

SENATE BILL NO. 2153

Introduced by

Senators Lyson, Armstrong, Cook

Representatives Glassheim, Sanford, Schatz

1 A BILL ~~for an Act to create and enact a new section to chapter 24-02 of the North Dakota~~
2 ~~Century Code, relating to highway rail grade crossing safety grants; and to amend and reenact~~
3 ~~section 57-43.2-19 of the North Dakota Century Code, relating to the highway rail grade~~
4 ~~crossing safety projects fund; and to provide a continuing appropriation.~~for an Act to create and
5 enact a new section to chapter 24-02 of the North Dakota Century Code, relating to highway rail
6 grade crossing safety projects; to amend and reenact section 54-27-19 of the North Dakota
7 Century Code, relating to the highway tax distribution fund; and to provide a continuing
8 appropriation.

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

10 ~~— **SECTION 1.** A new section to chapter 24-02 of the North Dakota Century Code is created~~
11 ~~and enacted as follows:~~

12 ~~— **Highway rail grade crossing safety grants.**~~

13 ~~— The director shall administer the highway rail grade crossing safety projects fund for~~
14 ~~qualifying projects. Grants under this section by the director for highway rail grade crossing~~
15 ~~safety projects to political subdivisions are subject to the following requirements:~~

16 ~~— 1. A political subdivision must file an application with the department of transportation for~~
17 ~~a grant.~~

18 ~~— 2. A political subdivision grant applicant must provide ten percent matching funds for the~~
19 ~~project costs but no local matching funds are required for a highway rail grade~~
20 ~~crossing on a state highway.~~

21 ~~— 3. Grant funds may be allocated for development of railroad quiet zones, installation or~~
22 ~~upgrading of active warning devices, resurfacing crossings, building of grade~~
23 ~~separations, and other costs associated with these improvements.~~

1 ~~4. An applicant for grant approval for development of a railroad quiet zone shall provide~~
2 ~~the department of transportation a copy of the notice of intent filed with the federal~~
3 ~~railroad administration regarding establishment of a proposed quiet zone and copies of~~
4 ~~any subsequent filings with or orders from the federal railroad administration relating to~~
5 ~~the notice of intent.~~

6 ~~5. Grants for a single crossing may not exceed seventy five thousand dollars and grants~~
7 ~~for all crossings within a city may not exceed a cumulative amount of two hundred~~
8 ~~twenty five thousand dollars.~~

9 ~~**SECTION 2. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is~~
10 ~~amended and reenacted as follows:~~

11 ~~**57-43.2-19. Transfer, deposit, and distribution of funds – Continuing appropriation.**~~

12 ~~All taxes, license fees, penalties, and interest collected under this chapter must be~~
13 ~~transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund,~~
14 ~~except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section~~
15 ~~57-43.2-03 must be transferred to the state treasurer who shall deposit the moneys in the~~
16 ~~highway rail grade crossing safety projects fund. Moneys in the highway rail grade crossing~~
17 ~~safety projects fund are appropriated on a continuing basis to the department of transportation~~
18 ~~to provide grants to political subdivisions for highway rail grade crossing safety projects. The~~
19 ~~highway tax distribution fund must be distributed in the manner as prescribed by section~~
20 ~~54-27-19.~~

21 **SECTION 1.** A new section to chapter 24-02 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Highway-rail grade crossing safety projects fund.**

24 The director shall administer the highway-rail grade crossing safety projects fund as follows:

- 25 1. The director shall prioritize qualified projects funded under this section on an annual
26 basis. Program funds may be allocated for development of railroad quiet zones,
27 installing or upgrading active or passive warning devices, constructing or upgrading
28 crossing surfaces, relocating crossings, building grade separations, eliminating
29 sight-distance obstructions, any other project eligible for the rail safety portions of the
30 federal highway safety improvement program, and other costs associated with these
31 improvements.

1 2. The department shall solicit highway-rail grade crossing safety projects from various
2 public and private sector entities. The department may prioritize projects under this
3 subsection concurrently with the applicable highway-rail grade crossing portions of the
4 federally funded highway safety improvement program. The department shall
5 administer projects under this subsection and may require reimbursement of the local
6 match from any public or private sector applicant. An applicant under this subsection
7 shall provide matching funds according to department requirements regarding federal
8 aid highway projects in force at the time of the application.

