

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1208

Introduced by

Representatives Klemin, Owens, Toman

Senators Poolman, Sitte

1 A BILL for an Act to create and enact section 54-27-19.3 of the North Dakota Century Code,  
2 relating to transfers to provide enhanced distributions through the highway tax distribution fund  
3 and state aeronautics commission special fund; to amend and reenact sections 57-43.1-02,  
4 57-43.2-02, 57-43.2-03, and 57-43.3-02 of the North Dakota Century Code, relating to reduction  
5 of the tax rate of motor vehicle fuels, special fuels, and aircraft fuels taxes; to provide for  
6 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 and 57-43.2-02, the commissioner shall certify to the state treasurer the net amount  
14 of tax that would have applied to the taxable sales or use of motor vehicle fuels, special fuels, or  
15 importer for use fuels during the taxable period covered by the transfer, if an additional tax of  
16 twelve cents per gallon [3.79 liters] had been imposed on all taxable motor vehicle fuel, special  
17 fuel, and importer for use fuel subject to a tax calculated on an eleven cents per gallon basis  
18 which was sold or used in this state during that taxable period. With each monthly transfer of  
19 money received by the commissioner as required by section 57-43.2-03, the commissioner shall  
20 certify to the state treasurer the net amount of tax that would have applied to the taxable sales  
21 or use of special fuels during the taxable period covered by the transfer, if an additional tax of  
22 one percent had applied to sales of propane and an additional tax of two cents per gallon [3.79  
23 liters] had applied to sales of diesel fuel and other special fuels subject to a tax calculated on a  
24 two cents per gallon basis which was sold or used in this state during that taxable period. The

1 state treasurer shall transfer the amount certified by the commissioner under this section from  
2 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. With each  
12 monthly transfer of money received by the commissioner as required by section  
13 57-43.3-02, the commissioner shall certify to the state treasurer the amount of tax that  
14 would have applied to the taxable sales or use of aviation fuel during the taxable  
15 period covered by the transfer, if an additional tax of four cents per gallon [3.79 liters]  
16 had been imposed on all aviation fuel sold or used in this state during that taxable  
17 period. The state treasurer shall transfer the amount certified by the commissioner  
18 under this section from the state general fund to the state aeronautics commission  
19 special fund.

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

22 **57-43.1-02. Tax imposed on motor vehicle fuels.**

- 23 1. Except as otherwise provided in this section, a tax of ~~twenty-three~~eleven cents per  
24 gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
- 25 2. A refiner, supplier, or distributor shall remit the tax imposed by this section on motor  
26 vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and  
27 on direct sales of motor vehicle fuel to a consumer.
- 28 3. The tax imposed by this section does not apply on a sale by a supplier to another  
29 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another  
30 distributor, on an export, or on a sale to an exempt consumer.

- 1       4.    The ~~person~~refiner, supplier, or distributor required to remit the tax imposed by this  
2       section shall pass ~~the~~any tax reduction made by legislative change on to the ~~retailer-~~  
3       ~~and to any subsequent purchaser so the tax savings ultimately is received by the~~  
4       consumer. A retailer who paid the tax to the supplier or distributor shall pass the tax  
5       and the tax reduction on to the consumer.
- 6       5.    The person required to remit the tax imposed by this section shall pay the tax to the  
7       commissioner by the twenty-fifth day of the calendar month after the month during  
8       which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day  
9       of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the  
10      first working day after the Saturday, Sunday, or legal holiday. When payment is made  
11      by mail, the payment is timely if the envelope containing the payment is postmarked  
12      by the United States postal service or other postal carrier service before midnight of  
13      the due date.
- 14     6.    The commissioner shall pay over all of the money received during each calendar  
15      month to the state treasurer.

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

18       **57-43.2-02. Tax imposed.**

- 19      1.    Except as otherwise provided in this chapter, an excise tax of ~~twenty-three~~eleven  
20      cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or  
21      used in this state. For the purpose of determining the tax upon compressed natural  
22      gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of  
23      compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
- 24      2.    A refiner, supplier, distributor, or retailer shall remit the tax imposed by this section on  
25      special fuel used and on direct sales of special fuel to a customer.
- 26      3.    The tax imposed by this section does not apply on sales by a supplier to another  
27      supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another  
28      distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an  
29      exempt consumer.
- 30      4.    The ~~person~~refiner, supplier, wholesaler, distributor, or retailer required to remit the tax  
31      imposed by this section shall pass ~~the~~any tax reduction made by legislative change on

1           to any subsequent purchaser so the tax savings ultimately is received by the  
2           customerconsumer.

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

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

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

15          **57-43.2-03. Special excise tax levied.**

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

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

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

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

- 1       5. The tax imposed by this section does not apply on a sale by a supplier to another  
2       supplier, a sale by a supplier to a distributor, a sale by a distributor to another  
3       distributor, a sale by a distributor to a retailer, an export, or a sale to an exempt  
4       consumer.
- 5       6. The ~~person~~refiner, supplier, wholesaler, distributor, or retailer required to remit the tax  
6       imposed by this section shall pass ~~the~~any tax reduction made by legislative change on  
7       to any subsequent purchaser so the tax reduction ultimately is received by the  
8       consumer.
- 9       7. The person required to remit the tax imposed by this section shall pay the tax to the  
10      commissioner by the twenty-fifth day of the calendar month after the month during  
11      which the special fuel was sold or used by the person. When the twenty-fifth day of the  
12      calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first  
13      working day after the Saturday, Sunday, or legal holiday. When payment is made by  
14      mail, the payment is timely if the envelope containing the payment is postmarked by  
15      the United States postal service or other postal carrier service before midnight of the  
16      due date.
- 17      8. The commissioner shall pay over all of the money received during each calendar  
18      month to the state treasurer.

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

21      **57-43.3-02. Tax imposed on aviation fuel.**

- 22      1. Except as otherwise provided in this chapter, a tax of ~~eight~~four cents per gallon [3.79  
23      liters] is imposed on all aviation fuel sold or used in this state.
- 24      2. A supplier or distributor shall remit the tax imposed by this section on aviation fuel  
25      used, on the wholesale distribution of aviation fuel to a retailer, and on direct sales of  
26      aviation fuel to a customer.
- 27      3. The tax imposed by this section does not apply on a sale by a supplier to another  
28      supplier, a sale by a supplier to a distributor, a sale by a distributor to another  
29      distributor, an export, or a sale to an exempt consumer.
- 30      4. The ~~person required to remit the tax imposed by this section~~supplier, distributor, or  
31      retailer of aviation fuel shall pass ~~the~~any tax reduction made by legislative change on

1           to the retailer and to the customer. A retailer who paid the tax to the supplier or  
2           distributor shall pass the tax on to any subsequent purchaser so the tax reduction  
3           ultimately is received by the consumer.

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

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

14          **SECTION 6. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
15          June 30, 2013.