

May 2, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2012

Introduced by

Appropriations Committee

In place of amendment (25.0179.02011) adopted by the House, Engrossed Senate Bill No 2012 is amended by amendment (25.0179.02014) as follows:

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, ~~49-17.1-05, 54-27-19.3, and 54-27-19,~~ and 57-40.3-10,
6 section 57-51.1-07.5 as amended by Senate Bill No. 2323 as approved by the sixty-ninth
7 legislative assembly, and sections 57-51.1-07.7 and 57-51.1-07.8 of the North Dakota Century
8 Code, relating to funds invested by the state investment board, the flexible transportation fund,
9 ~~the state rail fund, and the highway tax distribution fund,~~ motor vehicle excise tax collections, ~~the~~
10 state share of oil and gas taxes, the municipal infrastructure fund, and the county and township
11 infrastructure fund; to repeal sections 21-10-12 ~~and~~, 21-10-13, ~~54-27-19.3, and 54-27-19.4~~ of
12 the North Dakota Century Code, relating to legacy fund definitions ~~and~~, a legacy earnings fund,
13 the legacy earnings highway distribution fund, and legacy earnings township highway aid fund;
14 to provide for a legislative management report; to provide for application; ~~to provide a continuing~~
15 appropriation; to provide an effective date; and to provide an exemption.

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

department of transportation, for the biennium beginning July 1, 2025, and ending June 30, 2027, as follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$219,279,648	\$16,710,943	\$235,990,591
New and vacant FTE pool	0	13,364,077	13,364,077
Operating expenses	316,256,474	71,088,648	387,345,122
Capital assets	1,101,395,065	851,594,552	1,952,989,617
Grants	112,821,458	(3,581,000)	109,240,458
Total other funds	\$1,749,752,645	\$949,177,220	\$2,698,929,865
Full-time equivalent positions	1,001.00	3.00	1,004.00
New and vacant FTE pool	0	13,576,477	13,576,477
Operating expenses	316,256,474	71,088,648	387,345,122
Capital assets	1,101,395,065	867,394,552	1,968,789,617
Grants	112,821,458	3,569,000	116,390,458
Total other funds	\$1,749,752,645	\$972,339,620	\$2,722,092,265
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
Federal formula funds match	171,300,000
United States highway 85 project	100,000,000
Highway projects	287,100,000
Passenger rail authority grant	150,000
Increased roadway maintenance costs	9,842,212

1	Walking trail grant	100,000
2	Equipment	<u>5,872,000</u>
3	Total	\$296,434,212
4	<u>Total</u>	<u>\$312,384,212</u>

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

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

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

21 **SECTION 6. ~~ESTIMATED INCOME~~OTHER FUNDS - STRATEGIC INVESTMENT AND**
22 **IMPROVEMENTS FUND.** The ~~estimated income~~other funds line item in section 1 of this Act
23 includes the sum of ~~\$171,300,000~~\$287,100,000 from the strategic investment and
24 improvements fund ~~to match federal highway formula funds and \$100,000,000 from the~~
25 ~~strategic investment and improvements fund for a United States highway 85 project from~~
26 ~~reference point 120.3 north to the long x bridge~~for highway projects and \$150,000 from the
27 strategic investment and improvements fund for a rail passenger authority grant.

28 **SECTION 7. OTHER FUNDS - MUNICIPAL INFRASTRUCTURE FUND - COUNTY AND**
29 **TOWNSHIP INFRASTRUCTURE FUND.** The other funds line item in section 1 of this Act
30 includes the sum of \$40,000,000, or so much of the sum as may be necessary, from the

municipal infrastructure fund and the sum of \$40,000,000, or so much of the sum as may be necessary, from the county and township infrastructure fund.

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

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

There is created in the state treasury the legacy sinking and interest fund. The fund consists of all moneys deposited in the fund under section ~~21-10-13~~1013 of this Act. Moneys in the fund may be spent by the public finance authority pursuant to legislative appropriations to meet the debt service requirements for evidences of indebtedness issued by the authority for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs.

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

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

- a. State bonding fund.
- b. Teachers' fund for retirement.
- c. State fire and tornado fund.
- d. Workforce safety and insurance fund.
- e. Public employees retirement system.
- f. Insurance regulatory trust fund.
- g. State risk management fund.
- h. Budget stabilization fund.
- i. Water projects stabilization fund.
- j. Health care trust fund.
- k. Cultural endowment fund.
- l. Petroleum tank release compensation fund.
- m. Legacy fund.
- n. ~~Legacy earnings fund.~~
- o. Opioid settlement fund.

