

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 amend and reenact sections 39-02-03 and 39-04-09 of the North Dakota
 4 Century Code, relating to department of transportation motor vehicle branch offices and the
 5 issuance of license plates; to provide for transfers and contingent transfers; to provide
 6 exemptions; to provide for budget section reports; to provide for a legislative management
 7 study; and to declare an emergency.

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 10 as may be necessary, are appropriated out of any moneys in the general fund in the state
 11 treasury, not otherwise appropriated, and from special funds derived from federal funds and
 12 other income, to the department of transportation for the purpose of defraying the expenses of
 13 the department of transportation, for the biennium beginning July 1, 2013, and ending June 30,
 14 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
17 Salaries and wages	\$165,966,396	\$32,856,230	\$198,822,626
18 Operating expenses	204,090,250	252,731,465	456,821,715
19 Capital assets	709,079,831	1,101,431,376	1,810,511,207
20 County and township road	0	142,000,000	142,000,000
21 reconstruction program			
22 Grants	67,767,407	29,780,623	97,548,030
23 Total all funds	\$1,146,903,884	\$1,558,799,694	\$2,705,703,578
24 Less estimated income	1,146,903,884	1,548,799,694	2,695,703,578

Sixty-third
Legislative Assembly

1	Salaries and wages	\$165,966,396	\$32,880,464	\$198,846,860
2	Operating expenses	204,090,250	173,731,465	377,821,715
3	Capital assets	709,079,831	560,431,376	1,269,511,207
4	County and township road	0	142,000,000	142,000,000
5	reconstruction program			
6	County and township bridge	0	27,000,000	27,000,000
7	reconstruction program			
8	Grants	67,767,407	30,420,623	98,188,030
9	Total all funds	\$1,146,903,884	\$966,463,928	\$2,113,367,812
10	Less estimated income	1,146,903,884	956,463,928	2,103,367,812
11	Total general fund	\$0	\$10,000,000	\$10,000,000
12	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:

17	One-Time Funding Description	2011-13	2013-15
18	Federal stimulus funds	\$24,119,575	\$0
19	Devils Lake area highway project	5,850,000	0
20	Extraordinary state highway maintenance	228,600,000	0
21	County and township road reconstruction	142,000,000	142,000,000
22	County and township bridge reconstruction	0	27,000,000
23	Emergency relief program borrowing authority	200,000,000	0
24	Road grade raising grants	6,000,000	0
25	Highway-rail grade crossing safety grants	1,431,000	0
26	Enhanced state highway investments	0	1,161,600,000
27	Enhanced state highway investments	0	541,600,000
28	Federal TIGER III grant match	0	10,000,000
29	Total all funds	\$608,000,575	\$1,313,600,000
30	Total special funds	602,150,575	1,303,600,000
31	Total all funds	\$608,000,575	\$720,600,000

1	<u>Total special funds</u>	<u>602,150,575</u>	<u>710,600,000</u>
2	Total general fund	\$5,850,000	\$10,000,000

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

7 **SECTION 3. LINE ITEM TRANSFERS.** The director of the department of transportation
8 may transfer between the salaries and wages, operating, capital assets, and grants line items in
9 section 1 of this Act when it is cost-effective for construction and maintenance of highways. The
10 department of transportation shall notify the office of management and budget of any transfers
11 made pursuant to this section.

12 **SECTION 4. COUNTY AND TOWNSHIP ROAD RECONSTRUCTION PROGRAM -**
13 **CARRYOVER AUTHORITY.**

14 1. The sum of \$142,000,000, or so much of the sum as may be necessary, included in
15 the county and township road reconstruction program line item in section 1 of this Act,
16 must be used to rehabilitate or reconstruct county and township paved and unpaved
17 roads needed to support oil and gas production and distribution in North Dakota.

18 a. Funding allocations to counties are to be made by the department of
19 transportation based on data supplied by the upper great plains transportation
20 institute.

21 b. Counties identified in the data supplied by the upper great plains transportation
22 institute are eligible for this funding.

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

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

28 b. The plan shall be based on data supplied by the upper great plains transportation
29 institute, actual road conditions, and integration with state highway and other
30 county road projects.

