

Sixty-ninth  
Legislative Assembly  
of North Dakota

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
ENGROSSED SENATE BILL NO. 2012**

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 create and enact a new section to chapter 24-02 and a new section to chapter  
3 54-27 of the North Dakota Century Code, relating to rail passenger authority agreements and a  
4 legacy earnings fund; to amend and reenact section 6-09.4-10.1, subsection 1 of section  
5 21-10-06, and sections 24-02-37.3, 54-27-19, and 57-40.3-10, section 57-51.1-07.5 as  
6 amended by Senate Bill No. 2323 as approved by the sixty-ninth legislative assembly, and  
7 sections 57-51.1-07.7 and 57-51.1-07.8 of the North Dakota Century Code, relating to funds  
8 invested by the state investment board, the flexible transportation fund, the highway tax  
9 distribution fund, motor vehicle excise tax collections, the state share of oil and gas taxes, the  
10 municipal infrastructure fund, and the county and township infrastructure fund; to repeal  
11 sections 21-10-12, 21-10-13, 54-27-19.3, and 54-27-19.4 of the North Dakota Century Code,  
12 relating to legacy fund definitions, a legacy earnings fund, the legacy earnings highway  
13 distribution fund, and legacy earnings township highway aid fund; to provide for a legislative  
14 management report; to provide for application; to provide an effective date; and to provide an  
15 exemption.

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

17 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
18 as may be necessary, are appropriated from other funds derived from special funds and federal  
19 funds, to the department of transportation for the purpose of defraying the expenses of the  
20 department of transportation, for the biennium beginning July 1, 2025, and ending June 30,  
21 2027, as follows:

1			Adjustments or	
2		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
3	Salaries and wages	\$219,279,648	\$16,710,943	\$235,990,591
4	New and vacant FTE pool	0	13,576,477	13,576,477
5	Operating expenses	316,256,474	71,088,648	387,345,122
6	Capital assets	1,101,395,065	867,394,552	1,968,789,617
7	Grants	<u>112,821,458</u>	<u>3,569,000</u>	<u>116,390,458</u>
8	Total other funds	\$1,749,752,645	\$972,339,620	\$2,722,092,265
9	Full-time equivalent positions	1,001.00	4.00	1,005.00

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

**SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

<u>One-Time Funding Description</u>	<u>Other Funds</u>
Facility improvements	\$5,970,000
Appointment system upgrade	3,000,000
Inventory tracking system	350,000
Highway projects	287,100,000
Passenger rail authority grant	150,000
Increased roadway maintenance costs	9,842,212
Walking trail grant	100,000
Equipment	<u>5,872,000</u>
Total	\$312,384,212

**SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST.** The department of transportation may not spend funds appropriated in the new and vacant FTE pool line item in section 1 of this Act but may request the office of management and budget to transfer funds from the new and vacant FTE pool line item to the salaries and wages line item in accordance with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the sixty-ninth legislative assembly.

1       **SECTION 4. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND -**  
2       **FLEXIBLE TRANSPORTATION FUND.** The office of management and budget shall transfer the  
3       sum of \$142,500,000 from the strategic investment and improvements fund to the flexible  
4       transportation fund during the biennium beginning July 1, 2025, and ending June 30, 2027.

5       **SECTION 5. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,  
6       the director of the office of management and budget shall transfer appropriation authority  
7       among the salaries and wages, operating expenses, capital assets, and grants line items in  
8       section 1 of this Act as requested by the director of the department of transportation when it is  
9       cost-effective for construction and maintenance of highways. The department of transportation  
10      shall notify the legislative council of any transfers made pursuant to this section.

11      **SECTION 6. OTHER FUNDS - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.**  
12      The other funds line item in section 1 of this Act includes the sum of \$287,100,000 from the  
13      strategic investment and improvements fund for highway projects and \$150,000 from the  
14      strategic investment and improvements fund for a rail passenger authority grant.

15      **SECTION 7. OTHER FUNDS - MUNICIPAL INFRASTRUCTURE FUND - COUNTY AND**  
16      **TOWNSHIP INFRASTRUCTURE FUND.** The other funds line item in section 1 of this Act  
17      includes the sum of \$40,000,000, or so much of the sum as may be necessary, from the  
18      municipal infrastructure fund and the sum of \$40,000,000, or so much of the sum as may be  
19      necessary, from the county and township infrastructure fund.

