

**FIRST ENGROSSMENT
with Conference Committee Amendments**

ENGROSSED SENATE BILL NO. 2012

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 create and enact section 24-02-40.1, a new section to chapter 24-08, and
3 section 57-43.1-03.2 of the North Dakota Century Code, relating to grant or revenue
4 anticipation financing by the department of transportation, naming of the liberty memorial
5 bridge, and refunds of certain fuels taxes paid by native Americans; to amend and reenact
6 sections 24-01-03, 24-01-51, 39-04-19, 57-40.3-10, 57-43.1-02, and 57-43.2-02 of the North
7 Dakota Century Code, relating to highway and bridge maintenance, haying of no-mow areas,
8 motor vehicle registration fees, allocation of motor vehicle excise tax revenue, and motor
9 vehicle fuels and special fuels tax rates; to repeal section 39-04-39.5 of the North Dakota
10 Century Code, relating to allocation of motor vehicle registration fees; to provide a temporary
11 allocation; to provide an effective date; to provide a contingent expiration date; to provide an
12 expiration date; and to declare an emergency.

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

14 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this
15 section represent the base level funding component appropriated to the department of
16 transportation in section 3 of this Act as follows:

| | |
|-------------------------------------|-------------------|
| 17 Salaries and wages | \$105,222,404 |
| 18 Operating expenses | 122,902,369 |
| 19 Capital assets | 512,175,642 |
| 20 Grants | <u>44,085,503</u> |
| 21 Total special funds - Base level | \$784,385,918 |

22 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The
23 amounts identified in this section represent the funding adjustments or enhancements to the

1 base funding level for the department of transportation which are included in the appropriation
2 in section 3 of this Act as follows:

| | | |
|----|--|-------------------|
| 3 | Salaries and wages | (\$105,222,404) |
| 4 | Operating expenses | (122,902,369) |
| 5 | Capital assets | (512,175,642) |
| 6 | Grants | (44,085,503) |
| 7 | Administration | 27,174,242 |
| 8 | Driver's and vehicle services | 20,035,352 |
| 9 | Highways | 862,094,411 |
| 10 | Fleet services | <u>43,268,038</u> |
| 11 | Total special funds - Adjustments/enhancements | \$168,186,125 |

12 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the
13 funds as may be necessary, are appropriated from special funds derived from federal funds
14 and other income, to the department of transportation for the purpose of defraying the
15 expenses of its various divisions, for the biennium beginning July 1, 2005, and ending June 30,
16 2007, as follows:

| | | |
|----|-----------------------------------|-------------------|
| 17 | Administration | \$27,174,242 |
| 18 | Driver's and vehicle services | 20,035,352 |
| 19 | Highways | 862,094,411 |
| 20 | Fleet services | <u>43,268,038</u> |
| 21 | Total special funds appropriation | \$952,572,043 |

22 **SECTION 4. FULL-TIME EQUIVALENT EMPLOYEES.** The department of
23 transportation is authorized to hire additional full-time equivalent positions for highway
24 construction in addition to those authorized by the legislative assembly when it is cost-effective
25 to hire additional positions for construction and maintenance of highways in lieu of entering into
26 contracts for these purposes. The department of transportation shall notify the office of
27 management and budget and report to the legislative council the additional full-time equivalent
28 positions hired.

29 **SECTION 5. AMENDMENT.** Section 24-01-03 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **24-01-03. Responsibility for state highway system.** The director is responsible for
2 the construction, maintenance, and operation of the state highway system and ~~is authorized to~~
3 may enter into a cooperative agreement with any municipality for the construction,
4 maintenance, or repair of any urban connecting street. The director may not divest the state
5 from responsibility for the maintenance, including structural maintenance and rehabilitation, of
6 any bridge over a navigable water of this state which is currently maintained by the state unless
7 an agreement is reached with the municipality.

