

OPINION
51-77

April 5, 1951 (OPINION)

HIGHWAYS

RE: Department May Enter Into Agreement with ASF to Make Research St

Your letter of March 30, 1951 has been received. You inquire as to whether or not the North Dakota Highway Department would have authority under the North Dakota law to enter into agreements with the Automotive Safety Foundation for the purpose of making research studies with reference to highways.

This office issued an opinion on December 28, 1950. That opinion was in response to a request from your office as to whether or not you were authorized to expend money for participating with adjoining states in the making of tests relative to various methods of road building. In that opinion the writer set out portions of section 24-0212 which reads as follows:

As a more specific enumeration and not to be construed as a limitation of general powers granted in section 24-0211, the state highway department shall have the power to:

* * *

1. Inspect and test all materials, equipment, machinery, and supplies for the use of the state highway department and any of its activities, and to create, maintain, and enlarge from time to time a technical and testing laboratory for the purpose of making such tests and inspections. Upon request of any other department or division of the government, to make such tests and inspections in such laboratory as are within its power;
2. Gather, investigate, and compile information concerning road construction, use, maintenance, highway organization, practices, methods, and other information, data, and statistics of this state and other states and the natural resources of road-building materials in this state, and to disseminate such information, together with any recommendations thereon, within this state;"

We quote further from said opinion:

You state further that the amount of expenditures which would be required by the State Highway Department would be approximately \$7,500.00. It would seem to the writer that this is a modest sum and it would be my opinion that the benefits to be derived would fully warrant the Highway Commissioner, under the statutory powers granted to him, to authorize this expenditure."

We believe that it is not only your authority but your duty to make

tests and that you are authorized to use funds in your department for that purpose, especially in view of the wording of House Concurrent Resolution "P" passed at the recent legislative assembly under which it was your duty to cooperate with the Legislative Research Committee in making a study of the highway conditions.

ELMO T. CHRISTIANSON

Attorney General