

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1012

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 sections 54-27-19.3 and 54-27-19.4 of the North Dakota
 3 Century Code, relating to the legacy earnings highway distribution fund and legacy earnings
 4 township highway aid fund; to amend and reenact section 24-02-37.3 as created by section 1 of
 5 Senate Bill No. 2113, as approved by the sixty-eighth legislative assembly, and section
 6 57-40.3-10 of the North Dakota Century Code and section 13 of chapter 15 and section 10 of
 7 chapter 80 of the 2021 Session Laws, relating to the flexible transportation fund, motor vehicle
 8 excise tax allocations, an appropriation for township roadway funding, and the appropriation of
 9 bond proceeds for transportation projects; to provide an exemption; to provide a report; to
 10 provide for a legislative management study; to provide an effective date; and to declare an
 11 emergency.

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

13 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 14 as may be necessary, are appropriated from special funds derived from federal funds and other
 15 income, to the department of transportation for the purpose of defraying the expenses of the
 16 department of transportation, for the biennium beginning July 1, 2023, and ending June 30,
 17 2025, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
20 Salaries and wages	\$204,109,585	\$28,313,251	\$232,422,836
21 Operating expenses	270,888,188	59,493,286	330,381,474
22 Capital assets	902,431,344	741,713,721	1,644,145,065
23 Grants	118,085,610	3,985,848	122,071,458
24 Contingent loan authorization	0	78,500,000	78,500,000

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1	Total all funds	\$1,495,514,727	\$912,006,106	\$2,407,520,833
2	Less estimated income	1,495,514,727	901,631	2,397,145,833
3	Total general fund	\$0	\$10,375,000	\$10,375,000
4	Full-time equivalent positions	982.00	16.00	998.00
5	Salaries and wages	\$204,109,585	\$13,636,811	\$217,746,396
6	Operating expenses	270,888,188	61,993,286	332,881,474
7	Capital assets	902,431,344	653,963,721	1,556,395,065
8	Grants	118,085,610	2,485,848	120,571,458
9	Contingent loan authorization	0	78,500,000	78,500,000
10	Total all funds	\$1,495,514,727	\$810,579,666	\$2,306,094,393
11	Less estimated income	1,495,514,727	800,204,666	2,295,719,393
12	Total general fund	\$0	\$10,375,000	\$10,375,000
13	Full-time equivalent positions	982.00	16.00	998.00

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

SIXTY-NINTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act:

	<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
19	Road and bridge projects and matching funds	\$255,000,000	\$0
20	Contingent loans	50,000,000	78,500,000
21	Bond proceeds	70,000,000	0
22	Federal funds authority	498,609,357	0
23	Beyond visual line of sight infrastructure	5,000,000	0
24	Construction and materials management system	9,660,000	0
25	Township emergency repair grants	750,000	0
26	Federal discretionary funds and match	0	490,000,000
27	State flexible transportation fund	0	115,000,000
28	State matching funds	0	114,000,000
29	Federal highway funds	0	290,000,000
30	State flexible transportation fund	0	51,000,000
31	Roadway management system project	0	6,250,000

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1	Door security	0	865,000
2	Automated vehicle location	0	2,010,000
3	Short line railroad programs	0	8,000,000
4	Flood projects study	0	5,000,000
5	<u>Short line railroad programs</u>	<u>0</u>	<u>6,500,000</u>
6	<u>United States highway 52 environmental study</u>	<u>0</u>	<u>5,000,000</u>
7	<u>Flood projects study</u>	<u>0</u>	<u>2,500,000</u>
8	Rural transit program grants	<u>0</u>	<u>1,250,000</u>
9	Total all funds	\$889,019,357	\$706,875,000
10	Less estimated income	889,019,357	696,500,000
11	<u>Total all funds</u>	<u>\$889,019,357</u>	<u>\$557,875,000</u>
12	<u>Less estimated income</u>	<u>889,019,357</u>	<u>547,500,000</u>
13	Total general fund	\$0	\$10,375,000

14 The 2023-25 biennium one-time funding amounts are not a part of the department's base
 15 budget for the 2025-27 biennium. The department of transportation shall report to the
 16 appropriations committees of the sixty-ninth legislative assembly on the use of this one-time
 17 funding for the biennium beginning July 1, 2023, and ending June 30, 2025.

18 **SECTION 3. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,
 19 the director of the office of management and budget shall transfer appropriation authority
 20 among the salaries and wages, operating expenses, capital assets, and grants line items in
 21 section 1 of this Act as requested by the director of the department of transportation when it is
 22 cost-effective for construction and maintenance of highways. The department of transportation
 23 shall notify the legislative council of any transfers made pursuant to this section.

