

CHAPTER 128

SECONDARY ROAD RESEARCH

H. F. 54

AN ACT to establish a fund for financing engineering studies and research projects in connection with the construction and maintenance of secondary roads.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Notwithstanding the provisions of Section three hun-
2 dred ten point four (310.4), Code 1946, the state highway commission
3 is hereby authorized to set aside each year not to exceed one and one-
4 half percentum (1½%) of the receipts in the farm-to-market road
5 fund in a fund to be known as the secondary road research fund.

1 SEC. 2. The secondary road research fund shall be used by the
2 state highway commission solely for the purpose of financing engi-
3 neering studies and research projects which have as their objective
4 the more efficient use of funds and materials that are available for
5 the construction and maintenance of secondary roads, including
6 bridges and culverts located thereon.

1 SEC. 3. The research projects and engineering studies authorized
2 herein shall be conducted in cooperation with the county engineers.
3 Once each year the highway commission shall file a report with the
4 Governor and county engineers showing the work accomplished and
5 projects undertaken under this act, and copies of a biennial report
6 of the same for the use and benefit of the General Assembly shall be
7 filed with the Chief Clerk of the House of Representatives and the
8 Secretary of the Senate on or before January 31 of each odd-num-
9 bered year.

Approved April 1, 1949.

CHAPTER 129

SECONDARY ROAD ASSESSMENT DISTRICTS

H. F. 524

AN ACT to repeal chapter three hundred eleven (311), Code 1946, as amended by chapter one hundred sixty-three (163), Laws of the Fifty-second General Assembly, relating to secondary road assessment districts, and to repeal section five (5) of chapter one hundred sixty-three (163), Acts of the Fifty-second (52nd) General Assembly, and to enact a substitute therefor.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five (5) of chapter one hundred sixty-three
2 (163), Acts of the Fifty-second (52nd) General Assembly is hereby
3 repealed.

1 SEC. 2. Chapter three hundred eleven (311), Code 1946, as
2 amended by chapter one hundred sixty-three (163), laws of the Fifty-
3 second (52nd) General Assembly, is hereby repealed.

1 SEC. 3. Power to establish. In order to provide for the graveling,
2 oiling, or other suitable surfacing of secondary roads, the board of

3 supervisors shall have power, on petition, to establish secondary road
4 assessment districts.

1 SEC. 4. Width of district. Any such secondary road assessment
2 district shall be not more than one-half mile wide on each side of the
3 road or roads to be improved by said district.

1 SEC. 5. Amount of assessment. Special assessments in the aggre-
2 gate amount of not less than twenty-five per cent of the total esti-
3 mated cost of surfacing any road included in a secondary road
4 assessment district project shall be apportioned and levied on the
5 lands included in said secondary road assessment district.

1 SEC. 6. County line road. Whenever it is desired to surface a
2 secondary road on a county line, as a secondary road assessment dis-
3 trict project, the board of supervisors of any county concerned may
4 establish an assessment district in its county, and levy and collect
5 special assessments for the payment of that portion of the estimated
6 cost of such project assessable against lands in that county. Each
7 county shall pay its share of the cost of said project as provided in
8 this act, in the same manner as though the project were located
9 wholly within that county.

1 SEC. 7. Project in city or town. Any road or street which is a
2 continuation of a secondary road within any city or town and which
3 the county board desires to improve by graveling, oiling, or other
4 suitable surfacing, may by resolution of the county board and con-
5 currence by the council of the city or town be improved as a second-
6 ary road assessment district project or part thereof as herein pro-
7 vided. The lands within such city or town abutting on or adjacent to
8 such street or road may be included within such secondary road
9 assessment district and assessed on account of such improvement
10 upon the same basis and in the same manner as though such lands
11 were located outside of a city or town.

1 SEC. 8. Petition—information required. The petition for a
2 secondary road assessment district proposing to establish such district
3 shall intelligently describe the road or roads proposed to be improved,
4 the nature of the proposed improvement, the percentage of the esti-
5 mated cost of the surfacing of said road proposed to be assessed
6 against the property in the said district and the lands proposed to be
7 included in such district.

8 Such petition shall be signed by thirty-five per cent of the owners
9 of the lands within such proposed district, or by thirty-five per cent
10 of the owners of the land within such proposed district who reside
11 within said county.

