

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 39-12 of the North Dakota
2 Century Code, relating to extraordinary road use fee charges collected by counties; to amend
3 and reenact sections 39-12-14.1, 39-12-20, and 54-27-19 of the North Dakota Century Code,
4 relating to extraordinary road use fees and the highway tax distribution fund; to provide a
5 continuing appropriation; and to provide an expiration date.

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

7 **SECTION 1. AMENDMENT.** Section 39-12-14.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-12-14.1. Voluntary settlement of extraordinary road use fee charges.**

10 Before the complaint is issued ~~pursuant to~~under section 39-12-14, the owner, or the owner's
11 driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may
12 provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided
13 under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the
14 owner, or the owner's driver or agent, ~~must be~~is presumed to be of a voluntary nature. A peace
15 officer or a peace officer's designee is authorized to receive the settlement payment on behalf
16 of the authority having jurisdiction ~~of~~over the road ~~whereon~~on which the violation occurred. The
17 extraordinary road use fees for a violation on an interstate or on a state highway must be
18 deposited with the state treasurer to be credited to the state highway fund. Extraordinary road
19 use fees for a violation that did not occur on an interstate or a state highway must be deposited
20 in the county general fund in the county of the violation and used for the support of the county
21 road system.

22 **SECTION 2. AMENDMENT.** Section 39-12-20 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **39-12-20. Proceeds of sale - Continuing appropriation.**

2 The proceeds of sale must be deposited with the state treasurer. ~~The~~For a violation on an
3 interstate or a state highway, the state treasurer shall deposit in the state highway fund an
4 amount equal to the amount of the charges assessed pursuant to~~under~~ section 39-12-17 after
5 paying the costs to the county. An~~For any violation, an~~ amount equal to the costs of the
6 proceedings, including attorney's and witness fees and costs, is appropriated on a continuing
7 basis out of the funds collected to the county in~~which the~~of prosecution took place for the
8 purpose of defraying the costs of prosecution. From the proceeds of sale for a violation that did
9 not occur on an interstate or a state highway, the amount of charges assessed under section
10 39-12-17 is appropriated on a continuing basis and must be deposited in the county general
11 fund in the county of prosecution and may be used only for county road purposes. The balance
12 of the proceeds of any sale after the payment of costs and charges is appropriated on a
13 continuing basis out of the funds collected to be paid to the person entitled thereto ~~to the~~
14 proceeds as determined by the court or must be deposited with the clerk of court for such
15 payment to that person.

16 **SECTION 3.** A new section to chapter 39-12 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Review of excessive size and weight regulation enforcement - Withholding of**
19 **highway tax distribution funds.**

- 20 1. The director shall conduct semiannual reviews of the performance of each county in
21 enforcement of oversize and overweight vehicle regulations. If the director finds that a
22 county's enforcement is unsatisfactory, the director shall notify the board of county
23 commissioners of the county of any deficiency in enforcement. If a county is found to
24 be deficient in the following semiannual review, the director shall notify the county of
25 the deficiency and request the state treasurer to withhold monthly distributions of
26 funds from the highway tax distribution fund to the county until the county has
27 submitted to the director a written plan for correcting any deficiency identified by the
28 director.
- 29 2. In conducting a review of county enforcement of oversize and overweight vehicle
30 regulations, the director shall consider the following factors:

- 1 a. Whether the county has requested that the highway patrol assist in the
- 2 enforcement of that county's size and load limits;
- 3 b. The diligence of the county in enforcing size and load limits, particularly with
- 4 respect to habitual offenders;
- 5 c. Whether the county is enforcing size and load limits appropriately and fairly; and
- 6 d. Any other factors the director deems appropriate after consultation with
- 7 representatives of sheriffs, county commissioners, state's attorneys, county
- 8 highway superintendents, and the highway patrol.

