

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2153

Introduced by

Senators Lyson, Armstrong, Cook

Representatives Glassheim, Sanford, Schatz

1 A BILL for an Act to create and enact a new section to chapter 24-02 of the North Dakota
2 Century Code, relating to highway-rail grade crossing safety projects; to amend and reenact
3 section 54-27-19 of the North Dakota Century Code, relating to the highway tax distribution
4 fund; and to provide a continuing appropriation.

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

6 **SECTION 1.** A new section to chapter 24-02 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Highway-rail grade crossing safety projects fund.**

9 The director shall administer the highway-rail grade crossing safety projects fund as follows:

- 10 1. The director shall prioritize qualified projects funded under this section on an annual
11 basis. Program funds may be allocated for development of railroad quiet zones,
12 installing or upgrading active or passive warning devices, constructing or upgrading
13 crossing surfaces, relocating crossings, building grade separations, eliminating
14 sight-distance obstructions, any other project eligible for the rail safety portions of the
15 federal highway safety improvement program, and other costs associated with these
16 improvements.
- 17 2. The department shall solicit highway-rail grade crossing safety projects from various
18 public and private sector entities. The department may prioritize projects under this
19 subsection concurrently with the applicable highway-rail grade crossing portions of the
20 federally funded highway safety improvement program. The department shall
21 administer projects under this subsection and may require reimbursement of the local
22 match from any public or private sector applicant. An applicant under this subsection
23 shall provide matching funds according to department requirements regarding federal
24 aid highway projects in force at the time of the application.

1 3. For development of a railroad quiet zone, a political subdivision shall initiate a project
2 and file an application with the department. Political subdivisions shall provide the
3 department a copy of the notice of intent filed with the federal railroad administration
4 regarding establishment of a proposed quiet zone and copies of any subsequent
5 filings with or orders from the federal railroad administration relating to the notice of
6 intent. Grants for a single crossing may not exceed seventy-five thousand dollars, and
7 grants for all crossings within a city may not exceed a cumulative amount of two
8 hundred twenty-five thousand dollars. Political subdivision applicants shall administer
9 projects funded under this subsection. The director may reimburse political
10 subdivisions for state funds expended under this subsection. A political subdivision is
11 not eligible for more than one quiet zone project funded under this subsection after
12 January 1, 2009. The director shall prioritize projects under this subsection based on
13 the date of receipt of the applicant's filed notice of intent to the federal railroad
14 administration, unless the filing is rejected by the federal railroad administration. A
15 political subdivision applicant shall provide matching funds according to department
16 requirements regarding federal aid highway projects in force at the time of the
17 application.

18 **SECTION 2. AMENDMENT.** Section 54-27-19 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-27-19. Highway tax distribution fund - State treasurer to make allocation to state,**
21 **counties, and cities - Continuing appropriation.**

22 A highway tax distribution fund is created as a special fund in the state treasury into which
23 must be deposited the moneys available by law from collections of motor vehicle registration
24 and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The
25 state treasurer shall transfer the first five million five hundred thousand dollars per biennium
26 from the highway tax distribution fund to the state highway fund for the purpose of providing
27 administrative assistance to other transferees. After the transfer of the first five million five
28 hundred thousand dollars, any moneys in the highway tax distribution fund must be allocated
29 and transferred monthly by the state treasurer, as follows:

- 30 1. ~~Sixty one~~Sixty and three-tenths percent must be transferred monthly to the state
31 department of transportation and placed in a state highway fund.

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

- 1 (1) A statewide per capita average as determined by calculating twenty-seven
2 percent of the amount allocated to all of the counties under this subsection
3 divided by the total population of all of the incorporated cities in the state.
- 4 (2) The share distributed to each city in the county having a population of less
5 than one thousand must be determined by multiplying the population of that
6 city by the product of 1.50 times the statewide per capita average computed
7 under paragraph 1.
- 8 (3) The share distributed to each city in the county having a population of one
9 thousand to four thousand nine hundred ninety-nine, inclusive, must be
10 determined by multiplying the population of that city by the product of 1.25
11 times the statewide per capita average computed under paragraph 1.
- 12 (4) The share distributed to each city in the county having a population of five
13 thousand or more must be determined by multiplying the population of that
14 city by the statewide per capita average for all such cities, which per capita
15 average must be computed as follows: the total of the shares computed
16 under paragraphs 2 and 3 for all cities in the state having a population of
17 less than five thousand must be subtracted from the total incorporated cities'
18 share in the state as computed under subdivision a and the balance
19 remaining must then be divided by the total population of all cities of five
20 thousand or more in the state.
- 21 5. One percent must be transferred monthly to the highway-rail grade crossing safety
22 projects fund and is appropriated on a continuing basis to the department of
23 transportation not to exceed four million dollars per biennium.
- 24 6. The moneys allocated to the incorporated cities must be distributed to them monthly
25 by the state treasurer and must be deposited by the cities in a separate fund and may
26 only be used in accordance with section 11 of article X of the Constitution of North
27 Dakota and an incorporated city may use the fund for the construction, reconstruction,
28 repair, and maintenance of public highways within or outside the city pursuant to an
29 agreement entered into between the city and any other political subdivision as
30 authorized by section 54-40-08.