8 The jurisdiction, control, and duty of the state and municipality with respect to such
9 urban connecting streets must be as follows:

- 10 1. The director has no authority to change or establish any grade of any such street
11 without approval of the governing body of such municipality.
- 12 2. The municipality shall maintain at its own expense ~~maintain~~ all underground
13 facilities in such streets and has the right to construct such additional underground
14 facilities as may be necessary in such streets.
- 15 3. The municipality has the right to grant the privilege to open the surface of any such
16 street, but all damage occasioned thereby must ~~promptly~~ be repaired promptly by
17 said municipality at its direction and without cost to the department.
- 18 4. The municipality has exclusive right to grant franchises over, beneath, and upon
19 such streets.

20 **SECTION 6. AMENDMENT.** Section 24-01-51 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **24-01-51. (Effective January 1, 2006 2008) Haying of no-mow areas.**

23 Notwithstanding any other provision of law, a person owning land adjacent to an area within the
24 right of way of a highway which is designated as a no-mow or managed-mow area may hay the
25 no-mow or managed-mow area after July fifteenth without any payment or penalty.

26 **SECTION 7.** Section 24-02-40.1 of the North Dakota Century Code is created and
27 enacted as follows:

28 **24-02-40.1. Grant or revenue anticipation financing.** Notwithstanding any other
29 provision of law, the department, whenever needed for the liberty memorial bridge improvement
30 project and the United States highway 2 project improvements, may arrange with any
31 state-owned or private financing agency or underwriter, including the Bank of North Dakota,

1 grant or revenue anticipation financing through the issuance of evidences of indebtedness on
2 such terms and conditions as the department determines if construction funds on hand are
3 insufficient to meet current obligations or to achieve cost-savings or efficiencies in road
4 construction. The department may refund the evidences of indebtedness as often as it is
5 advantageous to do so. Evidences of indebtedness may be sold at public or private sale and
6 must mature not more than fifteen years from their date or dates, and the proceeds of the sale
7 may be invested on such terms and conditions as the department determines. Grant or
8 revenue anticipation financing must be in amounts no larger than can be repaid from moneys
9 known or reasonably anticipated to be due and forthcoming. The grant or revenue anticipation
10 financing may not be used in anticipation of increased federal aid highway grants or increased
11 state highway user revenue funds, and the financing may not be obligated for road construction
12 that cannot be financed from known sources of grants or revenue. The department may pledge
13 any federal aid grants received or to be received for debt service and related issuance costs for
14 evidences of indebtedness issued under this section directly to a trustee in trust for payment to
15 holders of the evidences of indebtedness. The department may also pledge any biennially
16 appropriated revenues for debt service on the evidences of indebtedness directly to a trustee in
17 trust for payment to holders of the evidences of indebtedness. Any evidences of indebtedness
18 issued under this section are not general obligations or debt of the state, the department, or
19 any public officer or employee of the department or this state. The principal of and interest on
20 the evidences of indebtedness are limited obligations payable solely from grants or revenues
21 received or to be received by the department. The department may capitalize from proceeds of
22 the evidences of indebtedness all expenses incidental to issuing the evidences of
23 indebtedness, including any reserves for payment of the evidences of indebtedness.

24 **SECTION 8.** A new section to chapter 24-08 is created and enacted as follows:

25 **Liberty memorial bridge.** A bridge replacing the bridge between Mandan and
26 Bismarck presently known as the liberty memorial bridge is designated the liberty memorial
27 bridge upon the completion of the replacement bridge.

28 **SECTION 9. AMENDMENT.** Section 39-04-19 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **39-04-19. Motor vehicle registration fees and mile tax.** Motor vehicles required to
31 pay registration fees or a mile tax shall pay the following fees:

1 pickup truck shall request the registered gross weight of the pickup truck be
 2 increased to ensure the registered gross weight is sufficient to include the
 3 total weight of the vehicle and any load transported on or by the vehicle. For
 4 purposes of this subdivision, a pickup truck is a motor vehicle with a
 5 manufacturer's gross vehicle weight rating of less than eleven thousand five
 6 hundred pounds [5216.31 kilograms], with an unladen weight of less than
 7 eight thousand pounds [3628.74 kilograms], and which is equipped with an
 8 open box-type bed not exceeding nine feet [2.74 meters] in length.

