

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1012

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 transportation; to amend and reenact section 57-40.3-10 of the North Dakota Century Code and
3 section 13 of chapter 15 and section 10 of chapter 80 of the 2021 Session Laws, relating to
4 motor vehicle excise tax allocations, an appropriation for township roadway funding, and the
5 appropriation of bond proceeds for transportation projects; to provide an exemption; to provide
6 a report; to provide an effective date; and to declare an emergency.

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
9 as may be necessary, are appropriated from special funds derived from federal funds and other
10 income, to the department of transportation for the purpose of defraying the expenses of the
11 department of transportation, for the biennium beginning July 1, 2023, and ending June 30,
12 2025, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
13			
14			
15	\$204,109,585	\$28,313,251	\$232,422,836
16	270,888,188	59,493,286	330,381,474
17	902,431,344	741,713,721	1,644,145,065
18	118,085,610	3,985,848	122,071,458
19	<u>0</u>	<u>78,500,000</u>	<u>78,500,000</u>
20	\$1,495,514,727	\$912,006,106	\$2,407,520,833
21	<u>1,495,514,727</u>	<u>901,631</u>	<u>2,397,145,833</u>
22	\$0	\$10,375,000	\$10,375,000
23	982.00	16.00	998.00

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

2 **SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
3 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the
4 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act:

5	<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
6	Road and bridge projects and matching funds	\$255,000,000	\$0
7	Contingent loans	50,000,000	78,500,000
8	Bond proceeds	70,000,000	0
9	Federal funds authority	498,609,357	0
10	Beyond visual line of sight infrastructure	5,000,000	0
11	Construction and materials management system	9,660,000	0
12	Township emergency repair grants	750,000	0
13	Federal discretionary funds and match	0	490,000,000
14	State flexible transportation fund	0	115,000,000
15	Roadway management system project	0	6,250,000
16	Door security	0	865,000
17	Automated vehicle location	0	2,010,000
18	Short line railroad programs	0	8,000,000
19	Flood projects study	0	5,000,000
20	Rural transit program grants	<u>0</u>	<u>1,250,000</u>
21	Total all funds	\$889,019,357	\$706,875,000
22	Less estimated income	<u>889,019,357</u>	<u>696,500,000</u>
23	Total general fund	\$0	\$10,375,000

24 The 2023-25 biennium one-time funding amounts are not a part of the department's base
25 budget for the 2025-27 biennium. The department of transportation shall report to the
26 appropriations committees of the sixty-ninth legislative assembly on the use of this one-time
27 funding for the biennium beginning July 1, 2023, and ending June 30, 2025.

28 **SECTION 3. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,
29 the director of the office of management and budget shall transfer appropriation authority
30 among the salaries and wages, operating expenses, capital assets, and grants line items in
31 section 1 of this Act as requested by the director of the department of transportation when it is

1 cost-effective for construction and maintenance of highways. The department of transportation
2 shall notify the legislative council of any transfers made pursuant to this section.

3 **SECTION 4. CONTINGENT LOAN AUTHORIZATION - CONTINGENT FUNDING -**

4 **HIGHWAY IMPROVEMENT PROJECTS.** The department of transportation may borrow from
5 the Bank of North Dakota, \$50,000,000, or so much of the sum as may be necessary, which is
6 appropriated to the department of transportation in the contingent loan authorization line item in
7 section 1 of this Act for matching federal funds that may become available, for the biennium
8 beginning July 1, 2023, and ending June 30, 2025. The funds may be borrowed and spent only
9 upon certification by the director of the department of transportation to the director of the office
10 of management and budget that the department has been awarded additional federal grants
11 related to United States highway 85 during the biennium beginning July 1, 2023, and ending
12 June 30, 2025. The department of transportation shall request from the sixty-ninth legislative
13 assembly an appropriation to repay any outstanding loans authorized in this section.

