

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

663W0077

CONFERENCE COMMITTEE

ENGROSSED NO. **SB 1** - 03/13/2015

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Vehle, Omdahl, Parsley, Tidemann, and White and Representatives Duvall, Anderson, Hunhoff (Jean), Schaefer, Verchio, and Werner at the request of the Interim Committee on Highway Needs and Financing

1 FOR AN ACT ENTITLED, An Act to revise certain taxes and fees to fund improvements to
2 public roads and bridges in South Dakota, to increase the maximum speed limit on interstate
3 highways, and to declare an emergency.

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

5 Section 1. There is hereby created in the state treasury the local bridge improvement grant
6 fund. Interest earned on money in the fund shall be deposited into the fund. Any money in the
7 fund is continuously appropriated to the Department of Transportation. Any money deposited
8 into and distributed from the fund shall set forth in an informational budget as described in § 4-
9 7-7.2.

10 The Transportation Commission may award grants from the fund to any local government
11 entity to construct, reconstruct, and repair bridges. The Transportation Commission shall
12 consider the need for the project and funding mechanisms available to and utilized by the
13 applicant when making a decision to award a grant. No county may receive a grant from the



1 fund unless such county has adopted and annually updated its county highway and bridge
2 improvement plan pursuant to the provisions of section 3 of this Act and has imposed a county
3 wheel tax pursuant to § 32-5A-1.

4 Section 2. The Transportation Commission shall promulgate rules, pursuant to chapter 1-26,
5 regarding the application process and timelines, the guidelines and criteria for approval of
6 applications, and the distribution of funds from the local bridge improvement grant fund. The
7 criteria for evaluating the projects may include the proximity of other bridges and culverts,
8 alternative routes available, structural deficiencies, functionality and use of the bridge or culvert,
9 and project costs.

10 Section 3. The Transportation Commission shall promulgate rules, pursuant to chapter 1-26,
11 to establish the requirements for a county highway and bridge improvement plan that details
12 proposed county highway and bridge improvement projects in a county for the next five years.
13 The rules shall provide for the format of the plan and the time by which an update of the plan
14 must be submitted each year.

15 Section 4. That § 32-11-34 be amended to read as follows:

16 32-11-34. The local government highway and bridge fund is hereby created and appropriated
17 for the use of counties, municipalities, and townships for the purposes of constructing and
18 maintaining highways, streets, and bridges on their highway and street systems. Beginning on
19 October 1, 2015, before each quarterly disbursement is made pursuant to § 32-11-35, the
20 secretary of revenue shall transfer one million seven hundred fifty thousand dollars to the local
21 bridge improvement grant fund created pursuant to section 1 of this Act.

22 Section 5. That § 32-5B-1 be amended to read as follows:

23 32-5B-1. In addition to all other license and registration fees for the use of the highways, a
24 person shall pay an excise tax at the rate of ~~three~~ four percent on the purchase price of any motor

vehicle, as defined by § 32-3-1 or 32-5B-21, purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state. This tax shall be in lieu of any tax levied by chapters 10-45 and 10-46 on the sales of such vehicles. Failure to pay the full amount of excise tax is a Class 1 misdemeanor.

Section 6. That § 32-5B-1.4 be amended to read as follows:

32-5B-1.4. A licensed motor vehicle dealer who sells new motor vehicles and has a franchise for that particular motor vehicle may license a new motor vehicle which is part of ~~his~~ the dealer's inventory. If the dealer licenses the motor vehicle, ~~he~~ the dealer shall title the motor vehicle and pay the ~~three percent~~ excise tax imposed pursuant to § 32-5B-1 on the manufacturer's suggested dealer list price. The next purchaser ~~shall be~~ is exempt from the excise tax.