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

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

Big sky north coast corridor identification and development program.

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

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

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

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

1. The flexible transportation fund must be administered and expended by the director and may be used for the following:
 - a. Providing a match for federal funding obtained by the department of transportation.
 - b. State-funded road and bridge construction and maintenance, and transportation support costs including staffing, facilities, and operational expenditures on the state highway system.
 - c. State-funded road ~~and~~ bridge, and other infrastructure construction and maintenance activities within the state but off of the state highway system. The director shall establish the terms and provisions of the program.
2. All money derived from the investment of the flexible transportation fund or any portion of the fund, must be credited to the flexible transportation fund. The director shall monthly transmit all moneys collected and received under this chapter to the state treasurer to be transferred and credited to the flexible transportation fund.
3. The director must receive budget section approval for any project that utilizes more than ten million dollars from the fund except for projects that match federal or private funds and the amount utilized from the fund is fifty percent or less of total project costs. Any request considered by the budget section must comply with section 54-35-02.9.

- 1 4. The director shall allocate at least twenty-five percent of motor vehicle excise tax
2 collections deposited in the flexible transportation fund pursuant to section 57-40.3-10
3 for non-oil-producing county and township road and bridge projects as follows:
- 4 a. The funds must be allocated by the department to counties for projects or grants
5 for the benefit of counties and 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 county and
8 township paved and unpaved roads and bridges;
- 9 d. Priority must be given to projects that match federal funds and to projects that
10 improve roadways that serve as local corridors;
- 11 e. An organized township is not eligible to receive funding if the township does not
12 maintain any roadways or does not levy at least eighteen mills for general
13 purposes; and
- 14 f. For purposes of this subsection, "non-oil-producing county" means a county that
15 received no allocation of funding or a total allocation of less than five million
16 dollars under subsection 2 of section 57-51-15 in the most recently completed
17 even-numbered fiscal year before the start of each biennium. The director shall
18 allocate a portion of funds deposited in the flexible transportation fund for the
19 benefit of road and bridge maintenance and projects in counties, cities, and
20 townships as follows:
- 21 a. ~~Twelve and one-half percent of state funds deposited in the fund must be~~
22 ~~allocated by the director to non-oil-producing counties for projects or grants for~~
23 ~~the benefit of counties and organized and unorganized townships for the~~
24 ~~maintenance and improvement of county and township paved and unpaved~~
25 ~~roads and bridges~~ The following percentage of state funds deposited in the fund
26 must be allocated by the director for grants to counties, cities, and townships in
27 non-oil-producing counties for road and bridge repair and replacement projects:
- 28 (1) Nineteen and one-half percent for county and city projects.
- 29 (2) Thirteen and one-half percent for township projects.
- 30 b. ~~Six and one-quarter percent of state funds deposited in the fund must be~~
31 ~~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~~ Seventeen 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. ~~Grants provided under this subdivision must:~~

~~(1) Give priority to projects based on the number of bridge needs for each
county as identified in the most recent data available from the department's
bridge condition assessment inventory.~~

~~(2) Give priority to projects that include the permanent closure and removal of a
different bridge in the same county.~~

~~(3) Require counties to provide matching funds equal to ten percent of total
project costs except for projects that include the permanent closure and
removal of a different bridge in the same county.~~

~~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.c. 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 have a general fund
balance of less than one hundred thousand dollars as of December thirty-first of
the prior year. Priority for unorganized township road projects must be given to
unorganized township projects located in counties that levy at least eighteen mills
for unorganized township road and bridge purposes. For purposes of determining
the mills levied by a township or county, the director shall use the most recent mill
rate data published by the tax commissioner.

f.d. 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.

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~~and~~, bridge, and other infrastructure
6 maintenance and projects in counties, cities, and townships, as follows:

7 a. ~~Six and one-quarter~~Nine percent of state funds deposited in the fund must be
8 distributed to non-oil-producing counties for the benefit of organized and
9 unorganized township road needs using the distribution method in section
10 ~~54-27-19.4~~54-27-19.1. To receive an allocation under this subdivision, an
11 organized township must levy at least eighteen mills for general purposes and
12 have a general fund balance of less than one hundred thousand dollars as of
13 December thirty-first of the prior year. To receive an allocation under this
14 subdivision for unorganized townships, a county must levy at least eighteen mills
15 for unorganized township road and bridge purposes. For purposes of determining
16 the mills levied by a township or county, the state treasurer shall use the most
17 recent mill rate data published by the tax commissioner.

