

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0617

## SENATE BILL NO. 196

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to modify the ethanol production incentive payment, to  
2 create the ethanol infrastructure incentive fund, to appropriate money to encourage the use  
3 of ethanol, and to make transfers into the ethanol infrastructure incentive fund and the  
4 revolving economic development and initiative fund.

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

6 Section 1. That § 10-47B-162 be amended to read as follows:

7 10-47B-162. A production incentive payment of twenty cents per gallon is available to  
8 ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota. To  
9 be eligible for this payment, the ethyl alcohol shall be denatured and subsequently blended with  
10 gasoline to create ethanol blend. The ethyl alcohol shall be ninety-nine percent pure and shall  
11 be distilled from cereal grains. Annual production incentive payments for any facility may not  
12 exceed one million dollars. An ethanol production facility is eligible for a production incentive  
13 payment under this section only if the facility has produced qualifying ethyl alcohol on or before  
14 December 31, 2006. No facility may receive any production incentive payments in an amount  
15 greater than ~~ten million~~ nine million six hundred eighty-two thousand dollars. The cumulative



1 annual production incentive payments made under this section may not exceed four million  
2 dollars for fiscal year 2003, five million dollars for fiscal year 2004, six million dollars for fiscal  
3 year 2005, seven million dollars for fiscal year 2006, seven million dollars for fiscal year 2007,  
4 seven million dollars for fiscal year 2008, seven million dollars for fiscal year 2009, seven  
5 million dollars for fiscal year 2010, seven million dollars for fiscal year 2011, four million  
6 dollars for fiscal year 2012, four million dollars for fiscal year 2013, four million five hundred  
7 thousand dollars for fiscal year 2014, four million five hundred thousand dollars for fiscal year  
8 2015, four million five hundred thousand dollars for fiscal year 2016, and seven million dollars  
9 per fiscal year thereafter. Payments from the ethanol fuel fund shall be prorated equally to all  
10 of the facilities each month based on claims submitted for that month and the amount of funds  
11 available for that month. No facility may receive payment for more than four hundred sixteen  
12 thousand six hundred sixty-seven gallons per month. If excess funds are available in the fund  
13 in any given month, payment may be made to facilities for previous months when funds were  
14 not sufficient to pay the claims from the previous months. All moneys available in the ethanol  
15 fuel fund at the end of the fiscal year shall be prorated equally to the facilities based upon all  
16 unpaid claims received through the end of that fiscal year.

17 Section 2. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 There is hereby established the ethanol infrastructure incentive fund to receive funds  
20 transferred from the ethanol fuel fund pursuant to § 10-47B-164. Any money in the ethanol  
21 infrastructure incentive fund is continuously appropriated for the following purposes:

- 22 (1) To award incentive grants to motor fuel retail dealers as defined in § 10-47B-3 for  
23 the purpose of entering into contracts for the purchase or installation, or for the  
24 purchase and installation, of ethanol blender pumps and associated piping and storage

1 systems and related equipment to be used at facilities operated by the motor fuel  
2 retail dealers for the sale of motor fuel to the public;

3 (2) To award incentive grants to motor fuel retail dealers as defined in § 10-47B-3 for  
4 the purpose of entering into contracts for the purchase, or the purchase, of pumps and  
5 pump equipment authorized to dispense gasoline containing up to and including  
6 eighty-five percent ethanol;

7 (3) To award incentive grants to encourage the purchase of flex fuel vehicles;

8 (4) To encourage the increased use of ethanol in South Dakota; and

9 (5) To otherwise encourage the installation of infrastructure related to sale and  
10 distribution of ethanol.

11 The Governor's Office of Economic Development shall establish, by rules promulgated  
12 pursuant to chapter 1-26, such regulations and procedures as are necessary to implement this  
13 section. For the purposes of this section, the term, ethanol blender pump, refers to a mechanism  
14 provided by the retail dealer for the dispensing at retail as defined in § 10-47B-3 of ethanol  
15 blend so that the end user may choose a particular grade of ethanol to gasoline to be dispensed.  
16 The Governor's Office of Economic Development may use up to five percent of any amount  
17 appropriated to the ethanol infrastructure incentive fund for administration of the fund or any  
18 incentive programs established by this section.

19 Section 3. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The Governor's Office of Economic Development may promulgate rules pursuant to chapter  
22 1-26 concerning the ethanol infrastructure incentive fund as follows:

23 (1) The submission of grant applications for the ethanol infrastructure incentive fund;

24 (2) Eligibility criteria for grants from the ethanol infrastructure incentive fund;

- 1 (3) Application procedures for grants from the ethanol infrastructure incentive fund;
- 2 (4) Criteria for determining which applicants will receive grants from the ethanol
- 3 infrastructure incentive fund; and
- 4 (5) Follow-up reporting to the Governor's Office of Economic Development by grant
- 5 recipients.

6 Section 4. That § 10-47B-164 be amended to read as follows:

7 10-47B-164. Any money in the ethanol fuel fund is continuously appropriated for purposes

8 of providing ethanol production payments to qualified ethanol producers for purposes of making

9 deposits into the ethanol infrastructure incentive fund, and for purposes of making deposits into

10 the revolving economic development and initiative fund. The department may receive and

11 approve ethanol production incentive payment claims and authorize the issuance of payment

12 warrants to licensed ethanol producer claimants based on claims presented by the licensees. At

13 the end of each fiscal year, any unobligated cash in excess of one hundred thousand dollars in

14 the ethanol fuel fund shall be transferred to the state highway fund.

15 There shall be a transfer from the ethanol fuel fund to the ethanol infrastructure incentive

16 fund in fiscal year 2012 of one million dollars, a transfer from the ethanol fuel fund to the

17 ethanol infrastructure incentive fund in fiscal year 2013 of one million dollars, a transfer from

18 the ethanol fuel fund to the ethanol infrastructure incentive fund in fiscal year 2014 of five

19 hundred thousand dollars, a transfer from the ethanol fuel fund to the ethanol infrastructure

20 incentive fund in fiscal year 2015 of five hundred thousand dollars, and a transfer from the

21 ethanol fuel fund to the ethanol infrastructure incentive fund in fiscal year 2016 of five hundred

22 thousand dollars.

23 There shall be a transfer from the ethanol fuel fund to the revolving economic development

24 and initiative fund in fiscal year 2012 of two million dollars, a transfer from the ethanol fuel

1 fund to the revolving economic development and initiative fund in fiscal year 2013 of two  
2 million dollars, a transfer from the ethanol fuel fund to the revolving economic development and  
3 initiative fund in fiscal year 2014 of two million dollars, a transfer from the ethanol fuel fund  
4 to the revolving economic development and initiative fund in fiscal year 2015 of two million  
5 dollars, and a transfer from the ethanol fuel fund to the revolving economic development and  
6 initiative fund in fiscal year 2016 of two million dollars.

7 The transfers from the ethanol fuel fund to the ethanol infrastructure incentive fund and the  
8 revolving economic development and initiative fund in each fiscal year shall be made before any  
9 production incentive payment is made pursuant to § 10-47B-162 in the fiscal year.

10 No production incentive payment may be made pursuant to § 10-47B-162 unless the ethanol  
11 fuel fund has a balance of at least nine hundred fifty thousand dollars.