- 9 b. Schoolbuses, buses for hire, buses owned and operated by religious,
 10 charitable, or nonprofit organizations and used exclusively for religious,
 11 charitable, or other public nonprofit purposes, and trucks or combination
 12 trucks and trailers, including commercial and noncommercial trucks, except
 13 those trucks or combinations of trucks and trailers which qualify for
 14 registration under this subsection or subsection 5:

15 YEARS REGISTERED

| 16 | | 1st | 7th | 10th | 13th | 20th and |
|----|-----------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 17 | Gross | Through | Through | Through | Through | Subsequent |
| 18 | Weights | 6th Years | 9th Years | 12th Years | 19th Years | Years |
| 19 | Not over 4,000 | \$58 <u>\$73</u> | \$45 <u>\$60</u> | \$40 <u>\$55</u> | \$37 <u>\$52</u> | \$36 <u>\$51</u> |
| 20 | 4,001 - 6,000 | 63 <u>78</u> | 50 <u>65</u> | 44 <u>59</u> | 38 <u>53</u> | 37 <u>52</u> |
| 21 | 6,001 - 8,000 | 68 <u>83</u> | 55 <u>70</u> | 48 <u>63</u> | 39 <u>54</u> | 38 <u>53</u> |
| 22 | 8,001 - 10,000 | 73 <u>88</u> | 60 <u>75</u> | 52 <u>67</u> | 44 <u>56</u> | 40 <u>55</u> |
| 23 | 10,001 - 12,000 | 78 <u>93</u> | 65 <u>80</u> | 56 <u>71</u> | 43 <u>58</u> | 42 <u>57</u> |
| 24 | 12,001 - 14,000 | 83 <u>98</u> | 70 <u>85</u> | 60 <u>75</u> | 46 <u>61</u> | 45 <u>60</u> |
| 25 | 14,001 - 16,000 | 88 <u>103</u> | 75 <u>90</u> | 64 <u>79</u> | 49 <u>64</u> | 48 <u>63</u> |
| 26 | 16,001 - 18,000 | 93 <u>108</u> | 80 <u>95</u> | 68 <u>83</u> | 54 <u>66</u> | 50 <u>65</u> |
| 27 | 18,001 - 20,000 | 96 <u>111</u> | 83 <u>98</u> | 70 <u>85</u> | 52 <u>67</u> | 54 <u>66</u> |

28 YEARS REGISTERED

| 29 | | 1st, 2nd, 3rd, | 8th, 9th, 10th, | 13th and |
|----|---------|----------------|-----------------|------------|
| 30 | Gross | 4th, 5th, 6th, | 11th, and | Subsequent |
| 31 | Weights | and 7th Years | 12th Years | Years |

