

2013 HOUSE FINANCE AND TAXATION

HB 1208

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1208
January 22, 2013
Job #17505

☐ Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to transfers to provide enhanced distributions through the highway tax distribution fund and state aeronautics commission special fund; relating to reduction of the tax rate of motor vehicle fuels, special fuels, and aircraft fuels taxes.

Minutes:

Attached testimony #1, 2

Chairman Belter: Opened hearing on HB 1208.

Representative Klemin: Introduced bill. See attached testimony #1.

Chairman Belter: Any questions? Any other testimony in support of 1208? Any opposition to 1208?

Terry Traynor, North Dakota Association of Counties: County officials that make up our association are certainly appreciate and largely supportive of the legislative efforts to reduce taxes. They are opposed to the approach taken to HB 1208. As many of you are aware many long and difficult battles have been fought over the state highway distribution fund. When North Dakota was in dire financial position the legislature found it necessary to enact numerous diversions and reductions. It took many sessions to restore the integrity of this critical transportation funding source. We would submit that taking \$.12 off of the price of gas although would have an immediate tax relief it wouldn't be very lasting and wouldn't be known very well. Looking back in the last five years we've had motor fuels tax and gasoline tax hit \$4.00/gallon twice and it's been as low as \$1.50/gallon. In the last two times that I filled up my car it's changed \$.10 so I don't see where it's going to be a noticeable tax relief. Certainly it would be there but it probably wouldn't be noticed. We don't feel that this is the best approach because of the loss of integrity to the state highway distribution fund and the long term difficulty in restoring that should there be a change in economy in the state. We urge a Do Not Pass recommendation on 1208.

Vice Chairman Headland: There are provisions in this bill that state the tax has to be passed on to the consumer but in reality we know it would be hard to police. It's easy to reduce the tax but in the long run there really is no way to assure that the difference doesn't get put in the pockets of the station owners. Am I missing something here or would you agree?

Terry Traynor, North Dakota Association of Counties: In my understanding I would have to agree with you. There may be mechanisms within the fuel marketing that would be different than I understand it but I agree with you.

Larry Taborsky, Director of North Dakota Aeronautics Commission: Refer to attached testimony #2. I appreciate the consideration of aviation on this bill. As good as it sounds at first glance I am not in favor of the bill as it pertains to aviation fuel. We have a good system in place where people who fly carry their own weight, paying for the system through fuel taxes and this has been successful on a state and national level. The larger the aircraft you fly the more facilities that are needed, the higher the fuel and the more you contribute. In the handout there are three representative aircraft types; single engine plane, small business aircraft, and the third is probably the biggest aircraft you'll see in North Dakota. Based on the gallons per hour and the cost of operation it's an insignificant amount. I've talked to the small and larger plane owners and they are comfortable with this tax as far as the system goes now. When everybody likes to save money this chart shows that it's not a big savings. In the center of the chart it shows lost revenue. Our big users, the out of state jets, either have business to conduct in the state and they need fuel here or they choose our state as a refueling point. We are the central section and the average price is among the lowest in the nation. If a person is flight planning on where to get fuel it is going to be North Dakota and that \$.04 isn't going to make a big difference, it will motivate the customers one way or another. We'd be losing that out of state revenue when they come through here and these big jets easily put on a thousand gallons at a time. The bottom of the page is my concern about if or when this rebate goes away then we are left with half our budget in aeronautics. When you put 90% of the contributions by federal for projects we are talking about \$32 million worth of extra projects that we won't be able to do. The current fuel tax is used as an investment in our facilities and I don't want to lose that relationship with our aviation communities. I say Oppose.

Chairman Belter: I know with the trucking industry we have everything prorated. Are the commercial aircrafts also prorated based on that every state they fly through gets their certain share or do they just buy fuel wherever it's the cheapest?

Larry Taborsky, Director of North Dakota Aeronautics Commission: You mean have a contract fuel cost?

Chairman Belter: No but I mean with the trucking industry whether they fill up in North Dakota or not they pay fuel tax based on the miles they drive through the state of North Dakota. How does the aircraft industry work? If you take off and fly over Minnesota does Minnesota get to collect the fuel tax even though the plane doesn't stop in Minnesota?

Larry Taborsky, Director of North Dakota Aeronautics Commission: No Sir. It is purely by where you buy the fuel and the tax goes to that place where it is purchased. It's a bit of a shopping expedition as some people will go where they get the cheapest fuel and that could be a state by state decision based on wherever they are coming from.

Chairman Belter: Further testimony in opposition?

Todd Schwarz, North Dakota EAA Chapter and member of the Airplane Owners and Pilots Association: I'm here asking this community not to act favorably but I'm limiting my remarks to aviation fuel only. This may work fine for auto fuels, the trucking industry, or the sort and it could be something that is beyond my expertise. The planes that I usually fly, we flight plan at 10 gallons an hour or less. The average private pilot flies 100 or less hours per year. At that \$.04 per gallon that you're proposing to save for me I might save \$40. That \$32 million that Mr. Taborsky talked about that myself and other private pilots contribute to is necessary because that \$40 I may save in a year is a lot less than a blown tire or ripped strut or some other damage to my plane when I come in to any of our little airports that because of a minor repair that couldn't be gotten too. North Dakota is a fuel destination. Experimental Aircraft Association is one of the largest aviation groups in the world. Our annual convention is in Oshkosh, Wisconsin each year at the end of July. If any of you are around the Mandan-Bismarck area during that time then you should stop out at the Mandan Airport and you can meet people from all over the United States and Canada who flight plan through because Mandan has the cheapest fuel in the four state area. If you drop that \$.04 that's not going to increase that traffic but you're going to lose that money. In addition with the oil impact I've spoken with a lot of other pilots coming in because of it and aviation has been self-funding. In North Dakota you have a good tax base and a good way of taking care of it with the fuel tax. It works. We are treated differently than cars, pickups, trucks, farm equipment, and construction equipment. We self-fund this way. \$.04 sounds like it would be nice but \$40 a year to make sure I have a good airport is a small investment and I'd urge this bill to exempt out the aviation tax savings provisions.