Section 7. That § 10-47B-4 be amended to read as follows:

10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- (1) Motor fuel (except ethyl alcohol, methyl alcohol, biodiesel, biodiesel blends, and aviation gasoline)--~~\$.22 per gallon~~ as provided pursuant to section 8 of this Act;
- (2) Special fuel (except jet fuel)--~~\$.22 per gallon~~ as provided pursuant to section 8 of this Act;
- (3) Aviation gasoline--\$.06 per gallon;
- (4) Jet fuel--\$.04 per gallon;
- (5) Liquid petroleum gas--\$.20 per gallon;
- (6) Compressed natural gas--\$.10 per gallon;
- (7) Ethyl alcohol and methyl alcohol--~~\$.08 per gallon~~ as provided pursuant to section 9 of this Act;
- (8) Liquid natural gas--\$.14 per gallon; and

(9) Biodiesel and biodiesel blends--as provided pursuant to section 8 of this Act, except when the conditions as provided in section 10 of this Act are met.

Section 8. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The fuel excise tax rate for motor fuel and special fuel is \$.28 per gallon.

Section 9. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The fuel excise tax rate for ethyl alcohol and methyl alcohol fuel is \$.14 per gallon.

Section 10. The tax imposed by § 10-47B-4 on biodiesel or biodiesel blends shall be reduced by two cents per gallon in the quarter after biodiesel production facilities in South Dakota reach a name plate capacity of at least twenty million gallons per year and fully produce at least ten million gallons of biodiesel within one year as determined by the secretary of revenue. The secretary shall file a certification of the determination with the secretary of state and the Legislative Research Council as the means of determining the rate of tax applied by § 10-47B-4. The provisions of this section are repealed in the quarter after thirty-five million gallons of taxed biodiesel and biodiesel blended fuel are sold as determined by the secretary of revenue. The secretary shall file a certification of the determination with the secretary of state and the Legislative Research Council as the means of determining the effective date of the repeal of this section.

Section 11. That section 7 of chapter 64 of the 2014 Session Laws, section 12 of chapter 55 of the 2009 Session Laws, and sections 3, 5, and 6 of chapter 54 of the 2008 Session Laws be repealed.

Section 12. That § 32-5-6 be amended to read as follows:

32-5-6. License fees and compensation on a noncommercial motor vehicle which is an

1 automobile, pickup truck, or van as provided by § 32-5-5, shall be determined by the
2 manufacturer's shipping weight, including accessories, as follows:

- 3 (1) Two thousand pounds or less, inclusive, ~~thirty~~ thirty-six dollars;
- 4 (2) From 2,001 to 4,000 pounds, inclusive, ~~sixty~~ seventy-two dollars;
- 5 (3) From 4,001 to 6,000 pounds, inclusive, ~~ninety~~ one hundred eight dollars; and
- 6 (4) Over 6,000 pounds, ~~one hundred twenty~~ one hundred forty-four dollars.

7 Section 13. That § 32-5-6.3 be amended to read as follows:

8 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile,
9 pickup truck, or van licensed pursuant to § 32-5-6 shall be determined by the gross weight of
10 the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

- 11 (1) Eight thousand pounds or less, inclusive, ~~one hundred~~ one hundred twenty dollars;
- 12 (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 20,000
13 pounds, inclusive, ~~ten~~ twelve dollars; and
- 14 (3) For a vehicle in excess of 20,000 pounds, from July 1, 2015, to June 30, 2016,
15 inclusive, the total license fee shall be ~~sixty~~ seventy percent of the total license fee
16 established for commercial vehicles of equivalent weight pursuant to § 32-9-15. On
17 and after July 1, 2016, the total license fee shall be eighty percent of the total license
18 fee established for commercial vehicles of equivalent weight pursuant to § 32-9-15.

19 It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this
20 section at a gross weight in excess of the gross weight for which it has been licensed. If the
21 owner chooses to lower the registered weight, the plate shall be returned along with any
22 validation decal and a new plate issued with the correct registered weight.

