

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

797X0545

## SENATE BILL NO. 141

Introduced by: Senator Vehle and Representative Duvall

1 FOR AN ACT ENTITLED, An Act to revise the distribution of petroleum release compensation  
2 and tank inspection fees, to provide funding for the local bridge improvement grant fund,  
3 and to repeal the state capital construction fund, ethanol fuel fund, and ethanol infrastructure  
4 incentive fund.

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

6 Section 1. That § 34A-13-20 be amended to read:

7 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any  
8 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,  
9 inclusive, 10-47B-9.1, and 10-47B-13. None of the exemptions from fuel excise tax allowed in  
10 § 10-47B-19 apply to this fee. The parties required to pay the fuel excise tax under the  
11 provisions of §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable  
12 for payment of the petroleum release and tank inspection fee. In cases where the fuel is exempt  
13 from the fuel excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the  
14 supplier shall pay the fee. Responsibility for payment of the fee ceases if the petroleum product  
15 is sold and delivered by a licensed exporter outside of the state. The amount of the fee imposed



1 is twenty dollars per one thousand gallons of petroleum. ~~Beginning January 1, 2003, fifty~~  
 2 ~~percent of the~~ The revenue collected pursuant to this section shall be ~~deposited monthly in the~~  
 3 ~~ethanol fuel fund and fifty percent of the revenue collected pursuant to this section shall be~~  
 4 distributed monthly in the following manner until June 30, 2021:

- 5 (1) ~~Beginning in fiscal year 2000 to December 31, 2002, inclusive, fifty percent shall be~~  
 6 ~~deposited in the state capital construction fund created in § 5-27-1. Beginning on~~  
 7 ~~January 1, 2003, seventy-eight and seven-tenths~~ Thirty-nine and thirty-five  
 8 hundredths percent shall be deposited in the state capital construction fund; ~~and~~
- 9 (2) ~~Beginning April 1, 2002, to December 31, 2002, inclusive, twenty-nine and one-tenth~~  
 10 ~~percent shall be deposited in the petroleum release compensation fund and twenty~~  
 11 ~~and nine-tenths percent shall be deposited in the state highway fund. Beginning on~~  
 12 ~~January 1, 2003, twenty-one and three-tenths~~ Ten and sixty-five hundredths percent  
 13 shall be deposited in the petroleum release compensation fund; and
- 14 (3) Fifty percent shall be deposited in the ethanol fuel fund.

15 Section 2. That § 10-47B-162 be amended to read:

16 10-47B-162. A production incentive payment of twenty cents per gallon is available to  
 17 ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota and  
 18 to qualified biobutanol producers for biobutanol fully produced in South Dakota. The ethyl  
 19 alcohol shall be ninety-nine percent pure and shall be distilled from cereal grains. Annual  
 20 production incentive payments for any facility may not exceed ~~one~~ two million dollars. An  
 21 ethanol production facility is eligible for a production incentive payment under this section only  
 22 if the facility has produced qualifying ethyl alcohol on or before December 31, 2006. No facility  
 23 may receive any production incentive payments in an amount greater than nine million six  
 24 hundred eighty-two thousand dollars. The cumulative annual production incentive payments

1 made under this section may not exceed ~~four million dollars for fiscal year 2003, five million~~  
2 ~~dollars for fiscal year 2004, six million dollars for fiscal year 2005, seven million dollars for~~  
3 ~~fiscal year 2006, seven million dollars for fiscal year 2007, seven million dollars for fiscal year~~  
4 ~~2008, seven million dollars for fiscal year 2009, seven million dollars for fiscal year 2010, seven~~  
5 ~~million dollars for fiscal year 2011, four million dollars for fiscal year 2012, four million dollars~~  
6 ~~for fiscal year 2013, four million five hundred thousand dollars for fiscal year 2014, four million~~  
7 ~~five hundred thousand dollars for fiscal year 2015, four million five hundred thousand dollars~~  
8 ~~for fiscal year 2016, and seven million dollars per fiscal year thereafter.~~ Payments from the  
9 ethanol fuel fund shall be prorated equally to all of the facilities each month based on claims  
10 submitted for that month and the amount of funds available for that month. No facility may  
11 receive payment for more than ~~four hundred sixteen thousand six hundred sixty-seven~~ eight  
12 hundred thirty-three thousand three hundred thirty-four gallons per month. If excess funds are  
13 available in the fund in any given month, payment may be made to facilities for previous months  
14 when funds were not sufficient to pay the claims from the previous months. All moneys  
15 available in the ethanol fuel fund at the end of the fiscal year shall be prorated equally to the  
16 facilities based upon all unpaid claims received through the end of that fiscal year.