20      **SECTION 8. AMENDMENT.** Section 6-09.4-10.1 of the North Dakota Century Code is  
21      amended and reenacted as follows:

22      **6-09.4-10.1. Legacy sinking and interest fund - Debt service requirements - Public**  
23      **finance authority.**

24      There is created in the state treasury the legacy sinking and interest fund. The fund consists  
25      of all moneys deposited in the fund under section ~~21-10-13~~13 of this Act. Moneys in the fund  
26      may be spent by the public finance authority pursuant to legislative appropriations to meet the  
27      debt service requirements for evidences of indebtedness issued by the authority for transfer to  
28      the Bank of North Dakota for allocations to infrastructure projects and programs.

29      **SECTION 9. AMENDMENT.** Subsection 1 of section 21-10-06 of the North Dakota Century  
30      Code is amended and reenacted as follows:

1           1. Subject to the provisions of section 21-10-02, the board shall invest the following  
2           funds:

- 3           a. State bonding fund.  
4           b. Teachers' fund for retirement.  
5           c. State fire and tornado fund.  
6           d. Workforce safety and insurance fund.  
7           e. Public employees retirement system.  
8           f. Insurance regulatory trust fund.  
9           g. State risk management fund.  
10          h. Budget stabilization fund.  
11          i. Water projects stabilization fund.  
12          j. Health care trust fund.  
13          k. Cultural endowment fund.  
14          l. Petroleum tank release compensation fund.  
15          m. Legacy fund.  
16          n. ~~Legacy earnings fund.~~  
17          o. Opioid settlement fund.

18          p-o. A fund under contract with the board pursuant to subsection 3.

19          **SECTION 10.** A new section to chapter 24-02 of the North Dakota Century Code is created  
20 and enacted as follows:

21          **Big sky north coast corridor identification and development program.**

22          The director may enter an agreement with the big sky passenger rail authority regarding the  
23 creation of a service development plan.

24          **SECTION 11. AMENDMENT.** Section 24-02-37.3 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26          **24-02-37.3. Flexible transportation fund - Budget section approval - State treasurer**  
27 **distributions to political subdivisions - Report. (Retroactive application - [See note](#))**

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

30          1. The flexible transportation fund must be administered and expended by the director  
31 and may be used for the following:

- 1           a.    Providing a match for federal funding obtained by the department of  
2                transportation.
- 3           b.    State-funded road and bridge construction and maintenance, and transportation  
4                support costs including staffing, facilities, and operational expenditures on the  
5                state highway system.
- 6           c.    State-funded road and, bridge, and other infrastructure construction and  
7                maintenance activities within the state but off of the state highway system. The  
8                director shall establish the terms and provisions of the program.
- 9        2.    All money derived from the investment of the flexible transportation fund or any portion  
10           of the fund, must be credited to the flexible transportation fund. The director shall  
11           monthly transmit all moneys collected and received under this chapter to the state  
12           treasurer to be transferred and credited to the flexible transportation fund.
- 13       3.    The director must receive budget section approval for any project that utilizes more  
14           than ten million dollars from the fund except for projects that match federal or private  
15           funds and the amount utilized from the fund is fifty percent or less of total project  
16           costs. Any request considered by the budget section must comply with section  
17           54-35-02.9.
- 18       4.    ~~The director shall allocate at least twenty-five percent of motor vehicle excise tax~~  
19           ~~collections deposited in the flexible transportation fund pursuant to section 57-40.3-10~~  
20           ~~for non-oil-producing county and township road and bridge projects as follows:~~
  - 21           a.    ~~The funds must be allocated by the department to counties for projects or grants~~  
22                ~~for the benefit of counties and organized and unorganized townships;~~
  - 23           b.    ~~The department shall establish criteria to distribute the funds;~~
  - 24           c.    ~~The funds must be used for the maintenance and improvement of county and~~  
25                ~~township paved and unpaved roads and bridges;~~
  - 26           d.    ~~Priority must be given to projects that match federal funds and to projects that~~  
27                ~~improve roadways that serve as local corridors;~~
  - 28           e.    ~~An organized township is not eligible to receive funding if the township does not~~  
29                ~~maintain any roadways or does not levy at least eighteen mills for general~~  
30                ~~purposes; and~~

1           f. ~~For purposes of this subsection, "non-oil-producing county" means a county that~~  
2           ~~received no allocation of funding or a total allocation of less than five million~~  
3           ~~dollars under subsection 2 of section 57-51-15 in the most recently completed~~  
4           ~~even-numbered fiscal year before the start of each biennium. The director shall~~  
5           allocate a portion of funds deposited in the flexible transportation fund for the  
6           benefit of road and bridge maintenance and projects in counties, cities, and  
7           townships as follows:

8           a. The following percentage of state funds deposited in the fund must be allocated  
9           by the director for grants to counties, cities, and townships in non-oil-producing  
10           counties for road and bridge repair and replacement projects:

11           (1) Nineteen and one-half percent for county and city projects.

