

**HOUSE BILL NO. 1012**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of  
 2 transportation; ~~to amend and reenact section 57-40.3-10 of the North Dakota Century Code,~~  
 3 ~~relating to the distribution of highway funds~~ to provide appropriations to the state treasurer for  
 4 transportation funding distributions; to repeal section 2 of chapter 573 of the 2009 Session  
 5 Laws, relating to highway-rail grade safety projects; to provide for transfers; ~~to provide an~~  
 6 ~~effective date;~~ to provide ~~an expiration date~~ for a legislative management study; and to declare  
 7 an emergency.

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
 10 as may be necessary, are appropriated out of any moneys in the general fund in the state  
 11 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
 12 other income, to the department of transportation for the purpose of defraying the expenses of  
 13 the department of transportation, for the biennium beginning July 1, 2011, and ending June 30,  
 14 2013, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
17 <del>Salaries and wages</del>	<del>\$147,373,254</del>	<del>\$19,403,348</del>	<del>\$166,776,602</del>
18 <u>Salaries and wages</u>	<u>\$147,373,254</u>	<u>\$17,711,006</u>	<u>\$165,084,260</u>
19 Operating expenses	188,805,014	15,285,236	204,090,250
20 Capital assets	661,988,548	281,541,283	943,529,831
21 County and township road 22 reconstruction program	0	142,000,000	142,000,000
23 Grants	69,766,101	(1,998,694)	67,767,407
24 Federal stimulus funds	<u>0</u>	<u>24,119,575</u>	<u>24,119,575</u>

1	Total all funds	\$1,067,932,917	\$480,350,748	\$1,548,283,665
2	Less estimated income	1,067,932,917	474,500,748	1,542,433,665
3	Total all funds	\$1,067,932,917	\$478,658,406	\$1,546,591,323
4	Less estimated income	1,067,932,917	472,808,406	1,540,741,323
5	Total general fund	\$0	\$5,850,000	\$5,850,000
6	Full-time equivalent positions	1,054.50	12.00	1,066.50
7	Full-time equivalent positions	1,054.50	6.00	1,060.50

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

**SIXTY-THIRD LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-first legislative assembly for the 2009-11 biennium and the 2011-13 one-time funding items included in the appropriation in section 1 of this Act:

12	<u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
13	Federal stimulus funds	\$176,082,671	\$24,119,575
14	Devils Lake area highway project	4,600,000	5,850,000
15	Extraordinary state highway maintenance	0	228,600,000
16	County and township road reconstruction	0	142,000,000
17	Total all funds	\$180,682,671	\$400,569,575
18	Total special funds	176,082,671	394,719,575
19	Total general fund	\$4,600,000	\$5,850,000

The 2011-13 one-time funding amounts are not part of the entity's base budget for the 2013-15 biennium. The department of transportation shall report to the appropriations committees of the sixty-third legislative assembly on the use of the one-time funding for the biennium beginning July, 2011, and ending June 30, 2013.

~~**SECTION 3. HIGHWAY FUND APPROPRIATION.** The sum of \$771,261,592 included in the estimated income line in section 1 of this Act is from the highway fund and must be used by the department of transportation for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2011, and ending June 30, 2013. Any additional amount in the highway fund that becomes available is appropriated to the department of transportation for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2011, and ending June 30, 2013.~~

1 | **SECTION 3. APPROPRIATION - TRANSFER - HIGHWAY-RAIL GRADE CROSSING**

2 **SAFETY PROJECTS.** There is appropriated out of any moneys in the highway-rail grade  
3 crossing safety fund in the state treasury, not otherwise appropriated, the sum of \$230,000, or  
4 so much of the sum as may be necessary, to the department of transportation for the funding of  
5 grants for highway-rail grade crossing safety projects, including grants for the reduction of  
6 associated special assessments, for the biennium beginning July 1, 2011, and ending June 30,  
7 2013. On June 30, 2013, the state treasurer shall transfer any unexpended and unobligated  
8 balance in the highway-rail grade safety projects fund to the highway tax distribution fund.

