

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2012

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 transportation; to provide appropriations to the state treasurer for transportation funding
3 distributions; to amend and reenact sections 39-02-03 and 39-04-09 of the North Dakota
4 Century Code, relating to department of transportation motor vehicle branch offices and the
5 issuance of license plates; to provide for transfers and contingent transfers; to provide
6 exemptions; to provide for budget section reports; to provide for a legislative management
7 study; and to declare an emergency.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
10 as may be necessary, are appropriated out of any moneys in the general fund in the state
11 treasury, not otherwise appropriated, and from special funds derived from federal funds and
12 other income, to the department of transportation for the purpose of defraying the expenses of
13 the department of transportation, for the biennium beginning July 1, 2013, and ending June 30,
14 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
15			
16			
17	Salaries and wages	\$165,966,396	\$32,880,464
18	Operating expenses	204,090,250	173,731,465
19	Capital assets	709,079,831	560,431,376
20	County and township road	0	142,000,000
21	reconstruction program		142,000,000
22	County and township bridge	0	27,000,000
23	reconstruction program		27,000,000
24	Grants	<u>67,767,407</u>	<u>30,420,623</u>
			<u>98,188,030</u>

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1	Total all funds	\$1,146,903,884	\$966,463,928	\$2,113,367,812
2	Less estimated income	<u>1,146,903,884</u>	<u>956,463,928</u>	<u>2,103,367,812</u>
3	Total general fund	\$0	\$10,000,000	\$10,000,000
4	Full-time equivalent positions	1,063.50	16.00	1,079.50

5 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

6 **SIXTY-FOURTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time
7 funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and
8 the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

9	<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
10	Federal stimulus funds	\$24,119,575	\$0
11	Devils Lake area highway project	5,850,000	0
12	Extraordinary state highway maintenance	228,600,000	0
13	County and township road reconstruction	142,000,000	142,000,000
14	County and township bridge reconstruction	0	27,000,000
15	Emergency relief program borrowing authority	200,000,000	0
16	Road grade raising grants	6,000,000	0
17	Highway-rail grade crossing safety grants	1,431,000	0
18	Enhanced state highway investments	0	541,600,000
19	Federal TIGER III grant match	<u>0</u>	<u>10,000,000</u>
20	Total all funds	\$608,000,575	\$720,600,000
21	Total special funds	<u>602,150,575</u>	<u>710,600,000</u>
22	Total general fund	\$5,850,000	\$10,000,000

23 The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17
24 biennium. The department of transportation shall report to the appropriations committees of the
25 sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning
26 July 1, 2013, and ending June 30, 2015.

27 **SECTION 3. LINE ITEM TRANSFERS.** The director of the department of transportation
28 may transfer between the salaries and wages, operating, capital assets, and grants line items in
29 section 1 of this Act when it is cost-effective for construction and maintenance of highways. The
30 department of transportation shall notify the office of management and budget of any transfers
31 made pursuant to this section.

1 **SECTION 4. COUNTY AND TOWNSHIP ROAD RECONSTRUCTION PROGRAM -**
2 **CARRYOVER AUTHORITY.**

3 1. The sum of \$142,000,000, or so much of the sum as may be necessary, included in
4 the county and township road reconstruction program line item in section 1 of this Act,
5 must be used to rehabilitate or reconstruct county and township paved and unpaved
6 roads needed to support oil and gas production and distribution in North Dakota.

7 a. Funding allocations to counties are to be made by the department of
8 transportation based on data supplied by the upper great plains transportation
9 institute.

10 b. Counties identified in the data supplied by the upper great plains transportation
11 institute are eligible for this funding.

12 2. Each county requesting funding under this section for county or township roads shall
13 submit the request in accordance with criteria developed by the department of
14 transportation.

15 a. The request shall include a proposed plan for funding projects that rehabilitate or
16 reconstruct paved and unpaved roads within the county.

17 b. The plan shall be based on data supplied by the upper great plains transportation
18 institute, actual road conditions, and integration with state highway and other
19 county road projects.

20 c. Funds shall not be used for routine maintenance.

21 3. The department of transportation, in consultation with the county, may approve the
22 plan or approve the plan with amendments.

23 4. The funding included in the county and township road reconstruction program line item
24 in section 1 of this Act may be used for:

25 a. Ninety percent of the cost of the approved roadway projects not to exceed the
26 funding available for that county.

27 b. Funding may be used for construction, engineering, and plan development costs.