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

- 1 3. The department of transportation, in consultation with the county, may approve the
- 2 plan or approve the plan with amendments.
- 3 4. The funding included in the county and township road reconstruction program line item
- 4 in section 1 of this Act may be used for:
- 5 a. Ninety percent of the cost of the approved roadway projects not to exceed the
- 6 funding available for that county.
- 7 b. Funding may be used for construction, engineering, and plan development costs.
- 8 5. Upon approval of the plan, the department of transportation shall transfer to the county
- 9 the approved funding for engineering and plan development costs.
- 10 6. Upon execution of a construction contract by the county, the department of
- 11 transportation shall transfer to the county the approved funding to be distributed for
- 12 county and township road rehabilitation and reconstruction projects.
- 13 7. The recipient counties shall report to the department of transportation upon awarding
- 14 of each contract and upon completion of each project in a manner prescribed by the
- 15 department.
- 16 8. The funding included in the county and township road reconstruction line item in
- 17 section 1 of this Act may be applied to engineering ~~and~~, design, and construction costs
- 18 incurred on related projects as of January 1, 2013.
- 19 9. Section 54-44.1-11 does not apply to funding included in the county and township road
- 20 reconstruction program line item in section 1 of this Act. Any funds not spent by
- 21 June 30, 2015, must be continued into the biennium beginning July 1, 2015, and
- 22 ending June 30, 2017, and may be expended only for county and township paved and
- 23 unpaved road rehabilitation and reconstruction projects.

24 ~~SECTION 5. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM~~

25 ~~TRANSPORTATION FUNDING DISTRIBUTIONS. There is appropriated out of any moneys in-~~

26 ~~the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, or~~

27 ~~so much of the sum as may be necessary, to the state treasurer for the purpose of providing-~~

28 ~~transportation funding distributions, for the period beginning with the effective date of this Act~~

29 ~~and ending June 30, 2013. The funding provided in this section is considered a one-time-~~

30 ~~funding item. The state treasurer shall distribute the funds provided under this section as soon-~~

31 ~~as possible after the effective date of this Act and prior to June 30, 2013, as follows:~~

1 ~~1. Sixty-four million dollars to non-oil-producing counties and cities pursuant to~~
2 ~~subsection 4 of section 54-27-19.~~

3 ~~2. Sixteen million dollars to counties and townships in non-oil-producing counties~~
4 ~~pursuant to section 54-27-19.1. Organized townships are not required to provide~~
5 ~~matching funds to receive distributions under this section.~~

6 ~~3. Twenty million dollars to counties and townships in non-oil-producing counties through~~
7 ~~a distribution of \$15,000 to each organized township and a distribution of \$15,000 for~~
8 ~~each unorganized township to the county in which the unorganized township is~~
9 ~~located. If any funds remain after the distributions provided under this subsection, the~~
10 ~~state treasurer shall distribute eighty percent of the remaining funds to counties and~~
11 ~~cities pursuant to the method provided in subsection 1 and shall distribute twenty~~
12 ~~percent of the remaining funds to counties and townships pursuant to the method~~
13 ~~provided in subsection 2.~~

14 ~~For purposes of this section, a "non-oil-producing county" means a county that received no~~
15 ~~allocation of funding or a total allocation under section 57-51-15 of less than \$500,000 for state~~
16 ~~fiscal year 2012. Any funds received by a county under this section for an unorganized township~~
17 ~~distribution must be used for roadway purposes in those unorganized townships located in the~~
18 ~~county. All funds distributed under this section must be used for extraordinary roadway~~
19 ~~maintenance purposes.~~

20 ~~**SECTION 6. APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND -**~~
21 ~~**2011-13 BIENNIUM.** There is appropriated out of any moneys in the general fund in the state~~
22 ~~treasury, not otherwise appropriated, the sum of \$620,000,000, or so much of the sum as may~~
23 ~~be necessary, which the office of management and budget shall transfer to the highway fund~~
24 ~~for the period beginning with the effective date of this Act and ending June 30, 2013. The~~
25 ~~funding provided in this section is considered a one-time funding item. The office of~~
26 ~~management and budget shall transfer the funds provided under this section as soon as~~
27 ~~possible after the effective date of this Act and prior to June 30, 2013.~~

28 **SECTION 5. COUNTY AND TOWNSHIP BRIDGE RECONSTRUCTION PROGRAM -**
29 **STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - EXEMPTION.** The county and
30 township bridge reconstruction program line item in section 1 of this Act contains the sum of
31 \$27,000,000 from the strategic investment and improvements fund which must be used by the

1 department of transportation for a county and township road bridge rehabilitation and
2 reconstruction program, for the period beginning with the effective date of this Act and ending
3 June 30, 2015, as follows:

- 4 1. The funding must be used to rehabilitate or reconstruct county and township road
5 bridges needed for the safe conveyance of persons and commerce in this state. The
6 director of the department of transportation shall distribute the funding based on data
7 available from studies conducted by the upper great plains transportation institute.
- 8 2. Each county requesting funding for a county or township road bridge project or for
9 multiple projects shall submit the request in accordance with criteria developed by the
10 department of transportation. The department of transportation, in consultation with
11 the county, may approve a project or approve a project with amendments.
 - 12 a. Funding must be distributed for projects based on data available from upper
13 great plains transportation institute studies, actual road conditions, and the level
14 of integration with state highway and other county road projects.
 - 15 b. Funding may not be distributed for the routine maintenance of bridges.
- 16 3. The funding may be used to provide up to ninety percent of the cost of an approved
17 bridge project, including engineering and plan development costs.
- 18 4. Upon approval of a project, the department of transportation shall transfer to the
19 county the approved funding for engineering and plan development costs. The funding
20 provided for construction, engineering, and project development costs may be applied
21 to costs incurred as of January 1, 2013.
- 22 5. Upon execution of a construction contract by the county, the department of
23 transportation shall transfer to the county the funding to be used for the approved
24 bridge project.
- 25 6. Each recipient county shall report to the department of transportation upon awarding
26 each contract and upon completion of each project in a manner prescribed by the
27 department.
- 28 7. Section 54-44.1-11 does not apply to funding included in the county and township
29 bridge reconstruction program line item in section 1 of this Act. Any funds not spent by
30 June 30, 2015, may be continued into the biennium beginning July 1, 2015, and

1 ending June 30, 2017, and may be expended only for county and township road
2 bridge rehabilitation and reconstruction projects.

3 8. For purposes of this section, a "bridge" is a structure that extends over a river, stream,
4 depression, or other obstacle and has an end area of fifty square feet [4.65 square
5 meters] or greater.

6 9. To be eligible to receive a grant under this section, the county or township road bridge
7 project must be located within a county that levies a combined total of seven or more
8 mills for county road and bridge, farm-to-market and federal aid road, and county road
9 purposes.

10 **SECTION 6. HIGHWAY-RAIL GRADE CROSSING SAFETY PROJECTS FUND.** The
11 grants line item in section 1 of this Act includes the sum of \$640,000 from the highway-rail
12 grade crossing safety projects fund which may be used by the department of transportation to
13 continue highway-rail grade crossing safety projects approved by the department and for which
14 funding was obligated prior to January 1, 2013. On June 30, 2015, the state treasurer shall
15 transfer any unexpended and unobligated balance in the highway-rail grade crossing safety
16 projects fund to the highway tax distribution fund.

17 **SECTION 7. APPROPRIATION - CONTINGENT TRANSFERS - GENERAL FUND TO**
18 **PUBLIC TRANSPORTATION FUND.** There is appropriated out of any moneys in the general
19 fund in the state treasury, not otherwise appropriated, the sum of \$1,100,000, or so much of the
20 sum as may be necessary, which the office of management and budget shall transfer to the
21 public transportation fund pursuant to this section during the biennium beginning July 1, 2013,
22 and ending June 30, 2015. The office of management and budget shall transfer the sum of
23 \$550,000 on July 1, 2013, if deposits in the public transportation fund from the highway tax
24 distribution fund are \$5,000,000 or less during the period beginning July 1, 2012, and ending
25 June 30, 2013. The office of management and budget shall transfer the sum of \$550,000 on
26 July 1, 2014, if deposits in the public transportation fund from the highway tax distribution fund
27 are \$5,000,000 or less during the period beginning July 1, 2013, and ending June 30, 2014.

28 **SECTION 8. APPROPRIATION - STATE TREASURER - TOWNSHIP TRANSPORTATION**
29 **FUNDING DISTRIBUTIONS.** There is appropriated out of any moneys in the general fund in the
30 state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as
31 may be necessary, to the state treasurer for the purpose of providing township transportation

1 funding distributions, for the period beginning with the effective date of this Act and ending
2 June 30, 2015.

3 1. The state treasurer shall distribute the funds provided under this section to counties
4 and townships in oil-producing counties through a distribution of \$15,000 to each
5 organized township and a distribution of \$15,000 for each unorganized township to the
6 county in which the unorganized township is located.

7 2. If any funds remain after the distributions provided under subsection 1, the state
8 treasurer shall distribute the remaining funds to counties and townships in
9 oil-producing counties pursuant to section 54-27-19.1. Organized townships are not
10 required to provide matching funds to receive a distribution under this subsection.

11 For purposes of this section, an "oil-producing county" means a county that received total
12 allocations under section 57-51-15 of \$500,000 or more during state fiscal year 2012. All funds
13 distributed under this section must be used for roadway maintenance purposes. The funding
14 provided in this section is considered a one-time funding item.

15 **SECTION 9. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM - TOWNSHIP**
16 **TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION - EXEMPTION.** There is
17 appropriated out of any moneys in the general fund in the state treasury, not otherwise
18 appropriated, the sum of \$590,000, or so much of the sum as may be necessary, to the state
19 treasurer for the purpose of providing transportation funding distributions to counties and
20 townships in accordance with this section, for the period beginning with the effective date of this
21 Act and ending June 30, 2013. The state treasurer shall distribute the funding provided under
22 this section to counties and townships that are eligible to receive a distribution under subsection
23 3 of section 27 of chapter 579 of the 2011 Session Laws and have not already received a
24 distribution under that subsection. Section 27 of chapter 579 of the 2011 Session Laws is not
25 subject to section 54-11-01 and the state treasurer may not require a political subdivision to
26 return an overpayment of funds received from distributions under the section.