1 SEC. 9. When any owner or group of owners of not less than
2 seventy-five per cent (75%) of the lands adjacent to, or abutting upon
3 any secondary road or roads shall, on or before December first of any
4 year petition the board of supervisors of their county for the im-
5 proving by graveling or other suitable surfacing, of said road or
6 roads, and for the assessment of not less than fifty per cent (50%)
7 (or such greater portion as may be provided in said petition) of the
8 cost of such improving, by graveling or other suitable surfacing, to

9 the lands adjacent to, or abutting upon said road or roads, the board
10 of supervisors shall, in the order in which such petitions were filed
11 with it, include and give preference to said project or projects in the
12 secondary road construction program of said county for the ensuing
13 year.

14 The board of supervisors shall proceed during the ensuing year
15 with the construction and completion of said project under the same
16 procedure as is prescribed generally for the improvement of second-
17 ary roads by assessment, and shall, as the law may provide, establish
18 a special secondary road assessment district and assess against the
19 lands included therein not less than fifty percent (50%) (or such
20 greater portion as may be provided in said petition) of the engineer's
21 estimated cost of the surfacing of the road or roads included in said
22 project against all the lands adjacent to or abutting upon the said
23 road or roads.

24 Provided, that should the owner or owners of all the lands included
25 in any special secondary road assessment district under this section,
26 subscribe and deposit with the county treasurer an amount not less
27 than fifty percent (50%) (or such greater portion as may be provided
28 in said petition) of the engineer's estimated cost of the surfacing of
29 the road or roads included in said project, the board of supervisors
30 shall not establish such special assessment district as herein provided,
31 but shall accept the said donations in lieu of an assessment, and shall
32 otherwise proceed to the improvement of said road or roads as herein
33 provided.

34 Upon the completion of such road or roads, and the satisfaction of
35 all claims in relation thereto, any balance then remaining of the funds
36 provided by the sponsors shall be returned to them according to their
37 respective interests, providing all guarantees made by such sponsors
38 have been fulfilled.

39 Any road or roads so improved by graveling or other suitable
40 surfacing under the provisions of this section shall be maintained by
41 the county from the secondary road fund.

1 SEC. 10. County engineer's report. Upon the filing of such peti-
2 tion with the county auditor proposing the establishment of such
3 secondary road assessment district, the county engineer shall file
4 a report thereon with the county auditor, which report shall
5 include:

6 a. An estimate of the cost of the surfacing proposed on the road
7 or roads included in such proposed district.

8 b. A plat of said proposed district which plat shall show the road
9 or roads proposed to be improved, the various tracts and parcels or*
10 real estate included in said proposed district, and the ownership of
11 such lands.

12 c. An approximately equitable apportionment of not less than
13 twenty-five per cent of the estimated cost of said improvement among
14 the tracts and parcels of real estate included in such proposed district.

15 d. A statement whether all of the secondary roads to be surfaced in
16 said proposed secondary road assessment district project have been
17 built to permanent grade and properly drained.

*According to enrolled Act.

18 e. Any information the county engineer may deem pertinent.

1 SEC. 11. Publicly owned real estate. In making said apportion-
2 ment, real estate owned by the state, county or any city or town, shall
3 be treated as other real estate, but no other publicly owned real es-
4 tate shall be included. In apportioning benefits to real estate owned
5 by a town, city, the county or the state, no consideration shall be
6 given to the buildings thereon.

1 SEC. 12. Estimate and apportionment—presumption. Said esti-
2 mated cost shall carry the presumption, in the absence of a contrary
3 showing, that the same correctly represents the probable cost of said
4 project as nearly as can be determined in advance of the actual doing
5 and completion of the work. Said apportionment shall carry the
6 presumption, in the absence of a contrary showing, that the same is
7 fair, just, equitable, and in proportion to the benefits and not in excess
8 thereof.

1 SEC. 13. Hearing—notice. The board of supervisors shall fix a
2 time for hearing on the proposal for the establishment of said second-
3 ary road assessment district and on the apportionment of not less
4 than twenty-five per cent of the estimated cost of the proposed im-
5 provement, and shall cause the county auditor to publish notice of said
6 hearing. Said notice shall state,
7 1. The time and place of hearing,
8 2. The road or roads proposed to be improved,
9 3. The type of surfacing proposed,
10 4. The estimated cost of the proposed improvement,
11 5. A description of the lands lying within said proposed district,
12 6. The ownership of said lands as shown by the transfer books in
13 the auditor's office,
14 7. A statement of the amount apportioned to each tract or parcel
15 of real estate as shown by the engineer's report,
16 8. That at said hearing the amount apportioned to any tract or
17 parcel of land may be increased or decreased without further notice,
18 9. That all objections to the establishment of said district, to the
19 said apportionment report, or to the proceedings relating thereto
20 must be specifically made in writing and filed with the county auditor
21 on or before noon of the day set for such hearing, and
22 10. That a failure to make and file such objections will be deemed
23 a conclusive waiver of all such objections.