Chairman Belter: Further testimony in opposition to 1208?

Dave Leftwich, Deputy Director for Business with the Department of Transportation: We are opposed to this bill. This is a dedicated fund paid for by a dedicated revenue source that is paid for by users. In the past there have been issues about how much money is going to be put in this fund. Our revenue per user is going down because as the cars get more efficient we are taking in less per car by the folks here. We are fortunate in North Dakota that our traffic is going up and we are able to maintain our revenue source.

Mark Dorghty, Representative of the Associated General Contractors of North Dakota: We fully agree with what Terry and Dave said in their testimonies. AGC of North Dakota has always looked at the fuel tax as a user fee. We still feel that is the fairest way to fund these types of things. I know that we are spending a lot of other monies on other projects but if something should happen to our economy which certainly could come about we are still going to need these funds. The gas changed about \$.10 a gallon in the last week and how the public is going to perceive this as a savings is hard when it's ranged a lot just during the last year from \$4.00 to whatever the low was so I think the perception of this being a big savings is not going to be a bid effect on the public itself.

Chairman Belter: Any further testimony in opposition to 1208?

Representative Froseth: The people that spray commercially, do they get a reduction in the fuels tax for the fuel they use in that profession?

Kevin Schatz, Supervisor of Motor Fuels in the tax department: They qualify for agriculture refunds.

Representative Froseth: Much similar to any other farm refund. What's the discount?

Kevin Schatz: It's not that much. They pay \$.08 a gallon on their fuel so they would get about half of that back. There is no deduction for their fuel refunds either.

Chairman Belter: Is there any further testimony on 1208? If not I will close the hearing on HB 1208.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1208
January 30, 2013
Job 18027

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A Bill relating to transfers to provide enhanced distributions through the highway tax distribution fund and state aeronautics commission special fund; relating to reduction of the tax rate of motor vehicle fuels, special fuels, and aircraft fuels taxes.

Minutes:

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Chairman Belter: Opens HB 1208.

Rep Drovdal: Motion Do Not Pass.

Rep Haak: Second.

Motion withdrawn.

Dan Rouse, Special Assistant Attorney General, Legal Counsel: Explains amendment.

Rep Owens: Motions to adopt amendment.

Rep Headland: Second.

Rep Trottier: Motion Do Not Pass as Amended.

Yes: 13

No: 1

Absent: 0

Carried by: Rep Trottier

FISCAL NOTE
Requested by Legislative Council
01/31/2013

Amendment to: HB 1208

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$230,800,000	\$0	\$230,800,000	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill reduces the tax on various fuels and replaces the revenue that would be lost to the Highway Tax Distribution Fund and the State Aeronautics Special Fund with general funds.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

As written, this bill should have no net impact on revenues or expenditures of the Highway Tax Distribution Fund or the State Aeronautics Special Fund. The bill will result in a transfer from the state's General Fund to replace revenue that would otherwise be lost to the Highway Tax Distribution Fund and State Aeronautics Special Fund.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill will result in a transfer from the state's General Fund to replace revenue that would otherwise be lost to the Highway Tax Distribution Fund and State Aeronautics Special Fund. The estimated amount of this transfer is approximately \$230.8 million as shown on the attached schedule.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Shannon L. Sauer

Agency: NDDOT

Telephone: 328-4375

Date Prepared: 02/05/2013

HB1208**Estimated revenue transfers from State General Fund to Highway Tax Distribution Fund and State Aeronautics Fund
(millions)**

Revenue Source	Estimated Regular Biennium Collections	Portion to be transferred from General Fund	Amount to Be Transferred from State General Fund
Motor Fuels Tax (Gasoline and Gasohol)	\$ 195.9	12/23	\$ 102.2
Special Fuels Tax (Diesel)	204.5	12/23	106.7
Special Fuels Excise Tax	40.6	2/4	20.3
Aviation Fuel Tax	3.2	4/8	1.6
Total	<u>\$ 444.2</u>		<u>\$ 230.8</u>

FISCAL NOTE
Requested by Legislative Council
01/16/2013

Bill/Resolution No.: HB 1208

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill reduces the tax on various fuels and replaces the revenue that would be lost to the Highway Tax Distribution Fund and the State Aeronautics Special Fund with general funds.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

As written, this bill should have no net impact on revenues or expenditures.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Shannon L. Sauer

Agency: NDDOT

Telephone: 328-4375

Date Prepared: 01/18/2013

January 31, 2013

1/31/13
TV

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1208

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, remove "and 57-43.3-06.1"

Page 1, line 13, replace the first underscored comma with "and"

Page 1, line 13, remove "and 57-43.2-03."

Page 2, line 11, after the underscored period insert "With each monthly transfer of money received by the commissioner as required by section 57-43.3-02, the commissioner shall certify to the state treasurer the amount of tax that would have applied to the taxable sales or use of aviation fuel during the taxable period covered by the transfer, if an additional tax of four cents per gallon [3.79 liters] had been imposed on all aviation fuel sold or used in this state during that taxable period. The state treasurer shall transfer the amount certified by the commissioner under this section from the state general fund to the state aeronautics commission special fund."

Page 2, line 24, overstrike "the retailer"

Page 2, line 25, overstrike "and"

Page 2, line 25, remove "the retailer shall pass the tax reduction on"

Page 2 line 25, overstrike "to" and insert immediately thereafter "any subsequent purchaser so the tax savings ultimately is received by"

Page 6, remove lines 6 through 15

Renumber accordingly

Date: 1-30-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1208

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Drovdal Seconded By Rep. Haak

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Withdrawn

Date: 1-30-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1208

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Owens Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote -
Motion Carried

Date: 1-30-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1208

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Trottier Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens		✓			
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Trottier

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1208: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1208 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, remove "and 57-43.3-06.1"

Page 1, line 13, replace the first underscored comma with "and"

Page 1, line 13, remove "and 57-43.2-03."