9 **SECTION 4. AMENDMENT.** Section 54-27-19 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-27-19. Highway tax distribution fund - State treasurer to make allocation to state,**
12 **counties, and cities.**

13 A highway tax distribution fund is created as a special fund in the state treasury into which
14 must be deposited the moneys available by law from collections of motor vehicle registration
15 and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The
16 state treasurer shall transfer the first five million five hundred thousand dollars per biennium
17 from the highway tax distribution fund to the state highway fund for the purpose of providing
18 administrative assistance to other transferees. ~~After~~Except as otherwise provided by section 3
19 of this Act, after the transfer of the first five million five hundred thousand dollars, any moneys in
20 the highway tax distribution fund must be allocated and transferred monthly by the state
21 treasurer, as follows:

- 22 1. Sixty-one and three-tenths percent must be transferred monthly to the state
- 23 department of transportation and placed in a state highway fund.
- 24 2. Two and seven-tenths percent must be transferred monthly to the township highway
- 25 fund.
- 26 3. One and five-tenths percent must be transferred monthly to the public transportation
- 27 fund.
- 28 4. Thirty-four and five-tenths percent must be allocated to the counties of this state in
- 29 proportion to the number of vehicle registrations credited to each county. Each county
- 30 must be credited with the certificates of title of vehicles registered by residents of the
- 31 county. The state treasurer shall compute and distribute the counties' share monthly

1 after deducting the incorporated cities' share. All the moneys received by the counties
2 from the highway tax distribution fund must be set aside in a separate fund called the
3 "highway tax distribution fund" and must be appropriated and applied solely for
4 highway purposes in accordance with section 11 of article X of the Constitution of
5 North Dakota. The state treasurer shall compute and distribute monthly the sums
6 allocated to the incorporated cities within each county according to the formula in this
7 subsection on the basis of the per capita population of all of the incorporated cities
8 situated within each county as determined by the last official regular or special federal
9 census or the census taken in accordance with the provisions of chapter 40-02 in case
10 of a city incorporated subsequent to the census.

11 a. For counties having no cities with a population of ten thousand or more, a
12 statewide per capita average must be used, as determined by calculating
13 twenty-seven percent of the amount allocated to all of the counties under this
14 subsection divided by the total population of all of the incorporated cities in the
15 state. Each city must be paid an amount equal to the product of the statewide per
16 capita and that city's population.

17 b. For each county having a city with a population of ten thousand or more, the
18 amount transferred each month into the county highway tax distribution fund
19 must be the difference between the amount allocated to that county pursuant to
20 this subsection and the total amount allocated and distributed to the incorporated
21 cities in that county as computed according to the following formula:

- 22 (1) A statewide per capita average as determined by calculating twenty-seven
23 percent of the amount allocated to all of the counties under this subsection
24 divided by the total population of all of the incorporated cities in the state.
25 (2) The share distributed to each city in the county having a population of less
26 than one thousand must be determined by multiplying the population of that
27 city by the product of 1.50 times the statewide per capita average computed
28 under paragraph 1.
29 (3) The share distributed to each city in the county having a population of one
30 thousand to four thousand nine hundred ninety-nine, inclusive, must be

1 determined by multiplying the population of that city by the product of 1.25
2 times the statewide per capita average computed under paragraph 1.

3 (4) The share distributed to each city in the county having a population of five
4 thousand or more must be determined by multiplying the population of that
5 city by the statewide per capita average for all such cities, which per capita
6 average must be computed as follows: the total of the shares computed
7 under paragraphs 2 and 3 for all cities in the state having a population of
8 less than five thousand must be subtracted from the total incorporated cities'
9 share in the state as computed under subdivision a and the balance
10 remaining must then be divided by the total population of all cities of five
11 thousand or more in the state.

12 5. The moneys allocated to the incorporated cities must be distributed to them monthly
13 by the state treasurer and must be deposited by the cities in a separate fund and may
14 only be used in accordance with section 11 of article X of the Constitution of North
15 Dakota and an incorporated city may use the fund for the construction, reconstruction,
16 repair, and maintenance of public highways within or outside the city pursuant to an
17 agreement entered into between the city and any other political subdivision as
18 authorized by section 54-40-08.

19 **SECTION 5. EXPIRATION DATE.** This Act is effective through June 30, 2017, and after that
20 date is ineffective.