14 **SECTION 5. CONTINGENT LOAN AUTHORIZATION - CONTINGENT FUNDING -**

15 **FLOOD PROJECTS.** The department of transportation may borrow from the Bank of North
16 Dakota, \$28,500,000, or so much of the sum as may be necessary, which is appropriated to the
17 department of transportation in the contingent loan authorization line item in section 1 of this Act
18 for matching funds made available from the state of Minnesota for northern Red River valley
19 transportation projects, for the biennium beginning July 1, 2023, and ending June 30, 2025. The
20 funds authorized in this section may be borrowed and spent only upon certification by the
21 director of the department of transportation to the office of management and budget that the
22 Minnesota department of transportation will match these funds one dollar-for-dollar basis. The
23 funds may be borrowed and spent for phase one of a project to address northern Red River
24 valley flooding issues and are available for design, redesign, preliminary and final engineering,
25 environmental analysis, right of way acquisition, and construction, including demolition. The
26 department of transportation shall request from the sixty-ninth legislative assembly an
27 appropriation to repay any outstanding loans authorized in this section.

28 **SECTION 6. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS**

29 **FUND.** The estimated income line item in section 1 of this Act includes the sum of \$328,000,000
30 from the strategic investment and improvements fund for the following purposes:

31 1. The sum of \$200,000,000 for matching federal highway discretionary grants;

- 1 2. The sum of \$115,000,000 to establish a state flexible transportation fund;
- 2 3. The sum of \$8,000,000 to enhance existing loan programs to assist short line railroads
- 3 with rail improvement projects; and
- 4 4. The sum of \$5,000,000 for studies, preliminary engineering, and environmental
- 5 studies to address northern Red River valley infrastructure affected by flooding.

6 **SECTION 7. RURAL TRANSIT FUNDING.** The grants line item in section 1 of this Act
7 includes the sum of \$1,250,000 from the general fund for grants to rural transit providers in
8 nonurban areas.

9 **SECTION 8. CONSTRUCTION OF REST AREA AND VISITOR CENTER.** Notwithstanding
10 any other provision of law, the director of the department of transportation may enter into a
11 cooperative agreement with a public or private entity and may expend moneys from the state
12 highway fund or any moneys within the limits of the legislative appropriations for the purpose of
13 constructing a rest area and visitor center in western North Dakota, for the biennium beginning
14 July 1, 2023, and ending June 30, 2025.

15 **SECTION 9. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-40.3-10. Transfer of revenue.**

18 All moneys collected and received under this chapter must be transmitted monthly by the
19 director of the department of transportation to the state treasurer ~~to be transferred and credited~~
20 ~~to the general fund~~ who shall deposit fifty percent of collections in the state highway fund and
21 fifty percent of collections in the general fund.

22 **SECTION 10. AMENDMENT.** Section 13 of chapter 15 of the 2021 Session Laws is
23 amended and reenacted as follows:

24 **SECTION 13. 2019-21 BIENNIUM APPROPRIATION - TRANSFER - GENERAL**
25 **FUND TO HIGHWAY FUND - 2021-23 BIENNIUM APPROPRIATION - HIGHWAY**
26 **FUND AND FEDERAL FUNDS - EXEMPTION - REPORT.**

- 27 1. There is appropriated out of any moneys in the general fund in the state treasury,
28 not otherwise appropriated, the sum of \$100,000,000, which the office of
29 management and budget shall transfer to the highway fund during the period
30 beginning with the effective date of this Act, and ending June 30, 2021. The funds

1 transferred to the highway fund must be maintained and reported separately from
2 other funds in the highway fund.

3 2. There is appropriated out of any moneys in the highway fund, not otherwise
4 appropriated, the sum of \$100,000,000, or so much of the sum as may be
5 necessary, to the department of transportation for the purpose of matching
6 federal discretionary funds received in excess of the regular federal funding
7 amounts included in the department's 2021-23 biennium budget, for the biennium
8 beginning July 1, 2021, and ending June 30, 2023. Of this amount, the
9 department shall use at least \$10,000,000 ~~for matching federal funds~~ for
10 township road and bridge projects as follows:

- 11 a. The funds must be allocated by the department to counties for projects or
12 grants for the benefit of organized and unorganized townships;
- 13 b. The department shall establish criteria to distribute the funds;
- 14 c. The funds must be used for the maintenance and improvement of township
15 paved and unpaved roads and bridges;
- 16 d. Priority must be given to projects that match federal funds and to projects
17 that improve roadways that serve as local corridors; and
- 18 e. A township is not eligible to receive funding if the township does not
19 maintain any roadways.