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

5.7.8. 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 49-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:~~

~~49-17.1-05. Subsidy of railway lines - Continuing appropriation.~~

~~The department, with the approval of the commission, may provide financial assistance, within the limits of funds appropriated by the legislative assembly, for the continuation of operations and maintenance of any railroad within the state, as provided for in the Railroad Revitalization and Regulatory Reform Act of 1976 [Pub. L. 94-210; 90 Stat. 149; 49 U.S.C. 1651 et seq.], or other relevant federal legislation. Moneys in the state rail fund are appropriated to the department on a continuing basis for distributions authorized under this section. The department or the commission may act as the agent in cooperation with the federal government, any local or regional transportation authority, local governmental units, any group of rail users, or any person in any rail service assistance program.~~

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:

- ~~Sixty-one and three-tenths~~Sixty percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
- ~~Two and seven-tenths~~Three and four-tenths percent must be transferred monthly to the township highway aid fund.

- 1 3. ~~One and five-tenths~~One and sixth-tenths percent must be transferred monthly to the
2 public transportation fund.
- 3 4. ~~Thirty-four and five-tenths~~Thirty-five percent must be allocated to the counties of this
4 state in proportion to the number of vehicle registrations credited to each county. Each
5 county must be credited with the certificates of title of vehicles registered by residents
6 of the county. The state treasurer shall compute and distribute the counties' share
7 monthly after deducting the incorporated cities' share. All the moneys received by the
8 counties from the highway tax distribution fund must be set aside in a separate fund
9 called the "highway tax distribution fund" and must be appropriated and applied solely
10 for highway purposes in accordance with section 11 of article X of the Constitution of
11 North Dakota. The state treasurer shall compute and distribute monthly the sums
12 allocated to the incorporated cities within each county according to the formulas in this
13 subsection using the incorporated cities' populations as determined by the last official
14 regular or special federal census or the census taken in accordance with the
15 provisions of chapter 40-02 in case of a city incorporated subsequent to the census.
 - 16 a. For counties having no cities with a population of ten thousand or more, twenty-
17 seven percent of the total county allocation must be distributed to all of the
18 incorporated cities within the county on a countywide per capita basis. The
19 remaining county allocation amount must be transferred into the county highway
20 tax distribution fund.
 - 21 b. For each county having a city with a population of ten thousand or more, the
22 amount transferred each month into the county highway tax distribution fund
23 must be the difference between the amount allocated to that county pursuant to
24 this subsection and the total amount allocated and distributed to the incorporated
25 cities in that county as computed according to the following formula:
 - 26 (1) A statewide per capita average as determined by calculating twenty-seven
27 percent of the amount allocated to all of the counties under this subsection
28 divided by the total population of all of the incorporated cities in the state.
 - 29 (2) The share distributed to each city in the county having a population of less
30 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 ~~seven-eighths of~~ 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 next two hundred twenty-five million dollars to the general fund to provide support for tax relief initiatives approved by the legislative assembly.~~

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

~~d. The remaining amount as follows:~~

~~(1) Fifty~~Thirty percent to the ~~general~~highway fund.

~~(2) The remainder to the strategic investment and improvements fund to be used in accordance with section 15-08.1-08~~legacy property tax relief fund.

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

~~SECTION 11. AMENDMENT.~~ Section 54-27-19.3 of the North Dakota Century Code is amended and reenacted as follows:

~~54-27-19.3. Legacy earnings highway distribution fund.~~

~~A legacy earnings highway distribution fund is created as a special fund in the state treasury into which must be deposited any allocations of legacy fund earnings made under section 21-10-1310 of this Act. Any moneys in the legacy earnings highway distribution fund must be allocated and transferred by the state treasurer, as follows:~~

~~1. Sixty percent must be transferred to the department of transportation for deposit in the state highway fund;~~

~~2. Ten percent must be transferred to the legacy earnings township highway aid fund;~~

~~3. One and five-tenths percent must be transferred to the public transportation fund; and~~
~~4. Twenty-eight and five-tenths percent must be allocated to cities and counties using the formula established in subsection 4 of section 54-27-19. Moneys received by counties and cities must be used for roadway purposes in accordance with section 11 of article X of the Constitution of North Dakota.~~

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

57-40.3-10. Transfer of revenue.

