, or others having direction of any highway grade shall provide at every place where such grade crosses an intersecting public highway an easy and accessible approach to such grade on each side thereof upon each such intersecting public highway. The approach shall be at least twenty-four feet in width. Any officer or other person charged with the duty of providing approaches at an intersection, as provided in this section, who fails in the performance of the duty, commits a petty offense.

Section 122. That § 31-24-10 be repealed.

Section 123. That § 31-24-11 be repealed.

Section 124. That § 31-24-12 be repealed.

Section 125. That § 31-24-13 be repealed.

Section 126. That § 31-24-14 be repealed.

Section 127. That § 31-24-15 be repealed.

Section 128. That § 31-24-16 be repealed.

Section 129. That § 31-27-2.1 be amended to read as follows:

31-27-2.1. The responsibility of a railroad corporation to maintain and keep in repair grade crossings as provided by law does not terminate upon the abandonment of the railroad right-of-way or a portion thereof. The responsibility continues until the highway is restored to a usable condition. The maintenance responsibility does not terminate with the disposal of the abandoned railroad right-of-way or the dissolution of the railroad corporation but passes to the transferee of the abandoned railroad right-of-way or the successors to the railroad corporation.

Section 130. That § 31-27-11 be amended to read as follows:

31-27-11. If no right-of-way is needed for the building of a subway or overhead crossing on a state or county highway, the state or county shall do the necessary grading, approaching, and leading from the overhead or subway undercrossing.

Section 131. That § 31-27-17 be amended to read as follows:

31-27-17. If a new right-of-way is necessary for the building of a subway or overhead crossing on a state or county highway, the state or county shall pay for the right-of-way and necessary grading, approaching, and leading from the overhead crossing or subway undercrossing.

Section 132. That § 31-27-18 be amended to read as follows:

31-27-18. The clearance or overhead room of any subway or undercrossing may not be less than fifteen feet from top of finished grade to bottom of sills of overhead track or trusses. The width or clear roadway of the subway or undercrossing may not be less than twenty-four feet, clear roadway. The approaches to the undercrossing or overhead crossing shall be straight and under no circumstances may these crossings contain curves.

Section 133. That § 31-27-20 be amended to read as follows:

31-27-20. A railroad right-of-way consists not only of that strip of land, usually one hundred feet wide, over which the main track is laid but the adjacent extra width of land as may be necessary and useful for cuts, embankments, ditches for change of location of watercourses, and other works of a railroad, appropriate and necessary for railroad purposes.

Section 134. That § 31-27-21 be amended to read as follows:

31-27-21. A railroad and highway crossing, usually referred to as a railroad crossing, includes all that part of a public highway or private road extending from the point where it touches the property line of the right-of-way of the railroad company on one side until it passes over and beyond the railroad company's property line or right-of-way on the opposite side of the right-of-way.

Section 135. That § 31-28-1 be amended to read as follows:

31-28-1. The Department of Transportation shall keep the various lines of highways comprising the state trunk highway system, including the connecting streets in municipalities, distinctly marked with some standard design placed on convenient objects along the routes. The design shall be uniform on all parts of the trunk highway system. However, the numbers shall correspond with the numbers given the various routes by the department. The numbers shall coincide with the numbers placed on the official map or maps issued by the department. No similar design may be used for marking other routes in South Dakota.

Section 136. That § 31-28-2 be amended to read as follows:

31-28-2. If, in the marking or numbering of any state trunk highway, there is a division of the highway into two branches, there shall be erected along each of the highways at the initial point of separation a directional sign indicating the general direction or course of the respective highways as to whether the course of the highway is east, west, north, or south as the case may be.

Section 137. That § 31-28-6 be amended to read as follows:

31-28-6. The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of any sharp turn, blind crossing, or other point of danger on such highway, except railway crossings marked as required in § 31-28-7, a substantial and conspicuous warning sign. The sign shall be on the right-hand side of the highway approaching such point of danger. Failure to comply with the provisions of this section is a Class 1 misdemeanor.

