

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
ENGROSSED HOUSE BILL NO. 1012**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of  
2 transportation; to provide a continuing appropriation; to create and enact a new section to  
3 chapter 24-01 and sections 54-27-19.3 and 54-27-19.4 of the North Dakota Century Code,  
4 relating to designating state highway 13, the legacy earnings highway distribution fund, and  
5 legacy earnings township highway aid fund; to amend and reenact section 24-02-37.3 of the  
6 North Dakota Century Code as created by section 1 of Senate Bill No. 2113, as approved by the  
7 sixty-eighth legislative assembly, section 57-40.3-10 of the North Dakota Century Code, and  
8 section 13 of chapter 15 and section 10 of chapter 80 of the 2021 Session Laws, relating to the  
9 flexible transportation fund, motor vehicle excise tax allocations, an appropriation for township  
10 roadway funding, and the appropriation of bond proceeds for transportation projects; to provide  
11 an exemption; to provide a report; to provide for a legislative management study; to provide an  
12 effective date; and to declare an emergency.

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

14 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
15 as may be necessary, are appropriated from special funds derived from federal funds and other  
16 income, to the department of transportation for the purpose of defraying the expenses of the  
17 department of transportation, for the biennium beginning July 1, 2023, and ending June 30,  
18 2025, as follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
21 Salaries and wages	\$204,109,585	\$13,636,811	\$217,746,396
22 Operating expenses	270,888,188	61,993,286	332,881,474
23 Capital assets	902,431,344	653,963,721	1,556,395,065
24 Grants	118,085,610	2,485,848	120,571,458

Sixty-eighth  
Legislative Assembly

1	Contingent loan authorization	<u>0</u>	<u>78,500,000</u>	<u>78,500,000</u>
2	Total all funds	\$1,495,514,727	\$810,579,666	\$2,306,094,393
3	Less estimated income	<u>1,495,514,727</u>	<u>800,204,666</u>	<u>2,295,719,393</u>
4	Total general fund	\$0	\$10,375,000	\$10,375,000
5	Full-time equivalent positions	982.00	19.00	1,001.00

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

7 **SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding  
8 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the  
9 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act:

10	<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
11	Road and bridge projects and matching funds	\$255,000,000	\$0
12	Contingent loans	50,000,000	78,500,000
13	Bond proceeds	70,000,000	0
14	Federal funds authority	498,609,357	0
15	Beyond visual line of sight infrastructure	5,000,000	0
16	Construction and materials management system	9,660,000	0
17	Township emergency repair grants	750,000	0
18	State matching funds	0	114,000,000
19	Federal highway funds	0	290,000,000
20	State flexible transportation fund	0	51,000,000
21	Roadway management system project	0	6,250,000
22	Door security	0	865,000
23	Automated vehicle location	0	2,010,000
24	Short line railroad programs	0	6,500,000
25	United States highway 52 environmental study	0	5,000,000
26	Flood projects study	0	2,500,000
27	Rural transit program grants	<u>0</u>	<u>1,250,000</u>
28	Total all funds	\$889,019,357	\$557,875,000
29	Less estimated income	<u>889,019,357</u>	<u>547,500,000</u>
30	Total general fund	\$0	\$10,375,000

1       The 2023-25 biennium one-time funding amounts are not a part of the department's base  
2 budget for the 2025-27 biennium. The department of transportation shall report to the  
3 appropriations committees of the sixty-ninth legislative assembly on the use of this one-time  
4 funding for the biennium beginning July 1, 2023, and ending June 30, 2025.

5       **SECTION 3. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,  
6 the director of the office of management and budget shall transfer appropriation authority  
7 among the salaries and wages, operating expenses, capital assets, and grants line items in  
8 section 1 of this Act as requested by the director of the department of transportation when it is  
9 cost-effective for construction and maintenance of highways. The department of transportation  
10 shall notify the legislative council of any transfers made pursuant to this section.

