

N.D.A.G. Letter to Vander Vorst (June 14, 1988)

June 14, 1988

Hon. Wilbur Vander Vorst
State Representative
Box 46
Hague, ND 58542

Dear Representative Vander Vorst:

Thank you for your letter of May 14, 1988, in which you inquire whether the 2% tax on diesel fuel used for agricultural purposes may be rededicated by the Legislature from the state highway fund to a conservation fund. I apologize for the delay in responding to you.

N.D. Const. art. X, S 11 provides, in part, as follows:

Section 11. Revenue from gasoline and other motor fuel excise and license taxation . . . shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

This provision dedicates all motor fuel tax revenues to public highway purposes, but leaves the allocation of the funds for this purpose to the Legislative Assembly. Because the funds are dedicated by the North Dakota Constitution, they cannot be rededicated without an initiated measure and majority vote by the people of North Dakota. N.D. Const. art. III.

The Legislative Assembly acting on its own may not rededicate the 2% diesel fuel tax. It may, however, propose a constitutional amendment to be submitted to the electors pursuant to N.D. Const. art. XIV, § 45.

I hope this answers your question. If you have further questions, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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