12           (2) Thirteen and one-half percent for township projects.

13           b. Seventeen and one-half percent of state funds deposited in the fund must be  
14           allocated by the director for grants to eligible counties for bridge repair and  
15           replacement projects.

16           c. The director shall establish criteria to distribute the funds under this subsection.  
17           Priority must be given to projects that match federal or private funds and to  
18           projects that improve roadways that serve as local corridors. Priority for  
19           organized township road projects must be given to projects located in townships  
20           that levy at least eighteen mills for general purposes and have a general fund  
21           balance of less than one hundred thousand dollars as of December thirty-first of  
22           the prior year. Priority for unorganized township road projects must be given to  
23           unorganized township projects located in counties that levy at least eighteen mills  
24           for unorganized township road and bridge purposes. For purposes of determining  
25           the mills levied by a township or county, the director shall use the most recent mill  
26           rate data published by the tax commissioner.

27           d. The amount allocated to organized townships under this subsection must be paid  
28           by the county treasurer to each organized township and the amount allocated for  
29           unorganized townships under this subsection must be credited by the county  
30           treasurer to a special fund for unorganized township roads.

1           e. Any funds allocated under this subsection not committed by October first of each  
2           even-numbered year may be reallocated by the director for any other projects  
3           eligible for funding under this section.

4       5. The state treasurer shall allocate a portion of funds deposited in the flexible  
5       transportation fund for the benefit of road, bridge, and other infrastructure  
6       maintenance and projects in counties, cities, and townships, as follows:

7       a. Nine percent of state funds deposited in the fund must be distributed to  
8       non-oil-producing counties for the benefit of organized and unorganized township  
9       road needs using the distribution method in section 54-27-19.1. To receive an  
10       allocation under this subdivision, an organized township must levy at least  
11       eighteen mills for general purposes and have a general fund balance of less than  
12       one hundred thousand dollars as of December thirty-first of the prior year. To  
13       receive an allocation under this subdivision for unorganized townships, a county  
14       must levy at least eighteen mills for unorganized township road and bridge  
15       purposes. For purposes of determining the mills levied by a township or county,  
16       the state treasurer shall use the most recent mill rate data published by the tax  
17       commissioner.

18       b. Nineteen and one-half percent of state funds deposited in the fund must be  
19       distributed to non-oil-producing counties and cities for road, bridge, and other  
20       infrastructure projects using the formula established in subsection 4 of section  
21       54-27-19.

22       6. Twenty-one percent of state funds deposited in the fund must be used by the director  
23       for any projects eligible for funding under this section.

24       7. For purposes of this section, "non-oil-producing county" means a county that had  
25       average annual oil production of fewer than ten million barrels based on the average  
26       annual oil production in the three-year period ending with the most recently completed  
27       even-numbered fiscal year before the start of each biennium. For purposes of  
28       determining the average annual oil production under this section, the state treasurer  
29       shall use the most recently available data compiled by the industrial commission in a  
30       report on the historical barrels of oil produced by county.

5-8. The director shall provide periodic reports to the budget section regarding the status of the fund and projects receiving allocations from the fund.

**SECTION 12. AMENDMENT.** Section 54-27-19 of the North Dakota Century Code is amended and reenacted as follows:

**54-27-19. Highway tax distribution fund - State treasurer to make allocation to state, counties, and cities.**

A highway tax distribution fund is created as a special fund in the state treasury into which must be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The state treasurer shall transfer the first five million five hundred thousand dollars per biennium from the highway tax distribution fund to the state highway fund for the purpose of providing administrative assistance to other transferees. After the transfer of the first five million five hundred thousand dollars, any moneys in the highway tax distribution fund must be allocated and transferred monthly by the state treasurer, as follows:

1. ~~Sixty-one and three-tenths~~Sixty percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. ~~Two and seven-tenths~~Three and four-tenths percent must be transferred monthly to the township highway aid fund.
3. ~~One and five-tenths~~One and sixth-tenths percent must be transferred monthly to the public transportation fund.
4. ~~Thirty-four and five-tenths~~Thirty-five percent must be allocated to the counties of this state in proportion to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formulas in this subsection using the incorporated cities' populations as determined by the last official



regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the census.