11       **SECTION 4. CONTINGENT LOAN AUTHORIZATION - CONTINGENT FUNDING -**  
12 **HIGHWAY IMPROVEMENT PROJECTS.** The department of transportation may borrow from  
13 the Bank of North Dakota, \$50,000,000, or so much of the sum as may be necessary, which is  
14 appropriated to the department of transportation in the contingent loan authorization line item in  
15 section 1 of this Act for matching federal funds that may become available, for the biennium  
16 beginning July 1, 2023, and ending June 30, 2025. The funds may be borrowed and spent only  
17 upon certification by the director of the department of transportation to the director of the office  
18 of management and budget that the department has been awarded additional federal grants  
19 related to United States highway 85 during the biennium beginning July 1, 2023, and ending  
20 June 30, 2025. The department of transportation shall request from the sixty-ninth legislative  
21 assembly an appropriation to repay any outstanding loans authorized in this section.

22       **SECTION 5. CONTINGENT LOAN AUTHORIZATION - CONTINGENT FUNDING -**  
23 **FLOOD PROJECTS.** The department of transportation may borrow from the Bank of North  
24 Dakota, \$28,500,000, or so much of the sum as may be necessary, which is appropriated to the  
25 department of transportation in the contingent loan authorization line item in section 1 of this Act  
26 for matching funds made available from the state of Minnesota for northern Red River valley  
27 transportation projects, for the biennium beginning July 1, 2023, and ending June 30, 2025. The  
28 funds authorized in this section may be borrowed and spent only upon certification by the  
29 director of the department of transportation to the office of management and budget that the  
30 Minnesota department of transportation will match these funds one dollar-for-dollar basis. The  
31 funds may be borrowed and spent for phase one of a project to address northern Red River

1 valley flooding issues and are available for design, redesign, preliminary and final engineering,  
2 environmental analysis, right of way acquisition, and construction, including demolition. The  
3 department of transportation shall request from the sixty-ninth legislative assembly an  
4 appropriation to repay any outstanding loans authorized in this section.

5 **SECTION 6. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS**

6 **FUND.** The estimated income line item in section 1 of this Act includes the sum of \$179,000,000  
7 from the strategic investment and improvements fund for the following purposes:

- 8 1. The sum of \$114,000,000 for matching federal highway funding;
- 9 2. The sum of \$51,000,000 to establish a state flexible transportation fund;
- 10 3. The sum of \$6,500,000 to enhance existing loan programs to assist short line railroads  
11 with rail improvement projects;
- 12 4. The sum of \$2,500,000 to match funding from the state of Minnesota and other  
13 sources for studies, preliminary engineering, and environmental studies to address  
14 northern Red River valley infrastructure affected by flooding; and
- 15 5. The sum of \$5,000,000 for an environmental study of a portion of United States  
16 highway 52.

17 **SECTION 7. RURAL TRANSIT FUNDING.** The grants line item in section 1 of this Act  
18 includes the sum of \$1,250,000 from the general fund for grants to rural transit providers in  
19 nonurban areas.

20 **SECTION 8. CONSTRUCTION OF REST AREA AND VISITOR CENTER.** Notwithstanding  
21 any other provision of law, the director of the department of transportation may enter into a  
22 cooperative agreement with a public or private entity and may expend moneys from the state  
23 highway fund or any moneys within the limits of the legislative appropriations for the purpose of  
24 constructing a rest area and visitor center in western North Dakota, for the biennium beginning  
25 July 1, 2023, and ending June 30, 2025.

26 **SECTION 9.** A new section to chapter 24-01 of the North Dakota Century Code is created  
27 and enacted as follows:

28 **Trooper Beryl McLane memorial highway - State highway 13 - Continuing**  
29 **appropriation.**

30 The department shall designate state highway 13 from Edgeley to LaMoure as the Trooper  
31 Beryl McLane memorial highway and shall place signs along the highway designating that

1 name. The department may accept any appropriate signs or funds donated to the department  
2 for the placement of signs. Any donated funds are appropriated to the department on a  
3 continuing basis for the purpose of providing signs designating state highway 13 as the Trooper  
4 Beryl McLane memorial highway.

5 **SECTION 10. AMENDMENT.** Section 24-02-37.3 of the North Dakota Century Code as  
6 created by section 1 of Senate Bill No. 2113, as approved by the sixty-eighth legislative  
7 assembly, is amended and reenacted as follows:

8 **24-02-37.3. Flexible transportation fund - Budget section approval - Report.**

9 There is created in the state treasury the flexible transportation fund. The fund  
10 consists of eligible federal or state funding and any contributed private funds.

