

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

581I0151

HOUSE BILL NO. 1206

Introduced by: Representative Adelstein

1 FOR AN ACT ENTITLED, An Act to repeal provisions regarding ethanol subsidies and to
2 appropriate that revenue to schools.

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

4 Section 1. That § 5-27-4 be amended to read as follows:

5 5-27-4. ~~During fiscal year 1999, the Bureau of Finance and Management shall transfer each~~
6 ~~month twenty-four and two-tenths percent of the monthly state capital construction fund~~
7 ~~revenues from the state capital construction fund to the ethanol fuel fund. Beginning in fiscal year~~
8 ~~2000 to December 31, 2002, inclusive, the Bureau of Finance and Management shall transfer~~
9 ~~each month thirty-three and one-quarter percent of the monthly state capital construction fund~~
10 ~~revenues from the state capital construction fund to the ethanol fuel fund. Beginning on~~
11 ~~January 1, 2003, the~~ The Bureau of Finance and Management shall transfer each month
12 twenty-five and six-tenths percent of the monthly state capital construction fund revenues from
13 the state capital construction fund to the ~~ethanol fuel fund~~ foundation program fund created
14 pursuant to § 13-13-12.

15 Section 2. That § 34A-13-20 be amended to read as follows:

16 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any



1 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,
 2 inclusive, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-47B-19
 3 shall apply to this fee. The parties required to pay the fuel excise tax under the provisions of
 4 §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of
 5 the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel
 6 excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay
 7 the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and
 8 delivered by a licensed exporter outside of the state. The amount of the fee imposed is twenty
 9 dollars per one thousand gallons of petroleum. ~~Beginning January 1, 2003, fifty~~ Fifty percent of
 10 the revenue collected pursuant to this section shall be deposited monthly in the ~~ethanol fuel fund~~
 11 foundation program fund created pursuant to § 13-13-12 and fifty percent of the revenue
 12 collected pursuant to this section shall be distributed monthly in the following manner:

- 13 (1) ~~Beginning in fiscal year 2000 to December 31, 2002, inclusive, fifty percent shall be~~
 14 ~~deposited in the state capital construction fund created in § 5-27-1. Beginning on~~
 15 ~~January 1, 2003, seventy-eight~~ Seventy-eight and seven-tenths percent shall be
 16 deposited in the state capital construction fund created pursuant to §5-27-1; and
- 17 (2) ~~Beginning April 1, 2002, to December 31, 2002, inclusive, twenty-nine and one-tenth~~
 18 ~~percent shall be deposited in the petroleum release compensation fund and twenty and~~
 19 ~~nine-tenths percent shall be deposited in the state highway fund. Beginning on~~
 20 ~~January 1, 2003, twenty-one~~ Twenty-one and three-tenths percent shall be deposited
 21 in the petroleum release compensation fund.

22 Section 3. That § 10-47B-162 be repealed.

23 ~~— 10-47B-162. A production incentive payment of twenty cents per gallon is available to~~
 24 ~~ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota. To be~~

1 ~~eligible for this payment, the ethyl alcohol shall be denatured and subsequently blended with~~
2 ~~gasoline to create ethanol blend. The ethyl alcohol shall be ninety-nine percent pure and shall be~~
3 ~~distilled from cereal grains. Annual production incentive payments for any facility may not~~
4 ~~exceed one million dollars. An ethanol production facility is eligible for a production incentive~~
5 ~~payment under this section only if the facility has produced qualifying ethyl alcohol on or before~~
6 ~~December 31, 2006. No facility may receive any production incentive payments in an amount~~
7 ~~greater than ten million dollars. The cumulative annual production incentive payments made~~
8 ~~under this section may not exceed four million dollars for fiscal year 2003, five million dollars~~
9 ~~for fiscal year 2004, six million dollars for fiscal year 2005, and seven million dollars thereafter.~~
10 ~~Payments from the ethanol fuel fund shall be prorated each month based on the claims received~~
11 ~~for that month. All moneys available in the ethanol fuel fund at the end of the fiscal year shall be~~
12 ~~prorated based upon all unpaid claims received through the end of that fiscal year.~~

13 Section 4. That § 10-47B-163 be repealed.

14 ~~—10-47B-163. Any ethanol producer who intends to file for an ethanol production incentive~~
15 ~~payment shall first apply to the secretary on prescribed forms and obtain an ethanol producer~~
16 ~~license issued by the department. Any person licensed pursuant to this chapter shall obtain a~~
17 ~~license, maintain records, submit claims, and conduct taxable fuel transactions in accordance with~~
18 ~~the provisions of this chapter.~~

19 Section 5. That § 10-47B-164 be repealed.

20 ~~—10-47B-164. Any money in the ethanol fuel fund is continuously appropriated for purposes~~
21 ~~of providing ethanol production payments to qualified ethanol producers. The department may~~
22 ~~receive and approve ethanol production incentive payment claims and authorize the issuance of~~
23 ~~payment warrants to licensed ethanol producer claimants based on claims presented by the~~
24 ~~licensees. At the end of each fiscal year, any unobligated cash in excess of one hundred thousand~~

1 ~~dollars in the ethanol fuel fund shall be transferred to the state highway fund:~~

2 Section 6. That § 10-47B-165 be repealed.

3 ~~—10-47B-165. The ethanol production payment claim form shall contain the following~~
4 ~~elements for each eligible ethanol production facility:~~

5 ~~—(1)—The licensee's name and license number and the ethanol production period for which~~
6 ~~payment is being claimed;~~

7 ~~—(2)—An inventory summary which identifies any unblended, but qualified, ethanol on hand~~
8 ~~at the beginning of the claim period, plus any ethanol refined during the claim period,~~
9 ~~less any ethanol sold during the period which results in the inventory on hand at the~~
10 ~~end of the claim period;~~

11 ~~—(3)—Information specifying the amount of ethanol sold and blended during the claim~~
12 ~~period;~~

13 ~~—(4)—A production payment calculation section which identifies the amount of production~~
14 ~~payment being claimed on qualified ethanol for the claim period; and~~

15 ~~—(5)—The claimant's signature on a certification statement which affirms that the ethanol~~
16 ~~was produced from cereal grain at a facility located in this state and that the~~
17 ~~information contained on the claim form is accurate and complete.~~

18 Section 7. That § 10-47B-166 be repealed.

19 ~~—10-47B-166. Ethyl alcohol shall be denatured and blended with gasoline before it qualifies~~
20 ~~for the ethanol production incentive payment. A producer may denature the alcohol by adding~~
21 ~~gasoline or natural gasoline to it in amounts equal to at least five gallons of gasoline for each~~
22 ~~ninety-five gallons of alcohol. The alcohol may also be denatured by any other method common~~
23 ~~in the industry. If the ethyl alcohol was denatured with any product other than gasoline or natural~~
24 ~~gasoline, the ethanol purchaser shall provide a statement containing the following information:~~

- 1 ~~—(1)— The date the ethanol was received;~~
- 2 ~~—(2)— The date it was blended to create ethanol blend fuel;~~
- 3 ~~—(3)— That the purchaser is a licensed petroleum marketer;~~
- 4 ~~—(4)— The state in which the dealer is licensed;~~
- 5 ~~—(5)— Whether or not the blended fuel was resold into South Dakota; and~~
- 6 ~~—(6)— Certification that the information given in the statement is true and correct.~~