a. For counties having no cities with a population of ten thousand or more, twenty-seven percent of the total county allocation must be distributed to all of the incorporated cities within the county on a countywide per capita basis. The remaining county allocation amount must be transferred into the county highway tax distribution fund.

b. For each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:

- (1) A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
- (2) The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under paragraph 1.
- (3) The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under paragraph 1.
- (4) The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under paragraphs 2 and 3 for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under paragraph 1 and the balance

remaining must then be divided by the total population of all cities of five thousand or more in the state.

5. The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota and an incorporated city may use the fund for the construction, reconstruction, repair, and maintenance of public highways within or outside the city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

**SECTION 13.** A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

**Legacy earnings fund - State treasurer - Legacy fund distribution - Allocations.**

1. There is created in the state treasury the legacy earnings fund. The fund consists of all moneys distributed by the state treasurer from the legacy fund pursuant to section 26 of article X of the Constitution of North Dakota. The distribution from the legacy fund on July first of each odd-numbered year must be equal to eight percent of the five-year average value of the legacy fund balance as reported by the state investment board. The average value of the legacy fund balance must be calculated using the fund balance at the end of each fiscal year for the five-year period ending with the most recently completed even-numbered fiscal year.
2. From the amount distributed to the legacy earnings fund under subsection 1, the state treasurer shall allocate the funding in July of each odd-numbered year in the following order:
  - a. The first one hundred two million six hundred twenty-four thousand dollars or an amount equal to the amount appropriated from the legacy sinking and interest fund for debt service payments for a biennium, whichever is less, to the legacy sinking and interest fund under section 6-09.4-10.1.
  - b. The remaining amount as follows:
    - (1) Thirty percent to the highway fund.
    - (2) The remainder to the legacy property tax relief fund.

1       **SECTION 14. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **57-40.3-10. Transfer of revenue.**

4       After the deposits under sections 57-39.2-26.1, 57-39.2-26.2, and 57-39.2-26.3, moneys  
5 collected and received under this chapter must be deposited monthly in the state treasury and  
6 allocated as follows:

- 7       1. Fifty percent to the general fund; and
- 8       2. ~~The remaining fifty percent to the flexible transportation fund~~ Twenty five percent to the  
9       highway tax distribution fund; and
- 10      3. Twenty-five percent to the flexible transportation fund.

11      **SECTION 15. AMENDMENT.** Section 57-51.1-07.5, as amended in Section 2 of Senate Bill  
12 No. 2323, as approved by the sixty-ninth legislative assembly, is amended and reenacted as  
13 follows:

14      **57-51.1-07.5. State share of oil and gas taxes - Deposits.**

15      From the revenues designated for deposit in the state general fund under chapters 57-51  
16 and 57-51.1, the state treasurer shall deposit the revenues received each biennium in the  
17 following order:

- 18      1. The first two hundred fifty million dollars into the state general fund;
- 19      2. The next two hundred fifty million dollars into the social service fund;
- 20      3. The next seventy-five million dollars into the budget stabilization fund, but not in an  
21      amount that would bring the balance in the fund to more than the limit in section  
22      54-27.2-01;
- 23      4. The next two hundred fifty million dollars into the state general fund;
- 24      5. The next ten million dollars into the lignite research fund;
- 25      6. The next twenty million dollars into the state disaster relief fund, but not in an amount  
26      that would bring the unobligated balance in the fund to more than twenty million  
27      dollars;
- 28      7. ~~The next three hundred sixty million dollars into the strategic investment and~~  
29      ~~improvements fund;~~
- 30      8. ~~The next sixty-five million dollars to the public employees retirement fund for the main~~  
31      ~~system plan;~~

1       9. The next fifty-nine million seven hundred fifty thousand dollars, or the amount  
2       necessary to provide for twice the amount of the distributions under subsection 23 of  
3       section 57-51.1-07.7, into the funds designated for infrastructure development in  
4       non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty  
5       percent deposited into the municipal infrastructure fund and fifty percent deposited into  
6       the county and township infrastructure fund;

7       ~~10.8.~~ The next ~~one hundred seventy million two hundred fifty thousand~~ one hundred million  
8       two hundred fifty thousand dollars or the amount necessary to provide a total of ~~two~~  
9       ~~hundred thirty million~~ one hundred sixty million dollars into the funds designated for  
10      infrastructure development in non-oil-producing counties under sections 57-51.1-07.7  
11      and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and  
12      fifty percent deposited into the county and township infrastructure fund;

13      ~~41.9.~~ The next sixty-five million dollars to the public employees retirement fund for the main  
14      system plan;

15      10. The next twenty million dollars into the airport infrastructure fund; and

16      ~~42.11.~~ Any additional revenues into the strategic investment and improvements fund.