- 11 1. The flexible transportation fund must be administered and expended by the  
12 director and may be used for the following:
  - 13 a. Providing a match for federal funding obtained by the department of  
14 transportation.
  - 15 b. State-funded road and bridge construction and maintenance, and  
16 transportation support costs including staffing, facilities, and operational  
17 expenditures on the state highway system.
  - 18 c. State-funded road and bridge construction and maintenance activities within  
19 the state but off of the state highway system. The director shall establish the  
20 terms and provisions of the program.
- 21 2. All money derived from the investment of the flexible transportation fund or any  
22 portion of the fund, must be credited to the flexible transportation fund. The  
23 director shall monthly transmit all moneys collected and received under this  
24 chapter to the state treasurer to be transferred and credited to the flexible  
25 transportation fund.
- 26 3. The director must receive budget section approval for any project that utilizes  
27 more than fifteen million dollars from the fund except for projects that match  
28 federal or private funds and the amount utilized from the fund is fifty percent or  
29 less of total project costs. Any request considered by the budget section must  
30 comply with section 54-35-02.9.

- 1           4. The director shall allocate at least twenty-five percent of motor vehicle excise tax  
2           collections deposited in the flexible transportation fund pursuant to section  
3           57-40.3-10 for non-oil-producing county and township road and bridge projects  
4           as follows:
- 5           a. The funds must be allocated by the department to counties for projects or  
6           grants for the benefit of counties and organized and unorganized townships;  
7           b. The department shall establish criteria to distribute the funds;  
8           c. The funds must be used for the maintenance and improvement of county  
9           and township paved and unpaved roads and bridges;  
10          d. Priority must be given to projects that match federal funds and to projects  
11          that improve roadways that serve as local corridors;  
12          e. An organized township is not eligible to receive funding if the township does  
13          not maintain any roadways or does not levy at least eighteen mills for  
14          general purposes; and  
15          f. For purposes of this subsection, "non-oil-producing county" means a county  
16          that received no allocation of funding or a total allocation of less than five  
17          million dollars under subsection 2 of section 57-51-15 in the most recently  
18          completed even-numbered fiscal year before the start of each biennium.
- 19          5. The director shall provide periodic reports to the budget section regarding the  
20          status of the fund and projects receiving allocations from the fund.

21          **SECTION 11.** Section 54-27-19.3 of the North Dakota Century Code is created and enacted  
22 as follows:

23          **54-27-19.3. Legacy earnings highway distribution fund.**

24          A legacy earnings highway distribution fund is created as a special fund in the state treasury  
25          into which must be deposited any allocations of legacy fund earnings made under section  
26          21-10-13. Any moneys in the legacy earnings highway distribution fund must be allocated and  
27          transferred by the state treasurer, as follows:

- 28          1. Sixty percent must be transferred to the department of transportation for deposit in the  
29          state highway fund;  
30          2. Ten percent must be transferred to the legacy earnings township highway aid fund;  
31          3. One and five-tenths percent must be transferred to the public transportation fund; and

1       4. Twenty-eight and five-tenths percent must be allocated to cities and counties using the  
2       formula established in subsection 4 of section 54-27-19. Moneys received by counties  
3       and cities must be used for roadway purposes in accordance with section 11 of  
4       article X of the Constitution of North Dakota.

5       **SECTION 12.** Section 54-27-19.4 of the North Dakota Century Code is created and enacted  
6 as follows:

7       **54-27-19.4. Legacy earnings township highway aid fund.**

8       A legacy earnings township highway aid fund is created as a special fund in the state  
9       treasury into which must be deposited any allocations of legacy fund earnings made under  
10      section 54-27-19.3 which must be allocated as follows:

- 11      1. The state treasurer shall allocate and distribute all money in the legacy earnings  
12      township highway aid fund to non-oil-producing counties of the state based on the  
13      length of township roads in each non-oil-producing county compared to the length of  
14      all township roads in all the non-oil-producing counties;
- 15      2. The county treasurer shall allocate the funds received to the organized townships in  
16      the county based on the length of township roads in each of those organized  
17      townships compared to the length of all township roads in the county. The funds  
18      received must be deposited in the township road and bridge fund and used for road  
19      and bridge purposes;
- 20      3. If a county does not have organized townships, or has some organized and some  
21      unorganized townships, the county shall retain a pro rata portion of the funds received  
22      based on the length of roads in unorganized townships compared to the length of  
23      township roads in organized townships in the county. Moneys retained by a county for  
24      the benefit of unorganized townships under this section must be deposited in the  
25      county road and bridge fund; and
- 26      4. For purposes of this section, "non-oil-producing county" means a county that received  
27      no allocation of funding or a total allocation of less than five million dollars under  
28      subsection 2 of section 57-51-15 in the most recently completed even-numbered fiscal  
29      year before the start of each biennium.

