

## CHAPTER 117

## FARM-TO-MARKET ROAD SYSTEM

## H. F. 114

AN ACT to designate a farm-to-market road system; to provide a comprehensive plan for the improvement of farm-to-market roads; to authorize the board of supervisors of any county to cooperate with the federal government and the state highway commission in the improvement of farm-to-market roads; to secure for the state of Iowa and the several counties thereof the benefit of all funds allotted or to be allotted to this state by the federal government in the aid of secondary roads; to provide for certain transfer of funds from the primary road fund to the farm-to-market road fund; to create a farm-to-market road fund and to provide for the disbursement of said fund in the improvement of farm-to-market roads; and to amend section forty-seven hundred fifty-five-b three (4755-b3), code, 1935.

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

1 SECTION 1. As used in this act, the following words, terms or  
2 phrases shall be construed or defined as follows:

3 (a) "Secondary road" shall mean any public highway except  
4 primary roads, state roads, and highways within cities and towns.

5 (b) "Farm-to-market roads" shall mean any secondary road desig-  
6 nated for improvement under this act.

7 (c) "County's allotment of motor vehicle fuel license fees" or  
8 "allotment of motor vehicle fuel license fees" shall mean that part or  
9 portion of the motor vehicle fuel license fees which are or may be  
10 allotted to any county under the provisions of section five thousand  
11 ninety-three-f thirty-five (5093-f35), Code of 1935, or as said section  
12 may be amended, to be credited to the secondary road fund of said  
13 county.

14 (d) "Federal aid" or "federal aid secondary road fund" shall  
15 mean funds allotted to the state of Iowa by the federal government  
16 to aid in the construction of secondary roads and which funds must be  
17 matched with funds under the control of the state highway commis-  
18 sion.

1 Sec. 2. The county board of supervisors of any county is empow-  
2 ered, on behalf of the county, to enter into any arrangement or  
3 agreement with or required by the duly constituted federal or state  
4 authorities in order to secure the full cooperation of the government  
5 of the United States and of the state of Iowa, and the benefit of all  
6 present and future federal or state allotments in aid of secondary road  
7 construction, reconstruction or improvement.

1 Sec. 3. There is hereby created a fund which shall be known as the  
2 farm-to-market road fund which shall be made up as follows:

3 1. All federal aid secondary road fund received by the state.

4 2. All other funds which may, under the provisions of this act or  
5 any other law, be credited or appropriated for the use of the farm-to-  
6 market road fund.

1 SEC. 4. Said farm-to-market road fund is hereby appropriated for  
2 and shall be used in the establishment, construction, reconstruction or  
3 improvement of the farm-to-market road system, including the drain-  
4 age, grading, surfacing, construction of bridges and culverts, the  
5 elimination, protection, or improvement of railroad crossings the  
6 acquiring of additional right of way and all other expenses incurred in

7 the construction, reconstruction or improvement of said farm-to-  
8 market road system under this act.

1 SEC. 5. The state highway commission shall allot among all the  
2 counties of the state that portion of the farm-to-market road fund  
3 which comes from any source except the counties' portion of the motor  
4 vehicle fuel license fees. Said allotment to each county shall be in  
5 the ratio that the area of the county bears to the total area of the  
6 state. Each county's allotment of the farm-to-market road fund shall  
7 be used, as in this act provided, for the construction, reconstruction  
8 and improvement of the farm-to-market roads of that county.

1 SEC. 6. The state highway commission shall keep accounts in re-  
2 lation to the farm-to-market road fund and each county's allotment  
3 thereof, crediting each fund with all amounts by law creditable there-  
4 to, and charging each with all duly and finally approved vouchers for  
5 claims properly chargeable thereto.

1 SEC. 7. The account of the farm-to-market road fund, kept by the  
2 state comptroller and the state treasurer, shall deal with said fund  
3 as a single fund with all credits thereto and disbursements therefrom.  
4 The treasurer of state shall, each month, certify to the state highway  
5 commission the amount or amounts which he has received and credited  
6 to the farm-to-market road fund from (a) the federal government as  
7 federal secondary road aid, (b) the motor vehicle fuel tax fund al-  
8 lotted to any county, and (c) any other source.

