



**SB 2012**

**House Appropriations  
Government Operations Division  
Supplemental Material**

**Friday March 12, 2021**

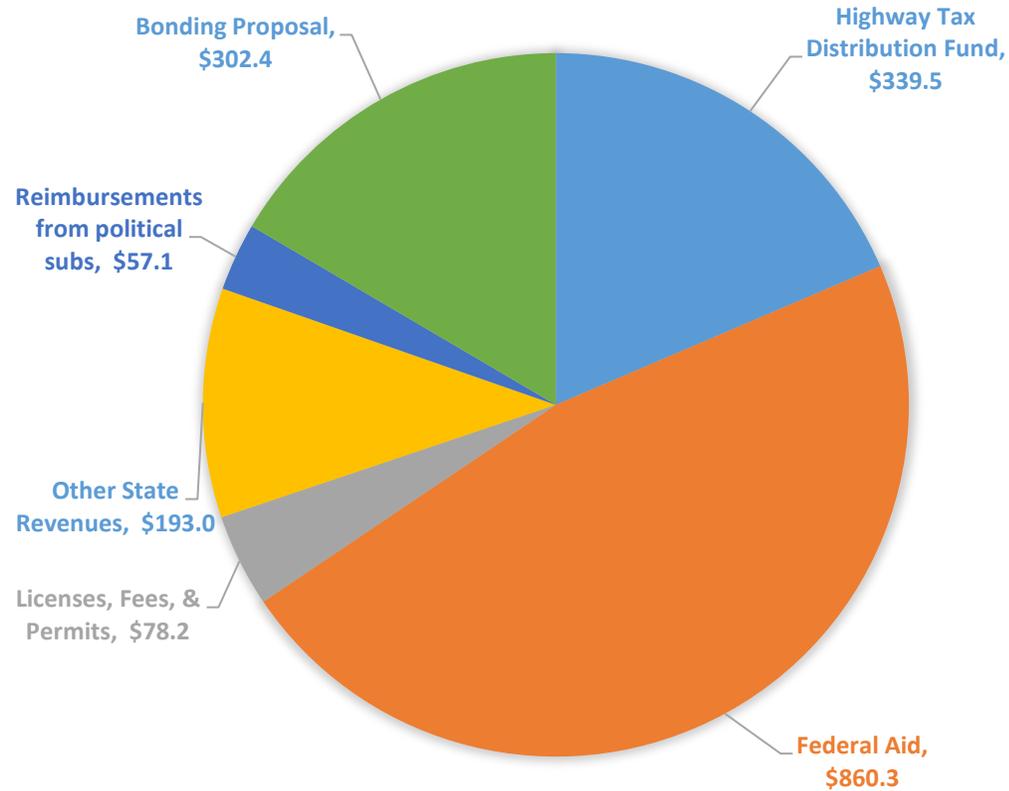
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**Supplemental Material**  
**March 12, 2021**

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# NDDOT Revenues (millions)

