

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1012
(Appropriations Committee)
(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the department of transportation; to provide appropriations to the state treasurer for transportation funding distributions; to repeal section 2 of chapter 573 of the 2009 Session Laws, relating to highway-rail grade safety projects; to provide for transfers; to provide for borrowing authority; to provide an exemption; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of transportation for the purpose of defraying the expenses of the department of transportation, for the biennium beginning July 1, 2011, and ending June 30, 2013, as follows:

| | <u>Base Level</u> | <u>Adjustments or Enhancements</u> | <u>Appropriation</u> |
|--|----------------------|--|----------------------|
| Salaries and wages | \$147,373,254 | \$18,593,142 | \$165,966,396 |
| Operating expenses | 188,805,014 | 15,285,236 | 204,090,250 |
| Capital assets | 661,988,548 | 281,541,283 | 943,529,831 |
| County and township road reconstruction program | 0 | 142,000,000 | 142,000,000 |
| Grants | 69,766,101 | (1,998,694) | 67,767,407 |
| Federal stimulus funds | <u>0</u> | <u>24,119,575</u> | <u>24,119,575</u> |
| Total all funds | \$1,067,932,917 | \$479,540,542 | \$1,547,473,459 |
| Less estimated income | <u>1,067,932,917</u> | <u>473,690,542</u> | <u>1,541,623,459</u> |
| Total general fund | \$0 | \$5,850,000 | \$5,850,000 |
| Full-time equivalent positions | 1,054.50 | 9.00 | 1,063.50 |

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-THIRD LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-first legislative assembly for the 2009-11 biennium and the 2011-13 one-time funding items included in the appropriation in section 1 of this Act:

| <u>One-Time Funding Description</u> | <u>2009-11</u> | <u>2011-13</u> |
|---|--------------------|--------------------|
| Federal stimulus funds | \$176,082,671 | \$24,119,575 |
| Devils Lake area highway project | 4,600,000 | 5,850,000 |
| Extraordinary state highway maintenance | 0 | 228,600,000 |
| County and township road reconstruction | <u>0</u> | <u>142,000,000</u> |
| Total all funds | \$180,682,671 | \$400,569,575 |
| Total special funds | <u>176,082,671</u> | <u>394,719,575</u> |
| Total general fund | \$4,600,000 | \$5,850,000 |

The 2011-13 one-time funding amounts are not part of the entity's base budget for the 2013-15 biennium. The department of transportation shall report to the appropriations committees of the sixty-third legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 3. APPROPRIATION - TRANSFER - HIGHWAY-RAIL GRADE CROSSING SAFETY PROJECTS. There is appropriated out of any moneys in the highway-rail grade crossing safety fund in the state treasury, not otherwise appropriated, the sum of \$1,431,000, or so much of the sum as may be necessary, to the department of transportation for the funding of grants for highway-rail grade crossing safety projects, including grants for the reduction of associated special assessments, for the biennium beginning July 1, 2011, and ending June 30, 2013. On June 30, 2013, the state treasurer shall transfer any unexpended and unobligated balance in the highway-rail grade safety projects fund to the highway tax distribution fund.

Up to \$1,201,000 of funds provided under this section may be used by the department of transportation for highway-rail grade crossing safety projects approved by the department and for which funding was obligated during the biennium beginning July 1, 2009, and ending June 30, 2011.

Up to \$230,000 of funds provided under this section may be used by the department of transportation for additional highway-rail grade crossing safety project grants subject to the following requirements:

1. A political subdivision seeking a grant shall file an application with the department of transportation.
2. A political subdivision grant applicant shall provide ten percent matching funds for the project costs but no local matching funds are required for a highway-rail grade crossing on a state highway.
3. Grant funds may be allocated for development of railroad quiet zones, installation or upgrading of active warning devices, resurfacing crossings, building of grade separations, and other costs associated with these improvements.
4. An applicant for grant approval for development of a railroad quiet zone shall provide the department of transportation a copy of the notice of intent filed with the federal railroad administration regarding establishment of a proposed quiet zone and copies of any subsequent filings with or orders from the federal railroad administration relating to the notice of intent.
5. Grants provided to a city may not exceed a cumulative amount of \$80,000.

SECTION 4. APPROPRIATION - BORROWING AUTHORITY - ADDITIONAL EMERGENCY RELIEF PROGRAM. The department of transportation may borrow the sum of \$120,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota for the purpose of providing funding for emergency relief projects on the state highway system, for the period beginning with the effective date of this Act and ending June 30, 2013. Any funding borrowed from the Bank of North Dakota under this section is appropriated to the department of transportation for emergency relief projects on the state highway system. Funding appropriated under this section is considered one-time funding and is not to be considered a part of the department's 2013-15 base budget request. Any federal funding received for projects receiving funding under this section must be used to repay the loan from the Bank of North Dakota.

SECTION 5. APPROPRIATION - STATE TREASURER - 2009-11 BIENNIUM TRANSPORTATION FUNDING DISTRIBUTIONS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$35,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions, for the period beginning with the effective date of this Act and ending June 30, 2011. The funding provided in this section is considered a one-time funding item. The state treasurer shall distribute the funds provided under this section prior to June 30, 2011, as follows:

1. Eighty percent to non-oil-producing counties and cities pursuant to subsection 4 of section 54-27-19.

2. Twenty percent to counties and townships in non-oil-producing counties pursuant to section 54-27-19.1. Organized townships are not required to provide matching funds to receive distributions under this section.

