

Introduced by

1 A BILL for an Act to provide for ethanol plant production incentives; and to provide an  
2 appropriation.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Ethanol production incentive payments - Eligibility.**

- 5 1. A facility that produces ethanol is entitled to receive an incentive payment if the  
6 facility:
- 7 a. Is located in this state;
  - 8 b. Produces a fuel that qualifies for the alcohol credit under 26 United States  
9 Code 40 and to which a denaturant has been added;
  - 10 c. Files with the agricultural products utilization commission, before October 1,  
11 2003, a statement indicating its intent to request ethanol incentive payments  
12 under this section;
  - 13 d. Demonstrates to the satisfaction of the agricultural products utilization  
14 commission that the ethanol to be sold from the plant and for which the  
15 incentive payments are being sought will be sold at retail to consumers;
  - 16 e. Provides to the agricultural products utilization commission an affidavit from a  
17 wholesaler or retailer indicating that the ethanol to be sold from the plant and  
18 for which the incentive payments are being sought will be sold at retail to  
19 consumers; and
  - 20 f. Provides to the agricultural products utilization commission, before April first  
21 of each year, a statement prepared by a certified public accountant, regarding  
22 the profitability of the plant during the preceding calendar year. If the  
23 statement prepared by a certified public accountant indicates that the plant  
24 was profitable during the calendar year preceding the statement, the plant is

1 not entitled to receive a production incentive under this section. If the  
2 statement prepared by a certified public accountant indicates that the plant  
3 was not profitable during the calendar year preceding the statement, the plant  
4 is entitled to receive a production incentive under this section. The plant may  
5 receive up to \_\_\_\_\_ cents per gallon of ethanol it produced during  
6 the calendar year preceding the statement of nonprofitability.

- 7 2. If the amount claimed as production incentives by an ethanol facility under this  
8 section exceeds the total amount appropriated for this purpose, the department of  
9 commerce shall prorate the payments based on the number of gallons of ethanol  
10 produced by each qualified facility during the calendar year preceding the  
11 statement required by subdivision f of subsection 1.

12 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the  
13 highway tax distribution fund in the state treasury, not otherwise appropriated, the sum of  
14 \$\_\_\_\_\_, or so much of the sum as may be necessary, to the department of commerce  
15 for the purpose of providing incentive payments to plants that produce ethanol, for the biennium  
16 beginning July 1, 2003, and ending June 30, 2005.

**NOTE:** This bill draft contains blanks that must be completed before introduction.