

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**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 54-27 of the North Dakota Century  
3 Code, relating to a legacy earnings fund; to amend and reenact section 6-09.4-10.1,  
4 subsection 1 of section 21-10-06, and sections 24-02-37.3, 54-27-19.3, and 57-40.3-10 of the  
5 North Dakota Century Code, relating to funds invested by the state investment board, the  
6 flexible transportation fund, and motor vehicle excise tax collections; to repeal sections  
7 21-10-12 and 21-10-13 of the North Dakota Century Code, relating to legacy fund definitions  
8 and a legacy earnings fund; to provide a continuing appropriation; to provide an effective date;  
9 and to provide an exemption.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
12 as may be necessary, are appropriated from other funds derived from special funds and federal  
13 funds, to the department of transportation for the purpose of defraying the expenses of the  
14 department of transportation, for the biennium beginning July 1, 2025, and ending June 30,  
15 2027, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
18 Salaries and wages	\$219,279,648	\$0	\$219,279,648
19 Operating expenses	316,256,474	0	316,256,474
20 Capital assets	1,101,395,065	0	1,101,395,065

1	Grants	112,821,458	0	112,821,458
2	Total other funds	\$1,749,752,645	\$0	\$1,749,752,645
3	Full-time equivalent positions	1,001.00	0.00	1,001.00

4       **SECTION 2. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,  
5 the director of the office of management and budget shall transfer appropriation authority  
6 among the salaries and wages, operating expenses, capital assets, and grants line items in  
7 section 1 of this Act as requested by the director of the department of transportation when it is  
8 cost-effective for construction and maintenance of highways. The department of transportation  
9 shall notify the legislative council of any transfers made pursuant to this section.

10       **SECTION 3. AMENDMENT.** Section 6-09.4-10.1 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **6-09.4-10.1. Legacy sinking and interest fund - Debt service requirements - Public**  
13 **finance authority.**

14       There is created in the state treasury the legacy sinking and interest fund. The fund consists  
15 of all moneys deposited in the fund under section ~~21-10-136~~ of this Act. Moneys in the fund may  
16 be spent by the public finance authority pursuant to legislative appropriations to meet the debt  
17 service requirements for evidences of indebtedness issued by the authority for transfer to the  
18 Bank of North Dakota for allocations to infrastructure projects and programs.

19       **SECTION 4. AMENDMENT.** Subsection 1 of section 21-10-06 of the North Dakota Century  
20 Code is amended and reenacted as follows:

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

- 23       a. State bonding fund.
- 24       b. Teachers' fund for retirement.
- 25       c. State fire and tornado fund.
- 26       d. Workforce safety and insurance fund.
- 27       e. Public employees retirement system.
- 28       f. Insurance regulatory trust fund.
- 29       g. State risk management fund.
- 30       h. Budget stabilization fund.
- 31       i. Water projects stabilization fund.

- 1 j. Health care trust fund.
- 2 k. Cultural endowment fund.
- 3 l. Petroleum tank release compensation fund.
- 4 m. Legacy fund.
- 5 n. ~~Legacy earnings fund.~~
- 6 ~~o.~~ Opioid settlement fund.
- 7 ~~p.o.~~ A fund under contract with the board pursuant to subsection 3.

8 **SECTION 5. AMENDMENT.** Section 24-02-37.3 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **24-02-37.3. Flexible transportation fund - Continuing appropriation - Budget section**  
11 **approval - Report. (Retroactive application - See note)**

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

- 14 1. The flexible transportation fund must be administered and expended by the director  
15 and may be used for the following:
  - 16 a. Providing a match for federal funding obtained by the department of  
17 transportation.
  - 18 b. State-funded road and bridge construction and maintenance, and transportation  
19 support costs including staffing, facilities, and operational expenditures on the  
20 state highway system.
  - 21 c. State-funded road and bridge construction and maintenance activities within the  
22 state but off of the state highway system. The director shall establish the terms  
23 and provisions of the program.
- 24 2. All money derived from the investment of the flexible transportation fund or any portion  
25 of the fund, must be credited to the flexible transportation fund. The director shall  
26 monthly transmit all moneys collected and received under this chapter to the state  
27 treasurer to be transferred and credited to the flexible transportation fund. All moneys  
28 in the fund are appropriated on a continuing basis to the department for the purposes  
29 identified in this section and to the state treasurer for distributions identified in this  
30 section.

- 1       3. The director must receive budget section approval for any project that utilizes more  
2       than ten million dollars from the fund except for projects that match federal or private  
3       funds and the amount utilized from the fund is fifty percent or less of total project  
4       costs. Any request considered by the budget section must comply with section  
5       54-35-02.9.
- 6       4. ~~The director shall allocate at least twenty-five percent of motor vehicle excise tax~~  
7       ~~collections deposited in the flexible transportation fund pursuant to section 57-40.3-10~~  
8       ~~for non-oil-producing county and township road and bridge projects as follows:~~
- 9       ~~a. The funds must be allocated by the department to counties for projects or grants~~  
10       ~~for the benefit of counties and organized and unorganized townships;~~
- 11       ~~b. The department shall establish criteria to distribute the funds;~~
- 12       ~~c. The funds must be used for the maintenance and improvement of county and~~  
13       ~~township paved and unpaved roads and bridges;~~
- 14       ~~d. Priority must be given to projects that match federal funds and to projects that~~  
15       ~~improve roadways that serve as local corridors;~~
- 16       ~~e. An organized township is not eligible to receive funding if the township does not~~  
17       ~~maintain any roadways or does not levy at least eighteen mills for general~~  
18       ~~purposes; and~~
- 19       ~~f. For purposes of this subsection, "non-oil-producing county" means a county that~~  
20       ~~received no allocation of funding or a total allocation of less than five million~~  
21       ~~dollars under subsection 2 of section 57-51-15 in the most recently completed~~  
22       ~~even-numbered fiscal year before the start of each biennium.~~The director shall  
23       allocate a portion of funds deposited in the flexible transportation fund for the  
24       benefit of road and bridge maintenance and projects in counties, cities, and  
25       townships as follows:
- 26       a. Twelve and one-half percent of state funds deposited in the fund must be  
27       allocated by the director to non-oil-producing counties for projects or grants for  
28       the benefit of counties and organized and unorganized townships for the  
29       maintenance and improvement of county and township paved and unpaved  
30       roads and bridges.