17      **SECTION 16. AMENDMENT.** Section 57-51.1-07.7 of the North Dakota Century Code is  
18      amended and reenacted as follows:

19      **57-51.1-07.7. Municipal infrastructure fund - Continuing appropriation - State**  
20      **treasurer - Department of transportation - Reports.**

21      1. There is created in the state treasury the municipal infrastructure fund. The fund  
22      consists of all moneys deposited in the fund under section 57-51.1-07.5. ~~All moneys~~

23      a. The first forty million dollars deposited in the fund are each biennium is  
24      appropriated to the state treasurer on a continuing basis for the purpose of  
25      providing grants to cities located in non-oil-producing counties pursuant to  
26      subsections 2 through 5. The grant funding may be distributed only to cities  
27      located in non-oil-producing counties, excluding hub cities, and may be used only  
28      for essential infrastructure projects.

29      b. The remaining moneys deposited in the fund are available to the department of  
30      transportation, within the limits of legislative appropriation, for the purpose of

1                    providing grants to cities located in non-oil-producing counties pursuant to  
2                    subsection 6.

3        ~~1-2.~~ By November thirtieth of each even-numbered year, ~~starting in 2022~~, a city that  
4                    receives a grant from the fund under subsection 3 or 4 shall provide a report to the  
5                    state treasurer on the use of the funding. The state treasurer shall notify cities of the  
6                    reporting requirement by November first of each even-numbered year, ~~starting in~~  
7                    ~~2022~~. Upon request, the state treasurer may provide an extension of up to fifteen days  
8                    for a city to submit the report. The state treasurer shall determine the format of the  
9                    report. The report must include the amount of grant funding received and spent by the  
10                   city and a description of the infrastructure projects completed in part or in whole with  
11                   the grant funding. The state treasurer shall make the reports available to the public on  
12                   the state treasurer's website. A city that does not provide the report in a timely manner  
13                   or in the correct format is not eligible to receive a grant from the fund under  
14                   subsection 3 or 4 for a period of two years starting from the date the report was due. If  
15                   a city uses the funding in a manner inconsistent with the requirements of this section  
16                   as identified in any financial audits conducted by the state auditor or an independent  
17                   accounting firm, the state treasurer shall reduce any future grants to that city under  
18                   subsection 3 or 4 by the amount spent that was inconsistent with the requirements.

19        ~~2-3.~~ Within forty days after the fund ~~balance is~~ receives total deposits under subdivision a of  
20                   subsection 1 that are greater than or equal to the amount needed for the grants under  
21                   this subsection or by September thirtieth of each odd-numbered year, whichever is  
22                   earlier, the state treasurer shall distribute moneys in the fund as grants to cities for  
23                   essential infrastructure projects. The state treasurer shall distribute the grants only if  
24                   the fund ~~balance is~~ receives total deposits that are at least ten percent of the amount  
25                   needed for distributions under this subsection based on the following:

- 26                   a. Two million five hundred thousand dollars to each city with a population of at  
27                   least five thousand;
- 28                   b. Five hundred thousand dollars to each city with a population of at least two  
29                   thousand but less than five thousand; and
- 30                   c. One hundred twenty-five thousand dollars to each city with a population of at  
31                   least one thousand but less than two thousand.

1           d. If, at the time of the distributions, the moneys in the fund are less than the  
2           amount needed for the grants under this subsection, the state treasurer shall  
3           distribute the grants under this subsection on a pro rata basis.

4           e. For the purposes of determining the city's population under this subsection, the  
5           state treasurer shall use the most recent actual or estimated census data  
6           published by the United States census bureau.

