

**Department of Transportation
Budget No. 801
Senate Bill Nos. 2012, 2338**

	FTE Positions	General Fund	Other Funds	Total
2009-11 executive budget (bills as introduced)	1,054.50	\$120,000,000	\$1,010,182,250	\$1,130,182,250
2009-11 legislative appropriations	1,054.50	4,600,000	1,244,015,588	1,248,615,588
Legislative increase (decrease) to executive budget	0.00	(\$115,400,000)	\$233,833,338	\$118,433,338
Legislative increase (decrease) to 2007-09 appropriations	2.00	\$4,600,000	\$331,690,142 ¹	\$336,290,142

¹This amount reflects the 2007-09 deficiency appropriation of \$8.5 million from special funds to the Department of Transportation for highway projects and public transportation grants relating to weather-related cost-sharing distributions.

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2007-09 legislative appropriations	\$0	\$0	\$0
2009-11 legislative appropriations	0	4,600,000	4,600,000
2009-11 legislative increase (decrease) to 2007-09 appropriations	\$0	\$4,600,000	\$4,600,000
Percentage increase (decrease) to 2007-09 appropriations	N/A	100.0%	100.0%
2009-11 legislative increase (decrease) to executive budget	\$0	(\$115,400,000)	(\$115,400,000)
Percentage increase (decrease) to executive budget	N/A	(96.2%)	(96.2%)

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 House Bill No. 1015.

	Major Items			
	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Removed funding added in the executive budget for state employee salary equity adjustments			(\$4,200,000)	(\$4,200,000)
Removed 1 new FTE driver's license examiner position added in the executive recommendation	(1.00)		(89,333)	(89,333)

Removed the transfer from the general fund to the highway tax distribution fund included in the executive budget		(\$120,000,000)		(120,000,000)
Added a new Title VI coordinating FTE position with funding to be provided from existing federal funds	1.00			0
Reduced funding from estimated income for operating expenses for Fleet Services			(7,500,000)	(7,500,000)
Removed funding for the department's driver's license mainframe computer replacement project			(7,500,000)	(7,500,000)
Removed funding for the construction of an equipment storage building at the Fargo district office location			(660,000)	(660,000)
Appropriated federal fiscal stimulus funds (see Federal Fiscal Stimulus Funding section below)			176,082,671	176,082,671
Added federal funds spending authority for Devils Lake area road projects and provided a transfer of \$4.6 million from the general fund to the highway fund to match the federal funding		4,600,000	52,600,000	57,200,000
Added additional funding for highway projects as a result of motor vehicle excise tax collections deposited in the highway fund			30,500,000	30,500,000
Adjusts funding for highway projects to reflect anticipated actual funding available for highway-related projects			(7,900,000)	(7,900,000)
Added funding in Senate Bill No. 2338 for highway-rail grade safety projects			2,500,000	2,500,000
Total	<u>0.00</u>	<u>(\$115,400,000)</u>	<u>\$233,833,338</u>	<u>\$118,433,338</u>

FTE Changes

The 2009-11 biennium appropriation includes funding for 1,054.5 FTE positions, an increase of 2 FTE positions from the 2007-09 authorized level of 1,052.5 FTE positions. The Legislative Assembly added 1 of the 2 driver's license examiner FTE positions included in the executive recommendation and added 1 Title VI compliance FTE position.

Allocation of Motor Vehicle Excise Taxes

For the 2009-11 biennium, the Legislative Assembly, in Section 21 of Senate Bill No. 2012, provided that 25 percent of motor vehicle excise tax collections, after the allocation to the state aid distribution fund, be deposited in the highway fund rather than the general fund. This change is estimated to result in \$30.5 million of additional highway fund revenue during the 2009-11 biennium.

Federal Fiscal Stimulus Funding

In Section 2 of Senate Bill No. 2012, the Legislative Assembly appropriated \$176,082,671 of federal fiscal stimulus funds from the federal American Recovery and Reinvestment Act of 2009 to the Department of Transportation for highway infrastructure (\$170,126,497) and grants to rural transit programs (\$5,956,174). These amounts do not include \$5,041,000 of federal fiscal stimulus funding distributed directly to transit programs in metropolitan planning areas. The Department of Transportation may seek Emergency Commission and Budget Section approval for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated. This amount is not to be considered part of the agency's

base budget for the 2011-13 biennium. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

Highway Tax Distribution Fund

In Sections 17, 18, 19, 22, 23, and 26 of Senate Bill No. 2012, the Legislative Assembly provided for the following changes relating to the highway tax distribution fund:

- Provided that \$13 of each motor vehicle registration fee currently deposited in the highway fund be deposited in the highway tax distribution fund.
- Repealed North Dakota Century Code (NDCC) Section 39-04.2-03 that required an additional fee of \$3 to be charged for motor vehicle registrations for deposit in the public transportation fund. Section 39-04-19 was also amended to increase motor vehicle registration fees by \$3 to offset the decrease in fees resulting from the repeal of Section 39-04.2-03.
- Provided that the one cent per gallon of motor fuels taxes currently deposited in the township highway aid fund be deposited in the highway tax distribution fund and allowed the deposits to be refundable.
- Provided that the first \$5.5 million deposited in the highway tax distribution fund each biennium be transferred to the highway fund for administrative costs.
- Provided for the following changes in the highway tax distribution fund distribution formula:

	2007-09 Biennium	2009-11 Biennium
State highway fund	63.0%	61.3%
Counties	23.0%	21.5%
Cities	14.0%	13.0%
Township highway aid fund	0.0%	2.7%
Public transportation fund	0.0%	1.5%
Total	100.0%	100.0%

Weather-Related Cost-Sharing

Section 3 of Senate Bill No. 2012 provides a 2007-09 appropriation of \$59.9 million from the general fund to the State Treasurer for weather-related cost-sharing distributions. Of the total appropriation, \$7.5 million is to be distributed to the state highway fund, \$41.4 million to counties and cities in accordance with the formula used to distribute funds to counties and cities under NDCC Section 54-27-19(2), \$10 million to townships in accordance with provisions used to distribute funds to townships under Section 54-27-19.1, and \$1 million to the public transportation fund to be distributed to public transit programs in accordance with Section 39-04.2-04.

