

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2012  
(Appropriations Committee)  
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of transportation; to create and enact a new section to chapter 24-01, section 24-02-40.1, a new section to chapter 24-08, and section 57-43.1-03.2 of the North Dakota Century Code, relating to the highway performance classification plan, grant or revenue anticipation financing by the department of transportation, naming of the liberty memorial bridge, and refunds of certain fuels taxes paid by native Americans; to amend and reenact 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 Dakota Century Code, relating to highway and bridge maintenance, haying of no-mow areas, motor vehicle registration fees, motor vehicle excise tax revenue, and motor vehicle fuels and special fuels tax rates; to repeal section 39-04-39.5 of the North Dakota Century Code, relating to allocation of motor vehicle registration fees; and to provide an effective date; and to provide a contingent expiration date.

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

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

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

**SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the department of transportation which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	(\$105,222,404)
Operating expenses	(122,902,369)
Capital assets	(512,175,642)
Grants	(44,085,503)
Administration	27,174,242
Driver's and vehicle services	20,035,352
Highways	863,644,411
Fleet services	<u>43,268,038</u>
Total special funds - Adjustments/enhancements	\$169,736,125

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

Administration	\$27,174,242
Driver's and vehicle services	20,035,352
Highways	863,644,411

Fleet services	43,268,038
Total special funds appropriation	\$954,122,043

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

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

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

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

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

**SECTION 6.** A new section to chapter 24-01 of the North Dakota Century Code is created and enacted as follows:

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

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

**24-01-51. (Effective January 1, 2006 2008) Haying of no-mow areas.** Notwithstanding any other provision of law, a person owning land adjacent to an area within the right of way of a highway which is designated as a no-mow or managed-mow area may hay the no-mow or managed-mow area after July fifteenth without any payment or penalty.

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

**24-02-40.1. Grant or revenue anticipation financing.** Notwithstanding any other provision of law, the department, whenever needed for the liberty memorial bridge improvement project and the United States highway 2 project improvements, may arrange with any state-owned or private financing agency or underwriter, including the Bank of North Dakota, grant or revenue anticipation financing through the issuance of evidences of indebtedness on such terms and conditions as the department

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

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

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

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

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

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

Gross Weights	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years
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>
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>
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>
5,000 - 5,999	<del>429</del> <u>139</u>	<del>407</del> <u>117</u>	<del>85</del> <u>95</u>	<del>63</del> <u>73</u>
6,000 - 6,999	<del>462</del> <u>172</u>	<del>433</del> <u>143</u>	<del>404</del> <u>114</u>	<del>76</del> <u>86</u>
7,000 - 7,999	<del>495</del> <u>205</u>	<del>459</del> <u>169</u>	<del>424</del> <u>134</u>	<del>89</del> <u>99</u>

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>
9,000 and over	<del>264</del> <u>271</u>	<del>242</del> <u>222</u>	<del>164</del> <u>174</u>	<del>115</del> <u>125</u>

A house car is subject to registration at the rates prescribed for other vehicles under this subdivision modified by using the weight applicable to a vehicle whose weight is forty percent of that of the house car, but not using a weight of less than four thousand pounds [1814.35 kilograms].

A pickup truck is subject to registration at the rates prescribed for other vehicles under this subdivision by applying the shipping weight of the vehicle to the fee schedule. At a minimum, the registered gross weight displayed on the registration card for a pickup truck must be twice the shipping weight of the vehicle. Unless otherwise exempted by this chapter, the owner of a pickup truck shall request the registered gross weight of the pickup truck be increased to ensure the registered gross weight is sufficient to include the total weight of the vehicle and any load transported on or by the vehicle. For purposes of this subdivision, a pickup truck is a motor vehicle with a manufacturer's gross vehicle weight rating of less than eleven thousand five hundred pounds [5216.31 kilograms], with an unladen weight of less than eight thousand pounds [3628.74 kilograms], and which is equipped with an open box-type bed not exceeding nine feet [2.74 meters] in length.

