

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0653

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1226 - 01/31/2006**

Introduced by: The Committee on Taxation at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to expand the tax refund for agricultural processing  
2 facilities to include expansions to existing facilities and to revise the time period in which  
3 an application must be submitted.

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

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

6 10-45B-1. Terms used in this chapter mean:

- 7 (1) "Construction date," the first date earth is excavated for the purpose of constructing  
8 a project;
- 9 (2) "Department," the Department of Revenue and Regulation;
- 10 (3) "Nameplate capacity," the number of kilowatts a power unit can produce according  
11 to the nameplate assigned to the power unit generator by the manufacturer;
- 12 (4) "New agricultural processing facility," a new building or structure, or the expansion  
13 of an existing building or structure, the construction of which is subject to  
14 contractors' excise tax pursuant to chapter 10-46A or 10-46B. A new agricultural  
15 processing facility is any new building or structure, or the expansion of an existing



1 building or structure, constructed for the initial or subsequent processing of any form  
 2 of agricultural commodity, product, or by-product. A new agricultural processing  
 3 facility does not include any building or structure constructed for raising or feeding  
 4 of livestock ~~or the expansion of an existing agricultural processing facility except as~~  
 5 ~~provided in § 10-45B-1.2;~~

6 (5) "Person," any individual, firm, copartnership, joint venture, association, limited  
 7 liability company, limited liability partnership, corporation, estate, trust, business  
 8 trust, receiver, unit of government, political subdivision of any state, rural electric  
 9 cooperative, consumers power district or any group or combination acting as a unit;

10 (6) "Power generation facility," a facility with one power unit that generates electricity  
 11 with a nameplate capacity of no less than five hundred megawatts;

12 (7) "Project," the construction of a new agricultural processing facility or a new business  
 13 facility at a single site;

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

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

17 Section 2. That § 10-45B-1.2 be repealed.

18 ~~10-45B-1.2. For purposes of this chapter, a new agricultural processing facility as defined~~  
 19 ~~in § 10-45B-1 includes an expansion to an existing soybean processing facility if the expansion~~  
 20 ~~will be used for the production of biodiesel.~~

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

22 10-45B-4. The refund of taxes for a new agricultural processing facility pertains only to  
 23 project costs incurred and paid after April 1, 1997, and within thirty-six months of the ~~approval~~  
 24 ~~of construction date as stated on~~ the application required by § 10-45B-6. No refund may be

1 made unless:

- 2 (1) The project cost exceeds the sum of four million five hundred thousand dollars; and
- 3 (2) The person applying for the refund obtains a permit from the secretary as set forth in
- 4 § 10-45B-6.

5 Section 4. That § 10-45B-6 be amended to read as follows:

6 10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a  
7 permit from the secretary ~~at least thirty days prior to~~ or within one hundred eighty days after the  
8 construction date. However, any project with a construction date between February 1, ~~2005~~  
9 2006, and July 1, ~~2005~~ 2006, that would otherwise qualify for a refund shall apply for a permit  
10 by August 1, ~~2005~~ 2006. The application for a permit shall be submitted on a form prescribed  
11 by the secretary. A separate application shall be made and submitted for each project. Upon  
12 approval of the application, the secretary shall issue a permit entitling the applicant to submit  
13 refund claims as provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims are not  
14 assignable or transferable except as collateral or security pursuant to chapter 57A-9.