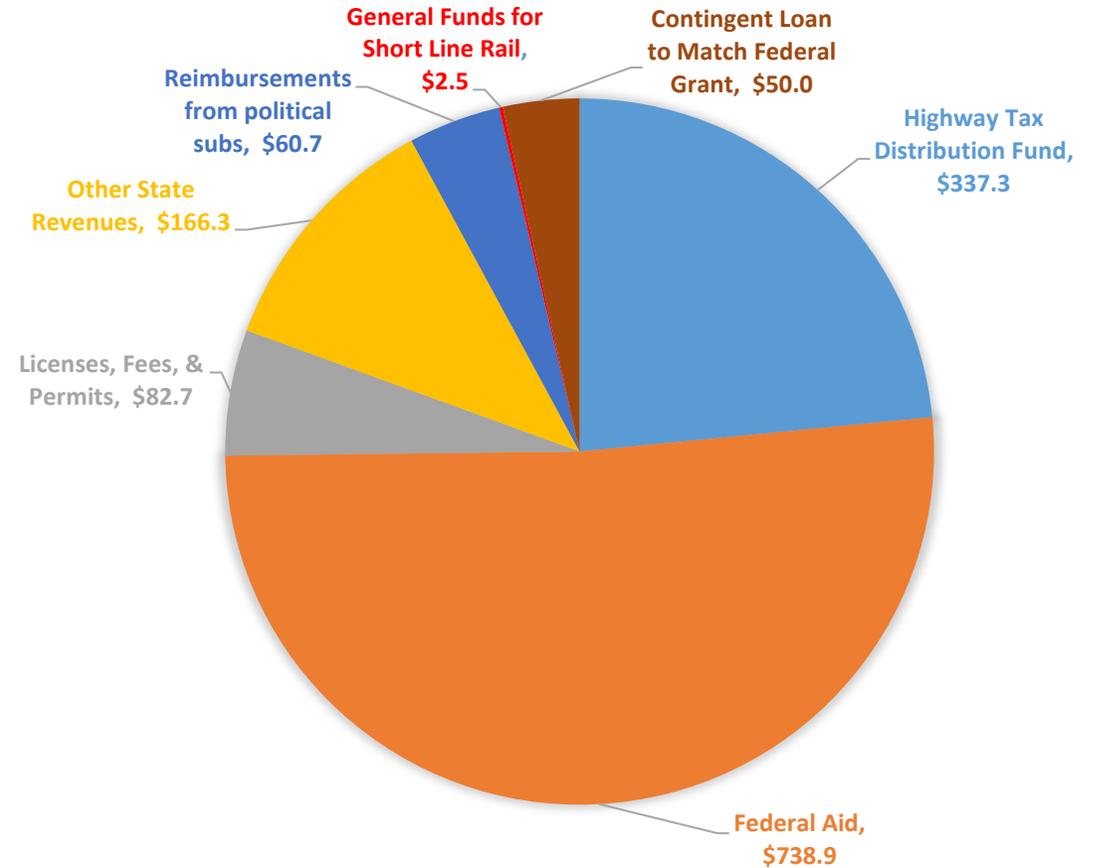
### 2021-2023

\$1.83 billion total



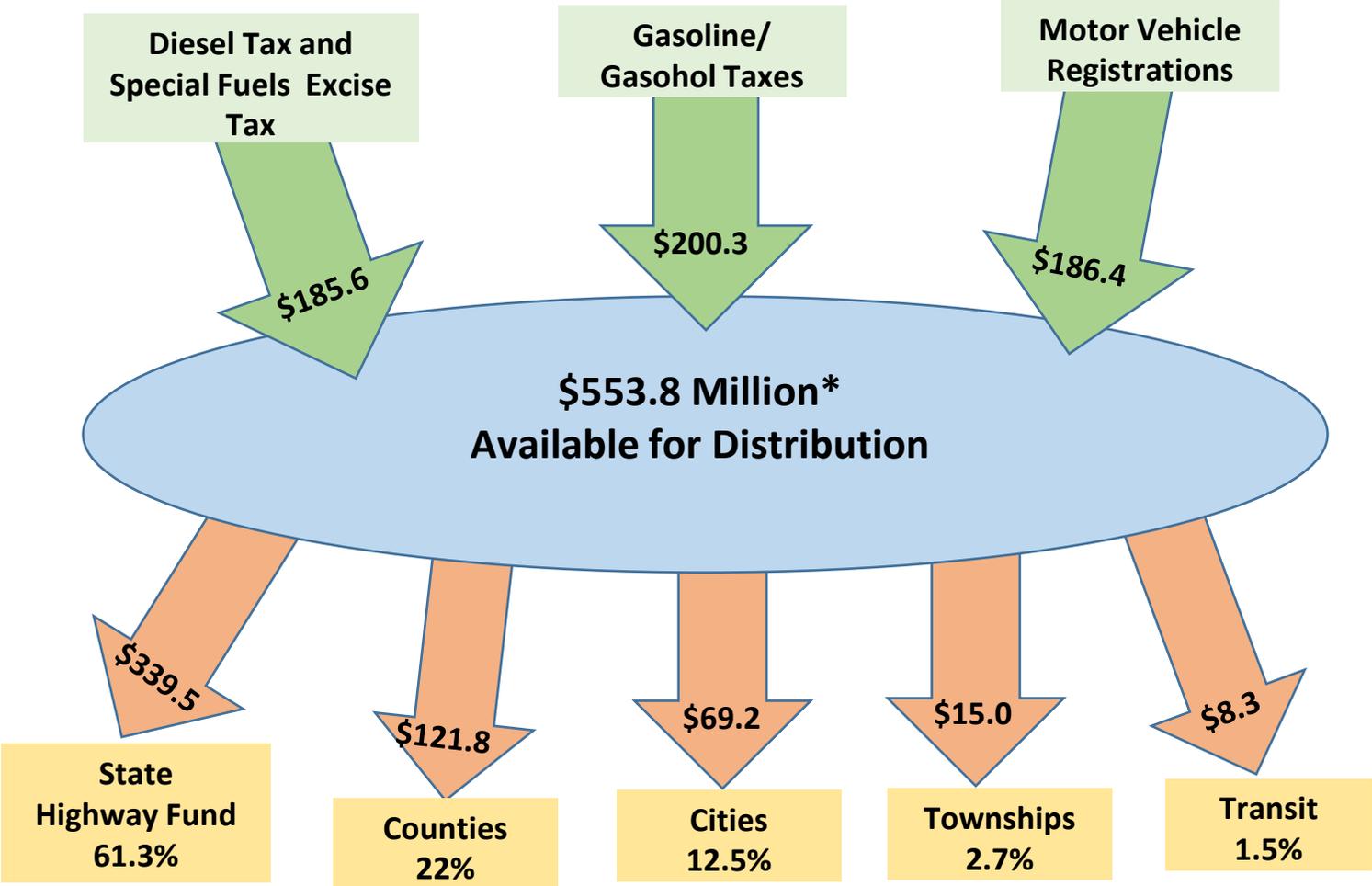
### 2019-2021

\$1.44 billion total



# Highway Tax Distribution Fund

2021-2023  
(millions)

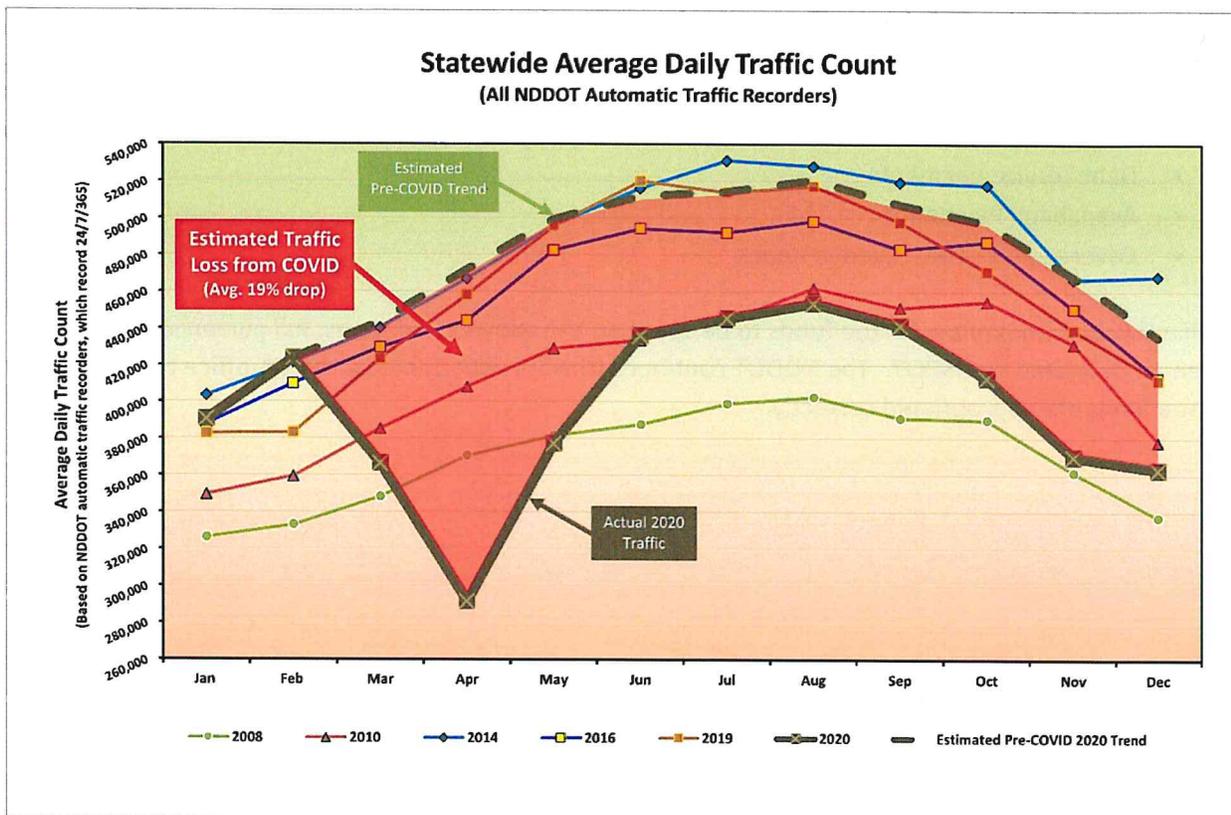


\*\$18.5 million was withheld prior to distribution for allocation to the Highway Patrol (\$8.3), to the Ethanol Subsidy Fund (\$4.7) and to the NDDOT for administrative assistance to other transferees (\$5.5)