1 SEC. 8. The state highway commission shall, quarterly, advise  
2 each county engineer of the condition of said county's allotment of  
3 the farm-to-market road fund. Said statement shall show the balance  
4 in said county's allotment at the beginning of said period, the amount  
5 or amounts allotted to said county during said period, the amount  
6 disbursed from said county's allotment during said period, and the  
7 balance in said county's allotment at the end of said period. Said  
8 statement shall also show the estimated outstanding obligations  
9 against the said county's allotment at the date of said statement.

1 SEC. 9. Before any project shall be approved by the state highway  
2 commission for farm-to-market road construction in any county under  
3 this act, the commission shall satisfy itself that said county is finan-  
4 cially able and suitably equipped and organized to properly maintain  
5 said road, and that the county engineer's office in said county is suit-  
6 ably organized, equipped and financed to discharge to the satisfaction  
7 of the commission, the duties herein required; and said county,  
8 through its board of supervisors, shall recommend a system of second-  
9 ary roads (not exceeding ten per cent (10%) of the total highway  
10 mileage of the county) on which projects constructed under this act  
11 shall be located. Provided, that if in any county more than ten per  
12 cent (10%) of the highway mileage has already been built to finished  
13 grade, bridged and surfaced with gravel or other suitable surfacing,  
14 then the board may recommend a secondary road mileage which in-  
15 cludes any or all the secondary roads of said county which have been  
16 built to finished grade, bridged and surfaced with gravel or other  
17 suitable surfacing, plus an additional mileage which is not more than  
18 ten per cent (10%) of the highway mileage of the county.

1 SEC. 10. The state highway commission shall have authority to  
2 approve in whole or in part or to modify the system of secondary roads  
3 recommended by the board of supervisors of any county. In con-  
4 sidering said system the commission shall take into account the rela-  
5 tive amount of the present traffic on the various secondary roads of  
6 the county, and the probable future traffic on such roads.

7 The system of roads as finally designated shall be known as the  
8 farm-to-market road system.

9 Said road system may, subject to the consent of the board of super-  
10 visors, be changed or modified by the state highway commission from  
11 time to time to meet unforeseen or better understood conditions.  
12 Whenever it may appear that all the roads included in said farm-to-  
13 market road system in any county have been built to proper grade,  
14 drained, bridged and surfaced in a manner suited to the traffic on  
15 said roads, additional roads may be added to said system in the manner  
16 herein provided for the original designation of said road system.

1 SEC. 11. Any county having complied with the provisions of this  
2 act and desiring to avail itself of the benefits thereof, may, by its  
3 board of supervisors, submit to the state highway commission project  
4 statements for the construction, reconstruction or improvement of  
5 farm-to-market roads, in said county. Should the board of super-  
6 visors of any county elect to submit no project statement to the state  
7 highway commission under this act, then none of said county's allot-  
8 ment of gasoline tax funds shall be taken or used under the provision  
9 of this act.

1 SEC. 12. The state highway commission may approve projects sub-  
2 mitted by the board of supervisors prior to the approval of the farm-  
3 to-market road system herein provided for, if it may reasonably  
4 anticipate that the roads on which such projects are located, will be-  
5 come a part of such system.

1 SEC. 13. If the state highway commission approves a project sub-  
2 mitted by the board of supervisors, the county engineer shall proceed  
3 to make or cause to be made, the surveys, plans and estimates for said  
4 project, and submit the same to the board of supervisors and the high-  
5 way commission for approval. The construction work on said project  
6 shall be done in accordance with said approved plans, except insofar  
7 as the same may be modified to meet unforeseen or better understood  
8 conditions, and no such modification shall be deemed an invalidating  
9 matter.