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

1. Fifty percent to the general fund; and
2. The remaining fifty percent ~~to the flexible transportation fund under section 24-02-37.3~~ Twenty five percent to the highway tax distribution fund; and
3. Twenty-five percent to the flexible transportation fund.

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

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

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

1. The first two hundred fifty million dollars into the state general fund;
2. The next two hundred fifty million dollars into the social service fund;
3. The next seventy-five million dollars into the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in section 54-27.2-01;
4. The next two hundred fifty million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;

6. The next twenty million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty million dollars;

7. ~~The next three hundred sixty million dollars into the strategic investment and improvements fund;~~

~~8. The next sixty-five million dollars to the public employees retirement fund for the main system plan;~~

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

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

~~11.9.~~ The next sixty-five million dollars to the public employees retirement fund for the main system plan;

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

~~12.11.~~ Any additional revenues into the strategic investment and improvements fund.

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

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

1. There is created in the state treasury the municipal 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

1 providing grants to cities located in non-oil-producing counties pursuant to
2 subsections 2 through 5. The grant funding may be distributed only to cities
3 located in non-oil-producing counties, excluding hub cities, and may be used only
4 for essential infrastructure projects.

5 b. The remaining moneys deposited in the fund are available to the department of
6 transportation, within the limits of legislative appropriation, for the purpose of
7 providing grants to cities located in non-oil-producing counties pursuant to
8 subsection 6.

9 ~~1.2.~~ By November thirtieth of each even-numbered year, ~~starting in 2022~~, a city that
10 receives a grant from the fund under subsection 3 or 4 shall provide a report to the
11 state treasurer on the use of the funding. The state treasurer shall notify cities of the
12 reporting requirement by November first of each even-numbered year, ~~starting in~~
13 ~~2022~~. Upon request, the state treasurer may provide an extension of up to fifteen days
14 for a city to submit the report. The state treasurer shall determine the format of the
15 report. The report must include the amount of grant funding received and spent by the
16 city and a description of the infrastructure projects completed in part or in whole with
17 the grant funding. The state treasurer shall make the reports available to the public on
18 the state treasurer's website. A city that does not provide the report in a timely manner
19 or in the correct format is not eligible to receive a grant from the fund under
20 subsection 3 or 4 for a period of two years starting from the date the report was due. If
21 a city uses the funding in a manner inconsistent with the requirements of this section
22 as identified in any financial audits conducted by the state auditor or an independent
23 accounting firm, the state treasurer shall reduce any future grants to that city under
24 subsection 3 or 4 by the amount spent that was inconsistent with the requirements.

25 ~~2.3.~~ Within forty days after the fund ~~balance is~~ receives total deposits under subdivision a of
26 subsection 1 that are greater than or equal to the amount needed for the grants under
27 this subsection or by September thirtieth of each odd-numbered year, whichever is
28 earlier, the state treasurer shall distribute moneys in the fund as grants to cities for
29 essential infrastructure projects. The state treasurer shall distribute the grants only if
30 the fund ~~balance is~~ receives total deposits that are at least ten percent of the amount
31 needed for distributions under this subsection based on the following:

- a. Two million five hundred thousand dollars to each city with a population of at least five thousand;
- b. Five hundred thousand dollars to each city with a population of at least two thousand but less than five thousand; and
- c. One hundred twenty-five thousand dollars to each city with a population of at least one thousand but less than two thousand.
- d. If, at the time of the distributions, the moneys in the fund are less than the amount needed for the grants under this subsection, the state treasurer shall distribute the grants under this subsection on a pro rata basis.
- 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.