Department	Transportation								
Public Law Citation	P.L. 116-136, Div. B Title XII	P.L. 116-260, Div. M, Title IV	P.L. 116-136, Div. B Title XII	P.L. 116-260, Div. M, Title IV	P.L. 116-136, Div. B Title XII	P.L. 116-260, Div. M, Title IV	P.L. 116-260, Div. M, Title IV	P.L. 116-260, Div. M, Title IV	P.L. 116-260, Div. M, Title IV
CFDA	20.507+	20.507+	20.509+	20.509+	20.106+	20.106+	20.513	20.513	20.205
Program	FTA Urbanized Formula*	FTA Urbanized Formula (CRRSAA)*	FTA Nonurbanized Formula*	FTA Nonurbanized Formula (CRRSAA)*	FAA Grants-in-Aid for Airports*	FAA Airport Coronavirus Response Program*	FTA Enhanced Mobility of Seniors and Persons with Disabilities - State*	FTA Enhanced Mobility of Seniors and Persons with Disabilities - Local	FHWA Surface Transportation Block Grant*
Maryland	676,497	244,179	19,821	9,105	107,731	26,605	279	N/A	149,195
Massachusetts	1,031,263	335,806	12,620	7,262	171,048	41,022	179	N/A	150,832
Michigan	279,603	86,822	73,187	55,426	256,959	55,842	716	N/A	261,309
Minnesota	253,769	192,057	54,432	14,697	158,379	42,072	348	N/A	161,774
Mississippi	24,790	722	49,702	0	34,855	11,623	277	N/A	119,928
Missouri	194,464	80,917	61,771	0	152,485	34,344	449	N/A	234,760
Montana	14,331	0	35,455	0	73,822	20,035	166	N/A	101,763
Nebraska	34,666	505	27,109	0	64,603	12,540	106	N/A	71,690
Nevada	139,514	65,222	21,789	0	231,448	49,628	71	N/A	90,149
New Hampshire	24,976	3,186	13,773	0	15,224	7,152	172	N/A	41,001
New Jersey	1,738,866	1,465,128	13,322	0	160,900	47,540	131	N/A	247,953
New Mexico	97,142	2,047	36,474	0	25,230	11,574	214	N/A	91,073
New York	4,078,792	4,110,110	71,645	6,494	411,274	122,739	589	N/A	416,895
North Carolina	224,825	83,611	94,941	0	283,707	74,503	782	N/A	258,737
North Dakota	15,075	0	17,996	0	85,020	13,168	115	N/A	61,585
Ohio	396,068	192,424	81,932	0	108,807	32,911	680	N/A	332,673
Oklahoma	55,422	0	51,393	387	42,203	15,199	294	N/A	157,253
Oregon	242,343	220,807	42,686	2,455	140,163	31,942	335	N/A	123,981
Pennsylvania	1,059,411	457,326	80,602	0	239,220	55,628	804	N/A	407,152
Rhode Island	102,466	9	1,917	579	24,017	6,175	10	N/A	54,256
South Carolina	78,227	2,524	44,962	0	97,263	23,270	494	N/A	166,038
South Dakota	11,628	0	22,495	0	36,249	10,242	130	N/A	69,956
Tennessee	164,119	9,581	65,633	0	124,092	43,875	602	N/A	209,619
Texas	1,036,496	426,269	143,201	0	811,535	196,630	1,361	N/A	967,734
Utah	197,208	33,584	22,313	4,964	93,363	30,570	102	N/A	86,132
Vermont	7,682	2,481	13,328	26,725	9,000	4,133	90	N/A	50,361
Virginia	403,872	222,130	52,527	0	309,729	66,379	484	N/A	252,480

## Summary of Federal COVID Relief Funds for Surface Transportation February 17, 2021

With the recent passage of H.R. 133, Consolidated Appropriations Act, 2021, the State of North Dakota received COVID relief funding in the amount of \$61,584,858. These funds were intended to supplement the loss in revenue states experienced because of the decrease in traffic caused by the COVID pandemic. These funds must be obligated by September 30, 2024 and spent by September 30, 2029. Below is a chart showing approximately how much traffic was down in North Dakota in 2020 compared to a normal year.



Along with the decrease in traffic comes a decrease in fuel consumption which results in less gas taxes being paid. It is estimated that current gas tax collections will be down by approximately \$31.8M during the 2019-2021 Biennium. These lost gas taxes would have gone into the Highway Tax Distribution Fund and would have been distributed to the Counties, Cities, Townships, Transit and the NDDOT. As a result, each of these agencies has had to deal with lower than anticipated revenues resulting from the COVID Pandemic.

Since the intent of these funds was to supplement the loss in revenue states experienced due to the NDDOT Pandemic, the NDDOT made the decision to share the \$61.58M that ND received with our Local Government partners based on our current practices. The funds will be split as follows:

- 76.9% State = \$47.35 Million
- 15.2% Cities above 5,000 in population = \$9.36 Million
- 7.9% Counties = \$4.86 Million

Notes: Transit received previous funding as part of the CARES Act and as a special allocation in H.R. 133. These funds are subject to all existing rules and regulations contained in Title 23 of the CFR & USC.

In addition to the traditional uses that federal funds can be used for, H.R. 133 expanded the allowable use of these federal supplemental funds to include:

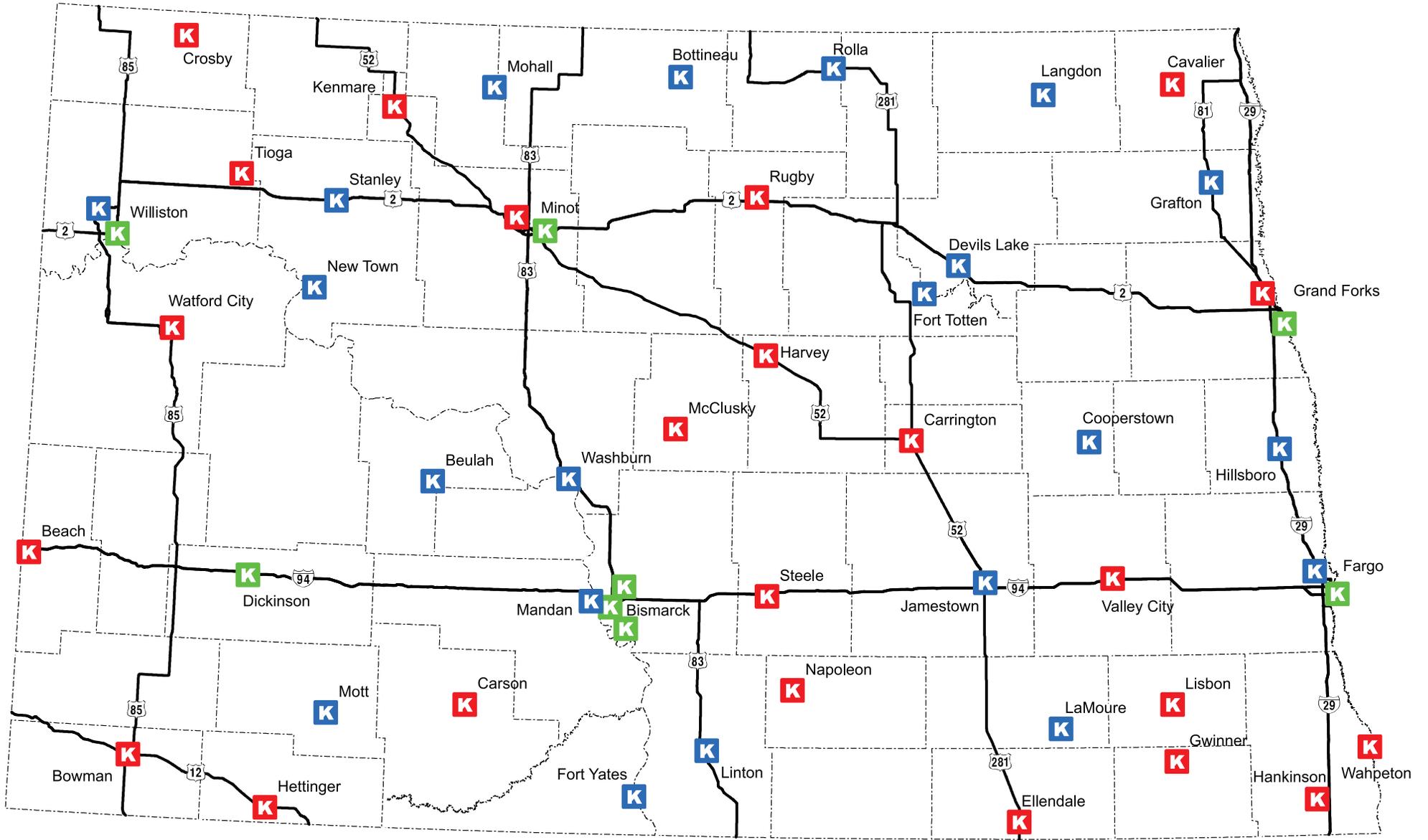
- Preventive Maintenance
- Routine Maintenance
- Operations
- Personnel (Including Salaries of Employees)
- Contractors
- Debt Service payments
- Availability Payments
- Coverage for other revenue losses