Page 2, line 11, after the underscored period insert "With each monthly transfer of money received by the commissioner as required by section 57-43.3-02, the commissioner shall certify to the state treasurer the amount of tax that would have applied to the taxable sales or use of aviation fuel during the taxable period covered by the transfer, if an additional tax of four cents per gallon [3.79 liters] had been imposed on all aviation fuel sold or used in this state during that taxable period. The state treasurer shall transfer the amount certified by the commissioner under this section from the state general fund to the state aeronautics commission special fund."

Page 2, line 24, overstrike "the retailer"

Page 2, line 25, overstrike "and"

Page 2, line 25, remove "the retailer shall pass the tax reduction on"

Page 2 line 25, overstrike "to" and insert immediately thereafter "any subsequent purchaser so the tax savings ultimately is received by"

Page 6, remove lines 6 through 15

Renumber accordingly

2013 TESTIMONY

HB 1208

p. 1/1

TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE FINANCE AND TAXATION COMMITTEE
HOUSE BILL NO. 1208
JANUARY 22, 2013

Mr. Chairman and members of the House Finance and Taxation Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here to testify in support of House Bill 1208.

The intention of HB 1208 is to reduce the tax imposed on gasoline, diesel fuel, special fuels, and aviation fuel by 50% in order to provide immediate tax relief to consumers in this state. HB 1208 was introduced so that this form of tax relief could be evaluated by the Legislature in the mix of tax relief provisions being considered. Unlike the relief being considered for property tax and income tax, a taxpayer will not have to wait for up to a year or more to see tax relief. Tax relief will be provided every time a consumer fills up his tank at the gas station; every time he fills up his propane tank for heating or grilling; every time he heats his home; and every time he flies his airplane. The objective is to cover all of the fuel taxes that are currently imposed so that the tax relief would be extended broadly to all consumers of all fuels.

A brief explanation of HB 1208:

Section 2 of HB 1208 reduces the tax on motor vehicle fuel from 23¢ per gallon to 11¢ per gallon and requires that the tax reduction be passed on to the consumer.

Section 3 of HB 1208 reduces the excise tax on special fuels from 23¢ per gallon to 11¢ per gallon and also requires the tax reduction to be passed on to the consumer.

Section 4 of HB 1208 reduces the special excise tax on propane from 2% to 1% and reduces from 4¢ per gallon to 2¢ per gallon the tax on fuels that are exempt from the tax in Section 3. Again, the tax reduction is required to be passed on to the consumer.

Section 5 of HB 1208 reduces the tax on aviation fuel from 8¢ per gallon to 4¢ per gallon and also requires the tax reduction to be passed on to the consumer.

HB 1208 contains two hold harmless provisions so that the funds that now receive the fuel taxes won't see any loss in revenue. The difference between the current tax and the reduced tax is to be made up by a monthly distribution from the general fund.

Section 1 of HB 1208 is the hold harmless provision for motor vehicle fuels, special fuels, propane and other fuels. The taxes on motor vehicle fuels and special fuels are now deposited into to several funds, mainly for road and highway purposes, including the state highway fund, road and street funds of counties and cities, township road funds, and a public transportation fund. These funds will continue to be fully funded under this hold harmless provision.

- 0 -
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Section 6 of HB 1208 is the hold harmless provision for aviation fuel. The difference between the current tax and the reduced tax on aviation fuel is to be deposited into the State Aeronautics Commission special fund. Section 6 contains a typo on page 6, line 10. The correct cross-reference at the beginning of line 10 should be 57-43.3-02.

Section 7 of HB 1208 provides that the effective date of the bill is for taxable events occurring after June 30, 2013. This will provide immediate tax relief to the extent possible.

Attached to my testimony are the pages from the 2012 edition of the Red Book from the State Tax Department relating to the fuels taxes. Also attached are the statutory references from HB 1208 so that you can easily see which fuels are covered and the tax for each such fuel as now provided by law.

The tax reductions in this bill are flexible so that if this committee thinks that the tax reductions should be in different amounts to provide the best mix with property tax relief and income tax relief, then appropriate adjustments can be made to HB 1208.

The objective of HB 1208 is to provide immediate tax relief to consumers of all taxable fuels. Hopefully, I have covered everything. However, if there is something that is not covered or if there is something that was unintentionally overlooked, then appropriate amendments can be made to this bill. I have been informed that the State Tax Department has some amendments to clarify certain provisions of HB 1208. I have also been contacted by some parties who may have amendments to propose to cover situations that I hadn't thought of. I also understand that a letter has been sent to you from the Aircraft Owners and Pilots Association supporting HB 1208 with respect to the tax on aviation fuel.

The tax on fuels and the distribution formulas are complex subjects. I am not an expert on everything involved in the taxation of fuels, but we do have experts in state government who can assist with this bill as appropriate. I encourage you to seek the advice of those experts and to give favorable consideration to HB 1208 as one method of providing tax relief.

#134

CHAPTER 57-43.1

Motor Vehicle Fuels and Importer for Use Taxes

57-43.1-01. Definitions.

18. "**Motor vehicle fuel**" means all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses, and any liquid which, when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American society for testing materials designation D-86), shows not less than ten percent distilled (recovered) below three hundred forty-seven degrees Fahrenheit [175 degrees Celsius] and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit [240 degrees Celsius] but does not include aviation fuel or fuel used as a component of or additive to another product when the use is not intended to result in combustion. It includes agriculturally derived alcohol blended with gasoline, used in a pure state, or if blended with another agriculturally derived liquid.

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

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

2. A refiner, 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.

6.5

CHAPTER 57-43.2

Special Fuels and Importer for Use Taxes

57-43.2-01. Definitions.

33. "**Special fuel**" means all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and includes compressed natural gas, kerosene, liquefied petroleum gases, all gases and liquids which meet the specifications as determined by the state department of health pursuant to the provisions of section 19-10-10, as well as all liquids determined by the state department of health to be heating oil pursuant to the provisions of section 19-10-10, except that it does not include either motor vehicle fuels as defined in section 57-43.1-01, aviation fuels as defined in section 57-43.3-01, or antifreeze as defined by section 19-16.1-02.

