

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2350

Introduced by

Senators Wanzek, Miller, Triplett

Representatives Brandenburg, Mueller, Vigesaa

- 1 A BILL for an Act to provide for the creation of an ethanol council; to provide a penalty; and to
2 provide a continuing appropriation.

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

4 **SECTION 1. Definitions.** As used in this Act:

- 5 1. "Council" means the North Dakota ethanol council.
6 2. "Producer" means the owner of a facility that is located in this state an which
7 produces annually more than one million gallons of agriculturally derived denatured
8 ethanol that is suitable for blending with a petroleum product for use internal
9 combustion engines.

10 **SECTION 2. Council - Membership - Election - Term.**

- 11 1. The council consists of one individual appointed by each producer.
12 2. Each member of the council must be a resident of this state and employed by a
13 producer.
14 3. The term of each member is four years and begins on April first following the
15 members' appointment. The terms must be staggered by the council to ensure
16 that an approximately equal number of appointments expire each year.
17 4. If at any time during a member's term the member ceases to possess any of the
18 qualifications provided by this section, the member's office is deemed vacant and
19 the producer who appointed that member shall appoint another qualified individual
20 for the remainder of the term.
21 5. A member may not serve more than two consecutive terms. If an individual is
22 appointed to complete a vacancy, that service is not counted as a term for
23 purposes of this section unless the duration of that service exceeds one year.

24 **SECTION 3. Election of chairman - Meetings.**

1. Annually, the council shall elect one member to serve as the chairman.
2. The chairman shall call all meetings of the council and shall call a special meeting of the council within seven days when petitioned to do so by three council members.

SECTION 4. Council members - Compensation. Each member of the council is entitled to receive compensation in the amount established by the council, but not exceeding one hundred thirty-five dollars per day plus reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the council.

SECTION 5. Council - Powers.

1. The council may:
 - a. Expend moneys collected pursuant to this chapter for its administration;
 - b. Employ, bond, and compensate necessary personnel;
 - c. Accept gifts, grants, and donations of money, property, and services to carry out this chapter;
 - d. Contract with any person for any purpose permitted under this chapter;
 - e. Sue and be sued; and
 - f. Do all things necessary and proper to enforce and administer this chapter.
2. The council may not engage in a commercial business enterprise.

SECTION 6. Council - Duties.

1. The council shall determine the uses to which any moneys raised under this chapter may be expended. The uses may include:
 - a. The funding of research, education programs, promotion, and market development efforts; and
 - b. The support of state, regional, national, and international entities that promote ethanol utilization.
2. The council shall develop and disseminate information regarding the purpose of the ethanol assessment and ways in which the assessment benefits producers.

SECTION 7. Assessment. An assessment at the rate of three one-hundredths of one cent per gallon is imposed upon all ethanol produced and sold in this state.

SECTION 8. Calculation of assessment - Records.

- 1 1. Each producer shall calculate the assessment imposed by section 7 of this Act at
2 the time of sale.
- 3 2. Each producer shall keep documents regarding its ethanol production and sales for
4 a period of three years. The producer shall make these records available to the
5 council for examination upon request.
- 6 3. No later than thirty days after the conclusion of each calendar quarter, each
7 producer shall file with the council a report stating the quantity of ethanol produced
8 and the quantity sold during the preceding quarter.

9 **SECTION 9. Submission of assessments - Civil penalty.**

- 10 1. Each producer shall forward to the council all assessments imposed by section 7 of
11 the Act within thirty days after the conclusion of each calendar quarter.
- 12 2. If a producer fails to submit the assessments as required by this section, the
13 council may impose a penalty equal to ten percent of the amount due, plus interest
14 at the rate of twelve percent per annum from the due date.

15 **SECTION 10. Refund of assessment.**

- 16 1. To receive a refund of any assessment paid in accordance with this chapter, a
17 producer shall submit to the council a written request for a refund application within
18 sixty days after the conclusion of each calendar quarter.
- 19 2. The producer shall complete the refund application and return the application to the
20 council, together with a record of the assessment collected, within ninety days after
21 the conclusion of each calendar quarter. The council shall then refund the net
22 amount of the assessment that had been collected.
- 23 3. If a request for a refund is not submitted to the council within the prescribed time
24 period, the producer is presumed to have agreed to the assessment.

25 **SECTION 11. Expenditure of funds.** The council shall approve all expenditures made
26 pursuant to this Act. The expenditures must be recorded as directed by the office of
27 management and budget.

28 **SECTION 12. Continuing appropriation.** The council shall forward all moneys
29 received under this Act to the state treasurer for deposit in the ethanol fund. All moneys in the
30 ethanol fund are appropriated on a continuing basis to the council to carry out this Act.

- 1 **SECTION 13. Penalty.** Any person willfully violating this Act is guilty of a class B
- 2 misdemeanor.