While H.R. 133 does allow for the funds to be spent on the above listed items, full guidance has not been promulgated by USDOT. The NDDOT continues to work with our local USDOT office to make sure all the funds are appropriated correctly.

## CARES ACT Award per Transit Agency

Organization Name	Program	Federal Amount
Benson County	CARES Act	\$200,304.00
Can-Do Senior Citizens Inc	CARES Act	\$129,046.00
Cavalier County Senior Meals & Services	CARES Act	\$334,964.00
City of Minot	CARES Act	\$1,749,396.00
Dickey County Senior Citizens	CARES Act	\$76,156.00
Golden Valley/Billings Cncl. On Aging	CARES Act	\$144,234.00
Hazen Busing	CARES Act	\$297,641.00
James River Senior Citizens Center, Inc.	CARES Act	\$935,475.00
Jefferson Partners L.P.	CARES Act	\$1,880,102.00
Kenmare Wheels & Meals Inc.	CARES Act	\$129,648.00
Kidder/Emmons Senior Services	CARES Act	\$183,663.00
Nutrition United/Rolette Co. Transp.	CARES Act	\$306,722.00
Pembina County Council On Aging	CARES Act	\$346,099.00
Senior Meals & Services Inc.	CARES Act	\$448,836.00
Souris Basin Transportation Board Inc.	CARES Act	\$2,248,993.00
South Central Adult Services	CARES Act	\$2,176,509.00
Southwest Transportation Services	CARES Act	\$398,165.00
Spirit Lake Transit	CARES Act	\$562,643.00
Standing Rock Public Transportation	CARES Act	\$781,300.00
Stark County Council on Aging/Elder Care	CARES Act	\$1,457,109.00
Turtle Mountain Transit	CARES Act	\$155,926.00
Valley Senior Services	CARES Act	\$617,902.00
Walsh County Senior Citizens Council	CARES Act	\$294,363.00
West River Transit	CARES Act	\$1,072,736.00
Wildrose Public Transportation	CARES Act	\$255,229.00
Williston Council For The Aging Inc.	CARES Act	\$813,288.00
	<b>TOTAL CARES ACT AWARD</b>	<b>\$17,996,449.00</b>

# Motor Vehicle & Driver License Kiosk Locations



**K** Current    **K** New    **K** Future

3-10-2021

## City Location and Addresses of Kiosk Locations

<b>Beach</b>	Beach City Community center - 153 E. Main St
<b>Bismarck</b>	Kirkwood Mall Stamart Travel Center - off I-94 at exit 161 Motor Vehicle Office in the NDDOT Transportation Building
<b>Bowman</b>	Frontier Travel Center
<b>Carrington</b>	Leevers Foods - 176 4th Ave S
<b>Carson</b>	Grant County Recorder - 106 2nd Ave NE
<b>Cavalier</b>	Do-It-Best - 500 Division Ave S
<b>Crosby</b>	Jason's Super Foods - 211 Main St S
<b>Dickinson</b>	Cash Wise Store - 1761 3rd Ave W
<b>Ellendale</b>	Fresh Market - 121 1st St N
<b>Fargo</b>	Stamart Travel Center - off I-29 at exit 66 West
<b>Gwinner</b>	One Stop - 8 N Main St, Gwinner
<b>Grand Forks</b>	Cities Mall - 1726 S Washington St Stamart Travel Center - off I-29 / Highway 2 at exit 141
<b>Hankinson</b>	Post's Hardware - 613 Main Ave S
<b>Harvey</b>	Hinrichs Supervalu
<b>Hettinger</b>	Kum & Go - 308 Adams Ave
<b>Kenmare</b>	Farmers Union Oil Co. - 49211 Hwy 52 N
<b>Lisbon</b>	Lisbon Treasurer - 204 5th Ave W
<b>McClusky</b>	Post Office - 220 Main St S
<b>Minot</b>	Cash Wise Store - 3208 16th St SW Marketplace Foods – 1600 2nd Ave SW
<b>Napoleon</b>	City Hall - 225 W Lake Ave
<b>Rugby</b>	Home of economy - 225 Us Highway 2
<b>Steele</b>	Steele Travel Plaza - 620 Mitchell Ave N
<b>Tioga</b>	Cashwise - 802 N Elm St
<b>Valley City</b>	Petro Serve USA - 1020 8th Ave SW
<b>Wahpeton</b>	Chamber Office - 1505 11th St N, Wahpeton
<b>Watford City</b>	Watford City Treasurer - 201 5th St NW
<b>Williston</b>	Cash Wise Store - 300 11th St W

## **Kiosk Project with ITI New Services Rollout 2021**

This document is intended to assist with the rollout of the 16 new services being implemented on the kiosks. A short description for each group is included.

- 30 Day Temp Reg (MV) (already in production)
- Schedule a driving test (DL)
- Pay Reinstatement Fee (DL)
- Request administrative hearing (DL)
- Online Driver License Renewal (DL)
  - \*NOTE: Includes CDL renewal while FMCSA waiver remains, it is set to expire 5/31/21.
- Request a replacement License or ID card (DL)
- MV Address Change (MV)
- MV Email Maintenance (MV)
- DL Address Change (DL)
- Donor Registry (DL) – Sign up to be a donor
- DL Status Check (DL) – Enter Driver ID and receive a status on the screen
- DL Date of Birth Check (DL) – Validate DOB on screen
- CDL Medical Certification Status Check (DL) – Check Med Cert Status which will display on screen
- Non-Resident Temp Reg (MV)
- Mobility Impaired Placard Renewal (MV)
- Online Driving Record (DL)