17 Section 3. That § 34A-13-20 be amended to read:

18 34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any  
19 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,  
20 inclusive, 10-47B-9.1, and 10-47B-13. None of the exemptions from fuel excise tax allowed in  
21 § 10-47B-19 apply to this fee. The parties required to pay the fuel excise tax under the  
22 provisions of §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable  
23 for payment of the petroleum release and tank inspection fee. In cases where the fuel is exempt  
24 from the fuel excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the

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

7 (1) ~~Beginning in fiscal year 2000 to December 31, 2002, inclusive, fifty percent shall be~~  
 8 ~~deposited in the state capital construction fund created in § 5-27-1. Beginning on~~  
 9 ~~January 1, 2003, seventy-eight and seven-tenths percent shall be deposited in the state~~  
 10 ~~capital construction fund; and~~ Seventy-one percent shall be deposited in the state  
 11 highway fund;

12 (2) ~~Beginning April 1, 2002, to December 31, 2002, inclusive, twenty-nine and one-tenth~~  
 13 ~~percent shall be deposited in the petroleum release compensation fund and twenty~~  
 14 ~~and nine-tenths percent shall be deposited in the state highway fund. Beginning on~~  
 15 ~~January 1, 2003, twenty-one and three-tenths~~ Seven percent shall be deposited in the  
 16 petroleum release compensation fund; ~~and~~

17 (3) Twenty-two percent shall be deposited in the water and environment fund created in  
 18 § 46A-1-60.

19 Section 4. That § 5-27-1 be repealed.

20 ~~—5-27-1. There is hereby established within the state treasury the state capital construction~~  
 21 ~~fund into which shall be deposited the remaining net proceeds to the state from the sale of~~  
 22 ~~on-line lottery tickets after the first one million four hundred thousand dollars is deposited into~~  
 23 ~~the general fund, and such other revenues as the Legislature may designate. The fund shall be~~  
 24 ~~a participating fund and shall be credited for all interest earned on fund balances. Expenditures~~

1 ~~from the fund shall be made only upon approval by the Legislature.~~

2 Section 5. That §§ 5-27-4 to 5-27-6, inclusive, be repealed.

3 Section 6. that §§ 10-47B-162 to 10-47B-166, inclusive, be repealed.

4 Section 7. That the code be amended by adding a NEW SECTION to read:

5 Beginning October 1, 2021, the secretary of transportation shall transfer on a quarterly basis  
6 from the state highway fund the sum of one million seven hundred fifty thousand dollars to the  
7 local bridge improvement grant fund created in § 32-11-38.

8 Section 8. That § 42-7A-24 be amended to read:

9 42-7A-24. Net proceeds from the sale of instant lottery tickets shall be transferred to the  
10 state general fund on an annual basis after July first each year. The commission shall maximize  
11 the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may  
12 yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained  
13 earnings, exceed the amount of combined net proceeds transferred to the state general fund and  
14 the ~~state capital construction~~ water and environment fund. Net machine income from video  
15 lottery games shall be directly deposited in the general fund upon receipt. Net proceeds are  
16 funds in the lottery operating fund which are not needed for the payment of prizes, lottery  
17 expenses, and total retained earnings up to one and one-half million dollars cash deemed  
18 necessary by the executive director and commission for replacement, maintenance, and upgrade  
19 of business systems, product development, legal, and operating contingencies of the lottery.

20 In each fiscal year, the commission shall transfer ~~the first one million four hundred thousand~~  
21 ~~dollars from the~~ twenty-eight percent of the net proceeds from the sale of on-line lottery tickets  
22 collected pursuant to § 42-7A-24 to the general fund and seventy-two percent of the net  
23 proceeds to the water and environment fund created in § 46A-1-60. ~~The commission shall then~~  
24 ~~transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets~~

1 ~~collected pursuant to § 42-7A-24 to the state capital construction fund created in § 5-27-1.~~

2 Section 9. That sections 3 to 8, inclusive, of this Act, are effective July 1, 2021.