23 Section 14. That § 32-5-6.1 be amended to read as follows:

24 32-5-6.1. License fees for any noncommercial motor home shall be determined by the

1 manufacturer's shipping weight, including accessories, as follows:

- 2 (1) Six thousand pounds or less, inclusive, ~~ninety~~ one hundred eight dollars;
- 3 (2) From 6,001 to 8,000 pounds, inclusive, ~~one hundred twenty~~ one hundred forty-four
- 4 dollars;
- 5 (3) From 8,001 to 10,000 pounds, inclusive, ~~one hundred fifty~~ one hundred eighty
- 6 dollars; and
- 7 (4) For each additional 2,000 pounds or major fraction thereof, in excess of 10,000
- 8 pounds, ~~thirty~~ thirty-six dollars.

9 For the purposes of this section, a motor home is a vehicle designed to provide temporary

10 living quarters for recreational, camping, or travel use, built on or permanently attached to a

11 self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the

12 completed vehicle.

13 Section 15. That § 32-5-8 be amended to read as follows:

14 32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1

15 or for any noncommercial trailer and semitrailer, for use of the highways payable ~~under~~ pursuant

16 to § 32-5-5 and pulled by a noncommercial motor vehicle on which the license fees were paid

17 pursuant to § 32-5-6, shall be determined upon the basis of their actual weight as follows:

- 18 (1) One thousand pounds or less, inclusive, ~~fifteen~~ eighteen dollars;
- 19 (2) From 1,001 to 2,000 pounds, inclusive, ~~thirty~~ thirty-six dollars;
- 20 (3) From 2,001 to 3,000 pounds, inclusive, ~~forty-five~~ fifty-four dollars;
- 21 (4) From 3,001 to 4,000 pounds, inclusive, ~~sixty~~ seventy-two dollars;
- 22 (5) From 4,001 to 5,000 pounds, inclusive, ~~seventy-five~~ ninety dollars;
- 23 (6) From 5,001 to 6,000 pounds, inclusive, ~~ninety~~ one hundred eight dollars;
- 24 (7) From 6,001 to 7,000 pounds, inclusive, ~~one hundred five~~ one hundred twenty-six

1 dollars;

2 (8) From 7,001 to 8,000 pounds, inclusive, ~~one hundred twenty~~ one hundred forty-four
3 dollars;

4 (9) From 8,001 to 9,000 pounds, inclusive, ~~one hundred thirty-five~~ one hundred sixty-
5 two dollars;

6 (10) From 9,001 to 10,000 pounds, inclusive, ~~one hundred fifty~~ one hundred eighty
7 dollars; and

8 (11) For each additional 1,000 pounds or major fraction thereof, in excess of 10,000
9 pounds, ~~fifteen~~ eighteen dollars.

10 Any trailer or semitrailer licensed pursuant to this section may be pulled by a
11 noncommercial motor vehicle licensed pursuant to § 32-5-8.1 or a commercially licensed motor
12 vehicle if the motor vehicle is registered at a gross weight to cover the weight of the trailer and
13 its load.

14 Section 16. That § 32-5-9 be amended to read as follows:

15 32-5-9. License fees and compensation for use of the highways payable ~~under~~ pursuant to
16 § 32-5-5 ~~shall be: fourteen dollars and fifty cents for motorcycles with a~~ shall be determined by
17 the piston displacement of less than three hundred fifty cubic centimeters and seventeen dollars
18 for motorcycles with a piston displacement of three hundred fifty cubic centimeters or more as
19 follows:

20 (1) Less than three hundred fifty cubic centimeters, eighteen dollars;

21 (2) Three hundred fifty to one thousand cubic centimeters, inclusive, twenty-one dollars;
22 and

23 (3) Greater than one thousand cubic centimeters, twenty-four dollars.

24 Section 17. That § 32-6B-21 be amended to read as follows:

1 32-6B-21. The department shall issue metal numerical license plates to licensed dealers
2 upon application and payment of a ~~eighty-four~~ one hundred one dollar yearly fee to be paid at
3 the time of the annual review date for each set desired. The fees shall be distributed in the
4 manner specified in §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be
5 numbered consecutively and shall bear as a prefix the number 77. The plates may be issued for
6 a multiple year period. If a dealer's license is revoked or canceled or the dealer goes out of
7 business the 77 plates shall be returned to the department. If any person operates a motor vehicle
8 with 77 plates after the dealer license is revoked or canceled or after the dealer goes out of
9 business, or if the person refuses to return the plates, the person is guilty of a Class 2
10 misdemeanor.