# Regional Service Area Map

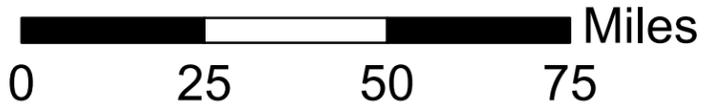
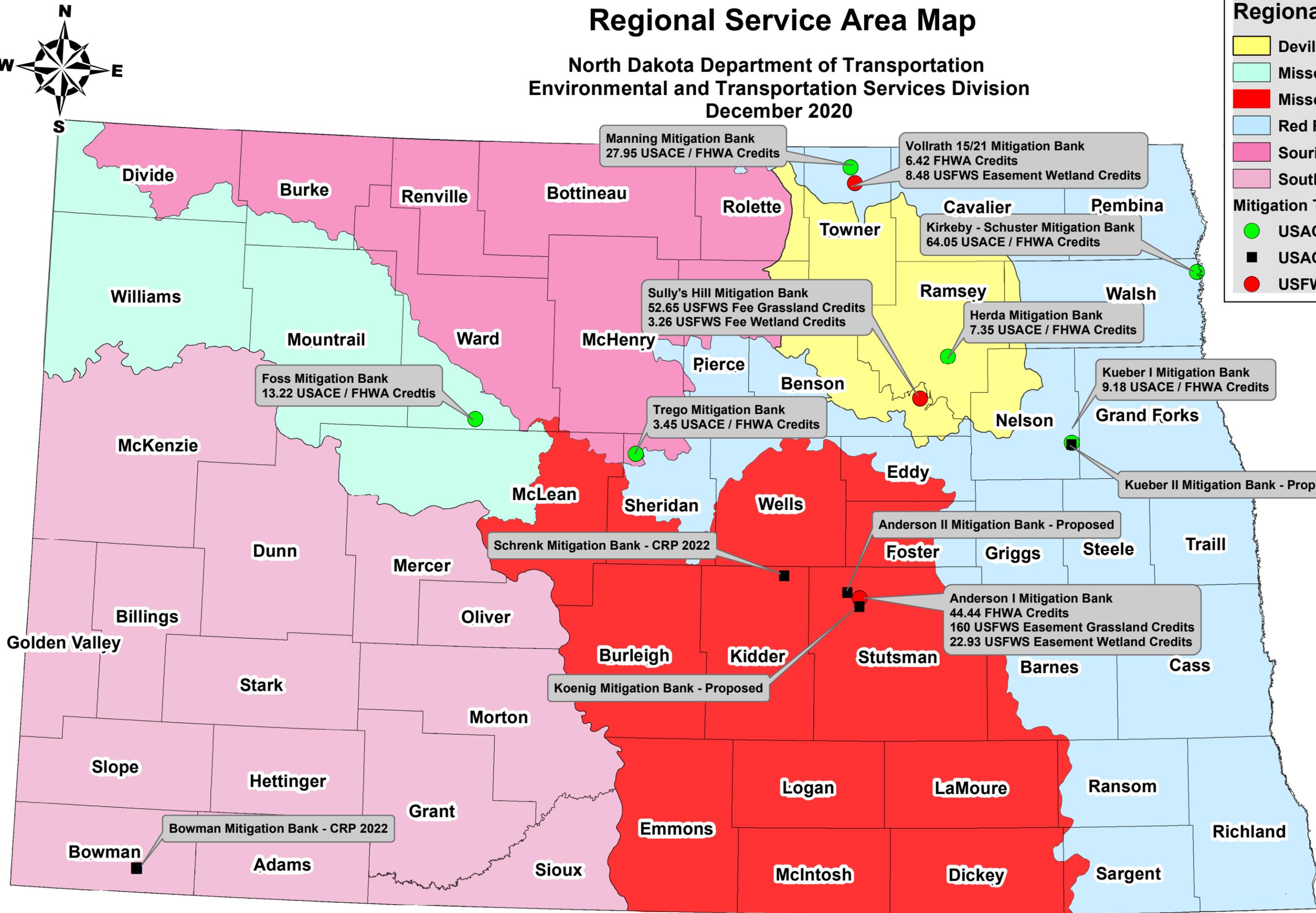
North Dakota Department of Transportation  
 Environmental and Transportation Services Division  
 December 2020

### Regional Service Areas #7

- Devils Lake Basin
- Missouri River Basin North
- Missouri River Basin South
- Red River Basin
- Souris River Basin
- Southwest Slope

### Mitigation Type

- USACE and 11990
- USACE and 11990 - In Progress
- USFWS and 11990



**WHITE PAPER**  
**Wetland Banking and Mitigation**  
**December 31, 2020**

## Introduction

Highway improvements and other public works infrastructure projects have the potential to result in unavoidable impacts to wetlands. In many cases these impacts require compensatory mitigation for the loss of wetlands. Compensatory mitigation is required by federal agencies with jurisdiction or oversight of the wetlands such as the US Army Corps of Engineers (USACE), the US Fish and Wildlife Service (USFWS), or the Federal Highway Administration (FHWA). State, county, and city projects may require compensatory mitigation for wetland impacts. Specifically, mitigation is required by USC 33 Navigable Waters – Section 404 of the Clean Water Act for federal and state projects and 23 CFR 777 Mitigation of Impacts to Wetlands and Natural Habitat for federally funded projects. Mitigation is obtained under the general authority of NDCC 24-01-18.

## Background

Compensatory mitigation may be provided in one of three methods as follows:

- 1) Mitigation banking** is the restoration of drained wetlands; creation of new wetlands; or enhancement or preservation of existing wetlands in advance of any impacts. Once the bank is approved, compensatory mitigation credits can simply be deducted from the mitigation bank sponsor's ledger in order to authorize or permit construction.

Mitigation banking is the preferred option for providing compensatory mitigation. Mitigation banks have higher probabilities of success; have the lower costs/credit; are more easily monitored and maintained; do not pose an issue for future roadway construction or maintenance operations; can be used for any federal or state project within the regional service area, and provide a higher ecological resource value.

Developing a mitigation bank requires working with a willing landowner to provide a protective easement (deed restrictions) or by purchase; securing interagency approval of the bank plan (see Wetland Banking Oversight); constructing the restoration project; and monitoring to ensure wetland establishment. Management of the bank is provided by either the landowner or by separate agreements when the bank is purchased. A mitigation bank may be purchased, and a management plan developed jointly with the North Dakota Game and Fish Department (NDGFD).

Mitigation banks generally provide better environmental function and are more cost efficient than individual on-site mitigation sites scattered along the roadways across the state.

- 2) **In-lieu fee programs** involve a governmental or non-governmental natural resource management organization which finds and develops mitigation banks and then sell mitigation credits. Entities needing compensatory mitigation provide payment to the organization in return for mitigation credits. Governmental entities may use in-lieu fee programs if the entity benefits (NDCC 54-01-29).
- 3) **Permittee responsible mitigation**, referred to at the NDDOT as on-site mitigation, typically involves the creation or expansion of an existing wetland of a specific wetland acreage at various locations on or near the project site, typically in NDDOT right of way (ROW).

#### Wetland Bank Oversight

The United States Army Corps of Engineers (USACE) established a review team, the North Dakota Interagency Review Team (NDIRT), to review, approve and oversee the management and operation of proposed compensatory mitigation. In North Dakota, the team consists of representatives from the USACE, U.S. Environmental Protection Agency (USEPA), USFWS, Natural Resources Conservation Service (NRCS), and NDGFD. The agencies provided written guidance titled *Wetland Mitigation Banking in North Dakota – Interagency Guidance for Mitigation Bank Sponsors*. **Ultimately the USACE makes the final decision on whether or not to approve the proposed compensatory mitigation** after their solicitation for comment period has ended.

#### Wetland Bank Information

Enclosed is a “Wetland Mitigation Brochure” that has more information regarding the NDDOT wetland mitigation program.