Section 138. That § 31-28-7 be amended to read as follows:

31-28-7. The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of the place at which a highway crosses an operational railway track or right-of-way,

except within the limits of municipalities, a standard railroad advance warning sign. The sign shall be on the right-hand side of the highway approaching such crossing and at a distance from the crossing as the department or other controlling body shall direct. Any legally abandoned or nonoperational track which is crossed by a public highway and at which the crossing has been properly marked as a railway grade crossing may be marked with a supplemental sign, meeting uniform traffic control practices, to inform drivers of vehicles identified in § 32-29-5 that a stop is not required at that crossing. Failure to comply with the provisions of this section is a Class 1 misdemeanor.

Section 139. That § 31-28-10 be amended to read as follows:

31-28-10. The department may classify, designate, and mark both intrastate and interstate highways lying within the boundaries of this state and provide a uniform system of marking and signing the highways under the jurisdiction of this state. The system of marking and signing shall correlate with and so far as possible conform to the system adopted in other states.

Section 140. That § 31-28-14 be amended to read as follows:

31-28-14. No unauthorized person may erect or maintain upon any highway, any warning or direction sign, marker, signal, or light in imitation of any official sign, marker, signal, or light erected under the provisions of this chapter. No person may erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising. Nothing in this section prohibits the erection or maintenance of any sign, marker, or signal bearing thereon the name of an organization authorized to erect the sign, marker, or signal by the department or any local authority as defined in this chapter.

Section 141. That § 31-28-16 be amended to read as follows:

31-28-16. The department and boards of county commissioners may designate certain state and county highways, or portions thereof, as preferential or arterial highways. The traffic upon any

highway so designated shall have the right-of-way. Failure to comply with the provisions of this section is a Class 2 misdemeanor.

Section 142. That § 31-28-17 be amended to read as follows:

31-28-17. Except within the limits of a municipality, the department and county commissioners may designate any hazardous intersection as a stop intersection, and designate any railroad crossing as a stop crossing. The intersections and railroad crossings shall be designated by placing a stop sign at the point of stop. The sign to be preceded by a warning sign so as to give warning of stop. Failure to stop at the point of stop of such intersections and railroad crossings is a Class 2 misdemeanor.

Section 143. That § 31-28-19 be amended to read as follows:

31-28-19. No person may place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal. A violation of this section is a Class 2 misdemeanor.

Section 144. That § 31-28-20 be amended to read as follows:

31-28-20. No person may place or maintain nor may any public authority permit upon any highway any traffic sign or signal bearing any commercial advertising. A violation of this section is a Class 2 misdemeanor.

Section 145. That § 31-28-21 be amended to read as follows:

31-28-21. The provisions of § 31-28-19 and 31-28-20 do not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

Section 146. That § 31-28-25 be amended to read as follows:

31-28-25. Nothing in §§ 31-28-19 to 31-28-24, inclusive, limits the existing authority of South

Dakota law enforcement officers in the performance of their duties involving traffic light control.

Section 147. That § 31-28-29 be amended to read as follows:

31-28-29. Nothing in this chapter limits the practice and activity of a professional licensed pursuant to chapter 36-18A, performing his or her professional duties.

Section 148. That § 31-29-1 be amended to read as follows:

31-29-1. It is a Class 2 misdemeanor for any person to erect or construct along the streets or highways adjoining any cemetery, or within three hundred feet of any cemetery, any billboard, advertising sign, or unsightly object without first obtaining the written consent of the proper officers of the municipality, or township, and of the proper officers or persons having charge and control of such cemetery. However, the street or highway may be marked to designate an automobile route, or for other public purposes, if done in a neat and attractive manner.

Section 149. That § 31-29-2 be amended to read as follows:

31-29-2. It is a Class 2 misdemeanor for any person, corporation, or association, to place or maintain, or cause to be placed or maintained, any advertising sign, device, display, building, or structure on any of the public highways of the state. Except within municipalities, it is a Class 2 misdemeanor for any person, corporation, or association to place or maintain, or cause to be placed or maintained, any device, display, or obstruction to vision, along or adjacent to any of the public highways of the state where the device, display, or obstruction to vision, constitutes a hazard to highway traffic at any main crossing or intersection, horizontal or vertical curve or railroad crossing, as deemed hazardous by the authority in charge of the maintenance of the highway.