57-43.2-02. Tax imposed.

1. Except as otherwise provided in this chapter, an excise tax of **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 refiner, 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.

57-43.2-02.3. Exemptions.

1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax

exemption purposes and sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for use as heating fuel is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.

2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.

3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a component part of tangible personal property intended to be sold ultimately at retail is exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax imposed by section 57-43.2-03.

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

1. Except as otherwise provided in this chapter, a special excise tax of **two percent** is imposed on all sales of **propane** and a tax of **four cents per gallon** is imposed on all sales of **diesel fuel and other special fuels, which are exempted from the tax imposed under section 57-43.2-02.**

2. A consumer importing special fuel into this state, for a purpose for which the special fuel is taxable under this section, is liable for the tax. The commissioner shall collect the tax from the consumer importing the fuel.

3. If any fuel subject to tax by this section was subject to tax in any other state or its political subdivisions, the tax in this section applies but at a rate measured by the difference between the rate imposed in this section and the rate imposed by the other state or its political subdivisions. If the tax imposed by the other state or its political subdivisions is the same or greater than the tax imposed by this section, no tax is due.

4. An invoice, sales ticket, or other sales document issued or created covering a sale taxable under this section must identify the consumer to whom the sale was made, specify the purpose for which the special fuel was sold, and specify whether the fuel was dyed for tax exemption purposes.

5. The tax imposed by this section does not apply on a sale by a supplier to another supplier, a sale by a supplier to a distributor, a sale by a distributor to another distributor, a sale by a distributor to a retailer, an export, or a sale to an exempt consumer.

6. The person required to remit the tax imposed by this section shall pass the

tax on to the consumer.

7. 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.

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

CHAPTER 57-43.3

Aviation Fuel Tax

57-43.3-01. Definitions.

1. "**Aviation fuel**" means aviation gasoline, kerosene, jet fuel, and other motor fuel used by aircraft.

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

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

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

3. The tax imposed by this section does not apply on a sale by a supplier to another supplier, a sale by a supplier to a distributor, a sale by a distributor to another distributor, an export, or 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 customer. 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 aviation 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.

FUEL TAXES

CURRENT LAW

Imposition, Rates and Administration

Motor Vehicle Fuel Tax (Gasoline and Gasohol). A motor vehicle fuel tax of 23 cents per gallon is imposed on motor vehicle fuel (gasoline and gasohol) sold to retailers and consumers. Consumers who paid the tax but used the fuel in nonlicensed equipment for agricultural or industrial purposes may obtain a partial refund.

Seven cents per gallon is withheld from agricultural refunds. Two cents is deposited into the Agricultural Fuel Tax Fund to promote the use of agricultural products, one cent is deposited into the Ethanol Production Fund for North Dakota ethanol plant incentives, four cents is deposited into an Agricultural Research Fund.

One-half cent per gallon is withheld from industrial refunds to be deposited into the Agricultural Fuel Tax Fund.

The state and political subdivisions may obtain a refund of 23 cents per gallon on all motor vehicle fuel used for construction, reconstruction, and maintenance of roads and highways.

The operator of a licensed emergency medical services operation may obtain a refund of 23 cents per gallon on all motor vehicle fuel used by the emergency medical services operation.

Special Fuels Taxes. Special fuels include diesel, kerosene, heating fuel, compressed natural gas (CNG), and liquefied petroleum gas (LPG) known as propane. A special fuels tax of 23 cents per gallon is imposed on all undyed (not red) diesel fuels. The tax also applies to kerosene, CNG, and LPG sold for use in licensed vehicles.

A 4 cents per gallon special fuels excise tax is imposed on dyed (red) diesel fuels and kerosene and a 2% special fuels excise tax is imposed on LPG sold for uses other than in a licensed motor vehicle. Heating fuels are exempt from tax.

The 23 cents per gallon and the 4 cents per gallon and the 2% special fuels excise tax are not refundable. Consumers using special fuels for a purpose other than in a licensed motor vehicle are urged to purchase dyed (red) diesel fuel subject to the 4 cents per gallon or LPG subject to the 2% special fuels excise tax in lieu of the 23 cents per gallon tax.

The operator of a licensed emergency medical services operation may obtain a refund of 23 cents per gallon on all special fuel used by the emergency medical services operation.

A consumer, who uses undyed diesel fuel or other special fuel for a refrigeration unit on a truck or trailer that has a separate supply tank, and pays the special fuels tax of 23 cents per gallon, may file a claim for a refund. Four cents per gallon is withheld from the refund, the amount equal to the tax that would have been imposed if dyed diesel or other special fuel product had been used.

Aviation Fuel Tax. The aviation fuel tax is imposed on the sale of aviation gasoline and jet fuels at a rate of 8 cents per gallon. Consumers who qualify for a refund of the 8 cents per gallon tax become subject to a 4% excise tax on the purchase price of the fuel. The 4% excise tax is deducted from the refund claim at the time of refund.

The operator of a licensed emergency medical services operation may obtain a refund of 8 cents per gallon on all aviation fuel used by the emergency medical services operation.

Tribal Tax. The North Dakota portion of the Standing Rock Sioux Tribe, the Spirit Lake Tribe, the Three Affiliated Tribes, and the Turtle Mountain Band of Chippewa passed ordinances imposing Tribal motor vehicle fuel and special fuel taxes. The ordinances are consistent with North Dakota's state fuel tax laws. The initial implementation date for the Standing Rock Sioux Tribe was January 1, 1999, for the Spirit Lake Tribe that date was November 1, 2006, for the Three Affiliated Tribes that date was October 1, 2007, and for the Turtle Mountain Band of Chippewa was September 1, 2010. The amount to be distributed to the Tribes and to the state is based on the population demographics of the last United States census.

HISTORICAL OVERVIEW

Significant Changes in Law

1977 Session

- The motor vehicle fuel tax and the special fuels tax rates increased from 7 cents to 8 cents per gallon.

1979 Session

- The legislature enacted a 4 cents per gallon tax rate for alcohol blended fuel.