28 5. Upon approval of the plan, the department of transportation shall transfer to the county
29 the approved funding for engineering and plan development costs.

- 1 6. Upon execution of a construction contract by the county, the department of
2 transportation shall transfer to the county the approved funding to be distributed for
3 county and township road rehabilitation and reconstruction projects.
- 4 7. The recipient counties shall report to the department of transportation upon awarding
5 of each contract and upon completion of each project in a manner prescribed by the
6 department.
- 7 8. The funding included in the county and township road reconstruction line item in
8 section 1 of this Act may be applied to engineering, design, and construction costs
9 incurred on related projects as of January 1, 2013.
- 10 9. Section 54-44.1-11 does not apply to funding included in the county and township road
11 reconstruction program line item in section 1 of this Act. Any funds not spent by
12 June 30, 2015, must be continued into the biennium beginning July 1, 2015, and
13 ending June 30, 2017, and may be expended only for county and township paved and
14 unpaved road rehabilitation and reconstruction projects.

15 **SECTION 5. COUNTY AND TOWNSHIP BRIDGE RECONSTRUCTION PROGRAM -**
16 **STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - EXEMPTION.** The county and
17 township bridge reconstruction program line item in section 1 of this Act contains the sum of
18 \$27,000,000 from the strategic investment and improvements fund which must be used by the
19 department of transportation for a county and township road bridge rehabilitation and
20 reconstruction program, for the period beginning with the effective date of this Act and ending
21 June 30, 2015, as follows:

- 22 1. The funding must be used to rehabilitate or reconstruct county and township road
23 bridges needed for the safe conveyance of persons and commerce in this state. The
24 director of the department of transportation shall distribute the funding based on data
25 available from studies conducted by the upper great plains transportation institute.
- 26 2. Each county requesting funding for a county or township road bridge project or for
27 multiple projects shall submit the request in accordance with criteria developed by the
28 department of transportation. The department of transportation, in consultation with
29 the county, may approve a project or approve a project with amendments.

- 1 a. Funding must be distributed for projects based on data available from upper
2 great plains transportation institute studies, actual road conditions, and the level
3 of integration with state highway and other county road projects.
- 4 b. Funding may not be distributed for the routine maintenance of bridges.
- 5 3. The funding may be used to provide up to ninety percent of the cost of an approved
6 bridge project, including engineering and plan development costs.
- 7 4. Upon approval of a project, the department of transportation shall transfer to the
8 county the approved funding for engineering and plan development costs. The funding
9 provided for construction, engineering, and project development costs may be applied
10 to costs incurred as of January 1, 2013.
- 11 5. Upon execution of a construction contract by the county, the department of
12 transportation shall transfer to the county the funding to be used for the approved
13 bridge project.
- 14 6. Each recipient county shall report to the department of transportation upon awarding
15 each contract and upon completion of each project in a manner prescribed by the
16 department.
- 17 7. Section 54-44.1-11 does not apply to funding included in the county and township
18 bridge reconstruction program line item in section 1 of this Act. Any funds not spent by
19 June 30, 2015, may be continued into the biennium beginning July 1, 2015, and
20 ending June 30, 2017, and may be expended only for county and township road
21 bridge rehabilitation and reconstruction projects.
- 22 8. For purposes of this section, a "bridge" is a structure that extends over a river, stream,
23 depression, or other obstacle and has an end area of fifty square feet [4.65 square
24 meters] or greater.
- 25 9. To be eligible to receive a grant under this section, the county or township road bridge
26 project must be located within a county that levies a combined total of seven or more
27 mills for county road and bridge, farm-to-market and federal aid road, and county road
28 purposes.

29 **SECTION 6. HIGHWAY-RAIL GRADE CROSSING SAFETY PROJECTS FUND.** The
30 grants line item in section 1 of this Act includes the sum of \$640,000 from the highway-rail
31 grade crossing safety projects fund which may be used by the department of transportation to

1 continue highway-rail grade crossing safety projects approved by the department and for which
2 funding was obligated prior to January 1, 2013. On June 30, 2015, the state treasurer shall
3 transfer any unexpended and unobligated balance in the highway-rail grade crossing safety
4 projects fund to the highway tax distribution fund.

