

**HOUSE BILL NO. 1208**

Introduced by

Representatives Klemin, Owens, Toman

Senators Poolman, Sitte

1 A BILL for an Act to create and enact sections 54-27-19.3 and 57-43.3-06.1 of the North Dakota  
2 Century Code, relating to transfers to provide enhanced distributions through the highway tax  
3 distribution fund and state aeronautics commission special fund; to amend and reenact sections  
4 57-43.1-02, 57-43.2-02, 57-43.2-03, and 57-43.3-02 of the North Dakota Century Code, relating  
5 to reduction of the tax rate of motor vehicle fuels, special fuels, and aircraft fuels taxes; to  
6 provide for transfers; and to provide an effective date.

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

8 **SECTION 1.** Section 54-27-19.3 of the North Dakota Century Code is created and enacted  
9 as follows:

10 **54-27-19.3. Additional transfer to supplement certain highway tax distribution fund**  
11 **objectives.**

12 With each monthly transfer of money received by the commissioner as required by sections  
13 57-43.1-02, 57-43.2-02, and 57-43.2-03, the commissioner shall certify to the state treasurer the  
14 net amount of tax that would have applied to the taxable sales or use of motor vehicle fuels,  
15 special fuels, or importer for use fuels during the taxable period covered by the transfer, if an  
16 additional tax of twelve cents per gallon [3.79 liters] had been imposed on all taxable motor  
17 vehicle fuel, special fuel, and importer for use fuel subject to a tax calculated on an eleven cents  
18 per gallon basis which was sold or used in this state during that taxable period. With each  
19 monthly transfer of money received by the commissioner as required by section 57-43.2-03, the  
20 commissioner shall certify to the state treasurer the net amount of tax that would have applied  
21 to the taxable sales or use of special fuels during the taxable period covered by the transfer, if  
22 an additional tax of one percent had applied to sales of propane and an additional tax of two  
23 cents per gallon [3.79 liters] had applied to sales of diesel fuel and other special fuels subject to  
24 a tax calculated on a two cents per gallon basis which was sold or used in this state during that

1 taxable period. The state treasurer shall transfer the amount certified by the commissioner  
2 under this section from the state general fund as follows:

- 3 1. Two and seven-tenths percent of the amount certified must be transferred monthly to  
4 the township highway fund.
- 5 2. One and five-tenths percent of the amount certified must be transferred monthly to the  
6 public transportation fund.
- 7 3. Thirty-four and five-tenths percent of the amount certified must be transferred monthly  
8 to counties and cities in the manner and subject to the conditions of subsections 4  
9 and 5 of section 54-27-19.
- 10 4. Sixty-one and three-tenths percent of the amount certified must be transferred monthly  
11 to the department of transportation and placed in the state highway fund.

12 **SECTION 2. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **57-43.1-02. Tax imposed on motor vehicle fuels.**

- 15 1. Except as otherwise provided in this section, a tax of ~~twenty-three~~eleven cents per  
16 gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
- 17 2. A refiner, supplier, or distributor shall remit the tax imposed by this section on motor  
18 vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and  
19 on direct sales of motor vehicle fuel to a consumer.
- 20 3. The tax imposed by this section does not apply on a sale by a supplier to another  
21 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another  
22 distributor, on an export, or on a sale to an exempt consumer.
- 23 4. The ~~person~~refiner, supplier, or distributor required to remit the tax imposed by this  
24 section shall pass ~~the~~any tax reduction made by legislative change on to the retailer  
25 and the retailer shall pass the tax reduction on to the consumer. A retailer who paid the  
26 tax to the supplier or distributor shall pass the tax and the tax reduction on to the  
27 consumer.
- 28 5. The person required to remit the tax imposed by this section shall pay the tax to the  
29 commissioner by the twenty-fifth day of the calendar month after the month during  
30 which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day  
31 of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the

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

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

7 **SECTION 3. AMENDMENT.** Section 57-43.2-02 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **57-43.2-02. Tax imposed.**

- 10 1. Except as otherwise provided in this chapter, an excise tax of ~~twenty three~~eleven  
11 cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or  
12 used in this state. For the purpose of determining the tax upon compressed natural  
13 gas 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 2. A refiner, supplier, distributor, or retailer shall remit the tax imposed by this section on  
16 special fuel used and on direct sales of special fuel to a customer.
- 17 3. The tax imposed by this section does not apply on sales by a supplier to another  
18 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another  
19 distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an  
20 exempt consumer.
- 21 4. The ~~person~~refiner, supplier, wholesaler, distributor, or retailer required to remit the tax  
22 imposed by this section shall pass ~~the any tax reduction made by legislative change on~~  
23 to any subsequent purchaser so the tax savings ultimately is received by the  
24 ~~customer~~consumer.
- 25 5. The person required to remit the tax imposed by this section shall pay the tax to the  
26 commissioner by the twenty-fifth day of the calendar month after the month during  
27 which the special fuel was sold or used by the person. When the twenty-fifth day of the  
28 calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first  
29 working day after the Saturday, Sunday, or legal holiday. When payment is made by  
30 mail, the payment is timely if the envelope containing the payment is postmarked by

1 the United States postal service or other postal carrier service before midnight of the  
2 due date.