1983 Session

- The motor vehicle fuel tax and the special fuels tax rates increased from 8 cents to 13 cents per gallon.
- The rates were reduced for alcohol blended fuel by 4 cents per gallon through December 31, 1983; 5 cents per gallon for calendar year 1984; 6 cents per gallon for calendar year 1985; and 4 cents per gallon from January 1, 1986 through June 30, 1992.

1985 Session

- The reduction for alcohol blended fuel was amended to 8 cents per gallon for July 1, 1985 through June 30, 1987 and 4 cents per gallon for July 1, 1987 through December 31, 1992.

1987 Session

- The motor vehicle fuel tax and special fuels tax rates increased from 13 cents to 17 cents per gallon.

1989 Session

- The motor vehicle fuel tax rate increased from 17 cents to 20 cents per gallon and the special fuels tax rate increased from 17 cents to 19 cents per gallon.
- The rate reduction for alcohol blended fuel was suspended for July 1, 1989 through June 30, 1991 and replaced with an ethanol production subsidy.
- An additional 1½ cents was withheld from farmers' refunds and deposited in the Agricultural Fuel Tax Fund.
- Enabling legislation was passed to allow the director of the new Department of Transportation to enter the International Fuel Tax Agreement (IFTA) for base state fuel tax licensing and reporting. The State Tax Commissioner retained non-IFTA importer for use tax administration.

1989 Referral Election

- The tax rate increases passed by the 1989 Legislature were rejected in a Special Election. The tax rates for the motor vehicle fuel tax and the special fuels tax remained 17 cents per gallon.

1991 Session

- An additional 2 cents per gallon was withheld from farmers' refunds and deposited in the Highway Tax Distribution Fund for incentives to North Dakota ethanol plants.
- The rate reduction for alcohol blended fuel was eliminated.

1993 Session

- The legislature provided for a "triggered" increase in the motor vehicle fuel tax and special fuels tax depending on the availability of federal highway matching funds. Under this provision the rate increased from 17 cents to 18 cents per gallon for the period December 1, 1993 through December 31, 1995.

1995 Session

- The legislature continued to "trigger" changes in the motor vehicle fuel tax and special fuels tax rates depending on the availability of additional federal highway matching funds. The rate increased to 20 cents per gallon for the period January 1, 1996 through December 31, 1997.

1997 Session

- The legislature provided for a permanent 20 cents per gallon motor vehicle fuel tax and special fuels tax through December 31, 1999 and added a provision to the special fuels tax chapter allowing the 2% special fuels excise tax to be charged on fuel dyed for federal motor fuel tax exemption purposes.
- The legislature also revised refund requirements to allow refunds of motor vehicle fuel tax and special fuels tax to industrial fuel users when the fuel was used in nonlicensed equipment on publicly funded projects.
- An additional 4 cents per gallon is withheld from agricultural consumer refund claims for deposit into an agricultural research fund, and the amount withheld for ethanol production incentives was lowered from 2 cents per gallon to 1 cent per gallon.

1999 Session

- The legislature reenacted the motor vehicle fuel and special fuels tax statutes and increased the taxes to 21 cents per gallon.
- The legislature also repealed the refund provisions for special fuel taxes and enacted a dyed fuel enforcement program. Dyed diesel fuel may not be used in licensed motor vehicles, and in the event of a violation, administrative fees may be assessed.

2001 Session

- The legislature enacted a decrease in special fuels taxes on diesel fuel containing at least 2% biodiesel fuel by weight. The decrease is contingent upon the opening of a biodiesel refining facility in this state with a production capacity of at least 10 million gallons biodiesel per year. If triggered, the tax on undyed diesel fuel containing biodiesel is reduced by one and five-hundredths cents per gallon, and the tax on dyed diesel fuel containing biodiesel is reduced to one and nine-tenths percent.

2005 Session

- The legislature provided for an increase in the tax rates for both motor vehicle fuel and special fuels from 21 cents per gallon to 23 cents per gallon.
- E85 was defined and a reduced rate of 1 cent per gallon was imposed on all E85 sold in the state until a total of 1.2 million gallons were sold, at which time the tax rate reverted to the 23 cents motor fuel tax rate.
- A special fuels tax exemption was provided through June 30, 2010, for the sale of hydrogen used to fuel an internal combustion engine or fuel cell.
- Provided for motor vehicle and special fuel tax refunds to Native Americans and established a refund reserve fund for this purpose.

2007 Session

- Motor fuel refunds are available for emergency medical services.
- The special fuels excise tax rate for all special fuels, except LPG, changed from 2% of the value to 4 cents per gallon.
- The special fuels excise tax rate for heating fuel was reduced to 1% for LPG and 2 cents per gallon for all other special fuels through June 30, 2009; beginning July 1, 2009, heating fuels are exempt from tax.
- Taxpayers are required to report actual physical inventories on a monthly basis.
- The requirement that tax be listed as a separate item, or a statement that the tax is included in the price, on a claim for refund was repealed.

2009 Session

- Township highway aid funds no longer withheld from refunds, townships receive 2.7% of highway funds.
- Counties, cities, and townships are required to submit annual reports providing information on use of revenue received for transportation purposes.
- Refunds are allowed for difference in on-road rates on diesel fuel when on-road fuel is used in the refrigeration unit on a truck with a separate supply tank.
- Special fuel tax collected from sale of diesel fuel to railroads up to \$1.6 million dedicated to a fund to be used for crossing safety purposes.

- Allows cities with a computerized tracking system for vehicle fuel use to use off-road fuel and report and pay the difference between the off-road fuel and on-road fuel rates.

2011 Session

- Based on information provided on a special fuel license application, the Tax Commissioner may make a determination if a special fuel license is required.
- Allows for cooperative agreements between agencies for the exchange of information regarding interstate and international motor fuel use.

