

SENATE BILL NO. 2222

Introduced by

Senators Klein, Grindberg, Nichols

Representatives Kempenich, Mueller, Pollert

1 A BILL for an Act to create and enact four new sections to chapter 4-14.1 of the North Dakota
2 Century Code, relating to ethanol production subsidies; to amend and reenact sections
3 39-04-39 and 57-43.1-03.1 of the North Dakota Century Code, relating to the distribution of
4 motor vehicle registration fees and the taxation of motor vehicle fuel for agricultural purposes; to
5 repeal section 4-14.1-07 of the North Dakota Century Code, relating to the duration and
6 limitation of ethanol plant production incentives; and to provide for a continuing appropriation.

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

8 **SECTION 1.** A new section to chapter 4-14.1 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Definition.** In this chapter, unless the context otherwise requires, "eligible facility"
11 means an ethanol production plant constructed in this state after July 31, 2003.

12 **SECTION 2.** A new section to chapter 4-14.1 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Ethanol production incentive - Calculation - Payment.** The agricultural products
15 utilization commission shall provide quarterly to each eligible facility a production incentive
16 based on the average North Dakota price per bushel of corn received by farmers during the
17 quarter, as established by the North Dakota agricultural statistics service and the average North
18 Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by the
19 American coalition for ethanol. The amount payable as a production incentive must be
20 calculated by including the sum arrived at under subsection 1 with the sum arrived at under
21 subsection 2.

22 1. a. If the average quarterly price per bushel of corn is above one dollar and eighty
23 cents, for each one cent by which the quarterly price is above one dollar and
24 eighty cents, the agricultural products utilization commission shall add to the

1 amount payable under this section one-tenth of one cent times the number of
2 gallons of ethanol produced by the eligible facility during the quarter.

3 b. If the average quarterly price per bushel of corn is one dollar and eighty cents,
4 the agricultural products utilization commission shall add zero to any amount
5 payable under this section.

6 c. If the average quarterly price per bushel of corn is below one dollar and eighty
7 cents, for each one cent by which the quarterly price is below one dollar and
8 eighty cents, the agricultural products utilization commission shall subtract
9 from the amount payable under this section one-tenth of one cent times the
10 number of gallons of ethanol produced by the eligible facility during the
11 quarter.

12 2. a. If the average quarterly rack price per gallon of ethanol is above one dollar
13 and thirty cents, for each one cent by which the average quarterly rack price is
14 above one dollar and thirty cents, the agricultural products utilization
15 commission shall subtract from the amount payable under this section,
16 two-tenths of one cent times the number of gallons of ethanol produced by the
17 eligible facility during the quarter.

18 b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty
19 cents, the agricultural products utilization commission shall subtract zero from
20 any amount payable under this section.

21 c. If the average quarterly rack price per gallon of ethanol is below one dollar
22 and thirty cents, for each one cent by which the average quarterly rack price is
23 below one dollar and thirty cents, the agricultural products utilization
24 commission shall add to the amount payable under this section two-tenths of
25 one cent times the number of gallons of ethanol produced by the eligible
26 facility during the quarter.

27 **SECTION 3.** A new section to chapter 4-14.1 of the North Dakota Century Code is
28 created and enacted as follows:

29 **Subsidy limitations.** No eligible facility may receive more than three million dollars
30 annually in payments under section 2 of this Act. No eligible facility may receive state ethanol

1 payments for more than ten years after the date on which it received its first payment under
2 section 2 of this Act.

3 **SECTION 4.** A new section to chapter 4-14.1 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Ethanol production incentive fund - Continuing appropriation.** There is created in
6 the state treasury a special fund known as the ethanol production incentive fund. The fund
7 consists of fifty percent of all registration fees collected on farm vehicles under subsection 5 of
8 section 39-04-19 and deposits made in accordance with section 57-43.1-03.1. All moneys in
9 the fund are appropriated on a continuing basis to the agricultural products utilization
10 commission for use in paying ethanol production incentives to eligible facilities as provided in
11 sections 2 and 3 of this Act.

12 **SECTION 5. AMENDMENT.** Section 39-04-39 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **39-04-39. Distribution of registration fees collected.** Any moneys in the registration
15 fund accruing from license fees or from other like sources, in excess of the amount required to
16 pay salaries and other necessary expenses, in accordance with the legislative assembly's
17 appropriation for such purposes, must be promptly deposited in the highway tax distribution
18 fund which must be distributed in the manner as prescribed by law. The state treasurer shall
19 transfer annually from the highway tax distribution fund to the ethanol production incentives
20 fund an amount equal to fifty percent of all sums collected for the registration of farm vehicles
21 under subsection 5 of section 39-04-19.

22 **SECTION 6. AMENDMENT.** Section 57-43.1-03.1 of the North Dakota Century Code
23 is amended and reenacted as follows:

24 **57-43.1-03.1. ~~(Effective through December 31, 2003)~~ Refund of tax for fuel used**
25 **for agricultural purposes - Reductions.** Any consumer who buys or uses any motor vehicle
26 fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a
27 claim with the commissioner for a refund under this chapter. The amount of the tax refund
28 under this section must be reduced by seven cents per gallon [3.79 liters] except for those fuels
29 used in aircraft or with respect to refunds claimed by aircraft fuel users. Two cents per gallon
30 [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, one cent
31 per gallon [3.79 liters] withheld from the refund must be ~~retained~~ deposited in the ~~highway tax~~

1 ~~distribution ethanol production incentive~~ fund, and four cents per gallon [3.79 liters] withheld
2 from the refund must be deposited in the agricultural research fund.

3 ~~(Effective January 1, 2004) Refund of tax for fuel used for agricultural purposes—~~
4 ~~Reductions.~~ Any consumer who buys or uses any motor vehicle fuel for an agricultural
5 purpose on which the motor vehicle fuel tax has been paid may file a claim with the
6 commissioner for a refund under this chapter. The amount of the tax refund under this section
7 must be reduced by six cents per gallon [3.79 liters] except for those fuels used in aircraft or
8 with respect to refunds claimed by aircraft fuel users. Two cents per gallon [3.79 liters] withheld
9 from the refund must be deposited in the agricultural fuel tax fund and four cents per gallon
10 [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.

11 **SECTION 7. REPEAL.** Section 4-14.1-07 of the North Dakota Century Code is
12 repealed.