

**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 a new section to chapter 24-01, section 24-02-40.1, a new  
3 section to chapter 24-08, and section 57-43.1-03.2 of the North Dakota Century Code, relating  
4 to the highway performance classification plan, grant or revenue anticipation financing by the  
5 department of transportation, naming of the liberty memorial bridge, and refunds of certain fuels  
6 taxes paid by native Americans; to amend and reenact sections 24-01-03, 24-01-51, 39-04-19,  
7 57-40.3-10, 57-43.1-02, and 57-43.2-02 of the North Dakota Century Code, relating to highway  
8 and bridge maintenance, haying of no-mow areas, motor vehicle registration fees, motor  
9 vehicle excise tax revenue, and motor vehicle fuels and special fuels tax rates; to repeal  
10 section 39-04-39.5 of the North Dakota Century Code, relating to allocation of motor vehicle  
11 registration fees; to provide an effective date; to provide a contingent expiration date; and to  
12 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	863,644,411
10	Fleet services	<u>43,268,038</u>
11	Total special funds - Adjustments/enhancements	\$169,736,125

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	863,644,411
20	Fleet services	<u>43,268,038</u>
21	Total special funds appropriation	\$954,122,043

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 maintaining the structural integrity of any bridge over a navigable water of  
6 this state which is currently maintained by the state unless an agreement is reached with the  
7 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.** A new section to chapter 24-01 of the North Dakota Century Code is  
21 created and enacted as follows:

22           **Highway performance classification plan.** To the extent possible, the department of  
23 transportation shall implement the highway performance classification plan.

24           **SECTION 7. AMENDMENT.** Section 24-01-51 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **24-01-51. (Effective January 1, 2006 2008) Haying of no-mow areas.**

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

30           **SECTION 8.** Section 24-02-40.1 of the North Dakota Century Code is created and  
31 enacted as follows:

1           **24-02-40.1. Grant or revenue anticipation financing.** Notwithstanding any other  
2 provision of law, the department, whenever needed for the liberty memorial bridge improvement  
3 project and the United States highway 2 project improvements, may arrange with any  
4 state-owned or private financing agency or underwriter, including the Bank of North Dakota,  
5 grant or revenue anticipation financing through the issuance of evidences of indebtedness on  
6 such terms and conditions as the department determines if construction funds on hand are  
7 insufficient to meet current obligations or to achieve cost-savings or efficiencies in road  
8 construction. The department may refund the evidences of indebtedness as often as it is  
9 advantageous to do so. Evidences of indebtedness may be sold at public or private sale and  
10 must mature not more than fifteen years from their date or dates, and the proceeds of the sale  
11 may be invested on such terms and conditions as the department determines. Grant or  
12 revenue anticipation financing must be in amounts no larger than can be repaid from moneys  
13 known or reasonably anticipated to be due and forthcoming. The grant or revenue anticipation  
14 financing may not be used in anticipation of increased federal aid highway grants or increased  
15 state highway user revenue funds, and the financing may not be obligated for road construction  
16 that cannot be financed from known sources of grants or revenue. The department may pledge  
17 any federal aid grants received or to be received for debt service and related issuance costs for  
18 evidences of indebtedness issued under this section directly to a trustee in trust for payment to  
19 holders of the evidences of indebtedness. The department may also pledge any biennially  
20 appropriated revenues for debt service on the evidences of indebtedness directly to a trustee in  
21 trust for payment to holders of the evidences of indebtedness. Any evidences of indebtedness  
22 issued under this section are not general obligations or debt of the state, the department, or  
23 any public officer or employee of the department or this state. The principal of and interest on  
24 the evidences of indebtedness are limited obligations payable solely from grants or revenues  
25 received or to be received by the department. The department may capitalize from proceeds of  
26 the evidences of indebtedness all expenses incidental to issuing the evidences of  
27 indebtedness, including any reserves for payment of the evidences of indebtedness.