Fifty-ninth
Legislative Assembly

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|----|-------------------|-------------------------------|-------------------------------|-------------------------------|
| 1 | 20,001 - 22,000 | \$126 <u>\$141</u> | \$100 <u>\$115</u> | \$87 <u>\$102</u> |
| 2 | 22,001 - 26,000 | 478 <u>193</u> | 448 <u>163</u> | 432 <u>147</u> |
| 3 | 26,001 - 30,000 | 239 <u>254</u> | 497 <u>212</u> | 475 <u>190</u> |
| 4 | 30,001 - 34,000 | 305 <u>320</u> | 250 <u>265</u> | 222 <u>237</u> |
| 5 | 34,001 - 38,000 | 366 <u>381</u> | 299 <u>314</u> | 265 <u>280</u> |
| 6 | 38,001 - 42,000 | 427 <u>442</u> | 348 <u>363</u> | 307 <u>322</u> |
| 7 | 42,001 - 46,000 | 488 <u>503</u> | 396 <u>411</u> | 350 <u>365</u> |
| 8 | 46,001 - 50,000 | 549 <u>564</u> | 445 <u>460</u> | 393 <u>408</u> |
| 9 | 50,001 - 54,000 | 619 <u>634</u> | 503 <u>518</u> | 444 <u>459</u> |
| 10 | 54,001 - 58,000 | 680 <u>695</u> | 552 <u>567</u> | 487 <u>502</u> |
| 11 | 58,001 - 62,000 | 742 <u>757</u> | 604 <u>616</u> | 530 <u>545</u> |
| 12 | 62,001 - 66,000 | 802 <u>817</u> | 649 <u>664</u> | 573 <u>588</u> |
| 13 | 66,001 - 70,000 | 863 <u>878</u> | 698 <u>713</u> | 645 <u>630</u> |
| 14 | 70,001 - 74,000 | 924 <u>939</u> | 747 <u>762</u> | 658 <u>673</u> |
| 15 | 74,001 - 78,000 | 985 <u>1,000</u> | 796 <u>811</u> | 704 <u>716</u> |
| 16 | 78,001 - 82,000 | 1,046 <u>1,061</u> | 845 <u>860</u> | 744 <u>759</u> |
| 17 | 82,001 - 86,000 | 1,169 <u>1,184</u> | 950 <u>965</u> | 834 <u>846</u> |
| 18 | 86,001 - 90,000 | 1,294 <u>1,306</u> | 1,054 <u>1,069</u> | 948 <u>933</u> |
| 19 | 90,001 - 94,000 | 1,413 <u>1,428</u> | 1,159 <u>1,174</u> | 1,005 <u>1,020</u> |
| 20 | 94,001 - 98,000 | 1,535 <u>1,550</u> | 1,264 <u>1,279</u> | 1,093 <u>1,108</u> |
| 21 | 98,001 - 102,000 | 1,657 <u>1,672</u> | 1,368 <u>1,383</u> | 1,180 <u>1,195</u> |
| 22 | 102,001 - 105,500 | 1,779 <u>1,794</u> | 1,473 <u>1,488</u> | 1,267 <u>1,282</u> |

23 c. Motorcycles, fifteen dollars.

24 3. Motor vehicles acquired by disabled veterans under the provisions of Public Law
 25 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax
 26 and, if paid, such veterans are entitled to a refund. This exemption also applies to
 27 any passenger motor vehicle or pickup truck not exceeding ten thousand pounds
 28 [4535.92 kilograms] gross weight but shall apply to no more than two such motor
 29 vehicles owned by a disabled veteran at any one time.

30 4. Every trailer, semitrailer, and farm trailer required to be registered under this
 31 chapter must be furnished registration plates upon the payment of a twenty dollar

1 annual fee. Every trailer, semitrailer, or farm trailer not required to be registered
 2 under this chapter must be furnished an identification plate upon the payment of a
 3 fee of five dollars. Upon the request of a person with a trailer or farm trailer to
 4 whom a registration or identification plate is provided under this subsection, the
 5 department shall provide a plate of the same size as provided for a motorcycle.
 6 The department shall provide notification of this option to the person before the
 7 replacement or issuance of the plate.

8 5. Trucks or combinations of trucks and trailers weighing more than twenty thousand
 9 but not more than one hundred five thousand five hundred pounds [more than
 10 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles
 11 only, are entitled to registration under the following fee schedule and the provisions
 12 of this subsection. Farm vehicles are considered, for the purpose of this
 13 subsection, as trucks or combinations of trucks and trailers weighing more than
 14 twenty thousand but not more than one hundred five thousand five hundred
 15 pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or
 16 leased for at least one year by a bona fide resident farmer who uses the vehicles
 17 exclusively for transporting the farmer's own property or other property on a farm
 18 work exchange basis with other farmers between farms and the usual local trading
 19 places but not in connection with any commercial retail or wholesale business
 20 being conducted from those farms, nor otherwise for hire. In addition to the
 21 penalty provided in section 39-04-41, any person violating this subsection shall
 22 license for the entire license period the farm vehicle at the higher commercial
 23 vehicle rate in accordance with the weight carried by the farm vehicle at the time of
 24 the violation.