1 SEC. 14. Publication of notice. Such notice shall be published
2 once each week for two successive weeks in some newspaper published
3 in the county as near as practicable to said district. The last publica-
4 tion shall be not less than five days previous to said hearing. Proof
5 of such publication shall be made by the publisher by affidavit filed
6 with the county auditor.

1 SEC. 15. Errors in notice or apportionment report. Any omission
2 or error in said apportionment report or notice with respect to any
3 tract or parcel of real estate or the description thereof, or the name
4 of the owner, or the amount of the assessment apportioned thereto,
5 shall work no loss of jurisdiction on the part of the board over such
6 proceeding. Such omission or error shall only affect the particular

7 tract of real estate or person in question. If, before or after the board
8 has entered its final order in the establishment of the said district or
9 in the apportionment proceedings, such omission or error is dis-
10 covered, the board shall fix a time for a hearing as to such party or
11 real estate and shall cause service of notice to be made upon them,
12 either by publication as in this act provided, or by personal service in
13 the time and manner required for service of original notices in the
14 district court. After such hearing the board shall proceed as to such
15 person or land as though such omission or error had not occurred.

1 SEC. 16. Appearance. The appearance of any interested party,
2 either in writing or personally, or by authorized agent, before the
3 board of supervisors at any stage of the pending proceedings for a
4 secondary road assessment district shall be deemed a full appearance.
5 Only interested parties shall have the right to appear in such proceed-
6 ings. All persons so appearing shall state for whom they appear.
7 The clerk of the board shall make definite entry accordingly in the
8 minutes of the board.

1 SEC. 17. Hearing—adjournment—order. Hearings on the pro-
2 posed establishment of said district may be adjourned from time to
3 time without loss of jurisdiction by the board. On final hearing the
4 board shall proceed to a determination of said matters. It may reject,
5 approve, or modify and approve said proposal. The board may ex-
6 clude lands from the district or may add lands thereto or otherwise
7 modify the proposal.

8 Should the proposal be approved in whole or in part, the board shall
9 establish such district. The order of the board establishing such dis-
10 trict shall state the road or roads to be improved, the type of improve-
11 ment, and the lands included in said district. Said order shall be
12 final. No lands shall thereafter be added to or excluded from said
13 district.

1 SEC. 18. Final hearing—assessment levied. On final hearing the
2 board shall hear and determine all objections filed. The board may
3 increase, diminish, annul, or affirm the apportionment made in said
4 report, or any part thereof, as may appear to the board to be just and
5 equitable.

6 On the final determination the board shall levy such assessments
7 and all installments thereof upon the real estate within said district
8 as finally established. The entire amount of said assessment shall be
9 then due and payable, and bear interest at six per cent per annum
10 commencing twenty days from the date of said levy, and shall be
11 collected at the next succeeding March semiannual payment of ordi-
12 nary taxes.

1 SEC. 19. Assessments over ten dollars—waiver. If any owner
2 other than the state or a county, city or town, of any tracts of land on
3 which the assessment is more than ten dollars, shall, within twenty
4 days from the date of said assessment, agree in writing filed in the
5 office of the county auditor, that in consideration of his having the
6 right to pay his assessment in installments, he will not make any
7 objection of illegality or irregularity as to said assessment upon his
8 said real estate, and will pay the same with six per cent interest

9 thereon, then and in that case said assessment shall be payable in
10 ten equal installments. The first installment shall be payable on the
11 date of such agreement. The other installments with interest on the
12 whole amount unpaid shall be paid annually thereafter at the same
13 time and in the same manner as the March semiannual payment of
14 ordinary taxes.

15 An owner of land who has availed himself of said ten-year option
16 may at any time discharge his assessment by paying the balance then
17 due on all unpaid installments, with interest on the entire amount of
18 the unpaid installments for thirty days in advance.

1 SEC. 20. Assessment delinquent—penalties. All such taxes shall
2 become delinquent on the first day of March next after their maturity,
3 shall bear the same interest, the same penalties, and be attended with
4 the same rights and remedies for collection, as ordinary taxes.

1 SEC. 21. Assessment ten dollars or less. Assessments of ten dol-
2 lars or less against any tract of land, and assessments against lands
3 owned by the state, county, city or town, shall be due and payable
4 from the date of levy by the board of supervisors, or in the case of
5 any appeal, from the date of final confirmation of the levy by the
6 court.