In the magenta box located in the top center of pages 3-4 of the pamphlet, you will see a map of NDDOT mitigation banks throughout the state and the regional service areas. A regional service area is a geographic area of the state where banked credits can be used to compensate for project losses that occur in same regional service area. North Dakota has six regional service areas as outlined in the *Wetland Mitigation Banking in North Dakota – Interagency Guidance for Mitigation Bank Sponsors*. The regional service areas were agreed upon by NDIRT at the time of developing the “*Wetland Mitigation Banking in North Dakota-Interagency Guidance for Mitigation Bank Sponsors*” document.

Also, in the green box located in the lower center of pages 3-4 of the pamphlet, you will see a comparison of costs per credit of mitigation banks by regional service areas. The costs per credit typically range from about \$15,000 to \$22,000, except for the southwest slope which is discussed further below. When using cost comparisons, it is important to note, a credit is not necessarily equivalent to acre. Additionally, costs may vary depending on which party pays for construction and maintenance. Costs shown are from 2018.

For impacts in the southwest slope regional service area, the NDDOT performs on-site mitigation, as a bank has not been obtained. On-site mitigation varies considerably, and costs range from about \$40,000 to \$70,000 per credit to as high as \$120,000 per credit. The higher costs occur due to the need to create wetland sites in upland areas that require earth moving to create a basin. In general, the cost per credit to perform compensatory mitigation in western North Dakota is significantly higher than the eastern part of the state because of the lower density of wetlands and reduced hydrology. In general, compensatory mitigation using mitigation banks is more economical than using on-site mitigation.

The acre to credit ratio for mitigation banking is included in the blue box located in the lower right of pages 3-4 of the pamphlet. This shows the credit ratios for restoration, creation, buffer, upland, and preservation, as outlined in the *Wetland Mitigation Banking in North Dakota – Interagency Guidance for Mitigation Bank Sponsors*. This ratio helps understand the benefit and value of restoring drained wetlands versus preservation of existing wetlands. Restoration provides the highest return or best value.

The cost per credit is comprised of several main components when determining wetland mitigation value.

- First, is land value or the difference in value of the land associated with the change in use, e.g. from cropland to pasture.
- Second, is value based on wetland restoration and preservation.
- Third, is a value based on upland / grassland preservation.
- Additional costs include engineering, construction, monitoring, etc.

These three values are determined individually, then are added together, and then the total costs are divided by the available credits to determine the cost per credit. The restoration and preservation values are derived from other programs such as the wetland reserve easements offered through the NRCS and wetland easements offered through the USFWS, as well as actual payments for wetland mitigation.

NDDOT compensatory mitigation is a federal eligible activity – meaning federal funding covers about eighty percent of the costs, with the remaining 20 percent being state or local match. On-site mitigation is typically coordinated as part of a highway improvement project. A mitigation bank is typically constructed as a stand-alone project and credits are debited on a project by project basis.

Enclosed is a “Regional Service Area Map” showing the NDDOT Wetland Mitigation Bank locations within the regional services areas and approximate credits for each. As can be observed by the location of the banks, the NDDOT has more banks in the eastern portion of the state.

### NDDOT Wetland Bank Process

All banks require the long-term protection of the aquatic resources by the use of deed restrictions or easement agreements. Sites are chosen based on suitability to support the anticipated wetland functional needs. The NDDOT establishes dialogue with the NDIRT and USACE during the early planning stages to inform them of the interest in a parcel of land. NDDOT then conducts a full office review, field analysis, and cost appraisal of the proposed mitigation bank site and proposes it to NDIRT. Upon approval by NDIRT and USACE, the property interest is purchased, and the bank is designed and constructed.

Finally, when the wetland bank is completion, credits are released for use on transportation projects that result in impacts. Enclosed is a “NDDOT Wetland Banking Process Summary” that identifies the detailed steps in developing a wetland bank.

### Landowner Obligations by Wetland Mitigation Agreement

The landowner is responsible for the following items per agreement:

- Pays taxes and assessments on property,
- Controls noxious weeds,
- Cannot make modification to the wetlands, buffer area, or adjacent wetlands,
- Cannot allow the destruction of vegetation root structure by digging, plowing, or disking,
- Cannot plant or harvest crops,
- Cannot hay or mow until after July 15,
- Cannot store equipment or other property on the easement tract,
- Cannot participate in fee hunting,

### Challenges to Developing a Wetland Bank

- Political pressure to reduce the conversion of farmland,
- Identifying willing landowners with drained wetlands,
- Identifying commensurate compensation for loss of production and duration of the 99-year easement,
- Developing a wetland bank takes a substantial amount of time, generally 1 to 3 years,
- Competition for wetland mitigation credits by various programs requiring compensatory mitigation and by developers.
- Obtaining final approval from the USACE.
- Minimizing project impacts so that bank credits are used efficiently.
- Having dedicated staff to wetland banking

### NDDOT Staffing and Activity Resourcing

Staffing should require at least one full time equivalent (FTE) to be effective in developing the banks needed for NDDOT highway improvement projects. Additional supporting resources are needed for surveys, right of way plats, property valuations, negotiations, etc. All the work needs to be coordinated with, and approval by the Federal agencies working with the NDIRT and USACE.

Currently, one FTE, environmental scientist, is working about twenty five percent of their time on wetland banking projects and the other supporting work is resourced by tasking internal project development staff or consulting service agreements. This arrangement results in an extended development period.

Additional staffing for wetland bank development is necessary for an increased highway improvement program or if additional Local Public Agency (LPA) projects are included in the NDDOT mitigation program. This assumes the LPA's utilize minimization measures prior to determining mitigation.

Additional staffing should include 1-FTE Environmental Scientist for Wetland Banking and 1-FTE for Wetland Delineations and Permitting.

#### Advertising for Wetland Bank Opportunities

Generally, the Wetland Mitigation Banking brochure is distributed at public meetings and to interested parties by staff and consultants working on transportation improvement projects. As such, a number of wetland mitigation banks have been developed through these contacts, by other agency referrals, and by landowner referrals. Advertisement of wetland mitigation opportunities on a broader basis (such as NDDOT staff participating in farm shows, conferences, etc.) was discouraged because of the negative views associated with the conversion of the land. It was believed that land prices driven in part on the government funding associated with the wetland banks created an unfair advantage to the agricultural use of the land.

#### Enclosures

NDDOT Wetland Mitigation Brochure  
Regional Service Area Map  
NDDOT Wetland Banking Process Summary

19/msg

## WETLAND BANK SITE SELECTION

- The landowner contacts NDDOT or NDDOT finds a site location and contacts landowner. Site location is reviewed using aerial photography and historic imagery to determine a gross estimate of credits at the site.

## MEET WITH LANDOWNER

## WETLAND DELINEATION-FIELD WORK

- Conduct a wetland delineation to determine scope and effect. This identifies the historic boundaries of drained wetlands and boundaries of existing wetlands. The bank credit calculations are based off this field work.

## DECISION DOCUMENT

- A decision document is prepared to detail the proposed wetland bank and costs for obtaining management approval to continue development.

## WETLAND JURISDICTIONAL REQUEST

- Optional item. NDDOT assumes wetlands are jurisdictional and applies for USACE Nationwide Permit for the creation of the proposed wetland bank.