25 YEARS REGISTERED

| 26 | | 1st, 2nd, | 7th and | 9th and | 11th and |
|----|-----------------|------------------------------|-----------------------------|-----------------------------|-----------------------------|
| 27 | Gross | 3rd, 4th, 5th, | 8th | 10th | Subsequent |
| 28 | Weights | and 6th Years | Years | Years | Years |
| 29 | 20,001 - 22,000 | \$98 <u>\$113</u> | \$84 <u>\$99</u> | \$70 <u>\$85</u> | \$52 <u>\$67</u> |
| 30 | 22,001 - 24,000 | 403 <u>118</u> | 88 <u>103</u> | 73 <u>88</u> | 54 <u>69</u> |
| 31 | 24,001 - 26,000 | 444 <u>126</u> | 94 <u>109</u> | 77 <u>92</u> | 56 <u>71</u> |

Fifty-ninth
Legislative Assembly

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|----|-----------------|---------------------------|---------------------------|---------------------------|---------------------------|
| 1 | 26,001 - 28,000 | 422 <u>137</u> | 402 <u>117</u> | 83 <u>98</u> | 60 <u>75</u> |
| 2 | 28,001 - 30,000 | 434 <u>146</u> | 440 <u>125</u> | 89 <u>104</u> | 64 <u>79</u> |
| 3 | 30,001 - 32,000 | 446 <u>161</u> | 423 <u>138</u> | 400 <u>115</u> | 73 <u>88</u> |
| 4 | 32,001 - 34,000 | 456 <u>171</u> | 434 <u>146</u> | 406 <u>121</u> | 77 <u>92</u> |
| 5 | 34,001 - 36,000 | 466 <u>181</u> | 439 <u>154</u> | 442 <u>127</u> | 84 <u>96</u> |
| 6 | 36,001 - 38,000 | 476 <u>191</u> | 447 <u>162</u> | 448 <u>133</u> | 85 <u>100</u> |
| 7 | 38,001 - 40,000 | 486 <u>201</u> | 455 <u>170</u> | 424 <u>139</u> | 89 <u>104</u> |
| 8 | 40,001 - 42,000 | 496 <u>211</u> | 463 <u>178</u> | 430 <u>145</u> | 93 <u>108</u> |
| 9 | 42,001 - 44,000 | 206 <u>221</u> | 474 <u>186</u> | 436 <u>151</u> | 97 <u>112</u> |
| 10 | 44,001 - 46,000 | 246 <u>231</u> | 479 <u>194</u> | 442 <u>157</u> | 404 <u>116</u> |
| 11 | 46,001 - 48,000 | 226 <u>241</u> | 487 <u>202</u> | 448 <u>163</u> | 405 <u>120</u> |
| 12 | 48,001 - 50,000 | 236 <u>251</u> | 495 <u>210</u> | 454 <u>169</u> | 409 <u>124</u> |
| 13 | 50,001 - 52,000 | 256 <u>271</u> | 243 <u>228</u> | 470 <u>185</u> | 423 <u>138</u> |
| 14 | 52,001 - 54,000 | 266 <u>281</u> | 224 <u>236</u> | 476 <u>191</u> | 427 <u>142</u> |
| 15 | 54,001 - 56,000 | 276 <u>291</u> | 229 <u>244</u> | 482 <u>197</u> | 434 <u>146</u> |
| 16 | 56,001 - 58,000 | 286 <u>301</u> | 237 <u>252</u> | 488 <u>203</u> | 435 <u>150</u> |
| 17 | 58,001 - 60,000 | 296 <u>311</u> | 245 <u>260</u> | 494 <u>209</u> | 439 <u>154</u> |
| 18 | 60,001 - 62,000 | 306 <u>321</u> | 253 <u>268</u> | 200 <u>215</u> | 443 <u>158</u> |
| 19 | 62,001 - 64,000 | 316 <u>331</u> | 264 <u>276</u> | 206 <u>221</u> | 447 <u>162</u> |
| 20 | 64,001 - 66,000 | 326 <u>341</u> | 269 <u>284</u> | 242 <u>227</u> | 454 <u>166</u> |
| 21 | 66,001 - 68,000 | 336 <u>351</u> | 277 <u>292</u> | 248 <u>233</u> | 455 <u>170</u> |
| 22 | 68,001 - 70,000 | 346 <u>361</u> | 285 <u>300</u> | 224 <u>239</u> | 459 <u>174</u> |
| 23 | 70,001 - 72,000 | 356 <u>371</u> | 293 <u>308</u> | 230 <u>245</u> | 463 <u>178</u> |
| 24 | 72,001 - 74,000 | 366 <u>381</u> | 304 <u>316</u> | 236 <u>251</u> | 467 <u>182</u> |
| 25 | 74,001 - 76,000 | 376 <u>391</u> | 309 <u>324</u> | 242 <u>257</u> | 474 <u>186</u> |
| 26 | 76,001 - 78,000 | 386 <u>401</u> | 317 <u>332</u> | 248 <u>263</u> | 475 <u>190</u> |
| 27 | 78,001 - 80,000 | 396 <u>411</u> | 325 <u>340</u> | 254 <u>269</u> | 479 <u>194</u> |
| 28 | 80,001 - 82,000 | 406 <u>421</u> | 333 <u>348</u> | 260 <u>275</u> | 483 <u>198</u> |
| 29 | 82,001 - 84,000 | 416 <u>431</u> | 355 <u>370</u> | 303 <u>318</u> | 259 <u>274</u> |
| 30 | 84,001 - 86,000 | 436 <u>451</u> | 372 <u>387</u> | 347 <u>332</u> | 274 <u>286</u> |
| 31 | 86,001 - 88,000 | 456 <u>471</u> | 389 <u>404</u> | 334 <u>346</u> | 283 <u>298</u> |