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

Gross Weights	YEARS REGISTERED					
	1st Through 6th Years	7th Through 9th Years	10th Through 12th Years	13th Through 19th Years	20th and Subsequent Years	
Not over 4,000	<del>\$58</del> <u>\$68</u>	<del>\$45</del> <u>\$55</u>	<del>\$40</del> <u>\$50</u>	<del>\$37</del> <u>\$47</u>	<del>\$36</del> <u>\$46</u>	
4,001 - 6,000	<del>63</del> <u>73</u>	<del>50</del> <u>60</u>	<del>44</del> <u>54</u>	<del>38</del> <u>48</u>	<del>37</del> <u>47</u>	
6,001 - 8,000	<del>68</del> <u>78</u>	<del>55</del> <u>65</u>	<del>48</del> <u>58</u>	<del>39</del> <u>49</u>	<del>38</del> <u>48</u>	
8,001 - 10,000	<del>73</del> <u>83</u>	<del>60</del> <u>70</u>	<del>52</del> <u>62</u>	<del>41</del> <u>51</u>	<del>40</del> <u>50</u>	
10,001 - 12,000	<del>78</del> <u>88</u>	<del>65</del> <u>75</u>	<del>56</del> <u>66</u>	<del>43</del> <u>53</u>	<del>42</del> <u>52</u>	
12,001 - 14,000	<del>83</del> <u>93</u>	<del>70</del> <u>80</u>	<del>60</del> <u>70</u>	<del>46</del> <u>56</u>	<del>45</del> <u>55</u>	
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>	
16,001 - 18,000	<del>93</del> <u>103</u>	<del>80</del> <u>90</u>	<del>68</del> <u>78</u>	<del>51</del> <u>61</u>	<del>50</del> <u>60</u>	
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>51</del> <u>61</u>	

Gross Weights	YEARS REGISTERED		
	1st, 2nd, 3rd, 4th, 5th, 6th, and 7th Years	8th, 9th, 10th, 11th, and 12th Years	13th and Subsequent Years
20,001 - 22,000	<del>\$126</del> <u>\$136</u>	<del>\$100</del> <u>\$110</u>	<del>\$87</del> <u>\$97</u>
22,001 - 26,000	<del>178</del> <u>188</u>	<del>148</del> <u>158</u>	<del>132</del> <u>142</u>
26,001 - 30,000	<del>239</del> <u>249</u>	<del>197</del> <u>207</u>	<del>175</del> <u>185</u>
30,001 - 34,000	<del>305</del> <u>315</u>	<del>250</del> <u>260</u>	<del>222</del> <u>232</u>
34,001 - 38,000	<del>366</del> <u>376</u>	<del>299</del> <u>309</u>	<del>265</del> <u>275</u>
38,001 - 42,000	<del>427</del> <u>437</u>	<del>348</del> <u>358</u>	<del>307</del> <u>317</u>
42,001 - 46,000	<del>488</del> <u>498</u>	<del>396</del> <u>406</u>	<del>350</del> <u>360</u>
46,001 - 50,000	<del>549</del> <u>559</u>	<del>445</del> <u>455</u>	<del>393</del> <u>403</u>
50,001 - 54,000	<del>619</del> <u>629</u>	<del>503</del> <u>513</u>	<del>444</del> <u>454</u>
54,001 - 58,000	<del>680</del> <u>690</u>	<del>552</del> <u>562</u>	<del>487</del> <u>497</u>
58,001 - 62,000	<del>742</del> <u>752</u>	<del>604</del> <u>614</u>	<del>530</del> <u>540</u>
62,001 - 66,000	<del>802</del> <u>812</u>	<del>649</del> <u>659</u>	<del>573</del> <u>583</u>
66,001 - 70,000	<del>863</del> <u>873</u>	<del>698</del> <u>708</u>	<del>615</del> <u>625</u>