9 Grants provided under this section by the department of transportation for highway-rail  
10 grade crossing safety projects are subject to the following requirements:

- 11 1. A political subdivision seeking a grant shall file an application with the department of  
12 transportation.
- 13 2. A political subdivision grant applicant shall provide ten percent matching funds for the  
14 project costs but no local matching funds are required for a highway-rail grade  
15 crossing on a state highway.
- 16 3. Grant funds may be allocated for development of railroad quiet zones, installation or  
17 upgrading of active warning devices, resurfacing crossings, building of grade  
18 separations, and other costs associated with these improvements.
- 19 4. An applicant for grant approval for development of a railroad quiet zone shall provide  
20 the department of transportation a copy of the notice of intent filed with the federal  
21 railroad administration regarding establishment of a proposed quiet zone and copies of  
22 any subsequent filings with or orders from the federal railroad administration relating to  
23 the notice of intent.
- 24 5. Grants provided to a city may not exceed a cumulative amount of \$80,000.

25 **SECTION 4. APPROPRIATION - STATE TREASURER - 2009-11 BIENNIUM**

26 **TRANSPORTATION FUNDING DISTRIBUTIONS.** There is appropriated out of any moneys in  
27 the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or  
28 so much of the sum as may be necessary, to the state treasurer for the purpose of providing  
29 transportation funding distributions, for the period beginning with the effective date of this Act  
30 and ending June 30, 2011. The funding provided in this section is considered a one-time

1 funding item. The state treasurer shall distribute the funds provided under this section prior to  
2 June 30, 2011, as follows:

- 3 1. Sixty percent to non-oil-producing counties based on each county's share of funding  
4 received in state fiscal year 2010 from total funding distributions made to  
5 non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 6 2. Twenty percent to cities in non-oil-producing counties based on each city's share of  
7 funding received in state fiscal year 2010 from total funding distributions made to cities  
8 in non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 9 3. Twenty percent to counties and townships in non-oil-producing counties based on  
10 each county's or township's share of funding received in state fiscal year 2010 from  
11 total funding distributions made to counties and townships in non-oil-producing  
12 counties under section 54-27-19.1. Organized townships are not required to provide  
13 matching funds to receive distributions under this section.

14 For purposes of this section, a "non-oil-producing county" means a county that did not receive  
15 an allocation of funding under section 57-51-15 during state fiscal year 2010 or a county that  
16 received a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year  
17 2010.

18 **SECTION 5. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM**

19 **TRANSPORTATION FUNDING DISTRIBUTIONS.** There is appropriated out of any moneys in  
20 the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or  
21 so much of the sum as may be necessary, to the state treasurer for the purpose of providing  
22 transportation funding distributions, for the biennium beginning July 1, 2011, and ending  
23 June 30, 2013. The funding provided in this section is considered a one-time funding item. The  
24 state treasurer shall distribute the funds provided under this section on April 1, 2012, as follows:

- 25 1. Sixty percent to non-oil-producing counties based on each county's share of funding  
26 received in state fiscal year 2011 from total funding distributions made to  
27 non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 28 2. Twenty percent to cities in non-oil-producing counties based on each city's share of  
29 funding received in state fiscal year 2011 from total funding distributions made to cities  
30 in non-oil-producing counties pursuant to subsection 4 of section 54-27-19.

3. Twenty percent to counties and townships in non-oil-producing counties based on each county's or township's share of funding received in state fiscal year 2011 from total funding distributions made to counties and townships in non-oil-producing counties under section 54-27-19.1. Organized townships are not required to provide matching funds to receive distributions under this section.

For purposes of this section, a "non-oil-producing county" means a county that did not receive an allocation of funding under section 57-51-15 during state fiscal year 2011 or a county that received a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year 2011.

**SECTION 6. LINE ITEM TRANSFERS.** The director of the department of transportation may transfer between the operating, capital assets, and grants line items in section 1 of this Act when it is cost-effective for construction and maintenance of highways. The department of transportation shall notify the office of management and budget of any transfers made pursuant to this section.