Fifty-ninth
Legislative Assembly

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|---|-------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| 1 | 88,001 - 90,000 | 476 <u>491</u> | 406 <u>421</u> | 345 <u>360</u> | 295 <u>310</u> |
| 2 | 90,001 - 92,000 | 496 <u>511</u> | 423 <u>438</u> | 359 <u>374</u> | 307 <u>322</u> |
| 3 | 92,001 - 94,000 | 516 <u>531</u> | 440 <u>455</u> | 373 <u>388</u> | 319 <u>334</u> |
| 4 | 94,001 - 96,000 | 536 <u>551</u> | 457 <u>472</u> | 387 <u>402</u> | 331 <u>346</u> |
| 5 | 96,001 - 98,000 | 556 <u>571</u> | 474 <u>489</u> | 401 <u>416</u> | 343 <u>358</u> |
| 6 | 98,001 - 100,000 | 576 <u>591</u> | 491 <u>506</u> | 415 <u>430</u> | 355 <u>370</u> |
| 7 | 100,001 - 102,000 | 596 <u>611</u> | 508 <u>523</u> | 429 <u>444</u> | 367 <u>382</u> |
| 8 | 102,001 - 104,000 | 616 <u>631</u> | 525 <u>540</u> | 443 <u>458</u> | 379 <u>394</u> |
| 9 | 104,001 - 105,500 | 636 <u>651</u> | 542 <u>557</u> | 457 <u>472</u> | 391 <u>406</u> |

10 6. A motor vehicle registered in subsection 5 may be used for custom combining
11 operations by displaying identification issued by the department and upon payment
12 of a fee of twenty-five dollars.