28           **SECTION 9.** A new section to chapter 24-08 of the North Dakota Century Code is  
29 created and enacted as follows:

1           **Liberty memorial bridge.** A bridge replacing the bridge between Mandan and  
 2 Bismarck presently known as the liberty memorial bridge is designated the liberty memorial  
 3 bridge upon the completion of the replacement bridge.

4           **SECTION 10. AMENDMENT.** Section 39-04-19 of the North Dakota Century Code is  
 5 amended and reenacted as follows:

6           **39-04-19. Motor vehicle registration fees and mile tax.** Motor vehicles required to  
 7 pay registration fees or a mile tax shall pay the following fees:

- 8           1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do  
 9           so by the department, shall pay a fee of twenty dollars for a trip permit which is  
 10           valid for a period of seventy-two hours. All fees collected under the provisions of  
 11           this subsection must be credited to the highway construction fund.
- 12           2. Motor vehicles required to be registered in this state must be furnished license  
 13           plates upon the payment of the following annual fees; however, if a motor vehicle,  
 14           including a motorcycle or trailer, first becomes subject to registration other than at  
 15           the beginning of the registration period, such fees must be prorated on a monthly  
 16           basis. The minimum fee charged hereunder must be five dollars:
  - 17           a. Passenger motor vehicles:

	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years
19           Gross				
20           Weights				
21           Less than 3,200	<del>\$60</del> <u>\$70</u>	<del>\$52</del> <u>\$62</u>	<del>\$44</del> <u>\$54</u>	<del>\$36</del> <u>\$46</u>
22           3,200 - 4,499	<del>80</del> <u>90</u>	<del>68</del> <u>78</u>	<del>56</del> <u>66</u>	<del>44</del> <u>54</u>
23           4,500 - 4,999	<del>98</del> <u>108</u>	<del>84</del> <u>91</u>	<del>66</del> <u>76</u>	<del>50</del> <u>60</u>
24           5,000 - 5,999	<del>129</del> <u>139</u>	<del>107</del> <u>117</u>	<del>85</del> <u>95</u>	<del>63</del> <u>73</u>
25           6,000 - 6,999	<del>162</del> <u>172</u>	<del>133</del> <u>143</u>	<del>104</del> <u>114</u>	<del>76</del> <u>86</u>
26           7,000 - 7,999	<del>195</del> <u>205</u>	<del>159</del> <u>169</u>	<del>124</del> <u>134</u>	<del>89</del> <u>99</u>
27           8,000 - 8,999	<del>228</del> <u>238</u>	<del>186</del> <u>196</u>	<del>144</del> <u>154</u>	<del>102</del> <u>112</u>
28           9,000 and over	<del>264</del> <u>271</u>	<del>212</del> <u>222</u>	<del>164</del> <u>174</u>	<del>115</del> <u>125</u>

29           A house car is subject to registration at the rates prescribed for other vehicles  
 30           under this subdivision modified by using the weight applicable to a vehicle  
 31



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1	14,001 - 16,000	<del>88</del> <u>98</u>	<del>75</del> <u>85</u>	<del>64</del> <u>74</u>	<del>49</del> <u>59</u>	<del>48</del> <u>58</u>
2	16,001 - 18,000	<del>93</del> <u>103</u>	<del>80</del> <u>90</u>	<del>68</del> <u>78</u>	<del>54</del> <u>61</u>	<del>50</del> <u>60</u>
3	18,001 - 20,000	<del>96</del> <u>106</u>	<del>83</del> <u>93</u>	<del>70</del> <u>80</u>	<del>52</del> <u>62</u>	<del>54</del> <u>61</u>