11 Section 18. That § 32-6B-23 be amended to read as follows:

12 32-6B-23. The department shall issue to any motorcycle dealer and trailer dealer licensed
13 pursuant to this chapter metal number plates bearing a prefix of the letter "D" and containing
14 a distinguishing identification number of the licensee. The dealer shall make application to the
15 department for the plates and pay a fee of ~~twenty~~ twenty-four dollars for each plate. One license
16 plate shall be displayed on the rear of any motorcycle, or trailer, semitrailer, or travel trailer,
17 owned by the dealer while traveling on a public highway. Any vehicle owned by the licensed
18 dealer and bearing the dealers' metal plate may be operated on the streets and highways of this
19 state for any purpose, including demonstration by a prospective buyer. All money collected
20 pursuant to this section shall be distributed in the manner specified in § 32-11-2 and §§ 32-11-
21 4.1 to 32-11-9, inclusive.

22 Section 19. That § 32-6B-36.3 be amended to read as follows:

23 32-6B-36.3. The department shall issue metal numerical license plates to an auction agency
24 upon application and payment of a ~~eighty-four~~ one hundred one dollar yearly fee to be paid at

1 the time of the annual review date for each set desired. Such fees shall be distributed in the
2 manner specified in §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be
3 numbered consecutively and shall bear as a prefix the number "99." The plates may be issued
4 for a multiple year period. If an auction agency's license is revoked or canceled or the auction
5 agency goes out of business, the "99" plates shall be returned to the department. If any person
6 operates a motor vehicle with "99" plates after the auction agency's license is revoked or
7 canceled or after the auction agency goes out of business, or if the person refuses to return the
8 plates, the person is guilty of a Class 2 misdemeanor.

9 Section 20. That § 10-12-13 be amended to read as follows:

10 10-12-13. The board of county commissioners may levy an annual tax ~~not to exceed one~~
11 ~~dollar and twenty cents per thousand dollars of taxable valuation~~ as a reserve fund to be
12 accumulated and used for the purpose of ~~matching federal aid grants which have or may~~
13 ~~hereafter become available~~ maintaining, repairing, constructing, and reconstructing roads and
14 bridges as follows:

- 15 (1) A levy not to exceed one dollar and twenty cents per thousand dollars of taxable
16 valuation, if the total taxable valuation of the county is one billion dollars or less;
17 (2) A levy not to exceed ninety cents per thousand dollars of taxable valuation, if the
18 total taxable valuation of the county is more than one billion dollars but less than two
19 billion dollars; and
20 (3) A levy not to exceed sixty cents per thousand dollars of taxable valuation, if the total
21 taxable valuation of the county is two billion dollars or more.

22 Moneys in the fund may be expended ~~in cooperation with the federal government~~ in the
23 laying out, marking, maintaining, constructing, and reconstructing roads and maintaining,
24 constructing, and reconstructing bridges, under the jurisdiction of the board of county

1 commissioners. The tax levy shall be in addition to all other levies authorized to be made by the
2 board of county commissioners for road and bridge purposes provided for in § 10-12-21. The
3 proceeds of such levy shall be placed in a special fund to be known as the "county highway and
4 bridge reserve fund." Any increased tax levy imposed pursuant to this section is exempt from
5 the provisions of chapter 10-13, if the county establishes the amount of revenue payable from
6 taxes on real property pursuant to section 21 of this Act. However, each year thereafter, the
7 county may increase the amount of revenue payable from property taxes by applying the growth
8 and the index factor pursuant to the provisions of § 10-13-35.

9 Section 21. The governing body of the county may, by resolution, impose the increased tax
10 levy provided in § 10-12-13 with an affirmative two-thirds vote of the governing body on or
11 before July fifteenth. The action of the governing body to authorize an increased tax levy shall
12 be published within ten days of the action and shall be published at least twice in each legal
13 newspaper designated by the county. The action to authorize an increased tax levy is subject to
14 the referendum process in accordance with chapter 7-18A.