Section 150. That § 31-29-8 be repealed.

Section 151. That § 31-29-12 be amended to read as follows:

31-29-12. The Department of Transportation may acquire and improve strips of land necessary for acquisition of publicly owned and controlled rest areas and sanitary and other facilities within

or adjacent to the highway right-of-way reasonably necessary to accommodate the traveling public. However, the Transportation Commission may not expend any funds for the acquisition, construction or improvement of hotels, motels, restaurants, or other accommodations of like nature.

Section 152. That § 31-29-13 be amended to read as follows:

31-29-13. The interest in any land authorized to be acquired and maintained under § 31-29-12 may be the fee simple or any lesser interest, as determined by the department. The acquisition may be by gift, purchase, exchange, or by condemnation pursuant to the procedures provided by either §§ 31-19-1 to 31-19-22, inclusive, for the condemnation of real property by the department, or chapter 21-35.

Section 153. That § 31-29-14 be repealed.

Section 154. That § 31-29-59 be amended to read as follows:

31-29-59. In order to provide information to the traveling public, the Office of Tourism may maintain maps and permit informational directories and advertising pamphlets to be made available at safety rest areas, and may establish information centers at safety rest areas for the purpose of informing the public of places of interest within the state and providing other information as may be considered desirable.

Section 155. That § 31-29-60 be amended to read as follows:

31-29-60. Despite any provision in §§ 31-29-17 to 31-29-48, inclusive, to the contrary, no sign, display, or device may be required to be removed unless at the time of removal there are sufficient funds appropriated and available to pay the affected parties the just compensation required by §§ 31-29-50 to 31-29-56, inclusive, after due allowance for any contribution which may be available from the federal government, and if the latter contribution is available for immediate payment.

Section 156. That § 31-29-63 be amended to read as follows:

31-29-63. No outdoor advertising may be erected within six hundred sixty feet of the nearest

edge of the right-of-way and visible from the main-traveled way or beyond six hundred sixty feet of the nearest edge of the right-of-way visible from the main-traveled way, located outside an urban area and erected with the purpose of its message being read from the main-traveled way of the interstate or primary systems except the following:

- (1) Directional and official signs and notices, as defined by subdivision § 31-29-62(6);
- (2) Signs, displays, and devices advertising the sale or lease of property upon which they are located;
- (3) Signs, displays, and devices advertising activities conducted on the property upon which they are located;
- (4) Signs, displays, and devices located in areas which are designated industrial or commercial by local authority as provided by Title 11 and within six hundred sixty feet of an interstate or primary highway;
- (5) Signs, displays, and devices located in unzoned industrial or commercial areas as provided by this chapter and within six hundred sixty feet of an interstate or primary highway;
- (6) Signs, including both official public, and private business signs, for which the department shall make a uniform charge, giving specific information in the interest of the traveling public located within the rights-of-way of the interstate and primary systems in areas at appropriate distances from interchanges or intersections on such systems, the location of which shall be determined by the department, any provision of chapter 31-28 or of this chapter to the contrary notwithstanding;
- (7) Signs lawfully in existence on October 22, 1965, determined by the State Transportation Commission to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the

purposes of this chapter;

- (8) Warning signs placed by public utilities for the protection of underground utility cables;
- (9) Signs exempt from removal in certain defined areas that are in the specific interest of the traveling public and have qualified for an economic hardship exemption pursuant to § 31-29-80; or
- (10) Signs, displays, and devices advertising the distribution of nonprofit organizations of free coffee to individuals traveling on the interstate system or the primary system. For the purposes of this subdivision, the term, free coffee, includes coffee for which a donation may be made, but is not required.