YEARS REGISTERED

5		1st, 2nd, 3rd,	8th, 9th, 10th,	13th and
6	Gross	4th, 5th, 6th,	11th, and	Subsequent
7	Weights	and 7th Years	12th Years	Years
8	20,001 - 22,000	<del>\$126</del> <u>\$136</u>	<del>\$100</del> <u>\$110</u>	<del>\$87</del> <u>\$97</u>
9	22,001 - 26,000	<del>478</del> <u>188</u>	<del>448</del> <u>158</u>	<del>432</del> <u>142</u>
10	26,001 - 30,000	<del>239</del> <u>249</u>	<del>497</del> <u>207</u>	<del>475</del> <u>185</u>
11	30,001 - 34,000	<del>305</del> <u>315</u>	<del>250</del> <u>260</u>	<del>222</del> <u>232</u>
12	34,001 - 38,000	<del>366</del> <u>376</u>	<del>299</del> <u>309</u>	<del>265</del> <u>275</u>
13	38,001 - 42,000	<del>427</del> <u>437</u>	<del>348</del> <u>358</u>	<del>307</del> <u>317</u>
14	42,001 - 46,000	<del>488</del> <u>498</u>	<del>396</del> <u>406</u>	<del>350</del> <u>360</u>
15	46,001 - 50,000	<del>549</del> <u>559</u>	<del>445</del> <u>455</u>	<del>393</del> <u>403</u>
16	50,001 - 54,000	<del>649</del> <u>629</u>	<del>503</del> <u>513</u>	<del>444</del> <u>454</u>
17	54,001 - 58,000	<del>680</del> <u>690</u>	<del>552</del> <u>562</u>	<del>487</del> <u>497</u>
18	58,001 - 62,000	<del>742</del> <u>752</u>	<del>604</del> <u>611</u>	<del>530</del> <u>540</u>
19	62,001 - 66,000	<del>802</del> <u>812</u>	<del>649</del> <u>659</u>	<del>573</del> <u>583</u>
20	66,001 - 70,000	<del>863</del> <u>873</u>	<del>698</del> <u>708</u>	<del>645</del> <u>625</u>
21	70,001 - 74,000	<del>924</del> <u>934</u>	<del>747</del> <u>757</u>	<del>658</del> <u>668</u>
22	74,001 - 78,000	<del>985</del> <u>995</u>	<del>796</del> <u>806</u>	<del>704</del> <u>711</u>
23	78,001 - 82,000	<del>1,046</del> <u>1,056</u>	<del>845</del> <u>855</u>	<del>744</del> <u>754</u>
24	82,001 - 86,000	<del>1,169</del> <u>1,179</u>	<del>950</del> <u>960</u>	<del>834</del> <u>841</u>
25	86,001 - 90,000	<del>1,294</del> <u>1,301</u>	<del>1,054</del> <u>1,064</u>	<del>948</del> <u>928</u>
26	90,001 - 94,000	<del>1,413</del> <u>1,423</u>	<del>1,159</del> <u>1,169</u>	<del>1,005</del> <u>1,015</u>
27	94,001 - 98,000	<del>1,535</del> <u>1,545</u>	<del>1,264</del> <u>1,274</u>	<del>1,093</del> <u>1,103</u>
28	98,001 - 102,000	<del>1,657</del> <u>1,667</u>	<del>1,368</del> <u>1,378</u>	<del>1,180</del> <u>1,190</u>
29	102,001 - 105,500	<del>1,779</del> <u>1,789</u>	<del>1,473</del> <u>1,483</u>	<del>1,267</del> <u>1,277</u>

c. Notwithstanding the fees provided by subdivision a of subsection 2, only one-half of the increase in registration fees, rounded up to the nearest dollar,

1                   resulting from the reclassification of pickup trucks in 2005 from subdivision b  
2                   of subsection 2 to subdivision a of subsection 2 is effective from July 1, 2005,  
3                   through June 30, 2007.

4                   d. Motorcycles, fifteen dollars.

5                   3. Motor vehicles acquired by disabled veterans under the provisions of Public Law  
6                   79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax  
7                   and, if paid, such veterans are entitled to a refund. This exemption also applies to  
8                   any passenger motor vehicle or pickup truck not exceeding ten thousand pounds  
9                   [4535.92 kilograms] gross weight but shall apply to no more than two such motor  
10                  vehicles owned by a disabled veteran at any one time.

