

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2012
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of transportation; to provide appropriations to the state treasurer for transportation funding distributions; to provide an appropriation to the department of corrections and rehabilitation for costs related to a general license plate issue; to amend and reenact sections 39-02-03, 39-04-09, and 57-43.2-19 of the North Dakota Century Code and section 27 of chapter 579 of the 2011 Session Laws, relating to department of transportation motor vehicle branch offices, the issuance of license plates, deposits of special fuels excise taxes, and transportation funding distributions to non-oil-producing political subdivisions; to provide for transfers and contingent transfers; to provide exemptions; to provide for budget section reports; to provide for legislative management studies; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of transportation for the purpose of defraying the expenses of the department of transportation, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

| | <u>Base Level</u> | <u>Adjustments or Enhancements</u> | <u>Appropriation</u> |
|--------------------------------|----------------------|--|----------------------|
| Salaries and wages | \$165,966,396 | \$21,511,189 | \$187,477,585 |
| Accrued leave payments | 0 | 7,280,897 | 7,280,897 |
| Operating expenses | 204,090,250 | 172,631,465 | 376,721,715 |
| Capital assets | 709,079,831 | 560,431,376 | 1,269,511,207 |
| Grants | <u>67,767,407</u> | <u>22,020,623</u> | <u>89,788,030</u> |
| Total all funds | \$1,146,903,884 | \$783,875,550 | \$1,930,779,434 |
| Less estimated income | <u>1,146,903,884</u> | <u>773,875,550</u> | <u>1,920,779,434</u> |
| Total general fund | \$0 | \$10,000,000 | \$10,000,000 |
| Full-time equivalent positions | 1,063.50 | 16.00 | 1,079.50 |

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

| <u>One-Time Funding Description</u> | <u>2011-13</u> | <u>2013-15</u> |
|---|--------------------|--------------------|
| Federal stimulus funds | \$24,119,575 | \$0 |
| Devils Lake area highway project | 5,850,000 | 0 |
| Extraordinary state highway maintenance | 228,600,000 | 0 |
| County and township road reconstruction program | 142,000,000 | 0 |
| Emergency relief program borrowing authority | 200,000,000 | 0 |
| Road grade raising grants | 6,000,000 | 0 |
| Highway-rail grade crossing safety grants | 1,431,000 | 0 |
| Enhanced state highway investments | 0 | 541,600,000 |
| Federal TIGER III grant match | <u>0</u> | <u>10,000,000</u> |
| Total all funds | \$608,000,575 | \$551,600,000 |
| Total special funds | <u>602,150,575</u> | <u>541,600,000</u> |
| Total general fund | \$5,850,000 | \$10,000,000 |

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. The department of transportation shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. LINE ITEM TRANSFERS. The director of the department of transportation may transfer between the salaries and wages, 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 4. HIGHWAY-RAIL GRADE CROSSING SAFETY PROJECTS FUND - PILOT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$640,000 from the highway-rail grade crossing safety projects fund which may be used by the department of transportation to continue highway-rail grade crossing safety projects approved by the department and for which funding was obligated prior to January 1, 2013.

The grants line item in section 1 of this Act includes the sum of \$500,000 from the highway-rail grade crossing safety projects fund for a highway-rail grade crossing safety pilot program during the biennium beginning July 1, 2013, and ending June 30, 2015. The director of the department of transportation shall develop guidelines for the distribution of program funds for rail safety projects the director deems necessary for public safety. An eligible project may be located on a paved or unpaved roadway and a local match of 10 percent of total project costs must be provided for any approved project that is not located on the state highway system.

On June 30, 2015, the state treasurer shall transfer any unexpended and unobligated balance in the highway-rail grade crossing safety projects fund to the highway tax distribution fund.

SECTION 5. APPROPRIATION - CONTINGENT TRANSFERS - GENERAL FUND TO PUBLIC TRANSPORTATION FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,100,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the public transportation fund pursuant to this section during the biennium beginning July 1, 2013, and ending June 30, 2015. The office of management and budget shall transfer the sum of \$550,000 on July 1, 2013, if deposits in the public transportation fund from the highway tax distribution fund are \$5,000,000 or less during the period beginning July 1, 2012, and ending June 30, 2013. The office of management and budget shall transfer the sum of \$550,000 on July 1, 2014, if deposits in the public transportation fund from the highway tax distribution fund are \$5,000,000 or less during the period beginning July 1, 2013, and ending June 30, 2014.