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

~~— **57-40.3-10. (Effective through June 30, 2011~~2013~~) Transfer of revenue.**~~

~~— All moneys collected and received under this chapter after moneys are deposited in the state aid distribution fund under section 57-39.2-26.1 must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited as follows:~~

~~— 1. Twenty five percent to the highway tax distribution fund.~~

~~— 2. Seventy five percent to the state general fund.~~

~~— **(Effective after June 30, 2011~~2013~~) Transfer of revenue.** All moneys collected and received under this chapter must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited to the general fund.~~

**SECTION 7. REPEAL.** Section 2 of chapter 573 of the 2009 Session Laws is repealed.

~~**SECTION 8. COUNTY AND TOWNSHIP ROAD RECONSTRUCTION PROGRAM**~~  
~~**CARRYOVER AUTHORITY.**~~

1. The sum of \$142,000,000, or so much of the sum as may be necessary, included in the county and township road reconstruction program line item in section 1 of this Act,

- 1 must be used to rehabilitate or reconstruct county and township paved and unpaved  
2 roads.
- 3 a. Funding allocations to counties are to be made by the department of  
4 transportation based on the needs assessment study conducted by the upper  
5 great plains transportation institute, titled "Additional Road Investments Needed  
6 to Support Oil and Gas Production and Distribution in North Dakota", dated  
7 December 9, 2010.
- 8 b. Counties identified in the study are eligible for this funding.
- 9 2. Each county requesting funding under this section for county or township roads shall  
10 submit the request in accordance with criteria developed by the department of  
11 transportation.
- 12 a. The request shall include a proposed plan for funding projects that rehabilitate or  
13 reconstruct paved and unpaved roads within the county.
- 14 b. The plan shall be based on the upper great plains transportation institute study,  
15 actual road conditions, and integration with state highway and other county road  
16 projects.
- 17 c. Funds shall not be used for routine maintenance.
- 18 3. The department of transportation, in consultation with the county, may approve the  
19 plan or approve the plan with amendments.
- 20 4. The funding included in the county and township road reconstruction program line item  
21 in section 1 of this Act may be used for:
- 22 a. ~~One-hundred~~Ninety percent of the cost of the approved paved roadway projects  
23 not to exceed the funding available for that county.
- 24 b. ~~Twenty~~Twenty-five percent of the cost of the approved unpaved roadway projects  
25 not to exceed the funding available for that county.
- 26 c. Funding may be used for construction, engineering, and plan development costs.
- 27 5. Upon approval of the plan, the department of transportation shall transfer to the county  
28 the approved funding for engineering and plan development costs.
- 29 6. Upon execution of a construction contract by the county, the department of  
30 transportation shall transfer to the county the approved funding to be distributed for  
31 county and township road rehabilitation and reconstruction projects.

1           7. The recipient counties shall report to the department of transportation upon awarding  
2           of each contract and upon completion of each project in a manner prescribed by the  
3           department.

4     ~~8. Section 54-44.1-11 does not apply to funding included in the county and township road~~  
5     ~~reconstruction program line in section 1 of this Act. Any funds not spent by June 30,~~  
6     ~~2013, must be continued into the biennium beginning July 1, 2013, and ending~~  
7     ~~June 30, 2015, and may be expended only for county and township paved and~~  
8     ~~unpaved road rehabilitation and reconstruction projects.~~

9     ~~**SECTION 7. EXTRAORDINARY STATE HIGHWAY MAINTENANCE -- CARRYOVER**~~  
10    ~~**AUTHORITY.** Section 54-44.1-11 does not apply to funding of \$228,600,000 in the capital~~  
11    ~~assets line item relating to extraordinary state highway maintenance in section 1 of this Act. Any~~  
12    ~~funds not spent by June 30, 2013, must be continued into the biennium beginning July 1, 2013,~~  
13    ~~and ending June 30, 2015, and may be expended only for extraordinary state highway~~  
14    ~~maintenance.~~

15           **SECTION 9. LEGISLATIVE MANAGEMENT STUDY - STATE AGENCY AIRPLANES.**

16    During the 2011-12 interim, the legislative management shall consider studying the use of  
17    state-owned airplanes. The study, if conducted, must include a review of airplanes owned by  
18    state agencies, the justification for each airplane, the frequency of use of each airplane, options  
19    for purchasing or leasing new airplanes, and the feasibility and desirability of requiring state  
20    airplanes to be managed by state fleet services. The legislative management shall report its  
21    findings and recommendations, together with any legislation required to implement the  
22    recommendations, to the sixty-third legislative assembly.

23           **SECTION 10. EMERGENCY.** Funding of \$228,600,000 in the capital assets line item  
24    relating to extraordinary state highway maintenance and \$142,000,000 in the county and  
25    township road reconstruction line item in section 1 of this Act and section 4 of this Act are  
26    declared to be an emergency measure.