11                  4. Every trailer, semitrailer, and farm trailer required to be registered under this  
12                  chapter must be furnished registration plates upon the payment of a twenty dollar  
13                  annual fee. Every trailer, semitrailer, or farm trailer not required to be registered  
14                  under this chapter must be furnished an identification plate upon the payment of a  
15                  fee of five dollars. Upon the request of a person with a trailer or farm trailer to  
16                  whom a registration or identification plate is provided under this subsection, the  
17                  department shall provide a plate of the same size as provided for a motorcycle.  
18                  The department shall provide notification of this option to the person before the  
19                  replacement or issuance of the plate.

20                  5. Trucks or combinations of trucks and trailers weighing more than twenty thousand  
21                  but not more than one hundred five thousand five hundred pounds [more than  
22                  9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles  
23                  only, are entitled to registration under the following fee schedule and the provisions  
24                  of this subsection. Farm vehicles are considered, for the purpose of this  
25                  subsection, as trucks or combinations of trucks and trailers weighing more than  
26                  twenty thousand but not more than one hundred five thousand five hundred  
27                  pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or  
28                  leased for at least one year by a bona fide resident farmer who uses the vehicles  
29                  exclusively for transporting the farmer's own property or other property on a farm  
30                  work exchange basis with other farmers between farms and the usual local trading  
31                  places but not in connection with any commercial retail or wholesale business

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1 being conducted from those farms, nor otherwise for hire. In addition to the  
2 penalty provided in section 39-04-41, any person violating this subsection shall  
3 license for the entire license period the farm vehicle at the higher commercial  
4 vehicle rate in accordance with the weight carried by the farm vehicle at the time of  
5 the violation.

6 YEARS REGISTERED

7		1st, 2nd,	7th and	9th and	11th and
8	Gross	3rd, 4th, 5th,	8th	10th	Subsequent
9	Weights	and 6th Years	Years	Years	Years
10	20,001 - 22,000	<del>\$98</del> <u>\$108</u>	<del>\$84</del> <u>\$94</u>	<del>\$70</del> <u>\$80</u>	<del>\$52</del> <u>\$62</u>
11	22,001 - 24,000	<del>403</del> <u>113</u>	<del>88</del> <u>98</u>	<del>73</del> <u>83</u>	<del>54</del> <u>64</u>
12	24,001 - 26,000	<del>414</del> <u>121</u>	<del>94</del> <u>104</u>	<del>77</del> <u>87</u>	<del>56</del> <u>66</u>
13	26,001 - 28,000	<del>422</del> <u>132</u>	<del>402</del> <u>112</u>	<del>83</del> <u>93</u>	<del>60</del> <u>70</u>
14	28,001 - 30,000	<del>434</del> <u>141</u>	<del>440</del> <u>120</u>	<del>89</del> <u>99</u>	<del>64</del> <u>74</u>
15	30,001 - 32,000	<del>446</del> <u>156</u>	<del>423</del> <u>133</u>	<del>400</del> <u>110</u>	<del>73</del> <u>83</u>
16	32,001 - 34,000	<del>456</del> <u>166</u>	<del>434</del> <u>141</u>	<del>406</del> <u>116</u>	<del>77</del> <u>87</u>
17	34,001 - 36,000	<del>466</del> <u>176</u>	<del>439</del> <u>149</u>	<del>442</del> <u>122</u>	<del>84</del> <u>91</u>
18	36,001 - 38,000	<del>476</del> <u>186</u>	<del>447</del> <u>157</u>	<del>448</del> <u>128</u>	<del>85</del> <u>95</u>
19	38,001 - 40,000	<del>486</del> <u>196</u>	<del>455</del> <u>165</u>	<del>424</del> <u>134</u>	<del>89</del> <u>99</u>
20	40,001 - 42,000	<del>496</del> <u>206</u>	<del>463</del> <u>173</u>	<del>430</del> <u>140</u>	<del>93</del> <u>103</u>
21	42,001 - 44,000	<del>206</del> <u>216</u>	<del>474</del> <u>181</u>	<del>436</del> <u>146</u>	<del>97</del> <u>107</u>
22	44,001 - 46,000	<del>216</del> <u>226</u>	<del>479</del> <u>189</u>	<del>442</del> <u>152</u>	<del>404</del> <u>111</u>
23	46,001 - 48,000	<del>226</del> <u>236</u>	<del>487</del> <u>197</u>	<del>448</del> <u>158</u>	<del>405</del> <u>115</u>
24	48,001 - 50,000	<del>236</del> <u>246</u>	<del>495</del> <u>205</u>	<del>454</del> <u>164</u>	<del>409</del> <u>119</u>
25	50,001 - 52,000	<del>256</del> <u>266</u>	<del>243</del> <u>223</u>	<del>470</del> <u>180</u>	<del>423</del> <u>133</u>
26	52,001 - 54,000	<del>266</del> <u>276</u>	<del>224</del> <u>231</u>	<del>476</del> <u>186</u>	<del>427</del> <u>137</u>
27	54,001 - 56,000	<del>276</del> <u>286</u>	<del>229</del> <u>239</u>	<del>482</del> <u>192</u>	<del>434</del> <u>141</u>
28	56,001 - 58,000	<del>286</del> <u>296</u>	<del>237</del> <u>247</u>	<del>488</del> <u>198</u>	<del>435</del> <u>145</u>
29	58,001 - 60,000	<del>296</del> <u>306</u>	<del>245</del> <u>255</u>	<del>494</del> <u>204</u>	<del>439</del> <u>149</u>
30	60,001 - 62,000	<del>306</del> <u>316</u>	<del>253</del> <u>263</u>	<del>200</del> <u>210</u>	<del>443</del> <u>153</u>
31	62,001 - 64,000	<del>316</del> <u>326</u>	<del>264</del> <u>271</u>	<del>206</del> <u>216</u>	<del>447</del> <u>157</u>

