

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

640P0636

## SENATE BILL NO. 115

Introduced by: Senators Bartling, Greenfield, Hansen (Tom), Hanson (Gary), and Peterson (Jim) and Representatives Tidemann, Burg, Dennert, Lucas, and Rausch

1 FOR AN ACT ENTITLED, An Act to increase the amount of funding for conservation and  
2 value-added agriculture purposes from certain unclaimed motor fuel tax refunds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-47B-154 be amended to read as follows:

5 10-47B-154. The Legislature finds that not all motor fuel taxes which qualify for the  
6 nonhighway agricultural motor fuel tax refund are, in fact, refunded under the procedure set  
7 forth in this chapter. The Legislature further finds that a certain amount of these unclaimed tax  
8 refunds from the sale of motor fuel for nonhighway agricultural uses should be ~~utilized~~ used for  
9 agricultural purposes in a manner which benefits both agriculture and the citizens of the state  
10 by preserving its natural resources. Therefore, the Legislature declares that an amount equal to  
11 ~~thirty-five percent of~~ one-half of the gallons of the annual South Dakota agricultural gasoline  
12 and gasoline blend sales as determined in section 2 of this Act is used for nonhighway  
13 agricultural purposes and eligible for refund of the motor fuel tax. The amount of eligible tax  
14 refund less the claimed refunds authorized by § 10-47B-119, ~~not to exceed one million five~~  
15 ~~hundred thousand dollars in any single fiscal year,~~ as determined in section 2 of this Act



1 represents the amount of unclaimed tax refunds from the sale of motor fuel tax for nonhighway  
2 agricultural uses. The Legislature further declares that it is the policy of this state to use these  
3 funds, representing the unclaimed tax refunds from the sale of motor fuel for nonhighway  
4 agricultural purposes, to implement the coordinated natural resources conservation program.  
5 Notwithstanding any other provisions of this Act, the total amount of unclaimed motor fuel tax  
6 refunds to be transferred to the coordinated natural resources conservation program, may not  
7 exceed two million five hundred thousand dollars in any single fiscal year.

8 Section 2. For purposes of section 1 of this Act, the amount of unclaimed tax refunds from  
9 the sale of motor fuel for nonhighway agricultural purposes in any fiscal year is determined as  
10 provided in this section. The gasoline and gasoline blend sales in South Dakota in accordance  
11 with section 1 of this Act, is twelve percent of the gasoline and gasoline blend sales by the  
12 plains states as reported in the USDA-NASS Farm Production Expenditures Annual Summary  
13 Report. The number of gallons of gasoline and gasoline blend used in South Dakota for  
14 agricultural purposes is the amount of money spent on gasoline and gasoline blend in South  
15 Dakota for agricultural purposes divided by the average price of gasoline as published by the  
16 Energy Information Administration. The number of gallons of gasoline and gasoline blend  
17 purchased for nonhighway agricultural purposes is fifty percent of the gallons purchased in  
18 South Dakota in accordance with section 1 of this Act. That amount multiplied by the tax rate  
19 pursuant to § 10-47B-4 is the amount of tax that is eligible to be refunded by the Department  
20 of Revenue and Regulation. The amount of money eligible for refunds less the actual amount  
21 of refunds paid by the Department of Revenue and Regulation is the total amount of unclaimed  
22 refunds.

23 Section 3. That § 10-47B-149 be amended to read as follows:

24 10-47B-149. At the beginning of each month, the secretary shall make adjustments to the

1 motor fuel tax fund balance in the following manner:

2 (1) Each July transfer an amount to the snowmobile trails' fund equal to the product of  
3 multiplying the number of licensed snowmobiles as of July first, times one hundred  
4 twenty-five gallons, times the rate of tax provided for motor fuel under this chapter;

5 (2) Transfer to the motor fuel tax refund fund an amount to pay motor fuel tax refunds  
6 for the current month;

7 (3) Transfer to the motor fuel tax administration account two percent of the deposits  
8 made to the motor fuel tax fund during the preceding month to cover the expenses  
9 incurred in administering all motor fuel and special fuel tax laws of this state. On or  
10 about August first of each year, the preceding year's remaining motor fuel tax  
11 administration account balance, less an amount to provide cash flow within the  
12 account, shall be transferred to the state highway fund. The remaining balance is to  
13 be calculated by subtracting from the total of monthly deposits, the amount of  
14 corresponding expenses. The expense of administering the chapters relating to motor  
15 and special fuel taxation shall be paid out of appropriations made by the Legislature;

16 (4) ~~Transfer~~ Each September transfer an amount to the coordinated natural resources  
17 conservation fund ~~an amount equal to thirty-five percent of the claimed refunds~~  
18 ~~authorized by § 10-47B-119 for the preceding month, not to exceed a cumulative~~  
19 ~~total of one million five hundred thousand dollars in any single fiscal year~~ the amount  
20 calculated pursuant to section 2 of this Act;

21 (5) Each July transfer to the parks and recreation fund an amount equal to the product of  
22 multiplying the number of licensed motorized boats as of the previous December  
23 thirty-first, times one hundred forty gallons, times the rate of tax provided for motor  
24 fuels under this chapter;

1 (6) Transfer to the member jurisdictions taxes collected under the provisions of the  
2 international fuel tax agreement; and

3 (7) Transfer the remaining cash balance to the state highway fund.

4 Section 4. That § 38-7-26 be amended to read as follows:

5 38-7-26. The coordinated natural resources conservation fund consists of money transferred  
6 from the unclaimed tax refunds from the sale of motor fuel for nonhighway agricultural uses in  
7 the motor fuel tax fund as provided in ~~§ 10-47A-11~~ § 10-47B-149, and all public and private  
8 sources including legislative appropriations or federal grants.

9 Section 5. That § 38-7-27 be amended to read as follows:

10 38-7-27. The coordinated natural resources conservation program is hereby established.  
11 Under this program, the State Conservation Commission may grant or loan funds from the  
12 coordinated natural resources conservation fund. The Conservation Commission shall  
13 promulgate rules pursuant to chapter 1-26 for administration, terms, and conditions for the  
14 disbursement of grants ~~to conservation districts~~ or loans and to establish criteria for the selection  
15 of projects to receive grants or loans through the coordinated natural resources conservation  
16 program.