24 **SECTION 4. CONTINGENT LOAN AUTHORIZATION - CONTINGENT FUNDING -**
 25 **HIGHWAY IMPROVEMENT PROJECTS.** The department of transportation may borrow from
 26 the Bank of North Dakota, \$50,000,000, or so much of the sum as may be necessary, which is
 27 appropriated to the department of transportation in the contingent loan authorization line item in
 28 section 1 of this Act for matching federal funds that may become available, for the biennium
 29 beginning July 1, 2023, and ending June 30, 2025. The funds may be borrowed and spent only
 30 upon certification by the director of the department of transportation to the director of the office
 31 of management and budget that the department has been awarded additional federal grants

1 related to United States highway 85 during the biennium beginning July 1, 2023, and ending
2 June 30, 2025. The department of transportation shall request from the sixty-ninth legislative
3 assembly an appropriation to repay any outstanding loans authorized in this section.

4 **SECTION 5. CONTINGENT LOAN AUTHORIZATION - CONTINGENT FUNDING -**

5 **FLOOD PROJECTS.** The department of transportation may borrow from the Bank of North
6 Dakota, \$28,500,000, or so much of the sum as may be necessary, which is appropriated to the
7 department of transportation in the contingent loan authorization line item in section 1 of this Act
8 for matching funds made available from the state of Minnesota for northern Red River valley
9 transportation projects, for the biennium beginning July 1, 2023, and ending June 30, 2025. The
10 funds authorized in this section may be borrowed and spent only upon certification by the
11 director of the department of transportation to the office of management and budget that the
12 Minnesota department of transportation will match these funds one dollar-for-dollar basis. The
13 funds may be borrowed and spent for phase one of a project to address northern Red River
14 valley flooding issues and are available for design, redesign, preliminary and final engineering,
15 environmental analysis, right of way acquisition, and construction, including demolition. The
16 department of transportation shall request from the sixty-ninth legislative assembly an
17 appropriation to repay any outstanding loans authorized in this section.

18 **SECTION 6. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS**

19 **FUND.** The estimated income line item in section 1 of this Act includes the sum of

20 ~~\$328,000,000~~\$179,000,000 from the strategic investment and improvements fund for the
21 following purposes:

- 22 1. The sum of ~~\$200,000,000~~\$114,000,000 for matching federal highway ~~discretionary-~~
23 ~~grants~~funding;
- 24 2. The sum of ~~\$115,000,000~~\$51,000,000 to establish a state flexible transportation fund;
- 25 3. The sum of ~~\$8,000,000~~\$6,500,000 to enhance existing loan programs to assist short
26 line railroads with rail improvement projects; ~~and~~
- 27 4. The sum of ~~\$5,000,000~~\$2,500,000 to match funding from the state of Minnesota and
28 other sources for studies, preliminary engineering, and environmental studies to
29 address northern Red River valley infrastructure affected by flooding; and
- 30 5. The sum of \$5,000,000 for an environmental study of a portion of United States
31 highway 52.

1 **SECTION 7. RURAL TRANSIT FUNDING.** The grants line item in section 1 of this Act
2 includes the sum of \$1,250,000 from the general fund for grants to rural transit providers in
3 nonurban areas.

4 **SECTION 8. CONSTRUCTION OF REST AREA AND VISITOR CENTER.** Notwithstanding
5 any other provision of law, the director of the department of transportation may enter into a
6 cooperative agreement with a public or private entity and may expend moneys from the state
7 highway fund or any moneys within the limits of the legislative appropriations for the purpose of
8 constructing a rest area and visitor center in western North Dakota, for the biennium beginning
9 July 1, 2023, and ending June 30, 2025.

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

13 **24-02-37.3. Flexible transportation fund - Budget section approval - Report.**

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

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

18 a. Providing a match for federal funding obtained by the department of
19 transportation.

20 b. State-funded road and bridge construction and maintenance, and
21 transportation support costs including staffing, facilities, and operational
22 expenditures on the state highway system.

23 c. State-funded road and bridge construction and maintenance activities within
24 the state but off of the state highway system. The director shall establish the
25 terms and provisions of the program.

26 2. All money derived from the investment of the flexible transportation fund or any
27 portion of the fund, must be credited to the flexible transportation fund. The
28 director shall monthly transmit all moneys collected and received under this
29 chapter to the state treasurer to be transferred and credited to the flexible
30 transportation fund.