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1	64,001 - 66,000	<del>326</del> <u>336</u>	<del>269</del> <u>279</u>	<del>242</del> <u>222</u>	<del>454</del> <u>161</u>
2	66,001 - 68,000	<del>336</del> <u>346</u>	<del>277</del> <u>287</u>	<del>248</del> <u>228</u>	<del>455</del> <u>165</u>
3	68,001 - 70,000	<del>346</del> <u>356</u>	<del>285</del> <u>295</u>	<del>224</del> <u>234</u>	<del>459</del> <u>169</u>
4	70,001 - 72,000	<del>356</del> <u>366</u>	<del>293</del> <u>303</u>	<del>230</del> <u>240</u>	<del>463</del> <u>173</u>
5	72,001 - 74,000	<del>366</del> <u>376</u>	<del>304</del> <u>311</u>	<del>236</del> <u>246</u>	<del>467</del> <u>177</u>
6	74,001 - 76,000	<del>376</del> <u>386</u>	<del>309</del> <u>319</u>	<del>242</del> <u>252</u>	<del>474</del> <u>181</u>
7	76,001 - 78,000	<del>386</del> <u>396</u>	<del>317</del> <u>327</u>	<del>248</del> <u>258</u>	<del>475</del> <u>185</u>
8	78,001 - 80,000	<del>396</del> <u>406</u>	<del>325</del> <u>335</u>	<del>254</del> <u>264</u>	<del>479</del> <u>189</u>
9	80,001 - 82,000	<del>406</del> <u>416</u>	<del>333</del> <u>343</u>	<del>260</del> <u>270</u>	<del>483</del> <u>193</u>
10	82,001 - 84,000	<del>416</del> <u>426</u>	<del>355</del> <u>365</u>	<del>303</del> <u>313</u>	<del>259</del> <u>269</u>
11	84,001 - 86,000	<del>436</del> <u>446</u>	<del>372</del> <u>382</u>	<del>317</del> <u>327</u>	<del>274</del> <u>281</u>
12	86,001 - 88,000	<del>456</del> <u>466</u>	<del>389</del> <u>399</u>	<del>334</del> <u>341</u>	<del>283</del> <u>293</u>
13	88,001 - 90,000	<del>476</del> <u>486</u>	<del>406</del> <u>416</u>	<del>345</del> <u>355</u>	<del>295</del> <u>305</u>
14	90,001 - 92,000	<del>496</del> <u>506</u>	<del>423</del> <u>433</u>	<del>359</del> <u>369</u>	<del>307</del> <u>317</u>
15	92,001 - 94,000	<del>516</del> <u>526</u>	<del>440</del> <u>450</u>	<del>373</del> <u>383</u>	<del>319</del> <u>329</u>
16	94,001 - 96,000	<del>536</del> <u>546</u>	<del>457</del> <u>467</u>	<del>387</del> <u>397</u>	<del>334</del> <u>341</u>
17	96,001 - 98,000	<del>556</del> <u>566</u>	<del>474</del> <u>484</u>	<del>404</del> <u>411</u>	<del>343</del> <u>353</u>
18	98,001 - 100,000	<del>576</del> <u>586</u>	<del>494</del> <u>501</u>	<del>415</del> <u>425</u>	<del>355</del> <u>365</u>
19	100,001 - 102,000	<del>596</del> <u>606</u>	<del>508</del> <u>518</u>	<del>429</del> <u>439</u>	<del>367</del> <u>377</u>
20	102,001 - 104,000	<del>616</del> <u>626</u>	<del>525</del> <u>535</u>	<del>443</del> <u>453</u>	<del>379</del> <u>389</u>
21	104,001 - 105,500	<del>636</del> <u>646</u>	<del>542</del> <u>552</u>	<del>457</del> <u>467</u>	<del>394</del> <u>401</u>