30      **SECTION 13. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **57-40.3-10. Transfer of revenue.**

2       ~~All moneys collected and received under this chapter must be transmitted monthly by the~~  
3 ~~director of the department of transportation to the state treasurer to be transferred and credited~~  
4 ~~to the general fund. After the deposits under sections 57-39.2-26.1, 57-39.2-26.2, and~~  
5 ~~57-39.2-26.3, moneys collected and received under this chapter must be deposited monthly in~~  
6 ~~the state treasury and allocated as follows:~~

- 7       1. Fifty percent to the general fund; and  
8       2. The remaining fifty percent to the flexible transportation fund.

9       **SECTION 14. AMENDMENT.** Section 13 of chapter 15 of the 2021 Session Laws is  
10 amended and reenacted as follows:

11               **SECTION 13. 2019-21 BIENNIUM APPROPRIATION - TRANSFER - GENERAL**  
12 **FUND TO HIGHWAY FUND - 2021-23 BIENNIUM APPROPRIATION - HIGHWAY**  
13 **FUND AND FEDERAL FUNDS - EXEMPTION - REPORT.**

- 14       1. There is appropriated out of any moneys in the general fund in the state treasury,  
15 not otherwise appropriated, the sum of \$100,000,000, which the office of  
16 management and budget shall transfer to the highway fund during the period  
17 beginning with the effective date of this Act, and ending June 30, 2021. The funds  
18 transferred to the highway fund must be maintained and reported separately from  
19 other funds in the highway fund.
- 20       2. There is appropriated out of any moneys in the highway fund, not otherwise  
21 appropriated, the sum of \$100,000,000, or so much of the sum as may be  
22 necessary, to the department of transportation for the purpose of matching  
23 federal discretionary funds received in excess of the regular federal funding  
24 amounts included in the department's 2021-23 biennium budget, for the biennium  
25 beginning July 1, 2021, and ending June 30, 2023. Of this amount, the  
26 department shall use at least \$10,000,000 ~~for matching federal funds for~~  
27 ~~township road and bridge projects~~ as follows:
- 28       a. The funds must be allocated by the department to counties for projects or  
29 grants for the benefit of organized and unorganized townships;
- 30       b. The department shall establish criteria to distribute the funds;



- 1           c. The funds must be used for the maintenance and improvement of township  
2           paved and unpaved roads and bridges;  
3           d. Priority must be given to projects that match federal funds and to projects  
4           that improve roadways that serve as local corridors; and  
5           e. A township is not eligible to receive funding if the township does not  
6           maintain any roadways.
- 7           3. There is appropriated from federal funds, the sum of \$100,000,000, or so much  
8           of the sum as may be necessary, to the department of transportation for the  
9           purpose of defraying the expenses of road and bridge construction projects for  
10          the biennium beginning July 1, 2021, and ending June 30, 2023.
- 11          4. ~~On June 30, 2023, the office of management and budget shall transfer any~~  
12          ~~unexpended and unobligated funds transferred to the highway fund under~~  
13          ~~subsection 1 to the general fund~~The appropriation provided in this section is not  
14          subject to section 54-44.1-11 and may be continued into the biennium beginning  
15          July 1, 2023, and ending June 30, 2025.
- 16          5. During the 2021-22 interim, the department of transportation shall provide  
17          quarterly reports to the budget section regarding the use of funds transferred  
18          from the general fund to the highway fund.

