

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED 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 provide appropriations to the state treasurer for transportation funding
3 distributions; to repeal section 2 of chapter 573 of the 2009 Session Laws, relating to
4 highway-rail grade safety projects; to provide for transfers; to provide for a legislative
5 management study; and to declare an emergency.

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

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

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
13			
14			
15	\$147,373,254	\$17,711,006	\$165,084,260
16	188,805,014	15,285,236	204,090,250
17	661,988,548	281,541,283	943,529,831
18	0	142,000,000	142,000,000
19			
20	69,766,101	(1,998,694)	67,767,407
21	<u>0</u>	<u>24,119,575</u>	<u>24,119,575</u>
22	\$1,067,932,917	\$478,658,406	\$1,546,591,323
23	<u>1,067,932,917</u>	<u>472,808,406</u>	<u>1,540,741,323</u>
24	\$0	\$5,850,000	\$5,850,000

1 Full-time equivalent positions 1,054.50 6.00 1,060.50

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

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

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

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

18 **SECTION 3. APPROPRIATION - TRANSFER - HIGHWAY-RAIL GRADE CROSSING**

19 **SAFETY PROJECTS.** There is appropriated out of any moneys in the highway-rail grade
20 crossing safety fund in the state treasury, not otherwise appropriated, the sum of \$230,000, or
21 so much of the sum as may be necessary, to the department of transportation for the funding of
22 grants for highway-rail grade crossing safety projects, including grants for the reduction of
23 associated special assessments, for the biennium beginning July 1, 2011, and ending June 30,
24 2013. On June 30, 2013, the state treasurer shall transfer any unexpended and unobligated
25 balance in the highway-rail grade safety projects fund to the highway tax distribution fund.

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

- 28 1. A political subdivision seeking a grant shall file an application with the department of
29 transportation.

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

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

14 **TRANSPORTATION FUNDING DISTRIBUTIONS.** There is appropriated out of any moneys in
15 the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, or
16 so much of the sum as may be necessary, to the state treasurer for the purpose of providing
17 transportation funding distributions, for the period beginning with the effective date of this Act
18 and ending June 30, 2011. The funding provided in this section is considered a one-time
19 funding item. The state treasurer shall distribute the funds provided under this section prior to
20 June 30, 2011, as follows:

- 21 1. Sixty percent to non-oil-producing counties based on each county's share of funding
22 received in state fiscal year 2010 from total funding distributions made to
23 non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 24 2. Twenty percent to cities in non-oil-producing counties based on each city's share of
25 funding received in state fiscal year 2010 from total funding distributions made to cities
26 in non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 27 3. Twenty percent to counties and townships in non-oil-producing counties based on
28 each county's or township's share of funding received in state fiscal year 2010 from
29 total funding distributions made to counties and townships in non-oil-producing
30 counties under section 54-27-19.1. Organized townships are not required to provide
31 matching funds to receive distributions under this section.

1 For purposes of this section, a "non-oil-producing county" means a county that did not receive
2 an allocation of funding under section 57-51-15 during state fiscal year 2010 or a county that
3 received a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year
4 2010.

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

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

- 12 1. Sixty percent to non-oil-producing counties based on each county's share of funding
13 received in state fiscal year 2011 from total funding distributions made to
14 non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 15 2. Twenty percent to cities in non-oil-producing counties based on each city's share of
16 funding received in state fiscal year 2011 from total funding distributions made to cities
17 in non-oil-producing counties pursuant to subsection 4 of section 54-27-19.
- 18 3. Twenty percent to counties and townships in non-oil-producing counties based on
19 each county's or township's share of funding received in state fiscal year 2011 from
20 total funding distributions made to counties and townships in non-oil-producing
21 counties under section 54-27-19.1. Organized townships are not required to provide
22 matching funds to receive distributions under this section.

23 For purposes of this section, a "non-oil-producing county" means a county that did not receive
24 an allocation of funding under section 57-51-15 during state fiscal year 2011 or a county that
25 received a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year
26 2011.

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

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

2 **SECTION 8. COUNTY AND TOWNSHIP ROAD RECONSTRUCTION PROGRAM.**

3 1. The sum of \$142,000,000, or so much of the sum as may be necessary, included in
4 the county and township road reconstruction program line item in section 1 of this Act,
5 must be used to rehabilitate or reconstruct county and township paved and unpaved
6 roads.

7 a. Funding allocations to counties are to be made by the department of
8 transportation based on the needs assessment study conducted by the upper
9 great plains transportation institute, titled "Additional Road Investments Needed
10 to Support Oil and Gas Production and Distribution in North Dakota", dated
11 December 9, 2010.

12 b. Counties identified in the study are eligible for this funding.

13 2. Each county requesting funding under this section for county or township roads shall
14 submit the request in accordance with criteria developed by the department of
15 transportation.

16 a. The request shall include a proposed plan for funding projects that rehabilitate or
17 reconstruct paved and unpaved roads within the county.

18 b. The plan shall be based on the upper great plains transportation institute study,
19 actual road conditions, and integration with state highway and other county road
20 projects.

21 c. Funds shall not be used for routine maintenance.

22 3. The department of transportation, in consultation with the county, may approve the
23 plan or approve the plan with amendments.

24 4. The funding included in the county and township road reconstruction program line item
25 in section 1 of this Act may be used for:

26 a. Ninety percent of the cost of the approved paved roadway projects not to exceed
27 the funding available for that county.

28 b. Twenty-five percent of the cost of the approved unpaved roadway projects not to
29 exceed the funding available for that county.

30 c. Funding may be used for construction, engineering, and plan development costs.

- 1 5. Upon approval of the plan, the department of transportation shall transfer to the county
2 the approved funding for engineering and plan development costs.
- 3 6. Upon execution of a construction contract by the county, the department of
4 transportation shall transfer to the county the approved funding to be distributed for
5 county and township road rehabilitation and reconstruction projects.
- 6 7. The recipient counties shall report to the department of transportation upon awarding
7 of each contract and upon completion of each project in a manner prescribed by the
8 department.

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

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

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