1 SEC. 14. When the approved plans and specifications for any farm-  
2 to-market road project are filed with the state highway commission,  
3 it shall, if the estimated cost exceeds one thousand dollars, proceed to  
4 advertise for bids and make recommended award of contract. Said  
5 recommended award of contract shall be submitted to the board of  
6 supervisors of the county in which said project is located for its con-  
7 currence. Upon receiving the concurrence of the county board on said  
8 recommended contract award, the state highway commission shall take  
9 final action awarding said contract. No contract shall be let to any  
10 state official, elective or appointive nor a member of the state highway  
11 commission, nor to any partnership or corporation in which a member  
12 of the state highway commission, or any other state officer or em-

13 ployee, is financially interested. The letting of a contract in violation  
14 of the foregoing provisions shall invalidate the contract, and such  
15 violation shall be a complete defense to any action to recover any con-  
16 sideration due or earned under the contract, at the time of its termi-  
17 nation.

1 SEC. 15. In the award of contracts, due consideration shall be given  
2 not only to prices bid, but also the mechanical or other equipment  
3 and the financial responsibility of the bidder, and his ability and ex-  
4 perience in the performance of like or similar contracts. The com-  
5 mission may reject any or all bids and may readvertise for bids, or  
6 may let a private contract, at a cost not to exceed the lowest bid re-  
7 ceived, or if the estimated cost of the work does not exceed the sum  
8 of five thousand dollars, may proceed to the construction of the work  
9 by day labor. All contracts shall be in writing and shall be secured  
10 by a bond for the faithful performance thereof as provided by law.

1 SEC. 16. All claims for improving farm-to-market roads hereunder  
2 shall be paid from the farm-to-market road fund and charged to the  
3 allotment of said fund for the county in which said project is located.

1 SEC. 17. All claims shall be itemized on voucher forms prepared  
2 for that purpose, sworn to by the claimants, certified to by the engineer  
3 in charge, approved by the board of supervisors and then forwarded  
4 to the state highway commission for final audit and approval. Upon  
5 approval by the state highway commission, of vouchers which are  
6 payable from the farm-to-market road fund, such vouchers shall be  
7 forwarded to the state comptroller, who shall draw warrants therefor,  
8 and said warrants shall be paid by the treasurer of state from the  
9 farm-to-market road fund.

1 SEC. 18. Partial payments may be made on the work during the  
2 progress thereof, but no such partial payment shall be deemed final  
3 acceptance of the work nor a waiver of any defect therein. The ap-  
4 proval of any claims by the board of supervisors or by the state high-  
5 way commission may be evidenced by the signature of the chairman  
6 of said board or commission, or a majority of the members of the  
7 board or commission, on the individual claims or on the abstract of a  
8 number of claims with the individual claims attached to said abstract.

1 SEC. 19. The county engineer is charged with the duty of super-  
2 vision, inspection and direction of the work of construction of farm-  
3 to-market road projects under this act. In such capacity, the county  
4 engineer shall be under the supervision of the commission. The high-  
5 way commission shall make general inspection of the work during the  
6 progress thereof and may refuse to approve claims for any work  
7 which does not conform to the plans and specifications.

1 SEC. 20. Any county may, in any year, by resolution of its board  
2 of supervisors, make available for improvement or construction of  
3 farm-to-market roads within the county an amount of not to exceed  
4 twenty-five per cent (25%) of its allotment of motor fuel license fees.  
5 Upon certification of such a resolution, the state treasurer shall place  
6 in the county's allotment of the farm-to-market road fund the amount  
7 authorized by such resolution.

1 SEC. 21. A farm-to-market road project under this act may, sub-  
2 ject to the approval of the council, include the purchase or condemna-  
3 tion of right-of-way therefor, and grading, draining, bridging, elimina-  
4 tion of danger at railroad crossings, the graveling or hard surfacing  
5 of any road or street which is a continuation of the farm-to-market  
6 road system and which is (1) within any town, or (2) within any city,  
7 including cities under special charter having a population of less  
8 than twenty-five hundred, or (3) within that part of any city including  
9 cities acting under special charter, where the houses or business houses  
10 average not less than two hundred feet apart.