1 3. The director must receive budget section approval for any project that utilizes
2 more than fifteen million dollars from the fund except for projects that match
3 federal or private funds and the amount utilized from the fund is less than fifty
4 percent of total project costs. Any request considered by the budget section must
5 comply with section 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
8 57-40.3-10 for non-oil-producing county and township road and bridge projects
9 as follows:

10 a. The funds must be allocated by the department to counties for projects or
11 grants for the benefit of counties and organized and unorganized townships;

12 b. The department shall establish criteria to distribute the funds;

13 c. The funds must be used for the maintenance and improvement of county
14 and township paved and unpaved roads and bridges;

15 d. Priority must be given to projects that match federal funds and to projects
16 that improve roadways that serve as local corridors;

17 e. An organized township is not eligible to receive funding if the township does
18 not maintain any roadways or does not levy at least eighteen mills for
19 general purposes; and

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

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

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

28 **54-27-19.3. Legacy earnings highway distribution fund.**

29 A legacy earnings highway distribution fund is created as a special fund in the state treasury
30 into which must be deposited any allocations of legacy fund earnings made under section

1 21-10-13. Any moneys in the legacy earnings highway distribution fund must be allocated and
2 transferred by the state treasurer, as follows:

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

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

13 **54-27-19.4. Legacy earnings township highway aid fund.**

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

- 17 1. The state treasurer shall allocate and distribute all money in the legacy earnings
18 township highway aid fund to non-oil-producing counties of the state based on the
19 length of township roads in each county compared to the length of all township roads
20 in the state;
- 21 2. The county treasurer shall allocate the funds received to the organized townships in
22 the county based on the length of township roads in each of those organized
23 townships compared to the length of all township roads in the county. The funds
24 received must be deposited in the township road and bridge fund and used for road
25 and bridge purposes;
- 26 3. If a county does not have organized townships, or has some organized and some
27 unorganized townships, the county shall retain a pro rata portion of the funds received
28 based on the length of roads in unorganized townships compared to the length of
29 township roads in organized townships in the county. Moneys retained by a county for
30 the benefit of unorganized townships under this section must be deposited in the
31 county road and bridge fund; and

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

5 **SECTION 12. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-40.3-10. Transfer of revenue.**

8 ~~All moneys collected and received under this chapter must be transmitted monthly by the~~
9 ~~director of the department of transportation to the state treasurer to be transferred and credited~~
10 ~~to the general fund who shall deposit fifty percent of collections in the state highway fund and~~
11 ~~fifty percent of collections in the general fund.~~ After the deposits under sections 57-39.2-26.1,
12 57-39.2-26.2, and 57-39.2-26.3, moneys collected and received under this chapter must be
13 deposited monthly in the state treasury and allocated as follows:

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

16 **SECTION 13. AMENDMENT.** Section 13 of chapter 15 of the 2021 Session Laws is
17 amended and reenacted as follows:

18 **SECTION 13. 2019-21 BIENNIUM APPROPRIATION - TRANSFER - GENERAL**
19 **FUND TO HIGHWAY FUND - 2021-23 BIENNIUM APPROPRIATION - HIGHWAY**
20 **FUND AND FEDERAL FUNDS - EXEMPTION - REPORT.**

- 21 1. There is appropriated out of any moneys in the general fund in the state treasury,
22 not otherwise appropriated, the sum of \$100,000,000, which the office of
23 management and budget shall transfer to the highway fund during the period
24 beginning with the effective date of this Act, and ending June 30, 2021. The funds
25 transferred to the highway fund must be maintained and reported separately from
26 other funds in the highway fund.
- 27 2. There is appropriated out of any moneys in the highway fund, not otherwise
28 appropriated, the sum of \$100,000,000, or so much of the sum as may be
29 necessary, to the department of transportation for the purpose of matching
30 federal discretionary funds received in excess of the regular federal funding
31 amounts included in the department's 2021-23 biennium budget, for the biennium

1 beginning July 1, 2021, and ending June 30, 2023. Of this amount, the
2 department shall use at least \$10,000,000 for ~~matching federal funds~~ for
3 township road and bridge projects as follows:

- 4 a. The funds must be allocated by the department to counties for projects or
5 grants for the benefit of organized and unorganized townships;
6 b. The department shall establish criteria to distribute the funds;
7 c. The funds must be used for the maintenance and improvement of township
8 paved and unpaved roads and bridges;
9 d. Priority must be given to projects that match federal funds and to projects
10 that improve roadways that serve as local corridors; and
11 e. A township is not eligible to receive funding if the township does not
12 maintain any roadways.

13 3. There is appropriated from federal funds, the sum of \$100,000,000, or so much
14 of the sum as may be necessary, to the department of transportation for the
15 purpose of defraying the expenses of road and bridge construction projects for
16 the biennium beginning July 1, 2021, and ending June 30, 2023.

17 4. ~~On June 30, 2023, the office of management and budget shall transfer any~~
18 ~~unexpended and unobligated funds transferred to the highway fund under~~
19 ~~subsection 1 to the general fund~~The appropriation provided in this section is not
20 subject to section 54-44.1-11 and may be continued into the biennium beginning
21 July 1, 2023, and ending June 30, 2025.

22 5. During the 2021-22 interim, the department of transportation shall provide
23 quarterly reports to the budget section regarding the use of funds transferred
24 from the general fund to the highway fund.