Section 157. That § 31-29-65 be amended to read as follows:

31-29-65. The standards and criteria for size of outdoor advertising authorized to be erected and maintained in zoned or unzoned commercial or industrial areas adjacent to the interstate and primary highway systems are:

- (1) The maximum area of any one sign facing any one direction shall be twelve hundred square feet but which in no instance may exceed thirty feet in height and sixty feet in length including border and trim, but not supports or apron; and
- (2) The maximum size limitations provided in subdivision (1) of this section apply to each side of a sign structure; and signs placed back-to-back, side-by-side, or in V-type construction with no more than two displays to each facing. Such sign structure shall be considered as one sign.

Section 158. That § 31-29-67 be amended to read as follows:

31-29-67. The standards and criteria for spacing of outdoor advertising authorized to be erected and maintained in zoned or unzoned commercial or industrial areas adjacent to the interstate and primary highway systems are:

- (1) Within municipalities signs shall conform to any applicable building codes and ordinances relating to spacing except that no such sign may be located closer than one hundred feet from an existing off-premises sign on a state nonlimited access primary highway and no closer than five hundred feet from any existing off-premise sign on a limited access primary highway or on an interstate highway;
- (2) Outside of municipalities no off-premise sign may be erected adjacent to a limited primary access highway or interstate highway closer than five hundred feet, nor adjacent to a nonlimited access highway closer than three hundred feet, to an existing off-premise sign;
- (3) Neither inside nor outside of municipalities may any sign be erected or maintained in such a location as to prevent the driver of a vehicle from having an effective view of any official traffic control device applicable to the driver or to approaching, intersecting, or merging traffic and highways within five hundred feet of such sign; and
- (4) Double-faced, back-to-back, and V-type signs shall be considered as a single sign structure for purposes of these usages.

The above spacing provisions do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and applies only to structures located on the same side of the highway.

Section 159. That § 31-29-68 be amended to read as follows:

31-29-68. If a local zoning authority recognized in Title 11 has made a determination of customary use, concerning the size, lighting, and spacing considerations, the determination shall be in lieu of controls in §§ 31-29-65 to 31-29-67, inclusive.

Section 160. That § 31-29-69 be amended to read as follows:

31-29-69. Nothing in §§ 31-29-61 to 31-29-83, inclusive, authorizes any local authority to prohibit outdoor advertising throughout its jurisdiction. However, any such regulation and control shall be reasonable and reasonably related to the needs of the business community to adequately and properly advertise its goods and services of benefit to the traveling public.

Section 161. That § 31-29-72.1 be repealed.

Section 162. That § 31-29-80 be repealed.

Section 163. That § 31-29-83 be amended to read as follows:

31-29-83. Nothing in §§ 31-29-61 to 31-29-83, inclusive, authorizes the state or any political subdivision to operate or maintain, directly or indirectly, any commercial activity in any safety rest area or information center. This section does not apply to a vending facility, vending soft drinks only, operated for the benefit of visually impaired vendors licensed by the Division of Service to the Blind and Visually Impaired.

Section 164. That § 31-30-2 be amended to read as follows:

31-30-2. Terms in this chapter mean:

- (1) "Junk," old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;
- (2) "Automobile graveyard," any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts;
- (3) "Junk yard," an establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. The term includes garbage dumps and sanitary fills;

- (4) "Interstate system," that portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated, by the department, and approved by the United States secretary of transportation, pursuant to the provisions of Title 23, United States Code;
- (5) "Primary system," that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the department and approved by the United States secretary of transportation pursuant to the provisions of Title 23, United States Code;
- (6) "Department," the South Dakota Department of Transportation.

Section 165. That § 31-30-6 be amended to read as follows:

31-30-6. If the department determines that the topography of the land adjoining the highway does not permit adequate screening of a junk yard or the screening of the junk yard would not be economically feasible, the department may acquire by gift, purchase, exchange, or condemnation in the same manner as it may by law acquire property or property rights, interest in any land necessary to secure the relocation, removal, or disposal of the junk yards. The department may pay for the costs of relocation, removal, or disposal of the junkyard.

Section 166. That § 31-30-7 be amended to read as follows:

31-30-7. If the department determines that it is in the best interest of the state, the department may acquire any land, or interests in land, as may be necessary to provide adequate screening of a junk yard.