For purposes of this section, a "non-oil-producing county" means a county that did not receive an allocation of funding under section 57-51-15 during state fiscal year 2010 or a county that received a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year 2010.

SECTION 6. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM TRANSPORTATION FUNDING DISTRIBUTIONS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions, for the biennium beginning July 1, 2011, and ending June 30, 2013. The funding provided in this section is considered a one-time funding item. The state treasurer shall distribute the funds provided under this section on April 1, 2012, as follows:

1. Eighty percent to non-oil-producing counties and cities pursuant to subsection 4 of section 54-27-19.
2. Twenty percent to counties and townships in non-oil-producing counties pursuant to section 54-27-19.1. Organized townships are not required to provide matching funds to receive distributions under this section.

For purposes of this section, a "non-oil-producing county" means a county that did not receive an allocation of funding under section 57-51-15 during state fiscal year 2011 or a county that received a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year 2011.

SECTION 7. APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$370,600,000, which the office of management and budget shall transfer to the highway fund during the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 8. LINE ITEM TRANSFERS. The director of the department of transportation may transfer between the salaries and wages, operating expenses, capital assets, and grants line items in section 1 of this Act when it is cost-effective for construction and maintenance of highways. The department of transportation shall notify the office of management and budget of any transfers made pursuant to this section.

SECTION 9. REPEAL. Section 2 of chapter 573 of the 2009 Session Laws is repealed.

SECTION 10. COUNTY AND TOWNSHIP ROAD RECONSTRUCTION PROGRAM.

1. The sum of \$142,000,000, or so much of the sum as may be necessary, included in the county and township road reconstruction program line item in section 1 of this Act, must be used to rehabilitate or reconstruct county and township paved and unpaved roads.
 - a. Funding allocations to counties are to be made by the department of transportation based on the needs assessment study conducted by the upper great plains transportation institute, titled "Additional Road Investments Needed to Support Oil and Gas Production and Distribution in North Dakota", dated December 9, 2010.
 - b. Counties identified in the study are eligible for this funding.
2. Each county requesting funding under this section for county or township roads shall submit the request in accordance with criteria developed by the department of transportation.
 - a. The request shall include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads within the county.

- b. The plan shall be based on the upper great plains transportation institute study, actual road conditions, and integration with state highway and other county road projects.
 - c. Funds shall not be used for routine maintenance.
3. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments.
4. The funding included in the county and township road reconstruction program line item in section 1 of this Act may be used for:
 - a. Ninety percent of the cost of the approved paved roadway projects not to exceed the funding available for that county.
 - b. Twenty-five percent of the cost of the approved unpaved roadway projects not to exceed the funding available for that county.
 - c. Funding may be used for construction, engineering, and plan development costs.
5. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs.
6. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding to be distributed for county and township road rehabilitation and reconstruction projects.
7. The recipient counties shall report to the department of transportation upon awarding of each contract and upon completion of each project in a manner prescribed by the department.
8. The funding included in the county and township road reconstruction line item in section 1 of this Act may be applied to engineering and design costs incurred on related projects as of January 1, 2011.

SECTION 11. EXTRAORDINARY STATE HIGHWAY MAINTENANCE. The funding included in the capital assets line item in section 1 of this Act relating to extraordinary state highway maintenance may be applied to engineering and design costs incurred on related projects as of January 1, 2011.

SECTION 12. FARGO DISTRICT OFFICE LOCATION - EXEMPTION. The sum of \$800,000 included in the capital assets line item of section 1 of this Act is for the construction of an equipment storage facility at the Fargo district office location which may only be used pursuant to the provisions of this section.

Notwithstanding sections 54-01-05.2 and 54-01-05.5, the department of transportation shall offer for sale the entire parcel of land, including buildings, owned by the department of transportation at the Fargo district office location which is at 503 38th street south in the city of Fargo. In consideration for the property, the buyer must provide the department of transportation with an alternative parcel of land in fee simple to be used as a new location for the Fargo district office. The parcel of land must be located within the interstate storm gates of the cities of Fargo and West Fargo, be of suitable size and condition for operations of the Fargo district office, and be readily accessible to the interstate system. In consideration for the department of transportation property, the buyer shall construct or otherwise provide the buildings necessary for the operations of the Fargo district office. If requested, the director of the department of transportation shall provide potential buyers with general land and building requirements necessary for the operations of the Fargo district office. The director of the department of transportation shall have the authority to determine whether the location and buildings adequately address the operations needs of the Fargo district office. The property shall remain open to buyers until May 1, 2012. The department of transportation may proceed with the construction of the equipment storage building at the current Fargo district office location if an offer is not accepted by the department of transportation by May 1, 2012.

SECTION 13. LEGISLATIVE MANAGEMENT STUDY - STATE AGENCY AIRPLANES. During the 2011-12 interim, the legislative management shall consider studying the use of state-owned airplanes. The study, if conducted, must include a review of airplanes owned by state agencies, the justification for each airplane, the frequency of use of each airplane, options for purchasing or leasing new airplanes, and the feasibility and desirability of requiring state airplanes to be managed by state fleet services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

SECTION 14. EMERGENCY. Funding of \$228,600,000 in the capital assets line item relating to extraordinary state highway maintenance and \$142,000,000 in the county and township road reconstruction line item in section 1 of this Act and sections 4, 5, 10, and 12 of this Act are declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1012 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 91 Nays 0 Absent 3

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State