## SURVEY TRANSMITTAL

- Request for Design Division to perform the necessary survey to identify the parcel(s) for the proposed bank.

## FIELD REVIEW WITH North Dakota Interagency Review Team (NDIRT) / ETS

- Conduct a field review with NDIRT and to view proposed wetland bank and identify potential red flags early in the process.

## NEPA, NHPA-Section 106 Review, Public Involvement

- Receive SHPO clearance, Threatened and Endangered Species clearance, conduct public involvement if necessary, and finalized Categorical Exclusion by Definition from FHWA.

## RIGHT OF WAY AUTHORIZATION FROM FHWA

- Receive right of way authorization from FHWA to begin right of way activities.
- Obtain abstract and title work information.

## SURVEY IS COMPLETED

## APPRAISAL

- Right of way agents research the proposed wetland bank to verify and resolve potential legal conflicts.
- An appraisal is prepared for the proposed wetland bank.

PRELIMINARY PLATS COMPLETED

DRAFT SITE PLAN COMPLETED

- A site plan is drafted and reviewed internally. The “final draft” is sent to NDIRT for preliminary comments.

FINAL PLATS COMPLETED

NEGOTIATION AND ACQUISITION

FINAL MITIGATION SITE PLAN IS APPROVED BY NDIRT/USACE

- -Final approval by USACE comes with an additional 30 public comment period.

MITIGATION SITE PROJECT PLANS ARE COMPLETED

### SOURCES OF COMPENSATORY MITIGATION

There are three ways compensatory mitigation can be provided: mitigation banks, in-lieu fee programs, and permittee-responsible mitigation. Mitigation banks and in-lieu fee programs are generally the preferred options for compensatory mitigation, because they consolidate resources and involve more financial planning and scientific expertise. These factors help reduce the risk of failure of mitigation projects.

**Mitigation bank:** One or more sites where aquatic resources such as wetlands or streams are restored, established, enhanced and/or preserved for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

**In-lieu fee program:** A program that involves the restoration, establishment, enhancement, and/or preservation of aquatic and terrestrial resources by a governmental or nongovernmental natural resource management (NRM) organization. Those needing compensation then provide payment to this NRM for credits.

**Permittee-responsible mitigation:** Individual projects constructed by permittees to provide compensatory mitigation for specific highway improvement projects. The NDDOT refers to this as *On-site mitigation*.

### WHO OVERSEES COMPENSATORY MITIGATION?

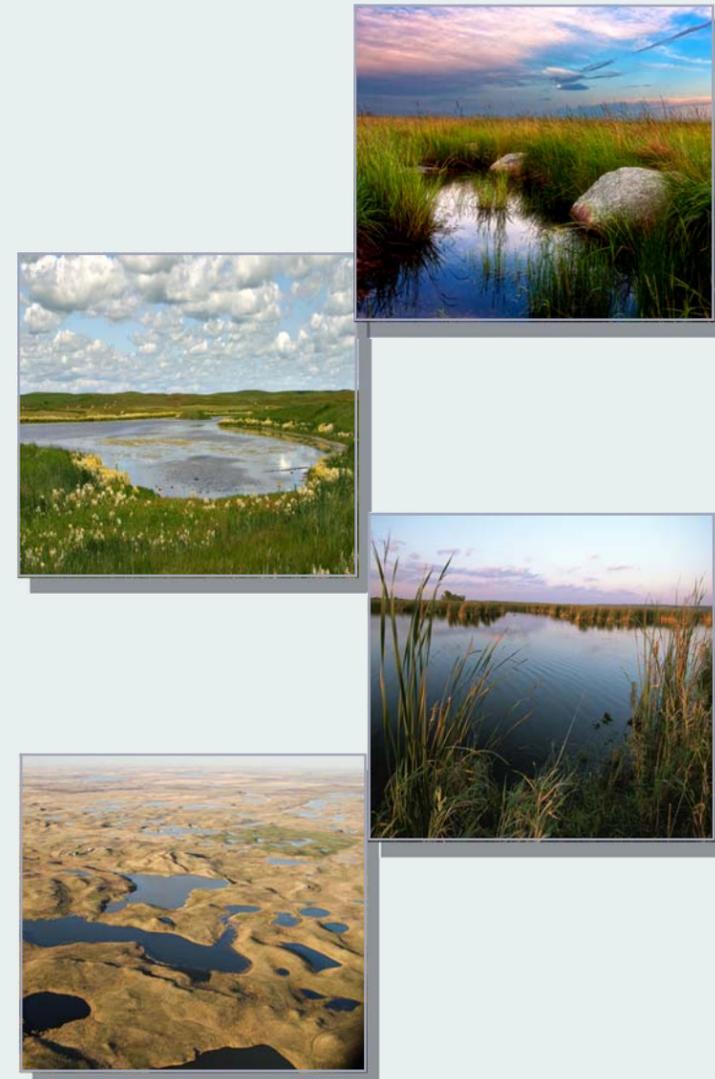
The Corps of Engineers establishes an Interagency Review Team (NDIRT) to review, approve and oversee the management and operation of proposed compensatory mitigation. In North Dakota, the team consists of representatives from the USACE, U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), Natural Resources Conservation Service (NRCS), and ND Game and Fish (NDGF). The Corps of Engineers makes the final decision on whether or not to approve the proposed compensatory mitigation.

North Dakota Department of Transportation  
608 E Boulevard Ave  
Bismarck, ND 58505

[www.dot.nd.gov](http://www.dot.nd.gov)  
(Search Wetlands)



# Wetland Mitigation



## North Dakota Wetlands

In North Dakota, a variety of wetland habitat types exist including: prairie and glacial potholes; saline wetlands; riparian wetlands; sloughs and abandoned meanders along rivers; slope wetlands and spring seeps; emergent fringe wetlands around lakes, ponds, and reservoirs; fens, wet meadows; and artificial man-made wetlands.

### WETLAND MITIGATION REQUIREMENTS

North Dakota Department of Transportation (NDDOT) highway improvement projects sometimes result in unavoidable impacts to wetlands and other aquatic habitats. This requires NDDOT to provide *compensatory mitigation* to these aquatic resources in compliance with Federal regulations.

*Compensatory mitigation* is the restoration, creation, enhancement, or preservation of aquatic resources for the purpose of offsetting losses of aquatic resources. This compensation is required by federal agencies with oversight of wetland resources such as the US Army Corps of Engineers' (USACE), Federal Highway Administration (FHWA) and the US Fish and Wildlife Service (USFWS).

### TYPES OF COMPENSATORY MITIGATION

**Restoration** – An activity that returns natural or historic functions to a drained or degraded aquatic resource.

**Creation** – An activity that alters an upland site to develop an aquatic resource at that site.

**Enhancement** – An activity that improves the functioning of an existing aquatic resource.

**Preservation** – An activity that protects and maintains an existing aquatic resource through real estate actions (deed restrictions, easements) or physical actions, such as constructing a fence.



*Safely move people and goods.*

**WHY WETLAND MITIGATION BANKING?**

Given the high cost and higher risk of failure of small on-site mitigation projects, wetland mitigation banking is a preferred option for mitigating permitted impacts to aquatic resources. Banking consolidates mitigation into large sites that have significant ecological value, are protected by easements, have a high probability of success and sustainability, are monitored and managed for 5 years, and may have a long term management agreement in place with a third party such as NDGF or USFWS. Banks provide compensatory mitigation credits to many transportation projects, as opposed to the typical impact-by-impact on-site mitigation .

