AN ACT

ENTITLED, An Act to revise the tax refund provisions for agricultural facilities and to declare an emergency.

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

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

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

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

(2) "New agricultural processing facility," a new building or structure, the construction of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B. A new agricultural processing facility is any new building or structure constructed for the initial or subsequent processing of any form of agricultural commodity, product, or by-product. A new agricultural processing facility does not include any building or structure constructed for raising or feeding of livestock or the expansion of an existing agricultural processing facility;

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

(4) "Project," the construction of a new agricultural processing facility at a single site;

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

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

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

10-45B-2. Any person may apply for and obtain a refund or credit for contractors' excise taxes imposed and paid under the provisions of chapter 10-46A for the construction of a new agricultural processing facility and for sales or use taxes imposed and paid by such person under the provisions

of chapters 10-45 and 10-46 for the purchase or use of agricultural processing equipment.

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

10-45B-4. The refund pertains only to project costs incurred and paid after April 1, 1997, and within thirty-six months of the approval of the application required by § 10-45B-6. No refund may be made unless:

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

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

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

10-45B-5. If the project cost exceeds four million five hundred thousand dollars, the refund shall be one hundred percent of the taxes attributed to the project cost.

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

10-45B-6.1. Any person issued a permit pursuant to this chapter prior to March 31, 1997, may continue to submit claims for the project.

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

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

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

Section 8. 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 from and after its passage and approval.

An Act to revise the tax refund provisions for agricultural facilities and to declare an emergency.

I certify that the attached Act originated in the

HOUSE as Bill No. 1224

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1224
File No. ____
Chapter No. _____

Received at this Executive Office this ____ day of _____ ,

19___ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 19___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 19___ at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State