7 In case of assessments on lands owned by the county, the same shall
8 be paid from the county general fund. In case of assessments on
9 lands owned by the state, the same shall be paid out of any funds in
10 the state treasury not otherwise appropriated. In case of assessments
11 on lands owned by a city or town, the same shall be paid from the city
12 or town general fund.

1 SEC. 22. Variation between estimated and actual cost. Any vari-
2 ation between the engineer's estimated cost and the actual cost of a
3 secondary road assessment district project shall in no way affect the
4 validity of the assessment. It is the intent of this Act that the assess-
5 ment shall be based on the estimated cost and not on the actual cost.

1 SEC. 23. Procedures. The preparation and approval of plans and
2 specifications, the advertising for bids, the award and approval of
3 contract, the supervision and inspection of construction work, and
4 the approval and payment of claims on any secondary road assessment
5 district project, shall be conducted in the manner provided in the laws
6 for secondary road construction work generally.

1 SEC. 24. Road graded and drained. Any such secondary road shall
2 be built to permanent grade and drained in a manner approved by the
3 county engineer before being surfaced, as provided in this Act.

1 SEC. 25. Payment of construction costs. The total cost of any
2 secondary road assessment district project shall in the first in-
3 stance be paid out of the secondary road fund of said county. Any
4 assessments which are paid in cash and in anticipation of which
5 assessments no certificates have been issued, shall be transferred to the
6 secondary road fund.

7 If no special assessment certificates are issued and sold on account
8 of any particular secondary road assessment district, the special
9 assessments on lands included in that district, and the interest on such

10 assessments when collected, shall be transferred to the secondary
11 road fund of said county. If certificates are issued and sold in antici-
12 pation of the special assessments levied on any such district as herein
13 provided, the proceeds of such certificates shall be credited to the
14 secondary road fund of said county. In that event, the special assess-
15 ments in anticipation of which certificates have been issued, and the
16 interest on such assessments shall, when collected, be used to retire
17 such certificates.

1 SEC. 26. Appeal from assessment. Any owner of land in a second-
2 ary road assessment district may appeal to the district court from
3 the order of the board of supervisors in levying the assessment against
4 his real estate, by filing with the county auditor within fifteen days
5 of the date of such levy, a bond conditioned to pay all costs in case the
6 appeal is not sustained, and a written notice of appeal wherein he
7 shall, with particularity, point out the specific objection which he
8 desires to lodge against such levy. The appearance term shall be the
9 trial term. Said appeal shall have precedence over all other business
10 of the term except criminal matters. The appeal shall be heard as in
11 equity. The court may raise or lower the assessment in question and
12 make an equitable assessment in the judgment of the court. The clerk
13 of the district court shall, upon the entry of the final order of the
14 court, certify such final order to the county auditor. The board of
15 supervisors shall at once so adjust the assessments as to comply with
16 the final order of the court.

1 SEC. 27. Appeal docketed. When an appeal is taken, the county
2 auditor shall at once make a transcript of the notice of appeal and
3 appeal bond and transmit the same to the district court. The ap-
4 pellant shall, on or before the first day of the first term of the court,
5 after taking said appeal, docket said appeal and file a petition setting
6 forth the order or decision of the board of supervisors appealed from,
7 and his specific objections thereto. A failure to comply with either
8 of these requirements shall be deemed a conclusive waiver of the ap-
9 peal and in such case the court shall dismiss the same. Appellee need
10 not file answer, but may do so.

1 SEC. 28. Assessments certified to county treasurer. When the
2 board of supervisors has entered its final order as to the amounts of
3 all special assessments on a given improvement, the county auditor
4 shall at once certify a list of such assessments and a list of real estate
5 upon which each assessment has been levied, with the specific desig-
6 nation of the district embracing such real estate, to the county treas-
7 urer, who shall enter each assessment on the tax books and continue
8 such entry until such assessment is paid.

9 Each special assessment and all installments thereof shall be a lien
10 upon the real estate upon which it is levied from the date of such cer-
11 tificate by the county auditor to the same extent and in the same man-
12 ner as taxes levied for state and county purposes. Changes in the
13 amount of any special assessment by reason of any ruling of the dis-
14 trict court on appeals, shall be likewise certified and the county
15 treasurer shall make the proper correction on his books.

1 SEC. 29. Each district separate unit. Each assessment district
2 shall be considered a unit and all funds received by the county treas-

3 urer for or on behalf of such unit shall be carried as a distinct and
4 separate account and under the same specific name as that used by the
5 board in establishing such unit.