5 **SECTION 7. APPROPRIATION - CONTINGENT TRANSFERS - GENERAL FUND TO**
6 **PUBLIC TRANSPORTATION FUND.** There is appropriated out of any moneys in the general
7 fund in the state treasury, not otherwise appropriated, the sum of \$1,100,000, or so much of the
8 sum as may be necessary, which the office of management and budget shall transfer to the
9 public transportation fund pursuant to this section during the biennium beginning July 1, 2013,
10 and ending June 30, 2015. The office of management and budget shall transfer the sum of
11 \$550,000 on July 1, 2013, if deposits in the public transportation fund from the highway tax
12 distribution fund are \$5,000,000 or less during the period beginning July 1, 2012, and ending
13 June 30, 2013. The office of management and budget shall transfer the sum of \$550,000 on
14 July 1, 2014, if deposits in the public transportation fund from the highway tax distribution fund
15 are \$5,000,000 or less during the period beginning July 1, 2013, and ending June 30, 2014.

16 **SECTION 8. APPROPRIATION - STATE TREASURER - TOWNSHIP TRANSPORTATION**
17 **FUNDING DISTRIBUTIONS.** There is appropriated out of any moneys in the general fund in the
18 state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as
19 may be necessary, to the state treasurer for the purpose of providing township transportation
20 funding distributions, for the period beginning with the effective date of this Act and ending
21 June 30, 2015.

22 1. The state treasurer shall distribute the funds provided under this section to counties
23 and townships in oil-producing counties through a distribution of \$15,000 to each
24 organized township and a distribution of \$15,000 for each unorganized township to the
25 county in which the unorganized township is located.

26 2. If any funds remain after the distributions provided under subsection 1, the state
27 treasurer shall distribute the remaining funds to counties and townships in
28 oil-producing counties pursuant to section 54-27-19.1. Organized townships are not
29 required to provide matching funds to receive a distribution under this subsection.

30 For purposes of this section, an "oil-producing county" means a county that received total
31 allocations under section 57-51-15 of \$500,000 or more during state fiscal year 2012. All funds

1 distributed under this section must be used for roadway maintenance purposes. The funding
2 provided in this section is considered a one-time funding item.

3 **SECTION 9. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM - TOWNSHIP**

4 **TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION - EXEMPTION.** There is
5 appropriated out of any moneys in the general fund in the state treasury, not otherwise
6 appropriated, the sum of \$590,000, or so much of the sum as may be necessary, to the state
7 treasurer for the purpose of providing transportation funding distributions to counties and
8 townships in accordance with this section, for the period beginning with the effective date of this
9 Act and ending June 30, 2013. The state treasurer shall distribute the funding provided under
10 this section to counties and townships that are eligible to receive a distribution under subsection
11 3 of section 27 of chapter 579 of the 2011 Session Laws and have not already received a
12 distribution under that subsection. Section 27 of chapter 579 of the 2011 Session Laws is not
13 subject to section 54-11-01 and the state treasurer may not require a political subdivision to
14 return an overpayment of funds received from distributions under the section.

15 **SECTION 10. APPROPRIATION - STATE TREASURER - TOWNSHIP**

16 **TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION.** There is appropriated out of
17 any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
18 \$415,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of
19 providing transportation funding distribution to counties and townships in accordance with this
20 section, for the period beginning with the effective date of this Act and ending June 30, 2015.
21 The state treasurer shall use the funding provided under this section to ensure that all eligible
22 counties and townships receive a distribution in accordance with subsection 3 of section 2 of
23 Senate Bill No. 2176 as approved by the sixty-third legislative assembly. Any funds that remain
24 after the distributions to eligible counties and townships must be distributed by the state
25 treasurer pursuant to the method provided in subsection 3 of section 2 of Senate Bill No. 2176
26 as approved by the sixty-third legislative assembly.

27 **SECTION 11. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - GENERAL**

28 **LICENSE PLATE ISSUE - EXEMPTION.** There is appropriated out of any moneys in the
29 general fund in the state treasury, not otherwise appropriated, the sum of \$6,200,000, or so
30 much of the sum as may be necessary, to the department of transportation for the purpose of
31 defraying the expenses for a general license plate issue, for the biennium beginning July 1,

1 2013, and ending June 30, 2015. The appropriation provided under this section is not subject to
2 section 54-44.1-11 and may be continued into the biennium beginning July 1, 2015, and ending
3 June 30, 2017.