7     ~~3.4.~~ Within sixty days after the fund receives its statutory limit of oil and gas tax allocations  
8     ~~under section 57-51.1-07.5~~ total deposits equal to the amount identified under  
9     subdivision a of subsection 1 or by September thirtieth of each odd-numbered year,  
10    whichever is earlier, the state treasurer shall distribute the moneys in the fund as  
11    grants to cities for essential infrastructure projects. The state treasurer shall distribute  
12    the grants only if the fund ~~balance is~~ receives total deposits equal to the amount  
13    needed under subsection 2 plus at least ten percent of the amount ~~needed for~~  
14    ~~distributions under this subsection~~ identified under subdivision a of subsection 1, based  
15    on the following:

16           a. One hundred fifty dollars per person of the city's population.

17           b. In addition to the amounts in subdivision a, for a city with a positive average of  
18           the annual percentage increase in population from three years prior, a dollar  
19           amount equal to the product of the following:

20               (1) The amount calculated in subdivision a; and

21               (2) The average of the annual percentage increase in population from three  
22               years prior, multiplied by ten.

23           c. In addition to the amounts in subdivisions a and b, for a city with a positive  
24           average of the annual percentage increase in taxable property values from three  
25           years prior, a dollar amount equal to the average of the annual property valuation  
26           percentage increase for the three most recent years, multiplied by twenty-five  
27           thousandths.

28           d. Grants may be distributed under this subdivision only if the grant distributions  
29           under subsection ~~23~~ are completed. If ~~the moneys in the fund~~ total deposits equal  
30           to the amount identified under subdivision a of subsection 1 are insufficient to  
31           provide for the grants, the state treasurer shall distribute the grants under this

subsection on a pro rata basis. If any moneys remain ~~in the fund~~from the total  
deposits equal to the amount identified under subdivision a of subsection 1 after  
the distribution of grants under this subsection, the state treasurer shall distribute  
any remaining moneys ~~in the fund~~ in proportion to the combined total distributed  
to each city under ~~this section~~subsections 3 and 4 relative to the combined total  
distributed to all the cities under ~~this section~~subsections 3 and 4.

e. For the purposes of determining the city's population under this subsection, the  
state treasurer shall use the most recent actual or estimated census data  
published by the United States census bureau.

f. For the purposes of determining taxable property values, the state treasurer shall  
use the most recent data published by the tax commissioner in the tax levy  
report.

4.5. For purposes of ~~this section~~subsections 2 through 4:

a. "Essential infrastructure projects" means capital construction projects to construct  
new infrastructure or to replace existing infrastructure, which provide the fixed  
installations necessary for the function of a city. Capital construction projects  
exclude debt repayments and routine maintenance and repair projects, but  
include the following:

- (1) Water treatment plants;
- (2) Wastewater treatment plants;
- (3) Sewer lines and water lines, including lift stations and pumping systems;
- (4) Water storage systems, including dams, water tanks, and water towers;
- (5) Storm water infrastructure, including curb and gutter construction;
- (6) Road and bridge infrastructure, including paved and unpaved roads and  
bridges;
- (7) Airport infrastructure;
- (8) Electricity transmission infrastructure;
- (9) Natural gas transmission infrastructure; and
- (10) Communications infrastructure, excluding fiber optic infrastructure.

b. "Fiscal year" means the period beginning September first and ending August  
thirty-first of the following calendar year.

c. "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.

6. From the funding identified under subdivision b of subsection 1, the director of the department of transportation shall distribute grants to cities located in non-oil-producing counties from the fund in accordance with the provisions of the flexible transportation fund under section 24-02-37.3.

**SECTION 17. AMENDMENT.** Section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.8. County and township infrastructure fund - Continuing appropriation - State treasurer - Department of transportation - Reports.**

1. There is created in the state treasury the county and township infrastructure fund. The fund consists of all moneys deposited in the fund under section 57-51.1-07.5. All moneys

a. The first forty million dollars deposited in the fund are each biennium is appropriated to the state treasurer on a continuing basis for the purpose of providing grants to non-oil-producing counties and townships located in non-oil-producing counties pursuant to subsections 2 through 7. The grant funding may be distributed only to non-oil-producing counties and townships located in non-oil-producing counties and may be used only for road and bridge infrastructure projects.

b. The remaining moneys deposited in the fund are available to the department of transportation, within the limits of legislative appropriation, for the purpose of providing grants to non-oil-producing counties and townships located in non-oil-producing counties pursuant to subsection 8.

