

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

294A0729

SENATE ENGROSSED NO. **HB1224** - 3/4/97

Introduced by: Representatives Diedrich, Apa, Belatti, Brooks, Crisp, Cutler, de Hueck, DeMersseman, Eccarius, Jaspers, Johnson (Doug), Koskan, Matthews, McNenny, Pummel, Van Gerpen, Weber, Wetz, and Wick and Senators Drake, Frederick, Hainje, Halverson, and Paisley

1 FOR AN ACT ENTITLED, An Act to revise the tax refund provisions for agricultural facilities
2 and to declare an emergency.

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

4 Section 1. That § 10-45B-1 be amended to read as follows:

5 10-45B-1. Terms used in this chapter mean:

6 (1) "Department," the Department of Revenue;

7 (2) "New ~~or expanded~~ agricultural processing facility," a new building ~~or realty~~
8 ~~improvement or addition to an existing facility~~ or structure, the construction ~~or~~
9 ~~installation~~ of which is subject to contractors' excise tax pursuant to chapter 10-46A
10 or 10-46B. A new ~~or expanded~~ agricultural processing facility ~~does not include any~~
11 ~~highway maintenance or construction project, or a water development project subject~~
12 ~~to § 10-46B-17~~ is any new building or structure constructed for the initial or
13 subsequent processing of any form of agricultural commodity, product, or by-product.
14 A new agricultural processing facility does not include any building or structure

1 constructed for raising or feeding of livestock or the expansion of an existing
2 agricultural processing facility;

3 (3) "Person," any individual, firm, copartnership, joint venture, association, limited
4 liability company, corporation, estate, trust, business trust, receiver, or any group or
5 combination acting as a unit;

6 (4) "Project," the ~~installation or~~ construction of a new ~~or expanded~~ agricultural
7 processing facility ~~or the installation or acquisition of business equipment to be used~~
8 at a single site;

9 (5) "Project cost," the amount paid in money, credits, property, or other money's worth
10 for a project;

11 (6) "Secretary," the secretary of the Department of Revenue.

12 Section 2. That § 10-45B-2 be amended to read as follows:

13 10-45B-2. Any person may apply for and obtain a refund or credit for contractors' excise
14 taxes imposed and paid under the provisions of chapter 10-46A for the construction of a new ~~or~~
15 ~~expanded~~ agricultural processing facility and for sales or use taxes imposed and paid by such
16 person under the provisions of chapters 10-45 and 10-46 for the purchase or use of ~~business~~
17 agricultural processing equipment.

18 Section 3. That § 10-45B-4 be amended to read as follows:

19 10-45B-4. The refund pertains only to project costs incurred and paid after ~~July~~ April 1, 1991
20 1997, and within thirty-six months of the approval of the application required by § 10-45B-6.

21 No refund may be made unless:

22 (1) The project cost exceeds the sum of ~~twenty~~ four million five hundred thousand
23 dollars; and

24 (2) The person applying for the refund obtains a permit from the secretary as set forth in
25 § 10-45B-6.

1 Section 4. That § 10-45B-5 be amended to read as follows:

2 10-45B-5. ~~The amount of the tax refund shall be a percentage of the taxes paid, calculated~~
3 ~~as follows: If the project cost exceeds twenty million dollars but is less than thirty million dollars,~~
4 ~~the refund shall be thirty-three and one-third percent of the taxes attributed to the project cost;~~
5 ~~if the project cost exceeds thirty million dollars but is less than forty million dollars, the refund~~
6 ~~shall be sixty-six and two-thirds percent of the taxes attributed to the project cost; if the project~~
7 ~~cost exceeds forty four million five hundred thousand dollars, the refund shall be one hundred~~
8 percent of the taxes attributed to the project cost.

9 Section 5. That § 10-45B-6.1 be amended to read as follows:

10 10-45B-6.1. ~~No person may apply for a permit pursuant to § 10-45B-6 after December 31,~~
11 ~~1996. Any person issued a permit pursuant to § 10-45B-6 this chapter prior to December 31,~~
12 ~~1996 March 31, 1997, may continue to submit claims for the project after July 1, 1996.~~

13 Section 6. That § 10-45B-6.2 be repealed.

14 ~~10-45B-6.2. Notwithstanding the provisions of § 10-45B-6.1, any person may apply for and~~
15 ~~obtain a refund or credit for contractors' excise taxes imposed and paid under the provisions of~~
16 ~~chapter 10-46A for a new or expanded facility constructed for the initial or subsequent~~
17 ~~production, use, or processing or any form of agricultural commodity, product, or by-product~~
18 ~~in this state and for sales or use taxes imposed and paid by such person under the provisions of~~
19 ~~chapters 10-45 and 10-46 for the purchase or use of equipment.~~

20 Section 7. That § 10-45B-8 be amended to read as follows:

21 10-45B-8. ~~Any claim for refund shall be submitted~~ person issued a permit pursuant to this
22 chapter shall submit a return to the department on or before the last day of the month following
23 each quarterly period. The secretary shall determine the amount of the tax refund. Ninety percent
24 of the amount of refund shall be paid to the claimant in accordance with §§ 10-59-22 and
25 10-59-23, and ten percent shall be withheld by the department. No interest shall be paid on the

1 refund amount.

2 Section 8. Whereas, this Act is necessary for the support of the state government and its
3 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
4 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/31/97 First read in House and referred to Taxation. H.J. 243

3 2/12/97 Scheduled for Committee hearing on this date.

4 2/13/97 Scheduled for Committee hearing on this date.

5 2/13/97 Taxation Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 460

6 2/15/97 House of Representatives Deferred to another day. H.J. 522

7 2/18/97 Motion to Amend,. H.J. 548

8 2/18/97 House of Representatives Placed on Calendar. H.J. 549

9 2/18/97 House of Representatives Deferred to another day. H.J. 553

10 2/19/97 Motion to Amend, Failed, AYES 28, NAYS 41. H.J. 586

11 2/19/97 House of Representatives Do Pass Amended, Passed, AYES 62, NAYS 7. H.J. 587

12 2/20/97 First read in Senate and referred to Agriculture & Natural Resources. S.J. 572

13 2/25/97 Scheduled for Committee hearing on this date.

14 2/27/97 Scheduled for Committee hearing on this date.

15 2/27/97 Agriculture & Natural Resources Do Pass Amended, Passed, AYES 6, NAYS 3.

16 S.J. 678

17 3/3/97 Motion to Amend, Passed. S.J. 741

18 3/3/97 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 741