13 7. Three dollars of each registration fee collected under subsections 2 and 5 must be
14 deposited in the state highway fund.

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

17 **57-40.3-10. Transfer of revenue.** All moneys collected and received under this
18 chapter must be transmitted monthly by the director of the department of transportation to the
19 state treasurer to be transferred and credited to the general fund. However, the director of the
20 department of transportation shall transfer to the state treasurer for deposit in the state highway
21 fund any amount of motor vehicle excise tax received in excess of one hundred forty-eight
22 million four hundred eight thousand six hundred ninety-six dollars during a biennium.

23 **SECTION 11. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **57-43.1-02. Tax imposed on motor vehicle fuels.**

26 1. Except as otherwise provided in this section, a tax of ~~twenty-one~~ twenty-two cents
27 per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this
28 state.

29 2. A supplier or distributor shall remit the tax imposed by this section on motor vehicle
30 fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on
31 direct sales of motor vehicle fuel to a consumer.

- 1 3. The tax imposed by this section does not apply on a sale by a supplier to another
2 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
3 another distributor, on an export, or on a sale to an exempt consumer.
- 4 4. The person required to remit the tax imposed by this section shall pass the tax on
5 to the retailer and to the consumer. A retailer who paid the tax to the supplier or
6 distributor shall pass the tax on to the consumer.
- 7 5. The person required to remit the tax imposed by this section shall pay the tax to
8 the commissioner by the twenty-fifth day of the calendar month after the month
9 during which the motor vehicle fuel was sold or used by the person. When the
10 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal
11 holiday, the due date is the first working day after the Saturday, Sunday, or legal
12 holiday. When payment is made by mail, the payment is timely if the envelope
13 containing the payment is postmarked by the United States postal service or other
14 postal carrier service before midnight of the due date.
- 15 6. The commissioner shall pay over all of the money received during each calendar
16 month to the state treasurer.

17 **SECTION 12.** Section 57-43.1-03.2 of the North Dakota Century Code is created and
18 enacted as follows:

19 **57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax**
20 **refund reserve fund - Continuing appropriation.**

- 21 1. A native American may file a claim with the tax commissioner for a refund of motor
22 vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid
23 under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from
24 a retail fuel dealer located on the Indian reservation where the native American in
25 an enrolled member and the fuel was delivered to the native American on that
26 reservation. The refund provisions of this chapter apply to refund claims made
27 under this section.
- 28 2. A fuels tax refund reserve fund is created as a special fund in the state treasury.
29 The tax commissioner shall deposit in that fund such amounts from motor vehicle
30 fuel tax and special fuel tax collections as the attorney general determines
31 necessary to be expended for refunds to which native American government

1 entities may be entitled under qualifying circumstances and conditions determined
2 by the attorney general. There is appropriated as a continuing appropriation out of
3 funds set aside under this subsection so much of the funds as the attorney general
4 determines is necessary to meet the expenditures authorized under this
5 subsection and such funds may be expended for that purpose.

6 **SECTION 13. AMENDMENT.** Section 57-43.2-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-43.2-02. (Contingent effective date - See note - Effective through June 30,**
9 **2005) Tax imposed.**

- 10 1. Except as otherwise provided in this chapter, an excise tax of twenty-one cents per
11 gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used
12 in this state. For the purpose of determining the tax upon compressed natural gas
13 under this section, one hundred twenty cubic feet [3.40 cubic meters] of
14 compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
15 The tax under this subsection is reduced by one and five-hundredths cents per
16 gallon [3.79 liters] on the sale or delivery of diesel fuel that contains at least two
17 percent biodiesel fuel by weight.
- 18 2. A supplier, distributor, or retailer shall remit the tax imposed by this section on
19 special fuel used and on direct sales of special fuel to a customer.
- 20 3. The tax imposed by this section does not apply on sales by a supplier to another
21 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
22 another distributor, on a sale by a distributor to a retailer, on an export, or on a sale
23 to an exempt consumer.
- 24 4. The person required to remit the tax imposed by this section shall pass the tax on
25 to the customer.
- 26 5. The person required to remit the tax imposed by this section shall pay the tax to
27 the commissioner by the twenty-fifth day of the calendar month after the month
28 during which the special fuel was sold or used by the person. When the
29 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal
30 holiday, the due date is the first working day after the Saturday, Sunday, or legal
31 holiday. When payment is made by mail, the payment is timely if the envelope