4.2. By November thirtieth of each even-numbered year, ~~starting in 2022~~, a county that receives a grant from the fund under subsection 5 shall provide a report to the state treasurer on the use of the funding. The state treasurer shall notify counties of the reporting requirement by November first of each even-numbered year, ~~starting in 2022~~. Upon request, the state treasurer may provide an extension of up to fifteen days



for a county to submit the report. The state treasurer shall determine the format of the report. The report must include the amount of grant funding received and spent by the county and a description of the road and bridge infrastructure projects completed in part or in whole with the grant funding. The state treasurer shall make the reports available to the public on the state treasurer's website. A county that does not provide the report in a timely manner or in the correct format is not eligible to receive a grant from the fund under subsection 5 for a period of two years starting from the date the report was due. If a county uses the funding in a manner inconsistent with the requirements of this section as identified in any financial audits conducted by the state auditor or an independent accounting firm, the state treasurer shall reduce any future grants to that county under subsection 5 by the amount spent that was inconsistent with the requirements.

~~2.3.~~ Within sixty days after the fund receives its statutory limit of oil and gas tax allocations under ~~section 57-51.1-07.5~~ total deposits equal to the amount identified under subdivision a of subsection 1 or by September thirtieth of each odd-numbered year, whichever is earlier, the state treasurer shall distribute moneys in the fund as grants to counties for road and bridge infrastructure projects. The state treasurer shall distribute the grants only if the fund ~~balance is~~ receives total deposits that are at least ten percent of the amount ~~needed for distributions under this section~~ identified under subdivision a of subsection 1.

~~3.4.~~ The state treasurer shall distribute the lesser of thirteen percent of the balance of the fund or sixteen million one hundred thousand dollars total deposits under subdivision a of subsection 1 to non-oil-producing counties for the benefit of the organized and unorganized townships within each non-oil-producing county. The distribution to each ~~non-oil-producing county~~ must provide for an equal allocation to each organized and unorganized township which is proportional to the number of township road miles in each organized and unorganized township relative to the combined total township road miles in all organized and unorganized townships in all non-oil-producing counties. For purposes of this subsection, township road miles must be based on certifications provided to the state treasurer under section 54-27-19.1. The amount allocated to organized townships under this section must be paid by the county

1 treasurer to each organized township. The amount allocated to unorganized townships  
2 under this section must be credited by the county treasurer to a special fund for  
3 unorganized township roads. ~~A township is not eligible for an allocation of funds under~~  
4 ~~this section if the township does not maintain any township roads.~~

5 a. To be eligible for an allocation of funds under this subsection, an organized  
6 township must levy at least eighteen mills for general purposes and have a  
7 general fund balance of less than one hundred thousand dollars as of December  
8 thirty-first of the prior year.

9 b. To be eligible for an allocation of funds under this subsection for unorganized  
10 townships, a county must levy at least eighteen mills for unorganized township  
11 road and bridge purposes.

12 c. For purposes of determining the mills levied by a township or county, the state  
13 treasurer shall use the most recent mill rate data published by the tax  
14 commissioner.

15 4.5. After the distributions in subsection 34, the state treasurer shall distribute the  
16 remaining ~~money in the fund~~ eighty-seven percent of the total deposits under  
17 subdivision a of subsection 1 to non-oil-producing counties based on the most recent  
18 data compiled by the upper great plains transportation institute regarding North  
19 Dakota's county, township, and tribal road and bridge infrastructure needs. The  
20 distribution to each non-oil-producing county must be proportional to each  
21 non-oil-producing county's total estimated road and bridge investment needs relative  
22 to the combined total estimated road and bridge investment needs of all the  
23 non-oil-producing counties. The total estimated road and bridge investment needs for  
24 each county is the twenty-year estimate for unpaved and paved road and bridge  
25 needs as identified by the upper great plains transportation institute. If the data  
26 compiled by the upper great plains transportation institute includes more than one  
27 twenty-year estimate for the total needs of each county, the state treasurer shall use  
28 an average of the twenty-year estimates for each county.

29 5.6. If the ~~moneys in the fund~~ total deposits under subdivision a of subsection 1 are  
30 insufficient to provide for the grants under ~~this section~~ subsections 4 and 5, the state  
31 treasurer shall distribute the grants on a pro rata basis.

~~6-7.~~ For purposes of this section subsections 2 through 6:

- a. "Fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
- b. "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.
- c. "Road and bridge infrastructure projects" means the projects associated with the construction of new unpaved and paved road and bridge infrastructure or associated with the maintenance, repair, or replacement of existing unpaved and paved road and bridge infrastructure.

8. From the funding identified under subdivision b of subsection 1, the director of the department of transportation shall distribute grants to non-oil-producing counties and townships located in non-oil-producing counties from the fund in accordance with the provisions of the flexible transportation fund under section 24-02-37.3.