SECTION 6. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM - TOWNSHIP TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION - EXEMPTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$720,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions to counties and townships in accordance with this section, for the period beginning with the effective date of this Act and ending June 30, 2013. The state treasurer shall distribute the funding provided under this section to counties and townships that are eligible to receive a distribution under subsection 3 of section 27 of chapter 579 of the 2011 Session Laws and have not already received a distribution under that subsection. Beginning with the effective date of this Act, section 27 of chapter 579 of the 2011 Session Laws is not subject to section 54-11-01 and the state treasurer may not require a political subdivision to return an overpayment of funds received from distributions under the section.

SECTION 7. APPROPRIATION - STATE TREASURER - TOWNSHIP TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$385,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distribution

to counties and townships in accordance with this section, for the period beginning with the effective date of this Act and ending June 30, 2015. The state treasurer shall use the funding provided under this section to ensure that all eligible counties and townships receive a distribution in accordance with subsection 3 of section 2 of Senate Bill No. 2176 as approved by the sixty-third legislative assembly. Any funds that remain after the distributions to eligible counties and townships must be distributed by the state treasurer pursuant to the method provided in subsection 3 of section 2 of Senate Bill No. 2176 as approved by the sixty-third legislative assembly.

SECTION 8. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - GENERAL LICENSE PLATE ISSUE - BUDGET SECTION APPROVAL - EXEMPTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,820,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of defraying the expenses for a general license plate issue, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of transportation may not use embossed printed license plates for the general license plate issue. The department of transportation shall develop a process to select a new design to be used for the general license plate issue and shall develop guidelines regarding the administration of the license plate issue. The department shall provide its recommendation for the new license plate design to the budget section, and budget section approval must be received prior to the issuance of the new license plates. The one-time general fund appropriation provided under this section is not subject to section 54-44.1-11 and may be continued into the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 9. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND REHABILITATION - GENERAL LICENSE PLATE ISSUE. There is appropriated from special funds and other income received, the sum of \$4,900,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation for expenses incurred by roughrider industries related to the general license plate issue, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 10. APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$541,600,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the highway fund during the biennium beginning July 1, 2013, and ending June 30, 2015. The office of management and budget shall transfer the funds provided under this section to the state highway fund at the request of the director of the department of transportation. The funding provided in this section is considered a one-time funding item.

SECTION 11. ENHANCED STATE HIGHWAY INVESTMENTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding of \$541,600,000 in the capital assets line item relating to enhanced state highway investments in section 1 of this Act. Any funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for enhanced state highway investments.

SECTION 12. EXEMPTION - STATE DISASTER RELIEF FUND - ROAD GRADE RAISING GRANTS. The amount appropriated to the department of transportation from the state disaster relief fund for road grade raising grants, as contained in section 14 of chapter 579 of the 2011 Session Laws, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the department to provide road grade raising grants during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 13. AMENDMENT. Section 39-02-03 of the North Dakota Century Code is amended and reenacted as follows:

39-02-03. Powers and duties of director and department.

The director, subject to the approval of the governor, may adopt and enforce such administrative rules and designate such agencies and establish such branch offices as may be necessary to carry out the laws applicable to the director's office and department. The director shall provide suitable forms for

applications, registration cards, license number plates, and all other forms requisite for the operation of the director's office and department, and shall prepay all transportation charges thereon. ~~In addition, the~~The director shall provide for a ~~uniform~~ maximum fee schedule for the various services provided by the branch offices, not to exceed ten dollars for each service provided. Any branch office may establish a different fee schedule if the schedule does not contain a fee that exceeds a maximum fee established by the director and is approved by the director. All branch office managers must be bonded. The department may lease or provide office space or other ~~overhead~~ costs as necessary to independent motor vehicle branch managers. All rents collected under this section must be deposited in the state highway fund. The department and the officers thereof shall enforce the provisions of all laws pertaining to the director and the department.

SECTION 14. AMENDMENT. Section 39-04-09 of the North Dakota Century Code is amended and reenacted as follows:

39-04-09. Director may design and issue number plates.