Distribution of Revenue

Tax Types
Motor Vehicle Fuel Tax (23¢ per gallon): 23¢ Highway Tax Distribution Fund Withheld from farmers' refunds (7¢ per gallon): 2¢ Agricultural Fuel Tax Fund 1¢ Ethanol Production Fund 4¢ Agricultural Research Fund Withheld from Industrial users' refunds (½¢ per gallon): ½¢ Agricultural Fuel Tax Fund Withheld from state or political subdivision and emergency medical services' refunds (0¢ per gallon)
Special Fuels Tax (23¢ per gallon): 23¢ Highway Tax Distribution Fund Withheld from emergency medical services' refunds (0¢ per gallon) Withheld from refrigeration unit refunds (19¢ per gallon)
Special Fuels Excise Tax (4¢ per gallon): 100% Highway Tax Distribution Fund
Special Fuels Excise Tax - LPG (2% of sales price): 100% Highway Tax Distribution Fund
Aviation Fuel Tax (8¢ per gallon): 8¢ Aeronautics Commission Special Fund Withheld from refunds: 4% Aviation fuel excise tax Withheld from emergency medical services' refunds (0¢ per gallon):
Aviation Fuel Excise Tax (4% of sales price): 100% Aeronautics Commission Special Fund
Highway Tax Distribution Fund
• 61.3% allocated to state highway purposes • 34.5% allocated to the counties and cities • 2.7% allocated to townships • 1.5% allocated to public transportation

Fuel Taxes and Fees Disbursements

<u>Fiscal Year</u>	<u>Total Disbursement</u>	<u>Highway Distribution Fund</u>	<u>Township Highway Aid Fund</u>	<u>Agricultural Fuel Tax Fund</u>	<u>Agricultural Research Fund</u>	<u>Aeronautics Commission</u>	<u>State General Fund</u>	<u>Refund Reserve & Cash Bonds</u>
2002	114,131,923	103,789,792	5,092,540	286,162	568,231	738,856	864,879	2,448,000
2003	117,605,841	107,425,949	5,229,933	254,788	505,763	693,293	863,943	2,310,000
2004	121,466,700	111,644,818	5,393,334	236,786	470,999	769,785	889,130	1,757,500
2005	124,242,338	113,931,319	5,424,854	217,782	431,112	941,680	903,721	2,097,000
2006	135,038,662	124,741,234	5,311,819	196,400	389,528	1,130,261	881,277	2,115,000
2007	141,908,527	131,445,986	5,456,111	168,538	334,153	1,171,275	897,502	2,023,020
2008	146,250,694	135,121,096	5,618,871	130,928	259,118	1,276,210	848,165	1,973,028
2009	145,966,779	134,825,465	5,638,380	119,024	235,540	1,271,387	853,242	1,536,756
2010	152,357,170	145,905,959	0	95,414	190,377	1,348,746	866,955	2,290,000
2011	170,524,000	166,210,750	0	102,091	201,801	1,559,903	905,455	1,544,000
2012	203,232,860	198,733,151	0	55,060	107,850	1,875,670	1,053,129	1,408,000

Motor Vehicle Fuels - Gallons Taxed

<u>Fiscal Year</u>	<u>Total Gallons</u>	<u>Fiscal Refund</u>	<u>Net Gallons</u>
2002	359,176,664	14,965,893	344,210,771
2003	368,973,065	13,418,634	355,554,431
2004	370,923,822	12,338,689	358,585,133
2005	366,130,282	11,182,318	354,947,964
2006	350,779,757	10,510,356	340,269,401
2007	358,118,000	9,511,735	348,606,265
2008	359,794,778	8,206,542	351,588,236
2009	365,404,512	7,408,328	357,996,184
2010	377,395,361	6,879,324	370,516,037
2011	395,537,062	5,494,678	390,042,384
2012	428,956,203	5,929,272	423,026,931

Special Fuels - Gallons Taxed - Per Gallon Tax Rate

<u>Year</u>	<u>Total</u>	<u>Refund</u>	<u>Net</u>
2002	159,899,715	0	159,899,715
2003	166,462,335	0	166,462,335
2004	177,164,572	0	177,164,572
2005	181,293,961	0	181,293,961
2006	165,456,167	17,221	165,438,946
2007	197,294,786	350,149	196,944,637
2008	208,741,260	659,803	208,081,457
2009	210,814,957	1,296,488	209,518,469
2010	225,409,856	840,634	224,569,222
2011	278,419,258	801,553	277,617,705
2012	377,288,488	445,732	376,842,756

Tribal Fuel Taxes & Fees Disbursement

<u>Fiscal Year</u>	<u>Standing Rock</u>	<u>Spirit Lake</u>	<u>Three Affiliated Tribes</u>	<u>Turtle Mountain</u>
2002	343,463			
2003	322,172			
2004	304,349			
2005	294,870			
2006	273,142			
2007	308,073	103,869		
2008	292,102	257,124	474,053	
2009	315,633	288,978	882,374	
2010	340,570	296,346	1,022,803	
2011	352,556	253,252	1,334,704	470,240
2012	338,563	265,414	2,041,593	710,542

Special Fuels - Gallons Taxed 2% or \$.04 or Heating Fuel

<u>Fiscal Year</u>	<u>2% or \$.04/gallon</u>	<u>Heating Fuel</u>
2002	326,123,925	
2003	314,124,119	
2004	322,361,843	
2005	333,386,326	
2006	303,656,667	
2007	341,923,238	
2008	328,112,675	40,917,726
2009	313,298,379	89,594,470
2010	316,054,095	68,010,417
2011	385,552,293	72,358,292
2012	457,343,493	60,877,963