11 The phrase "subject to the approval of the council" as it appears  
12 in this section, shall be construed as authorizing the council to con-  
13 sider said proposed improvement only in its relationship to municipal  
14 improvements such as sewers, water lines, establishing grades, change  
15 of established street grades, sidewalks and other public improvements.  
16 The locations of such farm-to-market road extensions shall be deter-  
17 mined by the board of supervisors.

1 SEC. 22. Right-of-way for farm-to-market road projects under this  
2 act may be acquired by the county. However, the county board may  
3 request the state highway commission to acquire such right-of-way  
4 and in such event such right-of-way shall be paid for out of the  
5 county's allotment of the farm-to-market road fund.

1 SEC. 23. In the maintenance, relocation, establishment or improve-  
2 ment of farm-to-market roads, including extension of secondary roads  
3 within cities and towns, the state highway commission shall have  
4 authority to purchase or to institute and maintain proceedings for the  
5 condemnation of the necessary right-of-way therefor and for the  
6 condemnation of land, including a sufficient roadway to such land by  
7 the most reasonable route for the purpose of obtaining gravel or other  
8 suitable material with which to improve such roads.

9 All the provisions of the law relating to the condemnation of land  
10 for public state purposes, shall apply to the provisions hereof.

11 The provisions of chapter two hundred thirty-seven (237) of the  
12 Code of 1935, shall not apply to the establishment, vacation, alteration  
13 or improvement of secondary roads under this section.

14 No such roads shall be established through any cemetery or burying  
15 ground without the consent of all the parties affected by the same.

1 SEC. 24. Upon the completion of a farm-to-market road project  
2 under this act, the county engineer shall file with the auditor and with  
3 the recorder of the county a complete right-of-way map of said project.  
4 Said right-of-way maps shall be filed by the auditor and recorder and  
5 shall become a part of the permanent record of such offices.

1 SEC. 25. Whenever any public highway located along the corporate  
2 line of any town or any city, including cities under special charter,  
3 is an extension of the farm-to-market road system, it may be included  
4 in said farm-to-market road system and may be improved as a part  
5 of the said road system under this act.

1 SEC. 26. Should the completed cost of any farm-to-market road  
2 project under this act be greater than the estimate on which the  
3 county's contribution to said project was based, the state treasurer

4 shall, on certificate of such excess cost by the state highway commis-  
5 sion, credit one-half of excess amount to the farm-to-market road fund  
6 from the said county's allotment of the motor vehicle fuel license fees.

7 Should the completed cost of any farm-to-market road project under  
8 this act be less than the estimate on which the county's contribution  
9 to the said project was based, the state highway commission shall  
10 take said fact into account when computing the county's contribution  
11 to the next project approved under this act for construction in said  
12 county. Said county's contribution to the said succeeding project shall  
13 be reduced in an amount equal to the unexpended portion of said  
14 county's contribution to the former project.

1 SEC. 27. The farm-to-market road fund allotted to any county as  
2 provided in this act, shall remain available for expenditure in said  
3 county for one year after the close of the calendar year during which  
4 said sums respectively were allocated. Any sum remaining unex-  
5 pended at the end of the period during which it is available for expend-  
6 iture, shall be reapportioned among all the counties as provided in  
7 section five (5) of this act for original allocations.

8 For the purposes of this section, any sums of the farm-to-market  
9 road fund allotted to any county shall be presumed to have been "ex-  
10 pended" when a contract shall have been let by the state highway  
11 commission obligating said sums.

1 SEC. 28. Engineering, inspection and administration expense in  
2 connection with any farm-to-market road project may be paid from  
3 said county's allotment of the farm-to-market road fund. Any such  
4 expense incurred by the state highway commission may in the first  
5 instance be advanced out of the commission's support fund or out of  
6 the primary road fund, said amounts later being reimbursed to said  
7 funds out of the farm-to-market road fund.

