

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

494H0464

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 133** - 02/19/2002

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

Introduced by: Senators Diedrich (Larry), Albers, Brosz, Daugaard, de Hueck, Dennert, Diedrich (Elmer), Duxbury, Greenfield, Hutmacher, Koetzle, Koskan, McCracken, McIntyre, Moore, Munson, Olson (Ed), Putnam, Sutton (Dan), Symens, and Vitter and Representatives Jaspers, Begalka, Broderick, Burg, Derby, Flowers, Frost, Fryslie, Gillespie, Glenski, Hansen (Tom), Hanson (Gary), Hargens, Holbeck, Hundstad, Hunhoff, Jensen, Juhnke, Klaudt, Kooistra, Lange, Nachtigal, Olson (Mel), Peterson (Jim), Pitts, Sebert, Sigdestad, Slaughter, Smidt, Sutton (Duane), Valandra, Van Gerpen, and Wick

1 FOR AN ACT ENTITLED, An Act to revise the distribution of revenue from the petroleum
2 release compensation and tank inspection fee, to increase the excise tax on certain motor
3 fuels, and to declare an emergency.

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

5 Section 1. That § 34A-13-20 be amended to read as follows:

6 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any
7 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,
8 inclusive, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-47B-19
9 shall apply to this fee. The parties required to pay the fuel excise tax under the provisions of
10 §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of



1 the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel
 2 excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay
 3 the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and
 4 delivered by a licensed exporter outside of the state. The amount of the fee imposed is twenty
 5 dollars per one thousand gallons of petroleum. ~~Beginning on January 1, 2003, the fee is ten~~
 6 ~~dollars per one thousand gallons of petroleum.~~

7 The Fifty percent of the revenue collected pursuant to this section shall be deposited monthly
 8 in the state highway fund and fifty percent of the revenue collected pursuant to this section shall
 9 be distributed monthly in the following manner:

10 (1) ~~During fiscal year 1999, forty-two percent shall be deposited in the state capital~~
 11 ~~construction fund created in § 5-27-1.~~ Beginning in fiscal year 2000 to December 31,
 12 2002, inclusive, fifty percent shall be deposited in the state capital construction fund
 13 created in § 5-27-1. Beginning on January 1, 2003, seventy-eight and seven-tenths
 14 percent shall be deposited in the state capital construction fund; and

15 (2) ~~During fiscal year 1999, fifty-eight percent shall be deposited into the petroleum~~
 16 ~~release compensation fund.~~ Beginning in fiscal year 2000 to December 31, 2002,
 17 inclusive, fifty percent shall be deposited in the petroleum release compensation fund.
 18 Beginning on January 1, 2003, twenty-one and three-tenths percent shall be deposited
 19 in the ~~petroleum release compensation~~ state highway fund.

20 Section 2. The effective date of section 1 of this Act is April 1, 2002.

21 Section 3. That § 34A-13-20 be amended to read as follows:

22 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any
 23 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,
 24 inclusive, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-47B-19

1 shall apply to this fee. The parties required to pay the fuel excise tax under the provisions of
 2 §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of
 3 the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel
 4 excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay
 5 the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and
 6 delivered by a licensed exporter outside of the state. The amount of the fee imposed is twenty
 7 dollars per one thousand gallons of petroleum. ~~Beginning on January 1, 2003, the fee is ten~~
 8 ~~dollars per one thousand gallons of petroleum.~~

9 The Fifty percent of the revenue collected pursuant to this section shall be deposited monthly
 10 in the ethanol fuel fund and fifty percent of the revenue collected pursuant to this section shall
 11 be distributed monthly in the following manner:

12 (1) ~~During fiscal year 1999, forty-two percent shall be deposited in the state capital~~
 13 ~~construction fund created in § 5-27-1. Beginning in fiscal year 2000 to December 31,~~
 14 ~~2002, inclusive, fifty percent shall be deposited in the state capital construction fund~~
 15 ~~created in § 5-27-1. Beginning on January 1, 2003, seventy-eight and seven-tenths~~
 16 percent shall be deposited in the state capital construction fund; and

17 (2) ~~During fiscal year 1999, fifty-eight percent shall be deposited into the petroleum~~
 18 ~~release compensation fund. Beginning in fiscal year 2000 to December 31, 2002,~~
 19 ~~inclusive, fifty percent shall be deposited in the petroleum release compensation fund.~~
 20 Beginning on January 1, 2003, twenty-one and three-tenths percent shall be deposited
 21 in the ~~petroleum release compensation~~ state highway fund.