4 **SECTION 12. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**
5 **REHABILITATION - GENERAL LICENSE PLATE ISSUE.** There is appropriated from special
6 funds and other income received, the sum of \$4,280,000, or so much of the sum as may be
7 necessary, to the department of corrections and rehabilitation for expenses incurred by
8 roughrider industries related to the general license plate issue, for the biennium beginning
9 July 1, 2013, and ending June 30, 2015.

10 **SECTION 13. APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND.**
11 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
12 appropriated, the sum of \$683,600,000, or so much of the sum as may be necessary, which the
13 office of management and budget shall transfer to the highway fund during the biennium
14 beginning July 1, 2013, and ending June 30, 2015. The office of management and budget shall
15 transfer the funds provided under this section to the state highway fund at the request of the
16 director of the department of transportation. The funding provided in this section is considered a
17 one-time funding item.

18 **SECTION 14. ENHANCED STATE HIGHWAY INVESTMENTS - CARRYOVER**
19 **AUTHORITY.** Section 54-44.1-11 does not apply to funding of \$541,600,000 in the capital
20 assets line item relating to enhanced state highway investments in section 1 of this Act. Any
21 funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015,
22 and ending June 30, 2017, and may be expended only for enhanced state highway
23 investments.

24 **SECTION 15. EXEMPTION - STATE DISASTER RELIEF FUND - ROAD GRADE**
25 **RAISING GRANTS.** The amount appropriated to the department of transportation from the
26 state disaster relief fund for road grade raising grants, as contained in section 14 of chapter 579
27 of the 2011 Session Laws, is not subject to the provisions of section 54-44.1-11. Any
28 unexpended funds from this appropriation are available to the department to provide road grade
29 raising grants during the biennium beginning July 1, 2013, and ending June 30, 2015.

30 **SECTION 16. AMENDMENT.** Section 39-02-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-02-03. Powers and duties of director and department.**

2 The director, subject to the approval of the governor, may adopt and enforce such
3 administrative rules and designate such agencies and establish such branch offices as may be
4 necessary to carry out the laws applicable to the director's office and department. The director
5 shall provide suitable forms for applications, registration cards, license number plates, and all
6 other forms requisite for the operation of the director's office and department, and shall prepay
7 all transportation charges thereon. ~~In addition, the~~The director shallmay provide for a ~~uniform~~
8 maximum fee schedule for the various services provided by the branch offices, not to exceed
9 ten dollars for each service provided. Any branch office may establish a different fee schedule if
10 the schedule does not contain a fee that exceeds a maximum fee established by the director
11 and is approved by the director. All branch office managers must be bonded. The department
12 may lease or provide office space or other ~~overhead~~ costs as necessary to independent motor
13 vehicle branch managers. All rents collected under this section must be deposited in the state
14 highway fund. The department and the officers thereof shall enforce the provisions of all laws
15 pertaining to the director and the department.

16 **SECTION 17. AMENDMENT.** Section 39-04-09 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-04-09. Director may design and issue number plates.**

19 The director may design and issue plates of distinctly different color for each classification
20 of motor vehicle, and there must at all times be a marked contrast between the background
21 color of the plates and that of the numerals and letters ~~thereon~~on the plate. License plates must
22 be acquired from the North Dakota state penitentiary if the penitentiary has the facilities to
23 manufacture license plates. The director shall make a general issue during the biennium
24 beginning July 1, 2013, and ending June 30, 2015, and continuing into the biennium beginning
25 July 1, 2015, and ending June 30, 2017.

26 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - MOTOR VEHICLE BRANCH**
27 **OFFICES.** During the 2013-14 interim, the legislative management shall consider studying the
28 use of branch offices by the department of transportation. The study must include a review of
29 the structure of agreements with operators of branch offices, the number of motor vehicles
30 registered at each office, the current locations of offices, the quality of data provided by the
31 offices, the staffing needs of the offices, and the fees received by offices for services provided.

1 The study must also include a review of the future use of branch offices, including office
2 locations, alternative uses for facilities, and other changes that may promote efficiencies. The
3 legislative management shall report its findings and recommendations, together with any
4 legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

5 **SECTION 19. EMERGENCY.** Sections 4, 5, 8, 9, and 10 of this Act and funding of
6 \$142,000,000 in the county and township road reconstruction program line item in section 1 of
7 this Act, funding of \$27,000,000 in the county and township bridge reconstruction program line
8 item in section 1 of this Act, and funding of \$10,000,000 in the grants line item in section 1 of
9 this Act to match a federal TIGER III grant for railroad improvements are declared to be an
10 emergency measure.