Section 167. That § 31-30-8 be amended to read as follows:

31-30-8. The department may acquire by gift, purchase, exchange, or condemnation from the owner, interest in any land necessary to secure the relocation, removal, or disposal of the following junk yards if it determines that the topography of the land adjoining the highway does not permit adequate screening of the junk yard or the screening of the junk yard would not be practical:

- (1) Those lawfully in existence on October 22, 1965;
- (2) Those lawfully along any highway made a part of the interstate or primary system on or after October 22, 1965, and before January 1, 1968; and
- (3) Those lawfully established on or after January 1, 1968.

Section 168. That § 31-30-9 be amended to read as follows:

31-30-9. The department may apply for an injunction to abate any nuisance arising from a violation of the provisions of this chapter.

Section 169. That § 31-30-10 be amended to read as follows:

31-30-10. The department may expend funds for the purposes of regulation and control of junk yards adjacent to the interstate and primary systems in South Dakota from any highway funds under the jurisdiction of the department.

Section 170. That § 31-30-11 be amended to read as follows:

31-30-11. The department may enter into agreements with the United States secretary of transportation as provided by Title 23, United States Code, relating to the control of junk yards in areas adjacent to the interstate and primary systems, and to take action in the name of the state to comply with the terms of any agreement.

Section 171. That § 31-30-12 be amended to read as follows:

31-30-12. Nothing in this chapter abrogates or affects the provisions of any lawful ordinance, regulation, or resolution, which is more restrictive than the provisions of this chapter.

Section 172. That § 31-30-13 be repealed.

Section 173. That § 31-30-14 be repealed.

Section 174. That § 31-31-4 be amended to read as follows:

31-31-4. The Department of Transportation and any board of county commissioners may employ the necessary assistance to carry out the necessary provisions of this chapter or may have the work

done by the employees regularly employed by the department or the board. The department and the board may fix the compensation and expenses of persons employed by them for the purpose of carrying out the provisions of this chapter. The department and board may be paid out of any fund or funds available to the department or board for the maintenance and repair of the highway.

Section 175. That § 31-32-13 be amended to read as follows:

31-32-13. It is a Class 2 misdemeanor for any person to conduct an establishment or maintain a business the nature of which requires the use by patrons or customers of any part of the right-of-way of a state trunk highway while the patron or customer is receiving or discharging any merchandise or commodity at the place of business. This section does not apply to streets within the limits of municipalities which are under the control and regulation of the municipality. This section does not apply to a vending facility, vending soft drinks only, operated for the benefit of visually impaired vendors licensed by the Division of Service to the Blind and Visually Impaired.

Section 176. That § 31-32-14 be amended to read as follows:

31-32-14. The provisions of § 31-32-13 do not, in any way, interfere with the rights of any person to use such means of ingress or egress to a place of business as are approved as to safety and design by the Department of Transportation and as are reasonably useful for the business conducted by the person on privately owned property.

Section 177. That § 31-32-15 be amended to read as follows:

31-32-15. The conducting of an establishment or maintaining of a business in violation of § 31-32-13 constitutes a public nuisance and the department may bring an action to abate the nuisance or may fence the right-of-way of the state trunk highway to prevent the unlawful use.

Section 178. That § 31-32-16 be amended to read as follows:

31-32-16. Any tree, structure, or other object, that, because of its location and because of its age, infirmity, angle of stance, or other condition, is likely to fall, in whole or in part, upon any public

highway within the State of South Dakota, so that any person using the highway at the time of the fall might be injured thereby, is a public nuisance against which the remedies prescribed by § 21-10-5 may be employed.

Section 179. That § 31-32-17 be amended to read as follows:

31-32-17. If it appears to the satisfaction of any department, board, or governing body charged with the duty of the maintenance of any highway in this state, that a nuisance as defined by § 31-32-16 exists along any highway in respect to which highway the department, board, or governing body has the duty of maintaining, the department, board, or governing body shall negotiate with the owner of the property on which the nuisance exists for the voluntary abatement of the nuisance.