22 Section 4. The effective date of section 3 of this Act is April 1, 2003.

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

24 5-27-5. ~~During fiscal year 1999, the Bureau of Finance and Management shall transfer each~~

1 ~~month three and six-tenths percent of the monthly state capital construction fund revenues from~~
2 ~~the state capital construction fund to the public and special transportation fund.~~ Beginning in
3 fiscal year 2000 to December 31, 2002, inclusive, the Bureau of Finance and Management shall
4 transfer each month three and one-half percent of the monthly state capital construction fund
5 revenues from the state capital construction fund to the public and special transportation fund.
6 Beginning on January 1, 2003, the Bureau of Finance and Management shall transfer each month
7 two and six-tenths percent of the monthly state capital construction fund revenues from the state
8 capital construction fund to the ~~public and special transportation~~ state highway fund.

9 Section 6. That § 10-47B-4 be amended to read as follows:

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

- 11 (1) Motor fuel (except ethanol blends, E85 and M85 blends, and aviation gasoline) ~~\$.22~~
12 \$.24 per gallon;
- 13 (2) Special fuel (except jet fuel) -- ~~\$.22~~ \$.24 per gallon;
- 14 (3) Ethanol blends -- ~~\$.20~~ \$.22 per gallon;
- 15 (4) Aviation gasoline -\$.06 per gallon;
- 16 (5) Jet fuel -\$.04 per gallon;
- 17 (6) E85 and M85 -- ~~\$.10~~ \$.12 per gallon;
- 18 (7) E85 and M85 used in aircraft -\$.04 per gallon;
- 19 (8) Liquid petroleum gas -- ~~\$.20~~ \$.22 per gallon;
- 20 (9) Compressed natural gas -- ~~\$.10~~ \$.12 per gallon.

21 Section 7. The effective date of section 6 of this Act is April 1, 2002, and section 6 of this
22 Act is repealed on April 1, 2004.

23 Section 8. That § 10-47B-162 be amended to read as follows:

24 10-47B-162. A production incentive payment of twenty cents per gallon is available to

1 ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota. To be
2 eligible for this payment, the ethyl alcohol shall be denatured and subsequently blended with
3 gasoline to create ethanol blend. The ethyl alcohol shall be ninety-nine percent pure and shall be
4 distilled from cereal grains. Annual production incentive payments for any facility may not
5 exceed one million dollars. No facility may receive any production incentive payments in an
6 amount greater than ten million dollars. The cumulative annual production incentive payments
7 made under this section may not exceed ~~an amount which has been appropriated by the~~
8 ~~Legislature for this purpose and has been deposited into the ethanol fuel fund in the state treasury~~
9 seven million dollars. Payments from the ethanol fuel fund shall be made on a first in time basis
10 until the fiscal year appropriation is reached. During the month when the appropriation limit is
11 to be reached, all claims received by month end shall be reimbursed proportionately on a pro-rata
12 basis for each gallon claimed.

13 Section 9. That § 10-47B-164 be amended to read as follows:

14 10-47B-164. Any money in the ethanol fuel fund is continuously appropriated for purposes
15 of providing ethanol production payments to qualified ethanol producers. The department may
16 receive and approve ethanol production incentive payment claims and authorize the issuance of
17 payment warrants to licensed ethanol producer claimants based on claims presented by the
18 licensees. At the end of each fiscal year, any unobligated cash in excess of one hundred thousand
19 dollars in the ethanol fuel fund shall be transferred to the state ~~capital construction~~ highway fund.

20 Section 10. Whereas, this Act is necessary for the support of the state government and its
21 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
22 force and effect from and after its passage and approval.