SOURCE: Office of State Tax Commissioner

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State Motor Fuel Tax Rates

January 1, 2012

	GASOLINE			DIESEL FUEL			GASOHOL			Notes
	Excise	Fee/Tax	Total	Excise	Fee/Tax	Total	Excise	Fee/Tax	Total	
Alabama ⁽¹⁾	16.0	2.0	18.0	19.0		19.0	16.0	2.0	18.0	Inspection fee
Alaska	8.0		8.0	8.0		8.0	8.0		8.0	
Arizona	18.0	1.0	19.0	26.0	1.0	27.0	18.0	1.0	19.0	LUST tax ⁽⁹⁾
Arkansas	21.5	0.3	21.8	22.5	0.3	22.8	21.5	0.3	21.8	Environmental fee
California	35.7	5.5	41.2	13.0	25.0	38.0	35.7	5.5	41.2	Includes prepaid sales tax ⁽⁸⁾
Colorado	22.0		22.0	20.5		20.5	22.0		22.0	
Connecticut	25.0		25.0	46.2		46.2	25.0		25.0	
Delaware	23.0		23.0	22.0		22.0	23.0		23.0	Plus 0.9% GRT
Florida ⁽²⁾	4.0	12.6	16.6	17.9	12.6	30.5	4.0	12.6	16.6	Sales tax added to excise ⁽³⁾
Georgia	7.5	12.9	20.4	7.5	14.3	21.8	7.5	12.9	20.4	Sales tax added to excise
Hawaii ⁽¹⁾	17.0		17.0	17.0		17.0	17.0		17.0	Sales tax additional
Idaho	25.0	1	26.0	25.0	1	26.0	25.0	1	26.0	Clean water tax ⁽⁷⁾
Illinois ⁽¹⁾	19.0	1.1	20.1	21.5	1.1	22.6	19.0	1.1	20.1	Sales tax add., env. & LUST fee ⁽⁴⁾
Indiana	18.0		18.0	16.0		16.0	18.0		18.0	Sales tax additional ⁽³⁾
Iowa	21.0	1.0	22.0	22.5	1.0	23.5	19.0	1.0	20.0	Environmental fee
Kansas	24.0		24.0	26.0		26.0	24.0		24.0	
Kentucky	26.4	1.4	27.8	23.4	1.4	24.8	26.4	1.4	27.8	Environmental fee ⁽⁴⁾⁽⁵⁾
Louisiana	20.0		20.0	20.0		20.0	20.0		20.0	
Maine	30.0		30.0	31.2		31.2	30.0		30.0	⁽⁵⁾
Maryland	23.5		23.5	24.25		24.25	23.5		23.5	
Massachusetts	21.0		21.0	21.0		21.0	21.0		21.0	
Michigan	19.0		19.0	15.0		15.0	19.0		19.0	Sales tax additional
Minnesota	28.0	0.1	28.1	28.0	0.1	28.1	28.0	0.1	28.1	Inspect fee ⁽⁶⁾
Mississippi	18.0	0.4	18.4	18.0	0.4	18.4	18.0	0.4	18.4	Environmental fee
Missouri	17.0	0.3	17.3	17.0	0.3	17.3	17.0	0.3	17.3	Inspection fee
Montana	27.0		27.0	27.75		27.75	27.0		27.0	
Nebraska	26.7	0.9	27.6	26.7	0.3	27.0	26.7	0.9	27.6	Petroleum fee ⁽⁹⁾
Nevada ⁽¹⁾	23.0	0.805	23.805	27.0	0.75	27.75	23.0	0.805	23.805	Inspection and cleanup fee
New Hampshire	18.0	1.625	19.625	18.0	1.625	19.625	18.0	1.625	19.625	Oil discharge cleanup fee
New Jersey	10.5	4.0	14.50	13.5	4.0	17.50	10.5	4.0	14.50	Petroleum fee
New Mexico	17.0	1.875	18.875	21.0	1.875	22.875	17.0	1.875	18.875	Petroleum loading fee
New York	8.0	17.8	25.8	8.0	16.05	24.05	8.0	17.8	25.8	Petro. Tax & Sales tax additional
North Carolina	38.9	0.25	39.15	38.9	0.25	39.15	38.9	0.25	39.15	Inspection tax ⁽⁴⁾
NORTH DAKOTA	23.0		23.0	23.0		23.0	23.0		23.0	
Ohio	28.0		28.0	28.0		28.0	28.0		28.0	Plus 3 cents commercial
Oklahoma	16.0	1.0	17.0	13.0	1.0	14.0	16.0	1.0	17.0	Environmental fee
Oregon ⁽¹⁾	30.0		30.0	30.0		30.0	30.0		30.0	
Pennsylvania	12.0	19.2	31.2	12.0	26.1	38.1	12.0	19.2	31.2	Oil franchise tax
Rhode Island	32.0	1	33.0	32.0	1	33.0	32.0	1	33.0	LUST tax
South Carolina	16.0	0.75	16.75	16.0	0.75	16.75	16.0	0.75	16.75	Inspection fee & LUST tax
South Dakota ⁽¹⁾	22.0	2	24.0	22.0	2	24.0	20.0	2	22.0	Inspection fee
Tennessee ⁽¹⁾	20.0	1.4	21.4	17.0	1.4	18.4	20.0	1.4	21.4	Petroleum Tax & Envir. Fee
Texas	20.0		20.0	20.0		20.0	20.0		20.0	
Utah	24.5		24.5	24.5		24.5	24.5		24.5	
Vermont	19.0	7.13	26.13	25.0	4.0	29.0	19.0	7.13	26.13	Cleanup Fee and Trans. Fee
Virginia ⁽¹⁾	17.5		17.5	17.5		17.5	17.5		17.5	⁽⁶⁾
Washington	37.5		37.5	37.5		37.5	37.5		37.5	0.5% privilege tax
West Virginia	20.5	12.9	33.4	20.5	12.9	33.4	20.5	12.9	33.4	Sales tax added to excise
Wisconsin	30.9	2.0	32.9	30.9	2.0	32.9	30.9	2.0	32.9	Petroleum Insp. Fee
Wyoming	13.0	1	14.0	13.0	1	14.0	13.0	1	14.0	License tax
Dist. of Columbia	23.5		23.5	23.5		23.5	23.5		23.5	
Federal	18.3	0.1	18.4	24.3	0.1	24.4	13.0	0.1	13.1	LUST tax ⁽⁷⁾

SOURCE: Compiled by Federation of Tax Administrators from various sources.

⁽¹⁾ Tax rates do not include local option taxes. In AL, 1-3 cents; HI, 8.8 to 18.0 cents; IL, 5 cents in Chicago and 6 cents in Cook county (gasoline only); NV, 4 to 9 cents; OR, 1 to 3 cents; SD and TN, 1 cent; and VA 2%.