9 3. For development of a railroad quiet zone, a political subdivision shall initiate a project
10 and file an application with the department. Political subdivisions shall provide the
11 department a copy of the notice of intent filed with the federal railroad administration
12 regarding establishment of a proposed quiet zone and copies of any subsequent
13 filings with or orders from the federal railroad administration relating to the notice of
14 intent. Grants for a single crossing may not exceed seventy-five thousand dollars, and
15 grants for all crossings within a city may not exceed a cumulative amount of two
16 hundred twenty-five thousand dollars. Political subdivision applicants shall administer
17 projects funded under this subsection. The director may reimburse political
18 subdivisions for state funds expended under this subsection. A political subdivision is
19 not eligible for more than one quiet zone project funded under this subsection after
20 January 1, 2009. The director shall prioritize projects under this subsection based on
21 the date of receipt of the applicant's filed notice of intent to the federal railroad
22 administration, unless the filing is rejected by the federal railroad administration. A
23 political subdivision applicant shall provide matching funds according to department
24 requirements regarding federal aid highway projects in force at the time of the
25 application.

26 **SECTION 2. AMENDMENT.** Section 54-27-19 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **54-27-19. Highway tax distribution fund - State treasurer to make allocation to state,**
29 **counties, and cities - Continuing appropriation.**

30 A highway tax distribution fund is created as a special fund in the state treasury into which
31 must be deposited the moneys available by law from collections of motor vehicle registration

1 and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The
2 state treasurer shall transfer the first five million five hundred thousand dollars per biennium
3 from the highway tax distribution fund to the state highway fund for the purpose of providing
4 administrative assistance to other transferees. After the transfer of the first five million five
5 hundred thousand dollars, any moneys in the highway tax distribution fund must be allocated
6 and transferred monthly by the state treasurer, as follows:

- 7 1. ~~Sixty-one~~Sixty and three-tenths percent must be transferred monthly to the state
8 department of transportation and placed in a state highway fund.
- 9 2. Two and seven-tenths percent must be transferred monthly to the township highway
10 fund.
- 11 3. One and five-tenths percent must be transferred monthly to the public transportation
12 fund.
- 13 4. Thirty-four and five-tenths percent must be allocated to the counties of this state in
14 proportion to the number of vehicle registrations credited to each county. Each county
15 must be credited with the certificates of title of vehicles registered by residents of the
16 county. The state treasurer shall compute and distribute the counties' share monthly
17 after deducting the incorporated cities' share. All the moneys received by the counties
18 from the highway tax distribution fund must be set aside in a separate fund called the
19 "highway tax distribution fund" and must be appropriated and applied solely for
20 highway purposes in accordance with section 11 of article X of the Constitution of
21 North Dakota. The state treasurer shall compute and distribute monthly the sums
22 allocated to the incorporated cities within each county according to the formula in this
23 subsection on the basis of the per capita population of all of the incorporated cities
24 situated within each county as determined by the last official regular or special federal
25 census or the census taken in accordance with the provisions of chapter 40-02 in case
26 of a city incorporated subsequent to the census.
 - 27 a. For counties having no cities with a population of ten thousand or more, a
28 statewide per capita average must be used, as determined by calculating
29 twenty-seven percent of the amount allocated to all of the counties under this
30 subsection divided by the total population of all of the incorporated cities in the

1 state. Each city must be paid an amount equal to the product of the statewide per
2 capita and that city's population.

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

8 (1) A statewide per capita average as determined by calculating twenty-seven
9 percent of the amount allocated to all of the counties under this subsection
10 divided by the total population of all of the incorporated cities in the state.

11 (2) The share distributed to each city in the county having a population of less
12 than one thousand must be determined by multiplying the population of that
13 city by the product of 1.50 times the statewide per capita average computed
14 under paragraph 1.

15 (3) The share distributed to each city in the county having a population of one
16 thousand to four thousand nine hundred ninety-nine, inclusive, must be
17 determined by multiplying the population of that city by the product of 1.25
18 times the statewide per capita average computed under paragraph 1.

19 (4) The share distributed to each city in the county having a population of five
20 thousand or more must be determined by multiplying the population of that
21 city by the statewide per capita average for all such cities, which per capita
22 average must be computed as follows: the total of the shares computed
23 under paragraphs 2 and 3 for all cities in the state having a population of
24 less than five thousand must be subtracted from the total incorporated cities'
25 share in the state as computed under subdivision a and the balance
26 remaining must then be divided by the total population of all cities of five
27 thousand or more in the state.

28 5. One percent must be transferred monthly to the highway-rail grade crossing safety
29 projects fund and is appropriated on a continuing basis to the department of
30 transportation not to exceed four million dollars per biennium.

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