

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

494H0464

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 133 - 02/01/2002

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.

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

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

5 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any
6 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,
7 inclusive, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-47B-19
8 shall apply to this fee. The parties required to pay the fuel excise tax under the provisions of
9 §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of
10 the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel
11 excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay



1 the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and
2 delivered by a licensed exporter outside of the state. The amount of the fee imposed is twenty
3 dollars per one thousand gallons of petroleum. ~~Beginning on January 1, 2003, the fee is ten~~
4 ~~dollars per one thousand gallons of petroleum. The~~ Beginning January 1, 2003, fifty percent of
5 the revenue collected pursuant to this section shall be deposited monthly in the ethanol fuel fund
6 and fifty percent of the revenue collected pursuant to this section shall be distributed monthly in
7 the following manner:

- 8 (1) ~~During fiscal year 1999, forty-two percent shall be deposited in the state capital~~
9 ~~construction fund created in § 5-27-1. Beginning in fiscal year 2000 to December 31,~~
10 ~~2002, inclusive, fifty percent shall be deposited in the state capital construction fund~~
11 ~~created in § 5-27-1. Beginning on January 1, 2003, seventy-eight and seven-tenths~~
12 ~~percent shall be deposited in the state capital construction fund; and~~
- 13 (2) ~~During fiscal year 1999, fifty-eight percent shall be deposited into the petroleum~~
14 ~~release compensation fund. Beginning in fiscal year 2000 to December 31, 2002,~~
15 ~~inclusive, fifty percent shall be deposited in the petroleum release compensation fund.~~
16 ~~Beginning on January 1, 2003, twenty-one and three-tenths percent shall be deposited~~
17 ~~in the petroleum release compensation fund.~~

18 Section 2. That § 10-47B-162 be amended to read as follows:

19 10-47B-162. A production incentive payment of twenty cents per gallon is available to
20 ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota. To be
21 eligible for this payment, the ethyl alcohol shall be denatured and subsequently blended with
22 gasoline to create ethanol blend. The ethyl alcohol shall be ninety-nine percent pure and shall be
23 distilled from cereal grains. Annual production incentive payments for any facility may not
24 exceed one million dollars. No facility may receive any production incentive payments in an

1 amount greater than ten million dollars. The cumulative annual production incentive payments
2 made under this section may not exceed ~~an amount which has been appropriated by the~~
3 ~~Legislature for this purpose and has been deposited into the ethanol fuel fund in the state treasury~~
4 seven million dollars. Payments from the ethanol fuel fund shall be made on a first in time basis
5 until the fiscal year appropriation is reached. During the month when the appropriation limit is
6 to be reached, all claims received by month end shall be reimbursed proportionately on a pro-rata
7 basis for each gallon claimed.

8 Section 3. That § 10-47B-164 be amended to read as follows:

9 10-47B-164. Any money in the ethanol fuel fund is continuously appropriated for purposes
10 of providing ethanol production payments to qualified ethanol producers. The department may
11 receive and approve ethanol production incentive payment claims and authorize the issuance of
12 payment warrants to licensed ethanol producer claimants based on claims presented by the
13 licensees. At the end of each fiscal year, any unobligated cash in excess of one hundred thousand
14 dollars in the ethanol fuel fund shall be transferred to the state ~~capital construction~~ highway fund.