1 SEC. 30. Certificates anticipating assessments. In order to render
2 immediately available that amount of the estimated cost of an im-
3 provement which has been specially assessed, the board may issue
4 road certificates in the name of the county in an aggregate amount
5 not exceeding the then unpaid amount of the special assessment levied
6 in said district. Each issue of certificates shall be under, and in ac-
7 cordance with, a duly adopted resolution of the board and which shall
8 recite (1) the name or designation of the road district on account of
9 which the certificates are issued; (2) that a stated amount (naming
10 the amount) has been specially assessed against the lands within said
11 district; (3) that a stated amount of said aggregate special assess-
12 ment has not yet been paid (naming the unpaid amount); (4) that it
13 is necessary to render such unpaid amount immediately available; (5)
14 the number of road certificates authorized and the specific amount
15 of each certificate; (6) the specific numbering or designation of such
16 certificates; (7) the rate of interest which each certificate shall bear
17 from date, to-wit, not to exceed six per cent per annum; (8) the fact
18 that said certificates are payable solely from the proceeds of the
19 special assessments which have been levied on the lands within said
20 districts; (9) that each certificate shall be payable on or before the
21 first day of January of the first year following the maturity of the last
22 installment of such special assessments, and that interest thereon
23 shall be paid annually; (10) the authorization to the chairman of the
24 board, and to the county auditor, respectively, to sign and counter-
25 sign each of said certificates.

1 SEC. 31. Sale of certificates. Upon the signing of each of said certifi-
2 cates by the chairman of the board, said certificates shall be delivered
3 to the county auditor, who shall countersign the same, charge the
4 county treasurer with the amount thereof, and deliver the same to the
5 latter officer, who shall be responsible therefor on his bond. The treas-
6 urer may apply said certificates in payment of any warrants duly
7 authorized and issued for surfacing the roads within said district, or
8 he may sell the same for the best attainable price and for not less than
9 par, plus accrued interest, and credit the proceeds to the secondary road
10 fund. Such certificates shall be retired in the order of the consecutive
11 numbering thereof.

1 SEC. 32. Certificates registered—payment. The county treasurer
2 shall, in connection with the road account for said district, enter the
3 name and postoffice address of all persons to whom any of said cer-
4 tificates are issued, with a particular designation of the certificates
5 delivered to each person. Any subsequent holder may present his
6 certificate to the county treasurer and cause his name and postoffice
7 address to be entered in lieu of that of such former holder. Whenever
8 the fund for such particular district has money to pay the first re-
9 tirable certificate or certificates, the county treasurer shall, by mail,
10 as shown by his records, promptly notify the holder of such certificate

11 of such fact and that from and after ten days after the mailing of such
12 letter all interest on such certificates will cease.

1 SEC. 33. Previous assessments not invalidated. The passage of
2 this Act, the provisions hereof, and the repeal of sections hereby re-
3 pealed, shall not in manner affect or invalidate any secondary road
4 district assessments levied before this Act became effective, or any
5 certificate in anticipation of such assessments issued before or after
6 this Act becomes effective.

7 Said assessments and taxes shall be collected and applied to the
8 purpose for which they were levied. Certificates in anticipation or*
9 such assessments may be issued. The proceeds of such certificates
10 shall be applied to the purpose intended, and such certificates issued
11 before or after this Act becomes effective shall be paid in conformance
12 with the provisions of this Act.

Approved April 20, 1949.

*According to enrolled Act.

CHAPTER 130

PRIMARY AND COUNTY ROAD BONDS

H. F. 46

AN ACT to repeal chapters three hundred twelve (312), three hundred fourteen (314),
and three hundred sixteen (316), Code 1946, relating to primary road bonds and
county road bonds.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapters three hundred twelve (312), three hundred
2 fourteen* (314), and three hundred sixteen (316), Code 1946, are
3 hereby repealed.

Approved April 18, 1949.

*According to enrolled Act.

CHAPTER 131

FUNDS FROM FEDERAL GOVERNMENT

H. F. 426

AN ACT to allocate funds received from the United States under the Act admitting the
state of Iowa to the Union.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. All revenue accrued or accruing to the state of Iowa
2 on or after January 26, 1949, from the sale of public lands within the
3 state, under Acts of Congress approved March 3, 1845 supplemental
4 to the Act for the admission of the states of Iowa and Florida into the
5 Union, chapters 75 and 76 (Fifth Statutes, pages 788 and 790), shall
6 be placed in the primary road fund.

Approved April 7, 1949.