25 **SECTION 14. AMENDMENT.** Section 10 of chapter 80 of the 2021 Session Laws is
26 amended and reenacted as follows:

27 **~~SECTION 10. APPROPRIATION - HIGHWAY FUND - CONTINGENT-~~**
28 **~~TRANSFER EXEMPTION.~~** There is appropriated out of any moneys in the highway
29 fund in the state treasury, not otherwise appropriated, the sum of \$70,000,000, or so
30 much of the sum as may be necessary, derived from bond proceeds to the department
31 of transportation for state highway road and bridge projects and for matching federal

1 funds that may become available, for the biennium beginning July 1, 2021, and ending
2 June 30, 2023. ~~Of the \$70,000,000, \$35,000,000 is designated for state highway~~
3 ~~bridge projects, and \$35,000,000 is designated for matching federal funds that may~~
4 ~~become available for state highway projects in excess of the federal funds~~
5 ~~appropriated to the department of transportation as part of its 2021-23 biennial budget.~~
6 ~~By October 1, 2022, the director of the department of transportation shall certify to the~~
7 ~~office of management and budget the amount of funding committed to matching~~
8 ~~excess federal funds from the \$35,000,000 provided under this section. If the amount~~
9 ~~committed is less than \$35,000,000, the office of management and budget shall~~
10 ~~transfer any uncommitted amounts to the infrastructure revolving loan fund under~~
11 ~~section 6-09-49~~The appropriation provided in this section is not subject to section
12 54-44.1-11 and may be continued into the biennium beginning July 1, 2023, and
13 ending June 30, 2025.

14 **SECTION 15. LEGISLATIVE MANAGEMENT STUDY - ELECTRIC VEHICLES.** During the
15 2023-24 interim, the legislative management shall consider studying the effect of electric
16 vehicles in the state. As part of the study, the legislative management shall consider the
17 assessment of fees to offset reductions in motor fuel tax revenues, the impact of electric
18 vehicles on electric demand and the electrical grid, the installation of electric vehicle charging
19 infrastructure by private and public entities, including potential funding sources, the impact to
20 public services and public transportation providers, and the effect on employment opportunities
21 and other economic impacts, including tourism, automobile dealers, the energy industry, and the
22 critical minerals industry. The study must include input from key stakeholders, including electric
23 vehicle manufacturers, electric vehicle dealers, electric utilities, electric vehicle charging station
24 manufacturers, and other transportation entities. The legislative management shall report its
25 findings and recommendations, together with any legislation required to implement the
26 recommendations, to the sixty-ninth legislative assembly.

27 **SECTION 16. DEPARTMENT OF TRANSPORTATION - UNITED STATES HIGHWAY 85**
28 **PROJECT - REPORT.** The department of transportation shall develop a plan to complete the
29 United States highway 85 four-lane project in its entirety as approved in the final environmental
30 impact statement document for project number 9-085(085)075, PCN20046. The plan must
31 include a review of federal approvals received for the project and options to complete the

1 project before the approvals expire. As part of the plan, the department shall identify potential
2 funding sources, including the issuance of revenue anticipation bonds, to complete the project.
3 The department shall present its plan to the legislative management before August 1, 2024.

4 **SECTION 17. EXEMPTION - UNEXPENDED APPROPRIATIONS.** The following
5 appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into
6 the biennium beginning July 1, 2023, and ending June 30, 2025:

- 7 1. The sum of \$750,000 appropriated from the state disaster relief fund for emergency
8 township road repairs in section 4 of chapter 40 of the 2021 Session Laws;
- 9 2. The sum of \$1,609,357 appropriated from federal funds for grants to transit providers
10 in subdivision 10 of section 2 of chapter 28 of the 2021 Session Laws;
- 11 3. The sum of \$55,000,000 appropriated from federal funds to match state bond
12 proceeds in section 5 of chapter 15 of the 2021 Session Laws;
- 13 4. The sum of \$317,000,000 appropriated from federal funds for state, county, and
14 township road and bridge projects in section 2 of chapter 28 of the 2021 Session
15 Laws;
- 16 5. The sum of \$61,700,060 appropriated from federal funds for surface transportation
17 grants in subdivision 10 of section 1 of chapter 27 of the 2021 Session Laws; and
- 18 6. The sum of \$13,660,000 appropriated from special funds for information technology
19 projects in section 1 of chapter 40 of the 2021 Session Laws.

20 **SECTION 18. EFFECTIVE DATE.** Section ~~9~~12 of this Act is effective for motor vehicle
21 excise tax collections transmitted to the state treasurer after July 31, 2023.

22 **SECTION 19. EMERGENCY.** Sections ~~10 and 11~~14 and 15 of this Act are declared to be an
23 emergency measure.