15 Section 22. The voters of an organized civil township at the annual township meeting may
16 authorize an annual property tax levy not to exceed fifty cents per thousand dollars of the
17 taxable valuation of the township for the secondary road capital improvement fund for projects
18 and purposes as defined in section 23 of this Act. The secondary road capital improvement tax
19 levy authorized by this section is in addition to the levies authorized in §§ 10-12-28 and
20 31-13-22. Any tax levy imposed pursuant to this section is exempt from the tax limitations
21 imposed on a township pursuant to chapter 10-13.

22 Section 23. The township board of supervisors may establish a secondary road capital
23 improvement fund for the purpose of constructing, reconstructing, repairing, and maintaining
24 secondary roads, bridges, and culverts under the jurisdiction of the township board of

1 supervisors.

2 Section 24. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The Department of Transportation shall establish performance standards designed to
5 measure the overall condition of the highways and bridges on the state highway system, along
6 with establishing ten-year goals for maintenance of these conditions. When establishing
7 appropriate performance standards, the department may include nationally established standards
8 and measurements required to be reported to the United States Department of Transportation.

9 The department shall, before the fourth Tuesday in January of each year, report to the Senate
10 and House standing committees on transportation on the current and projected condition of the
11 highways and bridges on the state trunk highway system. This report shall include progress on
12 meeting the ten-year goals for condition of the state highway system. If the projections show the
13 ten-year goals will not be met, the department shall report the estimated amount of additional
14 funding needed to achieve the goals.

15 Section 25. That § 32-5A-1 be amended to read as follows:

16 32-5A-1. ~~Any~~ Each county may, by ordinance, impose a wheel tax on all motor vehicles, as
17 defined in § 32-3-1, registered in the county at a rate not to exceed ~~four~~ five dollars per vehicle
18 wheel. The tax shall be administered and collected by the county. The total vehicle tax may not
19 exceed ~~sixteen~~ sixty dollars per vehicle.

20 Section 26. That § 32-25-4 be amended to read as follows:

21 32-25-4. Except as provided pursuant to § 32-25-7, no person may drive a vehicle upon the
22 national system of interstate highways at a speed in excess of ~~seventy-five~~ eighty miles per hour.
23 A violation of this section is a Class 2 misdemeanor.

24 Section 27. That § 10-47B-14 be repealed.

~~10-47B-14. Any person having title to any fuel in storage subject to the fuel excise tax pursuant to § 10-47B-4 immediately prior to a tax increase under this chapter, is subject to an inventory tax based on the gallons in storage as of the close of the business day preceding the effective date of the increased tax rate.~~

Section 28. That § 10-47B-15 be repealed.

~~10-47B-15. Any person subject to the tax imposed by § 10-47B-14 shall:~~

~~(1) Take an inventory to determine the gallons in storage for purposes of determining the inventory tax;~~

~~(2) Report the gallons listed in § 10-47B-14 on forms provided by the secretary; and~~

~~(3) Pay the tax due not more than thirty days after the prescribed inventory date.~~

Section 29. That § 10-47B-16 be repealed.

~~10-47B-16. In determining the amount of fuel tax due under §§ 10-47B-14 and 10-47B-15, the person may exclude the amount of fuel that will not be pumped out of the storage tank because the fuel is below the mouth of the draw pipe. For this purpose, the person may deduct two hundred gallons for a storage tank with a capacity of more than one thousand gallons and less than ten thousand gallons, and four hundred gallons for a storage tank with a capacity of ten thousand gallons or more.~~

Section 30. That § 10-47B-17 be repealed.

~~10-47B-17. The amount of the inventory tax imposed by § 10-47B-14 is equal to the tax rate indicated in § 10-47B-4 times the gallons in storage as determined under §§ 10-47B-15 and 10-47B-16.~~

Section 31. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect on and after April 1, 2015.