70,001 - 74,000	<u>924 934</u>	<u>747 757</u>	<u>658 668</u>
74,001 - 78,000	<u>985 995</u>	<u>796 806</u>	<u>704 711</u>
78,001 - 82,000	<u>1,046 1,056</u>	<u>845 855</u>	<u>744 754</u>
82,001 - 86,000	<u>1,169 1,179</u>	<u>950 960</u>	<u>834 841</u>
86,001 - 90,000	<u>1,294 1,301</u>	<u>1,054 1,064</u>	<u>918 928</u>
90,001 - 94,000	<u>1,413 1,423</u>	<u>1,159 1,169</u>	<u>1,005 1,015</u>
94,001 - 98,000	<u>1,535 1,545</u>	<u>1,264 1,274</u>	<u>1,093 1,103</u>
98,001 - 102,000	<u>1,657 1,667</u>	<u>1,368 1,378</u>	<u>1,180 1,190</u>
102,001 - 105,500	<u>1,779 1,789</u>	<u>1,473 1,483</u>	<u>1,267 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, resulting from the reclassification of pickup trucks in 2005 from subdivision b of subsection 2 to subdivision a of subsection 2 is effective from July 1, 2005, through June 30, 2007.

d. Motorcycles, fifteen dollars.

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax and, if paid, such veterans are entitled to a refund. This exemption also applies to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight but shall apply to no more than two such motor vehicles owned by a disabled veteran at any one time.
4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars. Upon the request of a person with a trailer or farm trailer to whom a registration or identification plate is provided under this subsection, the department shall provide a plate of the same size as provided for a motorcycle. The department shall provide notification of this option to the person before the replacement or issuance of the plate.
5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or leased for at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

Gross Weights	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
20,001 - 22,000	<u>\$98 \$108</u>	<u>\$84 \$94</u>	<u>\$70 \$80</u>	<u>\$52 \$62</u>
22,001 - 24,000	<u>403 113</u>	<u>88 98</u>	<u>73 83</u>	<u>54 64</u>
24,001 - 26,000	<u>444 121</u>	<u>94 104</u>	<u>77 87</u>	<u>56 66</u>
26,001 - 28,000	<u>422 132</u>	<u>402 112</u>	<u>83 93</u>	<u>60 70</u>

28,001 - 30,000	<del>131</del> 141	<del>440</del> 120	<del>89</del> 99	<del>64</del> 74
30,001 - 32,000	<del>146</del> 156	<del>423</del> 133	<del>100</del> 110	<del>73</del> 83
32,001 - 34,000	<del>156</del> 166	<del>434</del> 141	<del>106</del> 116	<del>77</del> 87
34,001 - 36,000	<del>166</del> 176	<del>439</del> 149	<del>112</del> 122	<del>81</del> 91
36,001 - 38,000	<del>176</del> 186	<del>447</del> 157	<del>118</del> 128	<del>85</del> 95
38,001 - 40,000	<del>186</del> 196	<del>455</del> 165	<del>124</del> 134	<del>89</del> 99
40,001 - 42,000	<del>196</del> 206	<del>463</del> 173	<del>130</del> 140	<del>93</del> 103
42,001 - 44,000	<del>206</del> 216	<del>474</del> 181	<del>136</del> 146	<del>97</del> 107
44,001 - 46,000	<del>216</del> 226	<del>479</del> 189	<del>142</del> 152	<del>101</del> 111
46,001 - 48,000	<del>226</del> 236	<del>487</del> 197	<del>148</del> 158	<del>105</del> 115
48,001 - 50,000	<del>236</del> 246	<del>495</del> 205	<del>154</del> 164	<del>109</del> 119
50,001 - 52,000	<del>256</del> 266	<del>213</del> 223	<del>170</del> 180	<del>123</del> 133
52,001 - 54,000	<del>266</del> 276	<del>224</del> 231	<del>176</del> 186	<del>127</del> 137
54,001 - 56,000	<del>276</del> 286	<del>229</del> 239	<del>182</del> 192	<del>131</del> 141
56,001 - 58,000	<del>286</del> 296	<del>237</del> 247	<del>188</del> 198	<del>135</del> 145
58,001 - 60,000	<del>296</del> 306	<del>245</del> 255	<del>194</del> 204	<del>139</del> 149
60,001 - 62,000	<del>306</del> 316	<del>253</del> 263	<del>200</del> 210	<del>143</del> 153
62,001 - 64,000	<del>316</del> 326	<del>264</del> 271	<del>206</del> 216	<del>147</del> 157
64,001 - 66,000	<del>326</del> 336	<del>269</del> 279	<del>212</del> 222	<del>151</del> 161
66,001 - 68,000	<del>336</del> 346	<del>277</del> 287	<del>218</del> 228	<del>155</del> 165
68,001 - 70,000	<del>346</del> 356	<del>285</del> 295	<del>224</del> 234	<del>159</del> 169
70,001 - 72,000	<del>356</del> 366	<del>293</del> 303	<del>230</del> 240	<del>163</del> 173
72,001 - 74,000	<del>366</del> 376	<del>304</del> 311	<del>236</del> 246	<del>167</del> 177
74,001 - 76,000	<del>376</del> 386	<del>309</del> 319	<del>242</del> 252	<del>171</del> 181
76,001 - 78,000	<del>386</del> 396	<del>317</del> 327	<del>248</del> 258	<del>175</del> 185
78,001 - 80,000	<del>396</del> 406	<del>325</del> 335	<del>254</del> 264	<del>179</del> 189
80,001 - 82,000	<del>406</del> 416	<del>333</del> 343	<del>260</del> 270	<del>183</del> 193
82,001 - 84,000	<del>416</del> 426	<del>355</del> 365	<del>303</del> 313	<del>259</del> 269
84,001 - 86,000	<del>436</del> 446	<del>372</del> 382	<del>317</del> 327	<del>271</del> 281
86,001 - 88,000	<del>456</del> 466	<del>389</del> 399	<del>331</del> 341	<del>283</del> 293
88,001 - 90,000	<del>476</del> 486	<del>406</del> 416	<del>345</del> 355	<del>295</del> 305
90,001 - 92,000	<del>496</del> 506	<del>423</del> 433	<del>359</del> 369	<del>307</del> 317
92,001 - 94,000	<del>516</del> 526	<del>440</del> 450	<del>373</del> 383	<del>319</del> 329
94,001 - 96,000	<del>536</del> 546	<del>457</del> 467	<del>387</del> 397	<del>331</del> 341
96,001 - 98,000	<del>556</del> 566	<del>474</del> 484	<del>404</del> 414	<del>343</del> 353
98,001 - 100,000	<del>576</del> 586	<del>494</del> 501	<del>415</del> 425	<del>355</del> 365
100,001 - 102,000	<del>596</del> 606	<del>508</del> 518	<del>429</del> 439	<del>367</del> 377
102,001 - 104,000	<del>616</del> 626	<del>525</del> 535	<del>443</del> 453	<del>379</del> 389
104,001 - 105,500	<del>636</del> 646	<del>542</del> 552	<del>457</del> 467	<del>391</del> 401