Section 180. That § 31-32-18 be amended to read as follows:

31-32-18. If the owner of the property referred to in § 31-32-17 or of the nuisance refuses or fails to voluntarily abate the nuisance within a reasonable time, the department, board, or governing body, shall bring a civil action on behalf of the public, in the proper court, to abate the nuisance. If abatement is ordered in the suit, the cost of the action shall be charged against the owner of the land on which the nuisance was maintained and against whom the action in abatement was brought.

Section 181. That § 32-22-34 be repealed.

Section 182. That § 32-22-35 be repealed.

Section 183. That § 32-22-36 be repealed.

Section 184. That § 32-22-37 be repealed.

Section 185. That § 32-22-43 be amended to read as follows:

32-22-43. The issuance of any permit provided for in this chapter or the rules adopted for issuance of the permit do not relieve the holder of the permit from liability for damages caused to a highway by any movement under the permit.

Section 186. That § 32-22-49 be amended to read as follows:

32-22-49. Terms used in §§ 32-22-47 and 32-22-48 mean:

- (1) "Person," any person, firm, association, or corporation;
- (2) "Vehicle," any motor vehicle, truck, trailer, semitrailer, or tractor.

Section 187. That § 32-22-52 be amended to read as follows:

32-22-52. It is a Class 2 misdemeanor for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or vehicles, of a size or weight exceeding the limitations stated in this chapter, or the rules of the Transportation Commission or county commission adopted pursuant to this chapter.

Section 188. That § 49-16B-5 be amended to read as follows:

49-16B-5. All appointments to the authority shall be made for a four-year term. Each member's term of office shall expire on the appropriate third Monday in January, but the member shall continue to hold office until a successor is appointed and qualified. Any vacancy in the authority shall be filled by appointment in the manner prescribed for appointments for full terms. A majority of the authority is required to take official action.

Section 189. That § 49-16B-6 be amended to read as follows:

49-16B-6. Each member shall, before entering upon the duties of office, take and subscribe the constitutional oath of office and give bond in the penal sum of twenty-five thousand dollars conditioned upon the faithful performance of the member's duties. The oath and bond shall be filed in the Office of the Secretary of State.

Section 190. That § 49-16B-8 be amended to read as follows:

49-16B-8. The authority may employ agents and employees necessary to carry out the duties and purposes of the authority.

Section 191. That § 49-16B-11 be amended to read as follows:

49-16B-11. The authority shall obtain estimates of the cost of any project it deems necessary or

convenient and shall formulate and recommend a list of projects. The authority shall present a report including its recommendations, proposed projects and estimated costs to the Legislature not later than the first day of November immediately preceding the convening of a regular session of the Legislature if the authority has any recommendation or proposed project. In recommending projects to be undertaken, the authority may not deviate from the priority listing of projects submitted by the Department of Transportation.

Section 192. That § 49-16B-12 be amended to read as follows:

49-16B-12. Any department, board, commission, agency, or officer of the state may transfer jurisdiction of or title to any property under its or the officer's control to the authority if the transfer is approved, in writing, by the Governor, as being advantageous to the state.

Section 193. That § 49-16B-13 be amended to read as follows:

49-16B-13. To accomplish projects of the kind listed in § 49-16B-10 the authority may acquire by purchase, condemnation, including the power of condemnation in accordance with chapters 21-35 and 31-19, including the eminent domain and declaration of taking sections therein, gift or otherwise. The authority may construct, maintain, and equip railroad facilities as the Legislature by law declares to be in the public interest. In the course of such activities, the authority may acquire property of any kind and description, whether real, personal or mixed, by gift, purchase, or otherwise. The authority may also acquire real estate of the State of South Dakota controlled by any officer, department, board, commission, or other agency of the state, the jurisdiction of which is transferred by the officer, department, board, commission, or other agency, to the authority.

Section 194. That § 49-16B-13.1 be amended to read as follows:

49-16B-13.1. The authority shall receive approval for all proposed expenditures from the South Dakota State Railroad Board and the Governor.