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

5 **SECTION 4. AMENDMENT.** Section 57-43.2-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **57-43.2-03. Special excise tax levied.**

- 8 1. Except as otherwise provided in this chapter, a special excise tax of ~~two~~one percent is  
9 imposed on all sales of propane and a tax of ~~four~~two cents per gallon is imposed on all  
10 sales of diesel fuel and other special fuels, which are exempted from the tax imposed  
11 under section 57-43.2-02.
- 12 2. A consumer importing special fuel into this state, for a purpose for which the special  
13 fuel is taxable under this section, is liable for the tax. The commissioner shall collect  
14 the tax from the consumer importing the fuel.
- 15 3. If any fuel subject to tax by this section was subject to tax in any other state or its  
16 political subdivisions, the tax in this section applies but at a rate measured by the  
17 difference between the rate imposed in this section and the rate imposed by the other  
18 state or its political subdivisions. If the tax imposed by the other state or its political  
19 subdivisions is the same or greater than the tax imposed by this section, no tax is due.
- 20 4. An invoice, sales ticket, or other sales document issued or created covering a sale  
21 taxable under this section must identify the consumer to whom the sale was made,  
22 specify the purpose for which the special fuel was sold, and specify whether the fuel  
23 was dyed for tax exemption purposes.
- 24 5. The tax imposed by this section does not apply on a sale by a supplier to another  
25 supplier, a sale by a supplier to a distributor, a sale by a distributor to another  
26 distributor, a sale by a distributor to a retailer, an export, or a sale to an exempt  
27 consumer.
- 28 6. The ~~person~~refiner, supplier, wholesaler, distributor, or retailer required to remit the tax  
29 imposed by this section shall pass the any tax reduction made by legislative change on  
30 to any subsequent purchaser so the tax reduction ultimately is received by the  
31 consumer.

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

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

11          **SECTION 5. AMENDMENT.** Section 57-43.3-02 of the North Dakota Century Code is  
12          amended and reenacted as follows:

13          **57-43.3-02. Tax imposed on aviation fuel.**

14          1. Except as otherwise provided in this chapter, a tax of ~~eight~~four cents per gallon [3.79  
15          liters] is imposed on all aviation fuel sold or used in this state.

16          2. A supplier or distributor shall remit the tax imposed by this section on aviation fuel  
17          used, on the wholesale distribution of aviation fuel to a retailer, and on direct sales of  
18          aviation fuel to a customer.

19          3. The tax imposed by this section does not apply on a sale by a supplier to another  
20          supplier, a sale by a supplier to a distributor, a sale by a distributor to another  
21          distributor, an export, or a sale to an exempt consumer.

22          4. ~~The person required to remit the tax imposed by this section~~supplier, distributor, or  
23          retailer of aviation fuel shall pass the~~any~~tax reduction made by legislative change on  
24          to the retailer and to the customer. A retailer who paid the tax to the supplier or  
25          ~~distributor shall pass the tax on to~~any subsequent purchaser so the tax reduction  
26          ultimately is received by the consumer.

27          5. The person required to remit the tax imposed by this section shall pay the tax to the  
28          commissioner by the twenty-fifth day of the calendar month after the month during  
29          which the aviation fuel was sold or used by the person. When the twenty-fifth day of  
30          the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the  
31          first working day after the Saturday, Sunday, or legal holiday. When payment is made

1           by mail, the payment is timely if the envelope containing the payment is postmarked  
2           by the United States postal service or other postal carrier service before midnight of  
3           the due date.

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

6           **SECTION 6.** Section 57-43.3-06.1 of the North Dakota Century Code is created and  
7           enacted as follows:

8           **57-43.3-06.1. Revenue transfer.**

9           With each monthly transfer of money received by the commissioner as required by section  
10 5743.302, the commissioner shall certify to the state treasurer the amount of tax that would  
11 have applied to the taxable sales or use of aviation fuel during the taxable period covered by  
12 the transfer, if an additional tax of four cents per gallon [3.79 liters] had been imposed on all  
13 aviation fuel sold or used in this state during that taxable period. The state treasurer shall  
14 transfer the amount certified by the commissioner under this section from the state general fund  
15 to the state aeronautics commission special fund.

16           **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
17           June 30, 2013.