

**Department of Transportation  
Budget No. 801  
House Bill No. 1012, Senate Bill No. 2015**

	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2011-13 executive budget (bills as introduced)	1,066.50	\$5,850,000	\$1,542,433,665	\$1,548,283,665
<b>2011-13 legislative appropriations</b>	<b>1,063.50</b>	<b>376,550,000<sup>1</sup></b>	<b>1,663,054,459</b>	<b>2,039,604,459</b>
Legislative increase (decrease) to executive budget	(3.00)	\$370,700,000	\$120,620,794	\$491,320,794
Legislative increase (decrease) to 2009-11 appropriations	9.00	\$371,950,000	\$416,038,871	\$787,988,871

<sup>1</sup>Reflects a \$370.6 million transfer from the general fund to the highway fund and a \$100,000 transfer from the general fund to the public transportation fund.

**ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS**

	<b>Ongoing General Fund Appropriation</b>	<b>One-Time General Fund Appropriation</b>	<b>Total General Fund Appropriation</b>
2009-11 legislative appropriations	\$0	\$4,600,000	\$4,600,000
<b>2011-13 legislative appropriations</b>	<b>0</b>	<b>376,550,000</b>	<b>376,550,000</b>
2011-13 legislative increase (decrease) to 2009-11 appropriations	\$0	\$371,950,000	\$371,950,000
Percentage increase (decrease) to 2009-11 appropriations	N/A	8,085.9%	8,085.9%
2011-13 legislative increase (decrease) to executive budget	\$0	\$370,700,000	\$370,700,000
Percentage increase (decrease) to executive budget	N/A	6,336.8%	6,336.8%

**SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS**

**Salaries and Wages**

The legislative action affecting the recommended appropriation for the Department of Transportation is in accordance with legislative salary and fringe benefits guidelines as contained in Senate Bill No. 2015. The Legislative Assembly also provided the Department of Transportation with an additional \$600,000 of funding from the highway fund for optional market salary adjustments for department equipment operators and highway maintenance personnel.

	<b>Major Items FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
The legislative action:				
Removed 3 new FTE transportation technician positions included in the executive recommendation.	(3.00)		(\$310,206)	(\$310,206)
Removed a portion of funding included in the executive recommendation for salary equity adjustments to provide total funding of \$600,000 for optional market salary adjustments.			(500,000)	(500,000)

Added spending authorization from the highway-rail grade crossing safety fund for projects approved during the 2009-11 biennium for which funding has not been distributed and for additional projects during the 2011-13 biennium (see <b>Highway-Rail Grade Crossing Safety Fund</b> section below).		1,431,000	1,431,000
Added borrowing authority and spending authorization for emergency relief projects (see <b>Borrowing for Emergency Relief Program</b> section below).		120,000,000	120,000,000
Added a transfer from the general fund to the highway fund.	\$370,600,000		370,600,000
Added a transfer from the general fund to the public transportation fund (Senate Bill No. 2015).	100,000		100,000
Total	<u>(3.00)</u>	<u>\$370,700,000</u>	<u>\$120,620,794</u>

#### FTE Changes

The 2011-13 biennium appropriation includes funding for 1,063.5 FTE positions, an increase of 9 FTE positions from the 2009-11 authorized level of 1,054.5 FTE positions. The Legislative assembly did not change the executive recommendation to add 4 new FTE driver's license examiner positions and 2 new FTE motor vehicle licensing specialist positions. The Legislative Assembly also added 3 of the 6 new FTE transportation technician positions included in the executive recommendation.

#### One-Time Funding

Section 2 of House Bill No. 1012 identifies \$400,569,575 of one-time funding for the Department of Transportation as follows:

	General Fund	Other Funds	Total
Devils Lake area road projects	\$5,850,000		\$5,850,000
Federal fiscal stimulus funds		\$24,119,575	24,119,575
State highway projects in areas affected by oil and gas development		228,600,000	228,600,000
County and township roadway projects in areas affected by oil and gas development		142,000,000	142,000,000
Total	\$5,850,000	\$394,719,575	\$400,569,575

The Legislative Assembly also provided a one-time transfer of \$370.6 million from the general fund to the highway fund and a one-time transfer of \$100,000 from the general fund to the public transportation fund. These amounts are not to be considered part of the agency's 2013-15 biennium base budget, and the Department of Transportation is to report to the Appropriations Committees during the 2013 legislative session on the use of this funding.