Section 195. That § 49-16B-13.2 be amended to read as follows:

49-16B-13.2. The Department of Transportation, in accord with its obligation to maintain certain public highways under § 31-5-1, shall maintain the public railroad property purchased and owned by the state pursuant to chapter 49-16B.

Section 196. That § 49-16B-20 be amended to read as follows:

49-16B-20. The authority may, in the event of nonpayment of rents reserved in such leases, maintain and operate the facilities and sites or execute leases of the facilities and sites to others for any suitable purposes.

Section 197. That § 49-16B-25 be amended to read as follows:

49-16B-25. Bonds or notes of the authority shall be authorized by resolution of the authority and may be issued under the resolution or under a trust indenture or other security agreement, in one or more series. The bonds or notes shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such conversion, exchange and registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places within or outside the state, be subject to such terms of redemption with or without premium, and contain or be subject to such other terms as the resolution, trust indenture or security agreement may provide. The bonds or notes may not be restricted by any other law limiting amounts, maturities, interest rates, or other terms or obligations of public agencies or private persons.

Section 198. That § 49-16B-29 be amended to read as follows:

49-16B-29. Nothing in this chapter authorizes the authority or any department, board, commission, or other agency to create an obligation of the State of South Dakota within the meaning of the Constitution or statutes of South Dakota.

Section 199. That § 49-16B-30 be amended to read as follows:

49-16B-30. The provisions of this chapter and of any resolution or proceeding authorizing the

issuance of bonds constitutes a contract with the holders of such bonds. The provisions are enforceable either in law or in equity, by suit, action in mandamus or other proceeding in any court of competent jurisdiction to enforce and compel the performance of any duties required by this chapter or any resolution or proceeding authorizing the issuance of the bonds, including the establishment of sufficient charges, fees, or rentals and the application of the income from a project under this chapter as provided in § 49-16B-26.

Section 200. That § 49-16B-37 be amended to read as follows:

49-16B-37. The authority, in order further to secure the payment of the interim notes, may make any other or additional covenants, terms and conditions not inconsistent with the provisions of §§ 49-16B-13 and 49-16B-15, and do any and all acts and things as may be necessary or convenient or desirable in order to secure payment of its interim notes, or, in the discretion of the authority, as will tend to make the interim notes more acceptable to lenders, notwithstanding that the covenants, acts or things may not be enumerated herein. However, nothing contained in this section authorizes the authority to secure the payment of the interim notes out of property or facilities, other than the facilities acquired with the proceeds of the interim notes, and any net income and revenue derived from the facilities and the proceeds of revenue bonds.

Section 201. That § 49-16B-38 be amended to read as follows:

49-16B-38. The interim notes do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

Section 202. That § 49-16B-48 be repealed.

Section 203. That § 49-16B-49 be repealed.

Section 204. That § 49-16B-50 be repealed.

Section 205. That § 49-16B-51 be repealed.

Section 206. That § 49-16B-52 be repealed.

Section 207. That § 49-16B-53 be repealed.

Section 208. That § 49-16B-54 be repealed.

Section 209. That § 49-16B-55 be repealed.

Section 210. That § 49-16B-56 be repealed.

Section 211. That § 49-16B-57 be repealed.

Section 212. That § 49-16B-58 be repealed.

Section 213. That § 49-16B-59 be repealed.

Section 214. That § 49-16B-60 be repealed.

Section 215. That § 49-16B-61 be repealed.

Section 216. That § 49-16B-62 be repealed.

Section 217. That § 49-16B-63 be repealed.

Section 218. That § 49-16B-64 be repealed.

Section 219. That § 49-16B-65 be repealed.

Section 220. That § 49-16B-65.1 be repealed.

Section 221. That § 49-16B-66 be repealed.

Section 222. That § 49-16B-67 be repealed.

Section 223. That § 49-16B-68 be repealed.

An Act to repeal, update, and make form and style revisions to certain statutes related to the Department of Transportation.

=====

I certify that the attached Act originated in the

HOUSE as Bill No. 1006

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1006
File No. _____
Chapter No. _____

=====

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State