6. A motor vehicle registered in subsection 5 may be used for custom combining operations by displaying identification issued by the department and upon payment of a fee of twenty-five dollars.
7. Thirteen dollars of each registration fee collected under subsections 2 and 5 must be deposited in the state highway fund.

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

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

1. The first one hundred fifty million dollars received during a biennium must be deposited in the state general fund.

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

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

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

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

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

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

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as the attorney general determines necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the

funds as the attorney general determines is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

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

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

1. Except as otherwise provided in this chapter, an excise tax of twenty-one cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in this state. For the purpose of determining the tax upon compressed natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other special fuel. The tax under this subsection is reduced by one and five-hundredths cents per gallon [3.79 liters] on the sale or delivery of diesel fuel that contains at least two percent biodiesel fuel by weight.
2. A supplier, distributor, or retailer shall remit the tax imposed by this section on special fuel used and on direct sales of special fuel to a customer.
3. The tax imposed by this section does not apply on sales by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an exempt consumer.
4. The person required to remit the tax imposed by this section shall pass the tax on to the customer.
5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the special fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.
6. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

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

1. Except as otherwise provided in this chapter, an excise tax of ~~twenty-one~~ twenty-three cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in this state. For the purpose of determining the tax upon compressed natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
2. A supplier, distributor, or retailer shall remit the tax imposed by this section on special fuel used and on direct sales of special fuel to a customer.
3. The tax imposed by this section does not apply on sales by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an exempt consumer.
4. The person required to remit the tax imposed by this section shall pass the tax on to the customer.
5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the special fuel was sold or used by the person. When the twenty-fifth day of the calendar



month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.

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

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

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

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President of the Senate

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Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2012.

Senate Vote:    Yeas    31        Nays    14        Absent    2

House Vote:    Yeas    66        Nays    27        Absent    1

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State