20 3. There is appropriated from federal funds, the sum of \$100,000,000, or so much
21 of the sum as may be necessary, to the department of transportation for the
22 purpose of defraying the expenses of road and bridge construction projects for
23 the biennium beginning July 1, 2021, and ending June 30, 2023.

24 4. ~~On June 30, 2023, the office of management and budget shall transfer any~~
25 ~~unexpended and unobligated funds transferred to the highway fund under~~
26 ~~subsection 1 to the general fund~~The appropriation provided in this section is not
27 subject to section 54-44.1-11 and may be continued into the biennium beginning
28 July 1, 2023, and ending June 30, 2025.

29 5. During the 2021-22 interim, the department of transportation shall provide
30 quarterly reports to the budget section regarding the use of funds transferred
31 from the general fund to the highway fund.

1 **SECTION 11. AMENDMENT.** Section 10 of chapter 80 of the 2021 Session Laws is
2 amended and reenacted as follows:

3 **SECTION 10. APPROPRIATION - HIGHWAY FUND - ~~CONTINGENT~~**

4 **~~TRANSFERENCE~~EXEMPTION.** There is appropriated out of any moneys in the highway
5 fund in the state treasury, not otherwise appropriated, the sum of \$70,000,000, or so
6 much of the sum as may be necessary, derived from bond proceeds to the department
7 of transportation for state highway road and bridge projects and for matching federal
8 funds that may become available, for the biennium beginning July 1, 2021, and ending
9 June 30, 2023. ~~Of the \$70,000,000, \$35,000,000 is designated for state highway~~
10 ~~bridge projects, and \$35,000,000 is designated for matching federal funds that may~~
11 ~~become available for state highway projects in excess of the federal funds~~
12 ~~appropriated to the department of transportation as part of its 2021-23 biennial budget.~~
13 ~~By October 1, 2022, the director of the department of transportation shall certify to the~~
14 ~~office of management and budget the amount of funding committed to matching~~
15 ~~excess federal funds from the \$35,000,000 provided under this section. If the amount~~
16 ~~committed is less than \$35,000,000, the office of management and budget shall~~
17 ~~transfer any uncommitted amounts to the infrastructure revolving loan fund under~~
18 ~~section 6-09-49~~The appropriation provided in this section is not subject to section
19 54-44.1-11 and may be continued into the biennium beginning July 1, 2023, and
20 ending June 30, 2025.

21 **SECTION 12. EXEMPTION - UNEXPENDED APPROPRIATIONS.** The following
22 appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into
23 the biennium beginning July 1, 2023, and ending June 30, 2025:

- 24 1. The sum of \$750,000 appropriated from the state disaster relief fund for emergency
25 township road repairs in section 4 of chapter 40 of the 2021 Session Laws;
- 26 2. The sum of \$1,609,357 appropriated from federal funds for grants to transit providers
27 in subdivision 10 of section 2 of chapter 28 of the 2021 Session Laws;
- 28 3. The sum of \$55,000,000 appropriated from federal funds to match state bond
29 proceeds in section 5 of chapter 15 of the 2021 Session Laws;

1 4. The sum of \$317,000,000 appropriated from federal funds for state, county, and
2 township road and bridge projects in section 2 of chapter 28 of the 2021 Session
3 Laws;

4 5. The sum of \$61,700,060 appropriated from federal funds for surface transportation
5 grants in subdivision 10 of section 1 of chapter 27 of the 2021 Session Laws; and

6 6. The sum of \$13,660,000 appropriated from special funds for information technology
7 projects in section 1 of chapter 40 of the 2021 Session Laws.

8 **SECTION 13. EFFECTIVE DATE.** Section 9 of this Act is effective for motor vehicle excise
9 tax collections transmitted to the state treasurer after July 31, 2023.

10 **SECTION 14. EMERGENCY.** Sections 10 and 11 of this Act are declared to be an
11 emergency measure.