⁽²⁾ Local taxes for gasoline and gasohol vary from 10.8 cents to 18.9 cents. Plus a 1.9 cent per gallon pollution tax.

⁽³⁾ Carriers pay an additional surcharge equal to IL-12.0 cents (g) 19.5 cents (d), IN-11 cents, KY-2% (g) 4.7% (d).

⁽⁴⁾ Tax rate is based on the average wholesale price and is adjusted quarterly. The actual rates are: KY, 9%; and NC, 17.5 cents + 7%.

⁽⁵⁾ Portion of the rate is adjustable based on maintenance costs, sales volume, cost of fuel to state government, or inflation.

⁽⁶⁾ Large trucks pay an additional 3.5 cents.

⁽⁷⁾ Tax rate is reduced by the percentage of ethanol used in blending (reported rate assumes the maximum 10% ethanol).

⁽⁸⁾ California Gasoline subject to 2.25% sales tax. Diesel subject to a 9% sales tax.

⁽⁹⁾ Diesel rate specified is the fuel use tax rate on large trucks. Small vehicles are subject to 18 cent tax rate.



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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Telephone (301) 695-2000 • FAX (301) 695-2375
www.aopa.org

January 18, 2013

The Honorable Wesley R. Belter
North Dakota House of Representatives
4426 58th Street South
Fargo, ND 58104-6091

Dear Representative Belter:

The Aircraft Owners and Pilots Association (AOPA), a not-for-profit membership organization, represents the general aviation interests of nearly 400,000 members nationwide – including over 2,800 in North Dakota. Since 1939, AOPA has been committed to ensuring the safety, future viability, and development of general aviation airports and their facilities as a part of our national transportation system. We write to express our support for House Bill 1208.

House Bill 1208 would reduce the existing aviation fuel excise tax by \$0.04 per gallon for a total aviation fuel tax of \$0.04 per gallon. With this reduction, North Dakota's aviation fuel tax rates would become increasingly competitive with South Dakota, Montana, and Minnesota which levy fuel taxes of \$0.06, \$0.04, and \$0.05 per gallon respectively. Further, this reduction would stimulate not only aviation activity within the State but also would attract additional aviation activity from neighboring States.

As general aviation activity continues to expand, the industry's economic impact in North Dakota of more than \$218 million annually would experience similar growth. Lower fuel costs would stimulate additional aviation activity of the hundreds of small businesses, agricultural applicators, law enforcement operations, aerial firefighters, and the many others which rely on general aviation aircraft for safe and efficient transport across North Dakota.

Thank you for your consideration of this important issue. Should you have any questions, please do not hesitate to contact me or our Great Lakes Regional Manager, Bryan Budds, at 301-695-2095.

Very truly yours,

Gregory Pecoraro
Vice President, Airports and State Advocacy

cc: North Dakota Finance and Taxation Committee

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Larry Taborsky, Director, ND Aeronautics Commission- HB 1208 Testimony

The price break will not be a significant savings for aircraft operators.

<u>Aircraft</u>	<u>Gallons per hour</u>	<u>Cost per hour for operations</u>	<u>Potential Tax Savings</u> <u>(per hour)</u>
Cessna 206	16	\$244	.64
King Air 200	100	\$1500	\$4.00
Gulfstream G500	350	\$3500	\$14

Our central region is among the least expensive places to stop for fuel, making this a major motivator for out-of-state purchasers who have a choice on where to fill the tanks. 4 cents will not change that decision.

Summary of fuel prices at 3625 FBOs nationwide

	FBOs	FUEL TYPES											
		100LL Avgas				Jet A				Mogas (auto)			
		FBOs	Avg	Min	Max	FBOs	Avg	Min	Max	FBOs	Avg	Min	Max
Nationwide	3625	3525	\$5.91	\$4.09	\$12.00	2494	\$5.57	\$3.99	\$12.00	115	\$4.55	\$3.33	\$7.95
Alaska	75	63	\$6.83	\$4.80	\$12.00	58	\$6.36	\$4.67	\$12.00	4	\$6.96	\$5.39	\$7.95
Central	349	347	\$5.78	\$4.39	\$8.40	206	\$5.24	\$3.99	\$8.80	20	\$4.20	\$3.33	\$5.19
Eastern	364	349	\$6.27	\$4.95	\$9.57	248	\$5.99	\$4.40	\$9.18	4	\$4.21	\$3.75	\$4.79
Great Lakes	730	720	\$5.90	\$4.69	\$9.17	468	\$5.51	\$4.13	\$8.69	45	\$4.60	\$3.97	\$5.20
New England	138	134	\$6.19	\$5.19	\$8.39	77	\$5.84	\$4.65	\$8.82	5	\$4.95	\$4.75	\$5.25
Northwest Mountain	385	377	\$5.85	\$4.80	\$7.81	266	\$5.39	\$4.09	\$7.96	12	\$4.56	\$3.48	\$5.25
Southern	663	648	\$5.89	\$4.41	\$9.63	523	\$5.65	\$4.00	\$9.00	12	\$4.61	\$3.55	\$5.75
Southwest	565	556	\$5.64	\$4.09	\$8.71	391	\$5.41	\$3.99	\$7.87	9	\$4.21	\$3.50	\$4.50
Western-Pacific	356	331	\$5.97	\$4.62	\$8.71	257	\$5.62	\$4.25	\$8.05	4	\$4.65	\$4.65	\$4.65

This report prepared by AirNav on 18-Jan-2013
 Report includes prices reported between 20-Nov-2012 and 20-Dec-2013
 At least 50% of prices are no more than 9 days old (09-Jan-2013 or more recent)
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The potential, if/when the state funding is not available for reimbursement, would cost the Aeronautics Commission approximately \$1.6 million per biennium, or \$32 million in lost federal projects at the present rate of 90% federal, 5% state and 5% local share. In summary, this proposal has a small impact on users, loses additional out-of-state funds, and could be detrimental to the Aeronautics Commission.