

April 6, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1012

Page 1, line 2, after "transportation" insert "; to create and enact sections 54-27-19.3 and 54-27-19.4 of the North Dakota Century Code, relating to the legacy earnings highway distribution fund and legacy earnings township highway aid fund"

Page 1, line 2, after "section" insert "24-02-37.3 as created by section 1 of Senate Bill No. 2113, as approved by the sixty-eighth legislative assembly, and section"

Page 1, line 3, after "to" insert "the flexible transportation fund,"

Page 1, line 6, after "report" insert "; to provide for a study"

Page 1, replace lines 15 through 23 with:

"Salaries and wages	\$204,109,585	\$13,636,811	\$217,746,396
Operating expenses	270,888,188	61,993,286	332,881,474
Capital assets	902,431,344	653,963,721	1,556,395,065
Grants	118,085,610	2,485,848	120,571,458
Contingent loan authorization	0	78,500,000	78,500,000
Total all funds	\$1,495,514,727	\$810,579,666	\$2,306,094,393
Less estimated income	<u>1,495,514,727</u>	<u>800,204,666</u>	<u>2,295,719,393</u>
Total general fund	\$0	\$10,375,000	\$10,375,000
Full-time equivalent positions	982.00	16.00	998.00"

Page 2, replace lines 13 and 14 with:

"State matching funds	0	114,000,000
Federal highway funds	0	290,000,000
State flexible transportation fund	0	51,000,000"

Page 2, replace lines 18 and 19 with:

"Short line railroad programs	0	6,500,000
United States highway 52 environmental study	0	5,000,000
Flood projects study	0	2,500,000"

Page 2, replace lines 21 and 22 with:

"Total all funds	\$889,019,357	\$557,875,000
Less estimated income	<u>889,019,357</u>	<u>547,500,000"</u>

Page 3, line 29, replace "\$328,000,000" with "\$179,000,000"

Page 3, line 31, replace "\$200,000,000" with "\$114,000,000"

Page 3, line 31, replace "discretionary grants" with "funding"

Page 4, line 1, replace "\$115,000,000" with "\$51,000,000"

Page 4, line 2, replace "\$8,000,000" with "\$6,500,000"

Page 4, line 3, remove "and"

Page 4, line 4, replace "\$5,000,000" with "\$2,500,000 to match funding from the state of Minnesota and other sources"

Page 4, line 5, after "flooding" insert "; and

5. The sum of \$5,000,000 for an environmental study of a portion of United States highway 52"

Page 4, after line 14, insert:

"SECTION 9. AMENDMENT. Section 24-02-37.3 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2113, as approved by the sixty-eighth legislative assembly, is amended and reenacted as follows:

24-02-37.3. Flexible transportation fund - Budget section approval - Report.

There is created in the state treasury the flexible transportation fund. The fund consists of eligible federal or state funding and any contributed private funds.

1. The flexible transportation fund must be administered and expended by the director and may be used for the following:
 - a. Providing a match for federal funding obtained by the department of transportation.
 - b. State-funded road and bridge construction and maintenance, and transportation support costs including staffing, facilities, and operational expenditures on the state highway system.
 - c. State-funded road and bridge construction and maintenance activities within the state but off of the state highway system. The director shall establish the terms and provisions of the program.
2. All money derived from the investment of the flexible transportation fund or any portion of the fund, must be credited to the flexible transportation fund. The director shall monthly transmit all moneys collected and received under this chapter to the state treasurer to be transferred and credited to the flexible transportation fund.
3. The director must receive budget section approval for any project that utilizes more than fifteen million dollars from the fund except for projects that match federal or private funds and the amount utilized from the fund is less than fifty percent of total project costs. Any request considered by the budget section must comply with section 54-35-02.9.
4. The director shall allocate at least twenty-five percent of motor vehicle excise tax collections deposited in the flexible transportation fund pursuant to section 57-40.3-10 for non-oil-producing county and township road and bridge projects as follows:
 - a. The funds must be allocated by the department to counties for projects or grants for the benefit of counties and organized and unorganized townships;

- b. The department shall establish criteria to distribute the funds;
 - c. The funds must be used for the maintenance and improvement of county and township paved and unpaved roads and bridges;
 - d. Priority must be given to projects that match federal funds and to projects that improve roadways that serve as local corridors;
 - e. An organized township is not eligible to receive funding if the township does not maintain any roadways or does not levy at least eighteen mills for general purposes; and
 - f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 in the most recently completed even-numbered fiscal year before the start of each biennium.
4. The director shall provide periodic reports to the budget section regarding the status of the fund and projects receiving allocations from the fund.