**SECTION 18. REPEAL.** Sections 21-10-12, 21-10-13, 54-27-19.3, and 54-27-19.4 of the North Dakota Century Code are repealed.

**SECTION 19. DEPARTMENT OF TRANSPORTATION - UNITED STATES HIGHWAY 85 PROJECT - REPORT.** When the request for bids for construction on the last segment of the United States highway 85 project between interstate highway 94 and North Dakota highway 200 commences, the department of transportation shall prepare and complete an environmental impact statement to construct a four-lane highway for the remaining sections of the Theodore Roosevelt expressway as described in section 24-01-54 which do not have four lanes from the South Dakota border to interstate highway 94 and from Williston to the Montana border. The department shall provide reports to the legislative management regarding the costs and status of the impact statement process.

**SECTION 20. REST AREA COOPERATIVE AGREEMENT.** During the biennium beginning July 1, 2025, and ending June 30, 2027, the director of the department of transportation shall review options to enter a cooperative agreement pursuant to section 24-02-02.5 to jointly administer a rest area at the Theodore Roosevelt national park painted canyon visitor center. The director may expend moneys from the state highway fund within the limits of legislative

1 appropriations for operational support of the facility and for facility improvements to support  
2 year-round operations of the facility.

3 **SECTION 21. MISCELLANEOUS EXPENSES FOR DEPARTMENT OF**  
4 **TRANSPORTATION FACILITIES.** The department of transportation may expend funds for  
5 workplace appliances limited to coffee makers, microwaves, and refrigerators, for the biennium  
6 beginning July 1, 2025, and ending June 30, 2027.

7 **SECTION 22. UNITED STATES HIGHWAY 85 FOUR-LANE PROJECT.** During the  
8 biennium beginning July 1, 2025, and ending June 30, 2027, the director of the department of  
9 transportation shall construct and complete the remaining portions of the United States  
10 highway 85 four-lane project between highway 200 and the long x bridge.

11 **SECTION 23. EXEMPTION - UNEXPENDED APPROPRIATIONS.** The following  
12 appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into  
13 the biennium beginning July 1, 2025, and ending June 30, 2027:

- 14 1. The sum of \$100,000,000 appropriated from special funds for the purpose of road and  
15 bridge construction projects in subsection 2 of section 13 of chapter 15 of the 2021  
16 Session Laws;
- 17 2. The sum of \$317,000,000 appropriated from federal funds for state, county, and  
18 township road and bridge projects in section 7 of chapter 548 of the 2021 Session  
19 Laws;
- 20 3. The sum of \$61,700,060 appropriated from federal funds for surface transportation  
21 grants in subdivision 10 of section 1 of chapter 27 of the 2021 Session Laws;
- 22 4. The sum of \$13,660,000 appropriated from special funds for information technology  
23 projects in section 1 of chapter 40 of the 2021 Session Laws;
- 24 5. The sum of \$9,125,000 appropriated from the general fund in the operating expenses  
25 line item relating to information technology projects in section 1 of chapter 12 of the  
26 2023 Session Laws;
- 27 6. The sum of \$2,500,000 appropriated from special funds to match funding from the  
28 state of Minnesota and other sources for studies, preliminary engineering, and  
29 environmental studies to address northern Red River valley infrastructure affected by  
30 flooding in section 2 of chapter 12 of the 2023 Session Laws;

1       7.   The sum of \$5,000,000 appropriated from special funds for an environmental study of  
2       a portion of United States highway 52, in section 1 of chapter 12 of the 2023 Session  
3       Laws;

4       8.   The sum of \$757,000 included in the deferred maintenance funding pool line item and  
5       transferred to the department of transportation pursuant to section 9 of chapter 640 of  
6       the 2023 Special Session Session Laws; and

7       9.   The sum of \$161,000,000 appropriated from special funds for flexible transportation  
8       fund projects in section 1 of chapter 12 of the 2023 Session Laws.

9       **SECTION 24. APPLICATION.** Distributions by the state treasurer for organized and  
10     unorganized township road and bridge needs under subsection 5 of section 24-02-37.3 and  
11     subsection 4 of section 57-51.1-07.8 may not commence until January 1, 2026.

12     **SECTION 25. EFFECTIVE DATE.** Section 14 of this Act is effective for motor vehicle excise  
13     tax collections transmitted to the state treasurer after July 31, 2025.