Prepared by the North Dakota Legislative Council
staff for the Transportation Committee
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FEDERAL HIGHWAY APPROPRIATIONS AND STATE MATCHING REQUIREMENTS STUDY - BACKGROUND INFORMATION

The Legislative Council chairman directed the study of federal highway appropriations and state matching requirements.

FEDERAL HIGHWAY APPROPRIATIONS

Federal highway appropriations were greatly affected by the passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA - LU), hereinafter the Act, which President George W. Bush signed into law on August 10, 2005. The Act guarantees $244.1 billion in funding for highways, highway safety, and public transportation. The Act provides funding through federal fiscal year 2009. The Act is a continuation of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21). The federal highway trust fund is the source of funding for most of the programs in the Act. Federal motor fuel taxes are the major source of income into the highway trust fund. Attached as an appendix is a letter from the North Dakota Department of Transportation on the effects of the Act on federal funding and this state's matching funds required to fully implement the Act.

This state will receive an additional $25.7 million of conventional funding for highways this biennium, of which $6.4 million will go to cities and counties. These conventional funds are in addition to the amount the Department of Transportation projected this state would receive during the 2005 legislative session. These additional conventional funds will increase the amount needed for state matching funds for conventional funding by approximately $3,944,000 for this biennium.

The Legislative Assembly provided budget authority to meet $5.4 million of the anticipated $8.4 million in federal emergency relief funds for projects to be constructed during this biennium. However, the Act provided an extra $10 million per year for the construction of necessary measures for the continuation of roadway surfaces or the impoundment of water to protect roads at Devils Lake in North Dakota. Because only a third of this amount will be used for state roads, this state will receive approximately $6.7 million per year in additional emergency relief funds. The additional emergency relief funds will require approximately $1.7 million per year in additional state matching funds, or $3.4 million for the biennium.

The North Dakota Department of Transportation estimates that because of the additional conventional federal funds and emergency relief expenditures, this state will require $10.6 million in additional matching funds. This figure includes $3 million in matching funds needed to receive the full $8.4 million in emergency relief funds. To meet the shortfall, the North Dakota Department of Transportation anticipates using North Dakota Century Code (NDCC) Section 24-02-44. This section provides that the department may borrow money from the Bank of North Dakota to match federal emergency relief funds, upon approval of the Emergency Commission. If the department does not repay the amount within the biennium, the department is required to request a deficiency appropriation from the state highway fund.

STATE MATCHING SOURCES

In addition to the $10.6 million in the difference between the total state matching funds needed as a result of the Act and North Dakota Department of Transportation revenue this biennium, there is projected to be a $5.9 million difference in the 2007-09 biennium and a $21.3 million difference in the 2009-11 biennium. Unless the department finds internal savings or receives actual income that exceeds projected income, other sources of income may need to be investigated. The other major present sources of income are motor vehicle fuel taxes, motor vehicle registration fees, and special fuels taxes.

In general, fuels taxes and registration fees go into the highway tax distribution fund. However, $13 of passenger motor vehicles, buses, and truck registration fees go directly into the state highway fund. The highway tax distribution fund is distributed 63 percent to the state, 23 percent to the counties, and 14 percent to the cities. Money received by the state goes into the state highway fund. The state highway fund is mainly used for funding the Department of Transportation.

Various income sources are used to match federal funds. In 2005, Senate Bill No. 2012 increased registration fees $10, classified pickups as passenger motor vehicles but limited the increase due this reclassification to one-half for this biennium, and deposited $13 of each registration fee in the state highway fund. The bill increased motor vehicle fuel and special fuels tax rates from 21 to 23 cents per gallon. In addition, the bill allows for grant or revenue anticipation financing for the Liberty Memorial Bridge improvement project and the United States Highway 2 project improvements. This financing provides for federal reimbursement for debt financing costs relating to federal aid highway projects. This financing is done through the issuance of bonds. The bill would have redirected money collected for motor vehicle excise tax from the general fund to the state highway fund. This transfer of revenue was vetoed by the Governor because the "diversion of fund increases the risk of allotment, or could force the calling of a special session of the Legislature to deal with future revenue requirements." In 2005 the Legislative Assembly considered, but did not pass, House Bill No. 1450, which would have doubled the driver's license fee, and Senate Bill No. 2255, which would have dedicated a one-half of 1 percent increase in the motor vehicle excise tax to the state highway fund.

During the 2003-04 interim, the Budget Committee on Government Administration studied highway construction and maintenance funding, including revenue sources and distribution formulas for state, cities, and counties. The committee reviewed other states' methods of financing highway projects. The committee learned that the majority of states' highway revenue are generated from fuels taxes and motor vehicle registration fees.