State Disaster Relief Fund

Section 4 of Senate Bill No. 2012 establishes a state disaster relief fund to provide funding for defraying the expenses of state disasters, including funds required to match federal funds for expenses associated with presidential declared disasters in the state. Sections 5 through 8 of Senate Bill No. 2012 transfer \$43 million from the general fund to the state disaster relief fund and appropriate the funding to the Adjutant General for emergency snow removal grants and emergency disaster relief grants.

Emergency snow removal grants - Up to \$20 million of the \$43 million appropriated from the state disaster relief fund to the Adjutant General may be used for emergency snow removal grants. A county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 50 percent of the costs incurred by the entity for the period January 2009 through March 2009 that exceeds 200 percent of the average costs incurred for these months in 2004 through 2008. Each entity requesting reimbursement is to submit the request in accordance with the rules developed by the Department of Emergency Services. The Department of Emergency Services is to distribute the grants prior to June 30, 2009, and is to report to the Budget Section regarding the distribution of grants.

Emergency disaster relief grants - Up to \$23 million of the \$43 million appropriated from the state disaster relief fund to the Adjutant General may be used for emergency disaster relief grants. Any political subdivision receiving federal emergency relief funding relating to disasters occurring from January 2009 to June 2009 may apply to the Department of Emergency Services for an emergency disaster relief grant of up to 50 percent of the local match required to receive the federal emergency relief funding. Each political subdivision requesting an emergency disaster relief grant is to submit the request in accordance with rules developed by the Department of Emergency Services. The Department of Emergency Services may provide up to \$13 million of emergency disaster relief grants and may seek Budget Section approval to distribute additional grants. Any funding not distributed to political subdivisions may be used to match federal disaster relief funds received for state purposes, subject to Budget Section approval. The Department of Emergency Services is to report to the Budget Section during the fourth quarter of calendar year 2009 and the third quarter of calendar year 2010 regarding emergency disaster relief grants awarded.

One-Time Funding

Section 12 of Senate Bill No. 2012 designates any highway funding received by the state, counties, cities, and townships in excess of the amounts received through distributions from the highway tax distribution fund or existing federal highway aid programs as one-time funding.

Highway-Rail Grade Crossing Safety Fund

Senate Bill No. 2338 provides for up to \$1.6 million of special fuels excise taxes collected on sales of diesel fuel to railroads be deposited in the highway-rail grade crossing safety projects fund. Senate Bill No. 2338 also provides a \$1.6 million appropriation from the highway-rail grade crossing safety fund and \$900,000 of federal highway safety funds to the Department of Transportation for funding highway-rail grade crossing safety projects, including grants for the reduction of associated special assessments. Grants may be used for developing a railroad quiet zone with total grant funding limited to \$225,000 for each city.

Other Sections in Senate Bill No. 2012

Use of highway funding - Section 11 provides that the Department of Transportation is to coordinate with the Department of Emergency Services to compile information regarding the use of state, federal, emergency, and other highway funding by the Department of Transportation, counties, cities, and townships during the 2009-11 biennium and is to provide periodic reports to the Budget Section regarding the use of funds during the 2009-10 interim.

Line item transfers - Section 13 allows the Department of Transportation to transfer funding between the operating and capital assets 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 and report to the Legislative Council on any transfers made.

Theodore Roosevelt Expressway - Section 14 creates a new section to NDCC Chapter 24-01 to designate certain portions of United States Highways 2 and 85 as the Theodore Roosevelt Expressway.

Sale of road materials - Section 15 amends NDCC Section 24-02-35.2 regarding the sale of road materials by the Department of Transportation. The department is authorized to sell up to \$1 million dollars of road materials per year with the proceeds deposited in the Department of Transportation fund.

Disaster borrowing authority - Section 16 amends NDCC Section 24-02-44 to allow the Department of Transportation to borrow funds from the Bank of North Dakota to advance federal emergency relief funds.

Transportation funding report - Section 20 creates a new section to NDCC Chapter 54-27 to require each county, city, and township to provide an annual report to the Tax Commissioner regarding funding and expenditures related to transportation projects and programs.

Legislative Council studies - Sections 24 and 25 provide for Legislative Council studies regarding the Fargo district office location and options for matching federal transportation funding.

Related Legislation

Senate Bill No. 2054 - This bill removes the limitation that Department of Transportation agreements with tribal governments relating to federal highway program spending requirements may not exceed \$25,000.

Senate Bill No. 2147 - This bill authorizes the Department of Transportation to enter into two design-build method contracts for highway or bridge projects and provides for a report to the Legislative Council.

Senate Bill No. 2223 - This bill provides for the development of two public transportation coordination pilot projects.