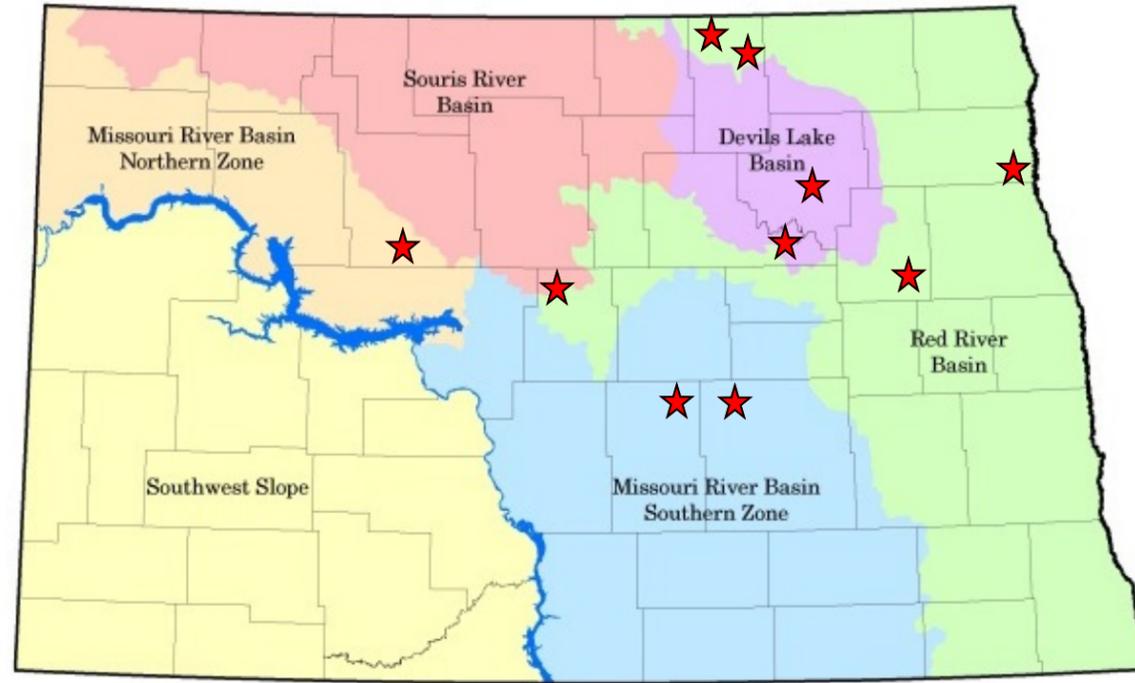
Wetland mitigation banking constructs wetland banks in advance of anticipated aquatic resource impacts in each Regional Service Area (RSA). North Dakota is divided into six RSA's. RSA's define the maximum geographic applicability for wetland mitigation banks in North Dakota (see center map). By constructing the banks in advance of impacts, it allows the wetland credits to be available before credits need to be used for transportation projects. This not only helps to speed up the permitting and project development process, but in most cases, using credits from an NDDOT bank is more cost effective than on-site mitigation or purchasing In-Lieu Fee credits.

Mitigation banking uses a system of credits and debits described in the "credits" section.

**NDDOT MITIGATION BANKING PROCESS**

All NDDOT banks require the long-term protection of the aquatic resources by the use of a deed restriction or agreement. Sites are chosen based on suitability to support the anticipated wetland functional needs. The NDDOT establishes dialogue with the ND Interagency Review Team (NDIRT) during the early planning stages to inform them of the NDDOT's interest in a parcel of land. NDDOT then conducts a full office review, field analysis, and cost appraisal of the proposed mitigation bank site and proposes it to NDIRT. Upon approval by NDIRT and NDDOT executive staff, the property interest is purchased and the bank is designed and constructed. Upon completion, credits are released to the NDDOT to use for transportation projects that result in aquatic resource impacts.

**Mitigation Banks in North Dakota**



★ Wetland Mitigation Bank

**USACE Credits Available By RSA**

- Missouri River Basin North—17.05
  - Souris River Basin — 3.40
  - Devils Lake Basin — 13.03
  - Southwest Slope — None
  - Missouri River Basin South — None
  - Red River Basin — 109.68
- Note: Average credits used per year 50.82

**Other Credits Available Statewide**

- FHWA— 73.30
  - USFWS— 36.67
- NDDOT Onsite Mitigation Cost/Credit**
- \$40,000 to \$70,000/credit: variable by RSA, Right of Way Costs, and availability of land. Additional costs include: Monitoring, maintenance, long-term tracking

**NDDOT Mitigation Bank Costs/credit in Each RSA**

- Missouri River Basin North— \$15,500
  - Souris River Basin — \$15,000 estimated
  - Devils Lake Basin — \$22,000
  - Southwest Slope — \$55,000 estimated
  - Missouri River Basin South — \$15,500
  - Red River Basin — \$16,000
- Note: Long-term monitoring required

**Ducks Unlimited In-Lieu Fee Costs/credit in Each RSA**

- Missouri River Basin North— \$50,000
  - Souris River Basin — \$40,000
  - Devils Lake Basin — \$40,000
  - Southwest Slope — \$60,000
  - Missouri River Basin South — \$40,000
  - Red River Basin — \$50,000
- Note: No long-term monitoring required.

**Credit Definitions**

- FHWA** —used for Executive Order 11990 impacts and are available for statewide use
- USACE** —used for Clean Water Act impacts and are available only within the RSA
- USFWS** —used for impacts to USFWS Fee Title or Easement Wetlands and are available for statewide use.

**WETLAND MITIGATION BANKING CREDITS**

The value of a wetland mitigation bank is determined by quantifying the value of the restored, created, enhanced, and preserved wetlands in terms of "credits." Credits may be determined in terms of acreage, functional units, or some other assessment method. The number of potential credits a bank may be is determined by the bank sponsor ( the NDDOT) and NDIRT during the bank review process.

The total of potential credits is an estimated amount that may vary depending on the actual performance of the bank. Credits are periodically released by NDIRT throughout the establishment period of the bank as performance standards are met, which typically lasts 5 years. Once a potential credit is released by NDIRT, it becomes an available credit for the NDDOT to use. Once a credit is used for compensatory mitigation, it is considered a debited credit.

**IS A CREDIT THE SAME AS AN ACRE?**

A credit is not equivalent to an acre. The method for calculating credits and the number of credits are typically proposed by the bank sponsor and then are reviewed with NDIRT prior to final approval. The value of a credit varies among banks because wetland mitigation banks vary in the type and extent of wetland resource values and improvements that can be made to them. Below is a typical acre to credit ratio for wetland banks.

Mitigation Activity	Ratio (Acre: Credit)
Restoration	1:1 to 2:1
Creation	2:1
Enhancement - 50 foot buffer	5:1
Enhancement—Uplands to Grassland	20:1
Preservation of existing wetlands	10:1

For more information, view the NDDOT Design Manual Reference and Forms webpage—Environmental Information— Appendix E6. Wetland Banking in North Dakota