In addition, states generate additional funding for highways from a variety of other sources. The following schedule summarizes select revenue sources that are used for highway purposes in other states in addition to fuels taxes and registration fees:

Revenue Type	State(s)
Sales tax - General	Arizona, Illinois, Kansas, Nevada, Utah, Virginia
Motor vehicle excise tax	Iowa, Kansas, Michigan, Missouri, Nebraska, North Carolina, South Dakota
Motor fuels sales tax	California, Georgia, Michigan
Auto parts sales tax	Michigan
Gaming tax	Colorado
Rental car tax	Florida, Hawaii, Iowa, South Dakota, Utah
Severance tax	Arkansas, Kentucky, New Mexico, Oklahoma, Tennessee, Wyoming
Corporate income tax	Maryland
Lubricating oil tax	Alabama, Mississippi, Texas
Contractor tax	Mississippi

The interim Budget Committee on Government Administration reviewed information prepared by the Florida Department of Transportation regarding alternative transportation revenue sources. Alternative revenue sources identified include:

1. Vehicle miles of travel fees - An annual assessment based on the number of miles traveled in the preceding year.
2. Weight distance fees - An annual assessment based on factors, including miles driven and vehicle weight.
3. New vehicle or auto parts sales tax - Taxes on new or used vehicle purchases or on sale of automobile parts.
4. Emissions fees - An annual fee based on a vehicle's emissions characteristics and on the annual number of miles traveled.
5. Highway right of way lease income - Collections from leases of highway right of way for fiber optic cables, cell phone towers, or other purposes.
6. Road-branding fee - A fee charged for naming a segment of a highway for an individual or business.

At the committee's request, the Department of Transportation identified the following potential options for providing additional transportation revenue:

1. Increasing the motor vehicle fuel tax on gasoline, gasohol, and diesel fuel (a one cent per gallon increase would generate $5 million per year, or $10 million per biennium).
2. Increasing motor vehicle registration fees (a $1 increase would generate $700,000 per year, or $1.4 million per biennium).
3. Increasing the 2 percent special fuels tax (a 1 percent increase, from 2 to 3 percent, would generate $2.3 million per year, or $4.6 million per biennium).
4. Increasing the excise tax on the sale of new and used motor vehicles (a 1 percent increase would generate $10.75 million per year, or $21.5 million per biennium).
5. Dedicating a portion of the general sales tax to transportation (a .25 percent sales tax increase would generate $20.5 million per year, or $41 million per biennium).
6. Increasing the tax on rental cars (a tax of $1 per day on rental cars would generate $360,000 per year, or $720,000 per biennium, while a 1 percent rental car tax would generate $180,000 per year, or $360,000 per biennium).
7. Dedicating a portion of severance tax revenues on natural resources to transportation.
8. Imposing a sales tax on motor fuels (a 1 percent sales tax would generate $6.4 million per year, or $12.8 million per biennium at $1.20 per gallon).
9. Increasing the sales tax on auto parts (a 1 percent increase would generate $1.5 million per year, or $3 million per biennium).
10. Shifting the funding for the ethanol incentive program to another source (this change would generate $1.25 million per year, or $2.5 million per biennium).
11. Providing funding for the Highway Patrol from sources other than the highway fund.
12. Enacting a personal property tax on vehicles.
13. Dedicating gambling funds to transportation.
14. Establishing toll bridges and toll roads.
15. Developing private/public partnerships.

16. Enacting a vehicle miles of travel tax.
17. Enacting a weight distance tax.
18. Bonding for highway projects; however, a revenue source would be needed to repay the bonds.
19. Appropriating money from the general fund.
20. Enacting taxes on other petroleum products.
21. Utilizing corporate income tax collections.
22. Developing rest area concessions.
23. Utilizing traffic fine collections.
24. Increasing taxes on beer and cigarettes.
25. Enacting a contractor tax.
26. Utilizing collections from mineral leases on state-owned land.
27. Utilizing room tax collections.
28. Charging for use of highway right of way.
29. Utilizing collections from an annual insurance underwriters' fee.
30. Taxing alternative fuel sources.

SUGGESTED STUDY APPROACH

The information provided by the Department of Transportation in this memorandum was based on estimates because actual apportionment and spending numbers for fiscal year 2005 have not been issued by the Federal Highway Administration. The committee may update and correct figures as necessary to determine whether additional funds will be needed to match federal funds. The committee may receive testimony from the Department of Transportation, Association of Counties, League of Cities, contractors, and the driving public.

ATTACH:1