The director may design and issue plates of distinctly different color for each classification of motor vehicle, and there must at all times be a marked contrast between the background color of the plates and that of the numerals and letters ~~thereon~~ on the plates. License plates must be acquired from the North Dakota state penitentiary if the penitentiary has the facilities to manufacture license plates. The director shall make a general issue during the biennium beginning July 1, 2013, and ending June 30, 2015, and continuing into the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 15. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. Transfer, deposit, and distribution of funds.

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to two hundred fifty thousand dollars per year must be transferred to the state treasurer who shall deposit the moneys in the highway-rail grade crossing safety projects fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

SECTION 16. AMENDMENT. Section 27 of chapter 579 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 27. CONTINGENT APPROPRIATION - STATE TREASURER - TRANSPORTATION FUNDING DISTRIBUTIONS TO NON-OIL-PRODUCING POLITICAL SUBDIVISIONS. If the tax commissioner certifies that total oil and gas tax revenue collections for the period July 1, 2011, through February 29, 2012, exceed total oil and gas tax revenue collection projections for that period by at least \$48,000,000, based on legislative estimates made at the close of the 2011 regular legislative session, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$23,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions, for the period beginning with the effective date of this Act and ending June 30, 2013. The funding provided in this section is considered a one-time funding item. The state treasurer shall distribute the funds provided under this section on April 1, 2012, as follows:

1. Six million eight hundred thousand dollars to non-oil-producing counties and cities pursuant to subsection 4 of section 54-27-19.
2. One million seven hundred thousand dollars to counties and townships in non-oil-producing counties pursuant to section 54-27-19.1. Organized townships are not required to provide matching funds to receive distributions under this section.

3. Fourteen million five hundred thousand dollars to counties and townships in non-oil-producing counties through a distribution of \$10,000 to each organized township and a distribution of \$10,000 for each unorganized township to the county in which the unorganized township is located. If any funds remain after the distributions provided under this subsection, the state treasurer shall distribute eighty percent of the remaining funds to counties and cities pursuant to the method provided in subsection 1 of this section and shall distribute twenty percent of the remaining funds to counties and townships pursuant to the method provided in subsection 2 of this section.

For purposes of this section, a "non-oil-producing county" means a county that received no allocation of funding or a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year ~~2011~~2010. Any funds received by a county under this section for an unorganized township distribution must be used for roadway purposes in those unorganized townships located in the county. All funds distributed under this section must be used for extraordinary roadway maintenance purposes.

SECTION 17. LEGISLATIVE MANAGEMENT STUDY - RAILROAD ASSISTANCE PROGRAMS.

During the 2013-14 interim, the legislative management shall consider studying state railroad assistance programs. The study, if conducted, must review existing programs and funding levels and whether the existing programs and funding levels are adequate to meet current industry needs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 18. LEGISLATIVE MANAGEMENT STUDY - TRANSPORTATION COSTS AND FUNDING. During the 2013-14 interim, the legislative management shall consider studying the long-term costs of transportation infrastructure maintenance and improvement projects and methods for funding these projects. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 19. LEGISLATIVE MANAGEMENT STUDY - RENEWABLE FUEL STANDARDS. During the 2013-14 interim, the legislative management shall consider studying potential statutory or administrative changes that could be made to assist parties in the fuel supply chain in complying with federal renewable fuel standards, including compliance with the renewable identification number credits requirements. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 20. LEGISLATIVE MANAGEMENT STUDY - MOTOR VEHICLE BRANCH OFFICES. During the 2013-14 interim, the legislative management shall consider studying the use of branch offices by the department of transportation. The study must include a review of the structure of agreements with operators of branch offices, the number of motor vehicles registered at each office, the current locations of offices, the quality of data provided by the offices, the staffing needs of the offices, and the fees received by offices for services provided. The study must also include a review of the future use of branch offices, including office locations, alternative uses for facilities, and other changes that may promote efficiencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 21. EFFECTIVE DATE - EXPIRATION DATE. Section 15 of this Act is effective for taxable events occurring after June 30, 2013, and before July 1, 2015, and is thereafter ineffective.

SECTION 22. EMERGENCY. Sections 6, 7, and 16 of this Act and funding of \$10,000,000 in the grants line item in section 1 of this Act to match a federal TIGER III grant for railroad improvements are declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2012 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 0 Absent 4

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State