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b. Six and one-quarter percent of state funds deposited in the fund must be allocated by the director for grants to eligible townships located in non-oil-producing counties for road and bridge repair and replacement projects with priority given for road graveling projects.

c. Twelve and one-half percent of state funds deposited in the fund must be allocated by the director for grants to eligible counties for bridge repair and replacement projects.

d. Six and one-quarter percent of state funds deposited in the fund must be allocated by the director for grants to eligible cities for road and bridge repair and replacements projects.

e. The director shall establish criteria to distribute the funds under this subsection. Priority must be given to projects that match federal or private funds and to projects that improve roadways that serve as local corridors. Priority for organized township road projects must be given to projects located in townships that levy at least eighteen mills for general purposes and and have a general fund balance of less than one hundred thousand dollars as of December thirty-first of the prior year.

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

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

a. Six and one-quarter percent of state funds deposited in the fund must be distributed to non-oil-producing counties for the benefit of organized and unorganized township road needs using the distribution method in section 54-27-19.4. To receive an allocation under this subdivision, an organized township must levy at least eighteen mills for general purposes and have a general fund balance of less than one hundred thousand dollars as of December thirty-first of the prior year.

1           b. Six and one-quarter percent of state funds deposited in the fund must be  
2           distributed to counties and cities using the formula established in subsection 4 of  
3           section 54-27-19.

4           6. For purposes of this section, "non-oil-producing county" means a county that received  
5           no allocation of funding or a total allocation of less than five million dollars under  
6           subsection 2 of section 57-51-15 in the most recently completed even-numbered fiscal  
7           year before the start of each biennium.

8           ~~5-7.~~ The director shall provide periodic reports to the budget section regarding the status of  
9           the fund and projects receiving allocations from the fund.

10           **SECTION 6.** A new section to chapter 54-27 of the North Dakota Century Code is created  
11           and enacted as follows:

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

13           1. There is created in the state treasury the legacy earnings fund. The fund consists of all  
14           moneys distributed by the state treasurer from the legacy fund pursuant to section 26  
15           of article X of the Constitution of North Dakota. The distribution from the legacy fund  
16           on July first of each odd-numbered year must be equal to eight percent of the five-year  
17           average value of the legacy fund balance as reported by the state investment board.  
18           The average value of the legacy fund balance must be calculated using the fund  
19           balance at the end of each fiscal year for the five-year period ending with the most  
20           recently completed even-numbered fiscal year.

21           2. From the amount distributed to the legacy earnings fund under subsection 1, the state  
22           treasurer shall allocate seven-eighths of the funding in July of each odd-numbered  
23           year in the following order:

24           a. The first one hundred two million six hundred twenty-four thousand dollars or an  
25           amount equal to the amount appropriated from the legacy sinking and interest  
26           fund for debt service payments for a biennium, whichever is less, to the legacy  
27           sinking and interest fund under section 6-09.4-10.1.

28           b. The next two hundred twenty-five million dollars to the general fund to provide  
29           support for tax relief initiatives approved by the legislative assembly.

30           c. The next one hundred million dollars to the legacy earnings highway distribution  
31           fund for allocations under section 54-27-19.3.

1 d. The remaining amount as follows:

2 (1) Fifty percent to the general fund.

3 (2) The remainder to the strategic investment and improvements fund to be  
4 used in accordance with section 15-08.1-08.

5 3. From the amount distributed to the legacy earnings fund under subsection 1, the state  
6 treasurer shall allocate the remaining one-eighth of the funding in July of each  
7 odd-numbered year to the flexible transportation fund for allocations under section  
8 24-02-37.3.

9 **SECTION 7. AMENDMENT.** Section 54-27-19.3 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **54-27-19.3. Legacy earnings highway distribution fund.**

12 A legacy earnings highway distribution fund is created as a special fund in the state treasury  
13 into which must be deposited any allocations of legacy fund earnings made under section  
14 ~~21-10-136~~ of this Act. Any moneys in the legacy earnings highway distribution fund must be  
15 allocated and transferred by the state treasurer, as follows:

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

24 **SECTION 8. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **57-40.3-10. Transfer of revenue.**

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

30 ~~1. Fifty percent to the general fund; and~~

31 ~~2. The remaining fifty percent~~ to the flexible transportation fund under section 24-02-37.3.

1       **SECTION 9. REPEAL.** Sections 21-10-12 and 21-10-13 of the North Dakota Century Code  
2 are repealed.

3       **SECTION 10. EFFECTIVE DATE.** Section 8 of this Act is effective for motor vehicle excise  
4 tax collections transmitted to the state treasurer after July 31, 2025.