

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

327L0562

SENATE ENGROSSED NO. **SB 214** - 02/14/2005

Introduced by: Senators Peterson (Jim), Bartling, Duenwald, Greenfield, Hansen (Tom), Hanson (Gary), Hundstad, Kloucek, Koetzle, Moore, Nesselhuf, Smidt, and Sutton (Dan) and Representatives Dykstra, Boomgarden, Brunner, Davis, Deadrick, Dennert, Frost, Fryslie, Garnos, Gassman, Gillespie, Glover, Hackl, Halverson, Hargens, Hunhoff, Jensen, Klaudt, Koistinen, Kroger, Lange, Nelson, Novstrup, O'Brien, Olson (Ryan), Pederson (Gordon), Peters, Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Sigdestad, Street, Tidemann, and Vehle

1 FOR AN ACT ENTITLED, An Act to provide taxation benefits for certain soybean and
2 biodiesel facilities.

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 and Regulation;

7 (2) "New agricultural processing facility," a new building or structure, the construction
8 of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B.

9 A new agricultural processing facility is any new building or structure constructed
10 for the initial or subsequent processing of any form of agricultural commodity,
11 product, or by-product. A new agricultural processing facility does not include any
12 building or structure constructed for raising or feeding of livestock or the expansion



1 of an existing agricultural processing facility except as provided in section 2 of this
2 Act;

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 construction of a new agricultural processing facility at a single site;

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

9 (6) "Secretary," the secretary of the Department of Revenue and Regulation.

10 Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
11 follows:

12 For purposes of this chapter, a new agricultural processing facility as defined in § 10-45B-1
13 includes an addition to an existing soybean processing facility or operation if the addition
14 produces biodiesel or if the addition produces a product or uses a process that is substantially
15 different than the products or processes produced or used by the existing facility or operation.

16 Section 3. That § 10-45B-2 be amended to read as follows:

17 10-45B-2. Any person may apply for and obtain a refund or credit for contractors' excise
18 taxes imposed and paid under the provisions of chapter 10-46A for the construction of a new
19 agricultural processing facility and for sales or use taxes imposed and paid by ~~such~~ the person
20 under the provisions of chapters 10-45 and 10-46 for the purchase or use of agricultural
21 processing equipment. For any new agricultural processing facility for the processing or
22 production of soybeans or biodiesel, any tax due under the provisions of chapters 10-45 and 10-
23 46 that is not eligible for a refund under this section may be paid over a four-year period at equal
24 yearly rates beginning with the commencement of plant production.

1 Section 4. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The owner of a project paying taxes over a four-year period as provided in section 3 of this
4 Act shall file a tax return on or before December thirty-first of each year reporting the project
5 costs subject to tax under chapters 10-45 and 10-46 incurred during the previous twelve months.
6 The tax due from such return shall be paid in four equal annual payments with the first payment
7 due date no later than December thirty-first of the year the plant begins production. Each
8 subsequent annual payment shall be made no later than December thirty-first following the
9 previous payment.

10 Section 5. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any amount refunded pursuant to this Act for a project that is not completed within the time
13 frames prescribed by this chapter, including any extensions granted by the secretary, shall be
14 returned to the state without interest. Any refunded amounts not returned pursuant to this section
15 and all sums previously refunded to the claimant constitute a debt to the state and a lien in favor
16 of the state upon all property and rights to property whether real or personal belonging to the
17 claimant and may be recovered in an action of debt.