SECTION 10. Section 54-27-19.3 of the North Dakota Century Code is created and enacted as follows:

54-27-19.3. Legacy earnings highway distribution fund.

A legacy earnings highway distribution fund is created as a special fund in the state treasury into which must be deposited any allocations of legacy fund earnings made under section 21-10-13. Any moneys in the legacy earnings highway distribution fund must be allocated and transferred by the state treasurer, as follows:

1. Sixty percent must be transferred to the department of transportation for deposit in the state highway fund;
2. Ten percent must be transferred to the legacy earnings township highway aid fund;
3. One and five-tenths percent must be transferred to the public transportation fund; and
4. Twenty-eight and five-tenths percent must be allocated to cities and counties using the formula established in subsection 4 of section 54-27-19. Moneys received by counties and cities must be used for roadway purposes in accordance with section 11 of article X of the Constitution of North Dakota.

SECTION 11. Section 54-27-19.4 of the North Dakota Century Code is created and enacted as follows:

54-27-19.4. Legacy earnings township highway aid fund.

A legacy earnings township highway aid fund is created as a special fund in the state treasury into which must be deposited any allocations of legacy fund earnings made under section 54-27-19.3 which must be allocated by the state treasurer, as follows:

1. The state treasurer shall allocate and distribute all money in the legacy earnings township highway aid fund to non-oil-producing counties of the state based on the length of township roads in each county compared to the length of all township roads in the state;
2. The county treasurer shall allocate the funds received to the organized townships in the county based on the length of township roads in each of those organized townships compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for road and bridge purposes;
3. If a county does not have organized townships, or has some organized and some unorganized townships, the county shall retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county. Moneys retained by a county for the benefit of unorganized townships under this section must be deposited in the county road and bridge fund; and
4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 in the most recently completed even-numbered fiscal year before the start of each biennium."

Page 4, overstrike lines 18 and 19

Page 4, line 20, overstrike "to the general fund"

Page 4, line 20, remove "who shall deposit fifty percent of collections in the state highway fund and"

Page 4, line 21, remove "fifty percent of collections in the general fund"

Page 4, line 21, overstrike the period and insert immediately thereafter "After the deposits under sections 57-39.2-26.1, 57-39.2-26.2, and 57-39.2-26.3, moneys collected and received under this chapter must be deposited monthly in the state treasury and allocated as follows:

1. Fifty percent to the general fund; and
2. The remaining fifty percent to the flexible transportation fund."

Page 6, after line 20, insert:

"SECTION 15. LEGISLATIVE MANAGEMENT STUDY - ELECTRIC VEHICLES. During the 2023-24 interim, the legislative management shall consider studying the effect of electric vehicles in the state. As part of the study, the legislative management shall consider the assessment of fees to offset reductions in motor fuel tax revenues, the impact of electric vehicles on electric demand and the electrical grid, the installation of electric vehicle charging infrastructure by private and public entities, including potential funding sources, the impact to public services and public transportation providers, and the effect on employment opportunities and other economic impacts, including tourism, automobile dealers, the energy industry, and the critical minerals industry. The study must include input from key stakeholders, including electric vehicle manufacturers, electric vehicle dealers, electric utilities, electric vehicle charging station manufacturers, and other transportation entities. The legislative

management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly."

