

**OPINION  
45-239**

June 15, 1945           (OPINION)

ROAD POLL TAX

RE: Repealed

Re: Road Poll Tax

This office is in receipt of your letter of June 12, 1945, wherein you say that the question of poll tax was brought up at your township meeting and that you desire to be informed as to who pays poll tax and what persons, if any, are liable for such tax.

The tax to which you probably refer is the road poll tax which was prescribed by section 2006 of the Compiled Laws of 1913. This section provides:

Each male inhabitant above twenty-one years and under fifty years of age, excepting paupers, idiots, lunatics and such others as are exempt by law, shall be assessed one day in each year. . . ."

Section 2006 of the Compiled Laws of 1913 has in reality not been enforced since about 1917. It was not, however, specifically repealed. In 1931 the Legislature enacted chapter 247 of the Session Laws of that year, which provided for a per capita tax of \$1.00 for school purposes on all person of twenty-one years of age or over who have resided in the state ninety days prior to April first in each year. Chapter 247 of the Session Laws of 1931, in effect, repealed section 2006 of the Compiled Laws of 1913. Section 3 of chapter 247 reads as follows:

An emergency is hereby declared to exist in that the road poll tax is an ancient and obsolete tax for highway purposes and subject to a large number of exemptions, and the present per capita school tax unfairly discriminates between voters and alien inhabitants and persons qualified to vote;---"

There is no provision in the new code (North Dakota Revised Code of 1943) for a road poll tax.

The present statute providing for per capita school tax is embodied in section 57-1523 of the North Dakota Revised Code of 1943. It provides that, "the county auditor shall levy each year a tax of one dollar on each person twenty-one years of age or over who on the first day of April in such year has resided in the state ninety days or more . . . ."

NELS G. JOHNSON

Attorney General