27 **SECTION 10. APPROPRIATION - STATE TREASURER - TOWNSHIP**
28 **TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION.** There is appropriated out of
29 any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
30 \$415,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of
31 providing transportation funding distribution to counties and townships in accordance with this

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

8 **SECTION 11. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - GENERAL**
9 **LICENSE PLATE ISSUE - EXEMPTION.** There is appropriated out of any moneys in the
10 general fund in the state treasury, not otherwise appropriated, the sum of \$6,200,000, or so
11 much of the sum as may be necessary, to the department of transportation for the purpose of
12 defraying the expenses for a general license plate issue, for the biennium beginning July 1,
13 2013, and ending June 30, 2015. The appropriation provided under this section is not subject to
14 section 54-44.1-11 and may be continued into the biennium beginning July 1, 2015, and ending
15 June 30, 2017.

16 **SECTION 12. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND**
17 **REHABILITATION - GENERAL LICENSE PLATE ISSUE.** There is appropriated from special
18 funds and other income received, the sum of \$4,280,000, or so much of the sum as may be
19 necessary, to the department of corrections and rehabilitation for expenses incurred by
20 roughrider industries related to the general license plate issue, for the biennium beginning
21 July 1, 2013, and ending June 30, 2015.

22 **SECTION 13. APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND.**
23 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
24 appropriated, the sum of \$683,600,000, or so much of the sum as may be necessary, which the
25 office of management and budget shall transfer to the highway fund during the biennium
26 beginning July 1, 2013, and ending June 30, 2015. The office of management and budget shall
27 transfer the funds provided under this section to the state highway fund at the request of the
28 director of the department of transportation. The funding provided in this section is considered a
29 one-time funding item.

30 **SECTION 14. ENHANCED STATE HIGHWAY INVESTMENTS - CARRYOVER**
31 **AUTHORITY.** Section 54-44.1-11 does not apply to funding of ~~\$1,161,600,000~~\$541,600,000 in

1 the capital assets line item relating to enhanced state highway investments in section 1 of this
2 Act. Any funds not spent by June 30, 2015, must be continued into the biennium beginning
3 July 1, 2015, and ending June 30, 2017, and may be expended only for enhanced state
4 highway investments.

5 **SECTION 15. EXEMPTION - STATE DISASTER RELIEF FUND - ROAD GRADE**

6 **RAISING GRANTS.** The amount appropriated to the department of transportation from the
7 state disaster relief fund for road grade raising grants, as contained in section 14 of chapter 579
8 of the 2011 Session Laws, is not subject to the provisions of section 54-44.1-11. Any
9 unexpended funds from this appropriation are available to the department to provide road grade
10 raising grants during the biennium beginning July 1, 2013, and ending June 30, 2015.

11 **SECTION 16. AMENDMENT.** Section 39-02-03 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **39-02-03. Powers and duties of director and department.**

14 The director, subject to the approval of the governor, may adopt and enforce such
15 administrative rules and designate such agencies and establish such branch offices as may be
16 necessary to carry out the laws applicable to the director's office and department. The director
17 shall provide suitable forms for applications, registration cards, license number plates, and all
18 other forms requisite for the operation of the director's office and department, and shall prepay
19 all transportation charges thereon. ~~In addition, the~~The director ~~shall~~may provide for a ~~uniform-~~
20 maximum fee schedule for the various services provided by the branch offices, not to exceed
21 ten dollars for each service provided. Any branch office may establish a different fee schedule if
22 the schedule does not contain a fee that exceeds a maximum fee established by the director
23 and is approved by the director. All branch office managers must be bonded. The department
24 may lease or provide office space or other ~~overhead~~ costs as necessary to independent motor
25 vehicle branch managers. All rents collected under this section must be deposited in the state
26 highway fund. The department and the officers thereof shall enforce the provisions of all laws
27 pertaining to the director and the department.

28 **SECTION 17. AMENDMENT.** Section 39-04-09 of the North Dakota Century Code is
29 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 plate. 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 18. 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 19. EMERGENCY. Sections ~~5 and 64~~, 5, 8, 9, and 10 of this Act and funding of ~~\$1,161,600,000 in the capital assets line item relating to enhanced state highway investments~~ and \$142,000,000 in the county and township road reconstruction program line item in section 1 of this Act, funding of \$27,000,000 in the county and township bridge reconstruction program line item in section 1 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.