19           **SECTION 15. AMENDMENT.** Section 10 of chapter 80 of the 2021 Session Laws is  
20 amended and reenacted as follows:

21                   **SECTION 10. APPROPRIATION - HIGHWAY FUND - CONTINGENT-**

22           **~~TRANSFER~~EXEMPTION.** There is appropriated out of any moneys in the highway  
23           fund in the state treasury, not otherwise appropriated, the sum of \$70,000,000, or so  
24           much of the sum as may be necessary, derived from bond proceeds to the department  
25           of transportation for state highway road and bridge projects and for matching federal  
26           funds that may become available, for the biennium beginning July 1, 2021, and ending  
27           June 30, 2023. ~~Of the \$70,000,000, \$35,000,000 is designated for state highway~~  
28           ~~bridge projects, and \$35,000,000 is designated for matching federal funds that may~~  
29           ~~become available for state highway projects in excess of the federal funds~~  
30           ~~appropriated to the department of transportation as part of its 2021-23 biennial budget.~~  
31           ~~By October 1, 2022, the director of the department of transportation shall certify to the~~

1 office of management and budget the amount of funding committed to matching-  
2 excess federal funds from the \$35,000,000 provided under this section. If the amount-  
3 committed is less than \$35,000,000, the office of management and budget shall-  
4 transfer any uncommitted amounts to the infrastructure revolving loan fund under  
5 section 6-09-49The appropriation provided in this section is not subject to section  
6 54-44.1-11 and may be continued into the biennium beginning July 1, 2023, and  
7 ending June 30, 2025.

8 **SECTION 16. LEGISLATIVE MANAGEMENT STUDY - ELECTRIC VEHICLES.** During the  
9 2023-24 interim, the legislative management shall consider studying the effect of electric  
10 vehicles in the state. As part of the study, the legislative management shall consider the  
11 assessment of fees to offset reductions in motor fuel tax revenues; the impact of electric  
12 vehicles on electric demand and the electrical grid; the installation of electric vehicle charging  
13 infrastructure by private and public entities, including potential funding sources; the impact to  
14 public services and public transportation providers; and the effect on employment opportunities  
15 and other economic impacts, including tourism, automobile dealers, the energy industry, and the  
16 critical minerals industry. The study must include input from key stakeholders, including electric  
17 vehicle manufacturers, electric vehicle dealers, electric utilities, electric vehicle charging station  
18 manufacturers, and other transportation entities. The legislative management shall report its  
19 findings and recommendations, together with any legislation required to implement the  
20 recommendations, to the sixty-ninth legislative assembly.

21 **SECTION 17. DEPARTMENT OF TRANSPORTATION - UNITED STATES HIGHWAY 85**  
22 **PROJECT - REPORT.** The department of transportation shall develop a plan to complete the  
23 United States highway 85 four-lane project in its entirety as approved in the final environmental  
24 impact statement document for project number 9-085(085)075, PCN20046. The plan must  
25 include a review of federal approvals received for the project and options to complete the  
26 project before the approvals expire. As part of the plan, the department shall identify funding  
27 sources, including the issuance of revenue anticipation bonds, to complete the project. The  
28 department shall present its plan to the legislative management before August 1, 2024.

29 **SECTION 18. EXEMPTION - UNEXPENDED APPROPRIATIONS.** The following  
30 appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into  
31 the biennium beginning July 1, 2023, and ending June 30, 2025:

- 1        1.    The sum of \$750,000 appropriated from the state disaster relief fund for emergency
- 2            township road repairs in section 4 of chapter 40 of the 2021 Session Laws;
- 3        2.    The sum of \$1,609,357 appropriated from federal funds for grants to transit providers
- 4            in subdivision 10 of section 2 of chapter 28 of the 2021 Session Laws;
- 5        3.    The sum of \$55,000,000 appropriated from federal funds to match state bond
- 6            proceeds in section 5 of chapter 15 of the 2021 Session Laws;
- 7        4.    The sum of \$317,000,000 appropriated from federal funds for state, county, and
- 8            township road and bridge projects in section 2 of chapter 28 of the 2021 Session
- 9            Laws;
- 10       5.    The sum of \$61,700,060 appropriated from federal funds for surface transportation
- 11           grants in subdivision 10 of section 1 of chapter 27 of the 2021 Session Laws; and
- 12       6.    The sum of \$13,660,000 appropriated from special funds for information technology
- 13           projects in section 1 of chapter 40 of the 2021 Session Laws.

14        **SECTION 19. EFFECTIVE DATE.** Section 13 of this Act is effective for motor vehicle excise  
15 tax collections transmitted to the state treasurer after July 31, 2023.

16        **SECTION 20. EMERGENCY.** Sections 14 and 15 of this Act are declared to be an  
17 emergency measure.