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

25           7.    Thirteen dollars of each registration fee collected under subsections 2 and 5 must  
26                   be deposited in the state highway fund.

27           **SECTION 11. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **57-40.3-10. Transfer of revenue.** All moneys collected and received under this  
30 chapter must be transmitted monthly by the director of the department of transportation to the  
31 state treasurer to be transferred and credited ~~to the general fund.~~ as follows:

- 1           1. The first one hundred fifty million dollars received during a biennium must be  
2           deposited in the state general fund.
- 3           2. The first thirty-seven million five hundred thousand dollars received during a  
4           biennium exceeding the amount allocated under subsection 1 must be deposited in  
5           the state highway fund.
- 6           3. Amounts received in excess of the amount allocated under subsections 1 and 2  
7           must be allocated eighty percent to the state general fund and twenty percent to  
8           the state highway fund.

9           **SECTION 12. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **57-43.1-02. Tax imposed on motor vehicle fuels.**

- 12           1. Except as otherwise provided in this section, a tax of ~~twenty-one~~ twenty-three  
13           cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this  
14           state.
- 15           2. A supplier or distributor shall remit the tax imposed by this section on motor vehicle  
16           fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on  
17           direct sales of motor vehicle fuel to a consumer.
- 18           3. The tax imposed by this section does not apply on a sale by a supplier to another  
19           supplier, on a sale by a supplier to a distributor, on a sale by a distributor to  
20           another distributor, on an export, or on a sale to an exempt consumer.
- 21           4. The person required to remit the tax imposed by this section shall pass the tax on  
22           to the retailer and to the consumer. A retailer who paid the tax to the supplier or  
23           distributor shall pass the tax on to the consumer.
- 24           5. The person required to remit the tax imposed by this section shall pay the tax to  
25           the commissioner by the twenty-fifth day of the calendar month after the month  
26           during which the motor vehicle fuel was sold or used by the person. When the  
27           twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal  
28           holiday, the due date is the first working day after the Saturday, Sunday, or legal  
29           holiday. When payment is made by mail, the payment is timely if the envelope  
30           containing the payment is postmarked by the United States postal service or other  
31           postal carrier service before midnight of the due date.