#### Allocation of Motor Vehicle Excise Taxes

The executive recommendation provided that 25 percent of motor vehicle excise taxes, after distributions to the state aid distribution fund, be deposited in the highway tax distribution fund rather than the general fund during the 2011-13 biennium. This would have resulted in an estimated \$46.4 million of motor vehicle excise tax deposits in the highway tax distribution fund during the 2011-13 biennium. The Legislative Assembly removed this provision and all motor vehicle excise taxes, after distributions to the state aid distribution fund, will be deposited in the general fund.

#### Highway-Rail Grade Crossing Safety Fund

Section 3 of House Bill No. 1012 appropriates \$1.431 million from the highway-rail grade crossing safety fund to the Department of Transportation as follows:

- \$1.201 million for highway-rail grade crossing safety projects approved by the department during the 2009-11 biennium but for which funding was not distributed.

- \$230,000 for additional highway-rail grade crossing safety projects grants during the 2011-13 biennium. To be eligible for a grant, a political subdivision must file a grant application with the Department of Transportation and provide 10 percent matching funds for highway-rail grade crossings which are not on a state highway. Grant funds may be used for the development of railroad quiet zones, the installation or upgrading of active warning devices, the resurfacing of crossings, building grade separations, or any other cost associated with the eligible improvements. Grants provided during the 2011-13 biennium may not exceed \$80,000 per city.

The State Treasurer is to transfer any unexpended and unobligated funds remaining in the highway-rail grade crossing safety fund on June 30, 2013, to the highway tax distribution fund.

Section 9 of House Bill No. 1012 repeals a section of Senate Bill No. 2338 (2009) relating to the highway-rail grade crossing safety fund. The section repealed provided guidelines regarding the distribution of grants during the 2009-11 biennium and required the State Treasurer to transfer any unexpended and unobligated amount in the highway-rail grade crossing safety fund to the highway tax distribution fund by August 1, 2011.

#### **Borrowing for Emergency Relief Program**

Section 4 of House Bill No. 1012 allows the Department of Transportation to borrow up to \$120 million from the Bank of North Dakota for state highway emergency relief projects during the 2011-13 biennium. The funding is to be considered one-time funding and any federal funds received for projects receiving funding under the section must be used to repay the loan from the Bank of North Dakota.

#### **Transportation Funding Distributions to Non-Oil-Producing Counties**

Sections 5 and 6 of House Bill No. 1012 appropriate \$60 million from the general fund to the State Treasurer for transportation funding distributions to non-oil-producing counties, cities, and townships. Of this amount, \$35 million is to be distributed during the 2009-11 biennium and \$25 million is to be distributed on April 1, 2012. The funding is to be distributed as follows:

- Eighty percent to counties and cities pursuant to North Dakota Century Code Section 54-27-19(4).
- Twenty percent to counties and townships pursuant to Section 54-27-19.1 except that organized townships are not required to provide matching funds.

To be eligible for a distribution, a political subdivision must be located within a county that received an allocation of funding under Section 57-51-15 (oil and gas production tax allocations) of \$500,000 or less in the preceding state fiscal year.

#### **Funding for Roadway Projects in Areas Affected by Oil and Gas Development**

House Bill No. 1012 appropriates \$370.6 million from the highway fund for state highway projects (\$228.6 million) and county and township roadway projects (\$142 million) in areas affected by oil and gas development. Section 11 provides that funding for state highway projects may be applied to engineering and design costs incurred on the projects as of January 1, 2011. Section 10 provides the following guidelines for the use of the \$142 million for county and township roadway projects:

- Funding allocations must be based on a report prepared by the Upper Great Plains Transportation Institute entitled *Additional Road Investments Needed to Support Oil and Gas Production and Distribution in North Dakota*.
- Each county requesting funding for county or township road projects shall submit a plan to the Department of Transportation detailing the projects. The Department of Transportation may approve the plan or may approve the plan with amendments.
- Funds may not be used for routine maintenance.
- Funds may be used for 90 percent of the cost of approved paved roadway projects and for 25 percent of the cost of approved unpaved roadway projects.
- Funds may be used for engineering and design costs incurred on approved projects as of January 1, 2011.

#### **Contingent Appropriation - Fargo District Office Building**

Section 12 of House Bill No. 1012 provides that \$800,000 of funding appropriated to the Department of Transportation from the highway fund for an equipment storage facility at the Fargo district office location is contingent upon the department offering the current district office location for sale. The department is to offer the Fargo district office land and facilities for sale in exchange for a new location and facilities for the Fargo district office. The new location is to be of suitable

size and condition, be accessible to the interstate system, and be located within the interstate storm gates in the cities of Fargo and West Fargo. The director of the Department of Transportation has the authority to determine if any offers for a new location and facilities for the Fargo district office are adequate for operations. The department may proceed with the construction of the equipment storage facility at the current location if an offer is not accepted by the department by May 1, 2012.