1 containing the payment is postmarked by the United States postal service or other
2 postal carrier service before midnight of the due date.

3 6. The commissioner shall pay over all of the money received during each calendar
4 month to the state treasurer.

5 **(Effective after June 30, 2005) Tax imposed.**

6 1. Except as otherwise provided in this chapter, an excise tax of ~~twenty-one~~
7 twenty-two cents per gallon [3.79 liters] is imposed on the sale or delivery of all
8 special fuel sold or used in this state. For the purpose of determining the tax upon
9 compressed natural gas under this section, one hundred twenty cubic feet [3.40
10 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other
11 special fuel.

12 2. A supplier, distributor, or retailer shall remit the tax imposed by this section on
13 special fuel used and on direct sales of special fuel to a customer.

14 3. The tax imposed by this section does not apply on sales by a supplier to another
15 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
16 another distributor, on a sale by a distributor to a retailer, on an export, or on a sale
17 to an exempt consumer.

18 4. The person required to remit the tax imposed by this section shall pass the tax on
19 to the customer.

20 5. The person required to remit the tax imposed by this section shall pay the tax to
21 the commissioner by the twenty-fifth day of the calendar month after the month
22 during which the special fuel was sold or used by the person. When the
23 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal
24 holiday, the due date is the first working day after the Saturday, Sunday, or legal
25 holiday. When payment is made by mail, the payment is timely if the envelope
26 containing the payment is postmarked by the United States postal service or other
27 postal carrier service before midnight of the due date.

28 6. The commissioner shall pay over all of the money received during each calendar
29 month to the state treasurer.

30 **SECTION 14. TEMPORARY ALLOCATION.** Fifteen dollars of each registration fee
31 collected under subsections 2 and 5 of section 39-04-19 and any increase resulting from the

1 reclassification of pickup trucks from subdivision b of subsection 2 to subdivision a of
2 subsection 2 of section 39-04-19 must be deposited in the state highway fund. One cent of the
3 fuels and special fuels tax imposed under sections 57-43.1-02 and 57-43.2-02 must be
4 deposited in the state highway fund.

5 **SECTION 15. REPEAL.** Section 39-04-39.5 of the North Dakota Century Code is
6 repealed.

7 **SECTION 16. EFFECTIVE DATE - CONTINGENT EXPIRATION DATE.** Section 12 of
8 this Act is effective for qualifying motor vehicle and special fuel purchases made after
9 December 31, 2004, and is effective until the first day of the first month after the tax
10 commissioner, with the approval of the attorney general, certifies to the governor and the office
11 of the legislative council that an Act of Congress has specifically authorized, or a United States
12 Supreme Court decision has held or may be interpreted to have held, that a state may impose
13 its motor vehicle and special fuel tax laws on native Americans who purchase motor vehicle
14 fuels and special fuels from a retail fuel dealer located on the Indian reservation where the
15 native American is enrolled. Sections 9, 10, 11, and 13 of this Act are effective for registrations
16 and taxable events occurring after June 30, 2005. Section 15 of this Act is effective for
17 registrations occurring after June 30, 2005.

18 **SECTION 17. EXPIRATION DATE.** Section 14 of this Act is effective through June 30,
19 2006, and after that date is ineffective.

20 **SECTION 18. EMERGENCY.** Section 7 of this Act is declared to be an emergency
21 measure.