Page 7, line 8, replace "9" with "12"

Page 7, line 10, replace "10 and 11" with "14 and 15"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1012 - Department of Transportation - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$204,109,585	\$232,422,836	(\$14,676,440)	\$217,746,396
Operating expenses	270,888,188	330,381,474	2,500,000	332,881,474
Capital assets	902,431,344	1,644,145,065	(87,750,000)	1,556,395,065
Grants	118,085,610	122,071,458	(1,500,000)	120,571,458
Contingent loan authorization		78,500,000		78,500,000
Total all funds	\$1,495,514,727	\$2,407,520,833	(\$101,426,440)	\$2,306,094,393
Less estimated income	1,495,514,727	2,397,145,833	(101,426,440)	2,295,719,393
General fund	\$0	\$10,375,000	\$0	\$10,375,000
FTE	982.00	998.00	0.00	998.00

Department 801 - Department of Transportation - Detail of Senate Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Salary Funding for Funding Pool ²	Reclassifies 4 FTE Positions ³	Adjusts Funding for Federal Highway Funds Match ⁴	Adjusts Discretionary and Flexible Transportation Funding ⁵	Reduces Funding for Short Line Railroad Loan Program ⁶
Salaries and wages	\$3,181,552	(\$17,857,992)				
Operating expenses						
Capital assets				\$4,750,000	(\$92,500,000)	
Grants						(\$1,500,000)
Contingent loan authorization						
Total all funds	\$3,181,552	(\$17,857,992)	\$0	\$4,750,000	(\$92,500,000)	(\$1,500,000)
Less estimated income	3,181,552	(17,857,992)	0	4,750,000	(92,500,000)	(1,500,000)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	Reduces Funding for Flood Study ⁷	Adds Funding for Environmental Study ⁸	Total Senate Changes
Salaries and wages			(\$14,676,440)
Operating expenses	(\$2,500,000)	\$5,000,000	2,500,000
Capital assets			(87,750,000)
Grants			(1,500,000)
Contingent loan authorization			
Total all funds	(\$2,500,000)	\$5,000,000	(\$101,426,440)
Less estimated income	(2,500,000)	5,000,000	(101,426,440)
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	Other Funds
Salary increase	\$3,297,276
Health insurance adjustment	(115,724)
Total	\$3,181,552

The House provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

² Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	Other Funds
New FTE positions	(\$2,994,974)
Vacant FTE positions	(14,863,018)
Total	(\$17,857,992)

³ Four vacant FTE positions are reclassified to 2 FTE driver's license examiner positions and 2 FTE positions to administer the county and township roadway program.

⁴ Funding of \$169,250,000 derived from 50 percent of motor vehicle excise tax collections deposited in the highway fund to match regular federal highway funding is removed and replaced with \$60 million from legacy fund earnings and one-time funding of \$114 million from the strategic investment and improvements fund.

⁵ Funding for federal discretionary funds match and the flexible transportation fund is adjusted as follows:

House:

Flexible transportation fund - \$115 million from the strategic investment and improvements fund

Discretionary match - \$200 million from the strategic investment and improvements fund

Senate:

Flexible transportation fund, including discretionary match - \$171.5 million from motor vehicle excise tax collections, \$51 million from the strategic investment and improvements fund

⁶ Funding added by the House from the strategic investment and improvements fund to enhance the short line railroad loan program is reduced from \$8 million to \$6.5 million.

⁷ One-time funding from the strategic investment and improvements fund added by the House for studies, preliminary engineering, and environmental studies to address northern Red River Valley infrastructure affected by flooding is reduced from \$5 million to \$2.5 million.

⁸ One-time funding from the strategic investment and improvements fund is added for an environmental study of US Highway 52 from Minot to Voltaire.

This amendment also:

- Adjusts statutory language to provide that 50 percent of motor vehicle excise taxes be deposited in the general fund and the remaining 50 percent be deposited in the flexible transportation fund. The House provided for 50 percent of motor vehicle excise taxes to be deposited in the highway fund and 50 percent to be deposited in the general fund.
- Amends statutory language regarding the flexible transportation fund to provide that at least 25 percent of motor vehicle excise taxes deposited in the fund be used for county and township road and bridge projects, to require Budget Section approval for certain projects, and to require Budget Section reports.
- Adds a section to create a legacy earnings highway distribution fund to distribute transportation funding to the highway fund and political subdivisions that is received from legacy fund earnings.
- Adds a section to create a legacy earnings township highway aid fund to distribute transportation funding to non-oil producing counties that is received from legacy fund earnings.
- Adds a Legislative Management study of the effect of electric vehicles in the state.