8 Provided, that no part of the salary or expense of the county engi-  
9 neer, any member of the county board of supervisors, any member of  
10 the state highway commission, the chief engineer, or any department  
11 head or district engineer of the commission shall be paid out of the  
12 farm-to-market road fund.

1 SEC. 29. Any farm-to-market road constructed under the provi-  
2 sions of this act shall be maintained by the county in a manner satis-  
3 factory to the federal authorities and to the state highway commission.  
4 Should any county fail to so maintain any such road, the state high-  
5 way commission shall give the board of supervisors notice of that  
6 fact. If within sixty days after receipt of such notice the said high-  
7 way has not been placed in proper condition of maintenance the com-  
8 mission shall proceed immediately to have such highway placed in  
9 proper condition of maintenance and charge the cost thereof against  
10 said county's allotment of the farm-to-market road fund. The amount  
11 so expended for maintenance work by the Highway Commission shall  
12 be reimbursed to said county's allotment of the farm-to-market road  
13 fund, from said county's secondary road maintenance fund, before  
14 any more farm-to-market road projects in said county are approved  
15 by the Commission.

1 SEC. 30. The use of any county's allotment of the motor vehicle  
2 fuel license fees, or any portion thereof, for the purpose of this act,

3 shall, subject to the approval of the county board of supervisors, take  
4 precedence over any other use of said funds specified by law.

1 SEC. 31. The highway commission shall transfer from the primary  
2 road fund to the farm-to-market road fund the sum of six hundred  
3 fifty-eight thousand two hundred sixty-four dollars (\$658,264), said  
4 sum to be used to match the federal allotment for farm-to-market  
5 roads for the fiscal year ending June 30, 1938.

6 They shall also transfer from the primary road fund to the farm-  
7 to-market road fund on or before September 15, 1939, an additional  
8 sum of five hundred ninety-one thousand seven hundred thirty-six  
9 dollars (\$591,736.00), and on or before the 15th day of May, 1940,  
10 they shall transfer from the primary road fund to the farm-to-market  
11 road fund the additional sum of one million two hundred fifty thousand  
12 dollars (\$1,250,000.00), and all funds transferred from the primary  
13 road fund as herein provided shall be used to match the federal allot-  
14 ment for farm-to-market roads.

15 The state highway commission also shall transfer from the primary  
16 road fund to the farm-to-market road fund, on or before June 30,  
17 1941, and on or before June 30 of each year thereafter, all moneys in  
18 excess of the sum of sixteen million dollars (\$16,000,000.00) received  
19 in the primary road fund from state sources, exclusive, however, of  
20 funds received from the sale of primary road bonds.

1 SEC. 32. The highway commission shall not compel the widening  
2 of any of the farm-to-market roads in any county over sixty-six (66)  
3 feet without the consent of the county board of supervisors.

1 SEC. 33. That portion of the primary road fund going to the farm-  
2 to-market road fund not required to match federal aid shall be allo-  
3 cated to the secondary road construction fund of each county for  
4 construction purposes only, in the same ratio as provided by section  
5 five (5).

1 SEC. 34. This act being deemed of immediate importance shall be  
2 in full force and effect from and after its publication in the Davis  
3 County Republican, a newspaper published at Bloomfield, Iowa, and  
4 the Red Oak Express, a newspaper published at Red Oak, Iowa.

Approved April 14, 1939.

I hereby certify that the foregoing act was published in the Davis County Republican,  
Bloomfield, Iowa, April 18, 1939, and the Red Oak Express, Red Oak, Iowa, April 20, 1939.  
EARL G. MILLER, *Secretary of State.*

## CHAPTER 118

### HIGHWAY COMMISSION

S. F. 268

AN ACT to amend chapter two hundred forty-one-B one (241-B1), code, 1935, and requiring the highway commission to submit estimate for the support of the commission, engineering, inspection, administrative work, and maintenance of the primary road system, and providing that expenditures for such purposes shall only be made on authorization by the general assembly.