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

3           **SECTION 13.** Section 57-43.1-03.2 of the North Dakota Century Code is created and  
4 enacted as follows:

5           **57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax**  
6 **refund reserve fund - Continuing appropriation.**

7           1.    A native American may file a claim with the tax commissioner for a refund of motor  
8                   vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid  
9                   under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from  
10                  a retail fuel dealer located on the Indian reservation where the native American is  
11                  an enrolled member and the fuel was delivered to the native American on that  
12                  reservation. The refund provisions of this chapter apply to refund claims made  
13                  under this section.

14          2.    A fuels tax refund reserve fund is created as a special fund in the state treasury.  
15                  The tax commissioner shall deposit in that fund such amounts from motor vehicle  
16                  fuel tax and special fuel tax collections as the attorney general determines  
17                  necessary to be expended for refunds to which native American government  
18                  entities may be entitled under qualifying circumstances and conditions determined  
19                  by the attorney general. There is appropriated as a continuing appropriation out of  
20                  funds set aside under this subsection so much of the funds as the attorney general  
21                  determines is necessary to meet the expenditures authorized under this  
22                  subsection and such funds may be expended for that purpose.

23          **SECTION 14. AMENDMENT.** Section 57-43.2-02 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25          **57-43.2-02. (Contingent effective date - See note - Effective through June 30,**  
26 **2005) Tax imposed.**

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

- 1           The tax under this subsection is reduced by one and five-hundredths cents per  
2           gallon [3.79 liters] on the sale or delivery of diesel fuel that contains at least two  
3           percent biodiesel fuel by weight.
- 4           2. A supplier, distributor, or retailer shall remit the tax imposed by this section on  
5           special fuel used and on direct sales of special fuel to a customer.
- 6           3. The tax imposed by this section does not apply on sales by a supplier to another  
7           supplier, on a sale by a supplier to a distributor, on a sale by a distributor to  
8           another distributor, on a sale by a distributor to a retailer, on an export, or on a sale  
9           to an exempt consumer.
- 10          4. The person required to remit the tax imposed by this section shall pass the tax on  
11          to the customer.
- 12          5. The person required to remit the tax imposed by this section shall pay the tax to  
13          the commissioner by the twenty-fifth day of the calendar month after the month  
14          during which the special fuel was sold or used by the person. When the  
15          twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal  
16          holiday, the due date is the first working day after the Saturday, Sunday, or legal  
17          holiday. When payment is made by mail, the payment is timely if the envelope  
18          containing the payment is postmarked by the United States postal service or other  
19          postal carrier service before midnight of the due date.
- 20          6. The commissioner shall pay over all of the money received during each calendar  
21          month to the state treasurer.

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

- 23          1. Except as otherwise provided in this chapter, an excise tax of ~~twenty-one~~  
24          twenty-three cents per gallon [3.79 liters] is imposed on the sale or delivery of all  
25          special fuel sold or used in this state. For the purpose of determining the tax upon  
26          compressed natural gas under this section, one hundred twenty cubic feet [3.40  
27          cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other  
28          special fuel.
- 29          2. A supplier, distributor, or retailer shall remit the tax imposed by this section on  
30          special fuel used and on direct sales of special fuel to a customer.

- 1           3.    The tax imposed by this section does not apply on sales 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 a sale by a distributor to a retailer, on an export, or on a sale  
4           to an exempt consumer.
- 5           4.    The person required to remit the tax imposed by this section shall pass the tax on  
6           to the customer.
- 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 special 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 15. REPEAL.** Section 39-04-39.5 of the North Dakota Century Code is  
18 repealed.

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

30           **SECTION 17. EMERGENCY.** Section 8 of this Act is declared to be an emergency  
31 measure.