### Federal Funding and Required State Matching Funds

The table below details the estimated amount of federal funding to be received by the state for the 2009-11 and 2011-13 bienniums.

Estimated Federal Highway Funding (In Millions)						
	2009-11 Biennium Regular Highway Funding	2009-11 Biennium Federal Fiscal Stimulus Funding	Total 2009- 11 Biennium Funding	Estimated 2011-13 Biennium Regular Highway Funding	Estimated 2011-13 Biennium Federal Fiscal Stimulus Highway Funding	Total 2011-13 Biennium Funding
Federal Highway Administration funding	\$500.9		\$500.9	\$569.5		\$569.5
Emergency relief funds	33.7		33.7	56.2		56.2
Federal rail funds	2.3		2.3	6.1		6.1
National Highway Traffic Safety Administration	10.0		10.0	11.4		11.4
Federal transit funds	12.8		12.8	13.7		13.7
Funding for Devils Lake area projects	43.8		43.8			
Federal fiscal stimulus funding - Highway infrastructure		\$170.1	170.1		\$19.3	19.3
Federal fiscal stimulus funding - Transit programs		0.2 <sup>1</sup>	0.2		4.8	4.8
<b>Total</b>	<b>\$603.5</b>	<b>\$170.3</b>	<b>\$773.8</b>	<b>\$656.9</b>	<b>\$24.1</b>	<b>\$681.0</b>

<sup>1</sup>Does not include \$5,041,000 of federal fiscal stimulus funding distributed directly to transit programs in metropolitan planning areas.

House Bill No. 1012 appropriates \$24,119,575 of federal fiscal stimulus funds to the Department of Transportation. Of this amount, \$14.13 million relates to a grant received to construct the North Central Regional Economic Growth Intermodal Port Connector project in Minot, \$5,189,575 is for transportation infrastructure project funds not spent during the 2009-11 biennium, and \$4.8 million is for grants for rural transit programs not distributed during the 2009-11 biennium.

The table below details the amount of federal funding allocated for state, county, city, and other purposes, including the amount of state matching funds required to receive federal funding for the 2009-11 and 2011-13 bienniums:

	2009-11 Biennium Estimate (In Millions)	2011-13 Biennium Estimate (In Millions)
Federal funding		
State projects	\$472.4	\$517.7
County projects	43.8	47.4
City projects	75.0	74.3
Other purposes, including transit, rail, and safety programs	12.3	17.5
<b>Total - Federal funding</b>	<b>\$603.5</b>	<b>\$656.9</b>
State funding		
Required funding match for state projects	\$88.0	\$101.6
Required funding match for county projects <sup>1</sup>	10.9	11.9
Required funding match for city projects <sup>1</sup>	14.3	14.1
Required funding match for other purposes	15.6	17.2
<b>Total - Required state matching funds</b>	<b>\$128.8</b>	<b>\$144.8</b>

<sup>1</sup>The Department of Transportation receives reimbursement from counties and cities for the required local funding match.

### **Other Sections in House Bill No. 1012**

**Line item transfers** - Section 8 allows the Department of Transportation to transfer funding between the salaries and wages, operating expenses, capital assets, and grants line items when it is cost-effective for the construction and maintenance of highways. The department is to notify the Office of Management and Budget of any transfers made.

**Legislative Management study of state airplanes** - Section 13 provides for a Legislative Management study of the use of state-owned airplanes, including the feasibility and desirability of requiring state airplanes to be managed by State Fleet Services.

### **Related Legislation**

**House Bill No. 1082** allows the Highway Patrol and Department of Transportation to enter a cooperative regional permit agreement with other states for the movement and routing of overweight and oversize vehicles.

**House Bill No. 1109** increases the fee for driver's license renewals from \$10 to \$15 and extends the driver's license renewal period from four years to six years for Class D operator's licenses.

**Senate Bill No. 2015** allows the Department of Transportation to design and procure or construct additional office space for motor vehicle branch offices during the 2011-13 biennium. The bill also provides for a \$100,000 transfer from the general fund to the public transportation fund during the 2011-13 biennium.

**Senate Bill No. 2207** imposes certain registration requirements for nonresidents operating motor vehicles in the state and provides legislative intent that the Department of Transportation is not to spend more than \$50,000 for a marketing and awareness campaign for the new requirements. The bill is estimated to increase deposits in the highway tax distribution fund by \$5,097,040 for the 2011-13 biennium.