

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2049  
(Government and Veterans Affairs Committee)  
(At the request of the Aeronautics Commission)

AN ACT to amend and reenact sections 2-05-22, 57-40.5-09, and 57-40.5-11, subsection 1 of section 57-43.3-02, and sections 57-43.3-03 and 57-43.3-07 of the North Dakota Century Code, relating to the aeronautics commission special fund, aircraft excise tax, and aviation fuel tax; to repeal sections 57-43.3-04 and 57-43.3-06 of the North Dakota Century Code, relating to the aviation fuel tax; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 2-05-22 of the North Dakota Century Code is amended and reenacted as follows:

**2-05-22. ~~Interest~~– Aeronautics commission special fund.**

1. A special fund known as the aeronautics commission special fund is established.
2. The aeronautics commission special fund must be administered and expended by the commission for the following:
  - a. Administration of the commission.
  - b. Airport construction and improvement projects, including:
    - (1) Airport administration and terminal buildings, hangars, and landing strips for aircraft;
    - (2) Purchase of land for airports or landing fields and easements for such facilities;
    - (3) Maintenance and maintenance equipment; and
    - (4) Clearing of sites, marking, lighting and engineering, and navigational aids.
  - c. Administration, construction, reconstruction, repair, maintenance, and operation of airports near communities, recreational areas, or parks, including the international peace garden airport, and for necessary expenses and purchases of land and easements for such facilities.
  - d. Expenses related to the duties of the commission as set out in section 2-05-05, including the creation and distribution of education grants.
3. All money derived from the investment of the aeronautics commission special fund or any portion of the fund, including aircraft excise tax funds collected and received under chapter 57-40.5, must be credited to the aeronautics commission special fund.

**SECTION 2. AMENDMENT.** Section 57-40.5-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.5-09. Allocation of revenue.**

All moneys collected and received under this chapter must be transmitted monthly by the director to the aeronautics commission special fund. ~~These funds may be used for airport construction or improvement projects as approved by the aeronautics commission in an amount as allowed by the commission.~~

**SECTION 3. AMENDMENT.** Section 57-40.5-11 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.5-11. Director to act as agent of tax commissioner in administration of aircraft excise tax - Provisions of motor vehicle excise tax applicable.**

The state tax commissioner is charged with the administration of this chapter. The provisions of chapter 57-40.3, pertaining to the administration of the motor vehicle excise tax, including provisions for the audit and assessment, not in conflict with the provisions of this chapter, govern the administration of the tax levied in this chapter. The tax commissioner may prescribe all rules, not inconsistent with the provisions of this chapter, for the administration of this chapter. The collection of the aircraft excise tax must be carried out by the director who shall act as the agent of the state tax commissioner and who is subject to all rules, not inconsistent with the provisions of this chapter, that may be prescribed by the tax commissioner. ~~The provisions of this chapter may not be construed to prevent the collection of aircraft excise taxes by the tax commissioner in the course of any audit carried on by the tax commissioner.~~

**SECTION 4. AMENDMENT.** Subsection 1 of section 57-43.3-02 of the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 5. AMENDMENT.** Section 57-43.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.3-03. Refund of tax.**

1. A consumer who paid the tax imposed by section 57-43.3-02 may file a claim for a refund with the commissioner pursuant to the refund provisions in chapter 57-43.1. ~~The tax imposed by section 57-43.3-04 must be deducted from the refund.~~
2. Any person to whom aviation fuel is sold on which the tax imposed by this chapter has been paid who thereafter removes the fuel from this state for sale or resale in another state or to a state that requires payment of a tax upon the use of the fuel in that state must be granted a refund of the tax that was paid pursuant to this chapter. The refund may be granted only upon application to the commissioner in the manner prescribed by the commissioner and must include proof that fuel for sale or resale in another state was reported to the taxing agency of that state, or in the case of a consumer, proof of payment of the tax imposed by the other state. A claim for refund under this section must be made within one year from the date the fuel was removed to another state for sale, resale, or use in another state.
3. When a person purchasing aviation fuel for resale purposes pays the tax imposed by this chapter and later makes a sale of the fuel to an agency of the United States government, the person may apply to the commissioner for a refund of the tax.
4. The tax commissioner shall deposit in a fund known as the aviation fuel tax refund reserve, such amounts from aviation fuel tax collections as the commissioner deems necessary to pay refunds to persons entitled to refunds under this section.

**SECTION 6. AMENDMENT.** Section 57-43.3-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.3-07. Allocation of unclaimed refund revenue - Appropriation.**

The tax collected by the commissioner pursuant to ~~under~~ section 57-43.3-02, upon which no refund is claimed, and those revenues remaining as unclaimed refunds must be ~~deposited in the office of~~ transferred to the state treasurer, who shall deposit ~~such~~ the moneys in a ~~special fund known as the state aeronautics commission special fund.~~ These funds are appropriated to the commission and must

~~be disbursed by warrant check prepared by the office of management and budget upon vouchers submitted by the commission and approved by the office of management and budget and must be administered and expended by the commission for administration, construction, reconstruction, repair, maintenance, and operation of airports near communities, recreational areas, or parks including the international peace garden airport and for necessary expenses and for the purchase of land and easements for such facilities.~~

**SECTION 7. REPEAL.** Sections 57-43.3-04 and 57-43.3-06 of the North Dakota Century Code are repealed.

**SECTION 8. EFFECTIVE DATE.** Sections 4 and 7 of this Act are effective for taxable purchases made after June 30, 2017.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2049.

Senate Vote:    Yeas 46            Nays 0            Absent 1

House Vote:    Yeas 93            Nays 1            Absent 0

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

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

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