~~3.4.~~ 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 the moneys in the fund as grants to cities for essential infrastructure projects. The state treasurer shall distribute the grants only if the fund ~~balance is~~ receives total deposits equal to the amount needed under subsection 2 plus at least ten percent of the amount ~~needed for distributions under this subsection~~ identified under subdivision a of subsection 1, based on the following:

- a. One hundred fifty dollars per person of the city's population.
- b. In addition to the amounts in subdivision a, for a city with a positive average of the annual percentage increase in population from three years prior, a dollar amount equal to the product of the following:
 - (1) The amount calculated in subdivision a; and
 - (2) The average of the annual percentage increase in population from three years prior, multiplied by ten.
- c. In addition to the amounts in subdivisions a and b, for a city with a positive average of the annual percentage increase in taxable property values from three years prior, a dollar amount equal to the average of the annual property valuation

percentage increase for the three most recent years, multiplied by twenty-five thousandths.

d. Grants may be distributed under this subdivision only if the grant distributions under subsection ~~23~~ are completed. If ~~the moneys in the fund~~total deposits equal to the amount identified under subdivision a of subsection 1 are insufficient to 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.

~~1.2.~~ 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 treasurer to each organized township. The amount allocated to unorganized townships under this section must be credited by the county treasurer to a special fund for unorganized township roads. ~~A township is not eligible for an allocation of funds under this section if the township does not maintain any township roads.~~

a. To be eligible for an allocation of funds under this subsection, 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.

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

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

~~4.5.~~ After the distributions in subsection ~~34~~, the state treasurer shall distribute the remaining ~~money in the fund~~ eighty-seven percent of the total deposits under subdivision a of subsection 1 to non-oil-producing counties based on the most recent data compiled by the upper great plains transportation institute regarding North Dakota's county, township, and tribal road and bridge infrastructure needs. The distribution to each non-oil-producing county must be proportional to each non-oil-producing county's total estimated road and bridge investment needs relative to the combined total estimated road and bridge investment needs of all the non-oil-producing counties. The total estimated road and bridge investment needs for each county is the twenty-year estimate for unpaved and paved road and bridge

needs as identified by the upper great plains transportation institute. If the data compiled by the upper great plains transportation institute includes more than one twenty-year estimate for the total needs of each county, the state treasurer shall use an average of the twenty-year estimates for each county.

~~5.6.~~ If the ~~moneys-in-the-fund~~total deposits under subdivision a of subsection 1 are insufficient to provide for the grants under ~~this-section~~subsections 4 and 5, the state 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 ~~and~~, 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. ~~The~~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 ~~process~~ 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 appropriations for operational support of the facility and for facility improvements to support year-round operations of the facility.

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

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

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

1. The sum of \$100,000,000 appropriated from special funds for the purpose of road and bridge construction projects in subsection 2 of section 13 of chapter 15 of the 2021 Session Laws;
2. The sum of \$317,000,000 appropriated from federal funds for state, county, and township road and bridge projects in section 7 of chapter 548 of the 2021 Session Laws;
3. The sum of \$61,700,060 appropriated from federal funds for surface transportation grants in subdivision 10 of section 1 of chapter 27 of the 2021 Session Laws;
4. The sum of \$13,660,000 appropriated from special funds for information technology projects in section 1 of chapter 40 of the 2021 Session Laws;

- 1 5. The sum of \$9,125,000 appropriated from the general fund in the operating expenses
- 2 line item relating to information technology projects in section 1 of chapter 12 of the
- 3 2023 Session Laws;
- 4 6. The sum of \$2,500,000 appropriated from special funds to match funding from the
- 5 state of Minnesota and other sources for studies, preliminary engineering, and
- 6 environmental studies to address northern Red River valley infrastructure affected by
- 7 flooding in section 2 of chapter 12 of the 2023 Session Laws;
- 8 7. The sum of \$5,000,000 appropriated from special funds for an environmental study of
- 9 a portion of United States highway 52, in section 1 of chapter 12 of the 2023 Session
- 10 Laws;
- 11 8. The sum of \$757,000 included in the deferred maintenance funding pool line item and
- 12 transferred to the department of transportation pursuant to section 9 of chapter 640 of
- 13 the 2023 Special Session Session Laws; and
- 14 9. The sum of \$161,000,000 appropriated from special funds for flexible transportation
- 15 fund projects in section 1 of chapter 12 of the 2023 Session Laws.

16 **SECTION 24. APPLICATION.** Distributions by the state treasurer for organized and

17 unorganized township road and bridge needs under subsection 5 of section 24-02-37.3 and

18 subsection 4 of section 57-51.1-07.8 may not commence until January 1, 2026.

19 **SECTION 25. EFFECTIVE DATE.** Section ~~42~~¹⁴ of this Act is effective for motor vehicle

20 excise tax collections transmitted to the state treasurer after July 31, 2025.