

AN ACT

ENTITLED, An Act to repeal certain refund provisions of the motor fuel tax for certain nonhighway agricultural use of motor fuels and to provide for the distribution of such motor fuel tax.

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

Section 1. That § 10-47B-119 be repealed.

Section 2. That § 10-47B-149 be amended to read as follows:

10-47B-149. At the beginning of each month, the secretary shall make adjustments to the motor fuel tax fund balance in the following manner:

- (1) Each July transfer an amount to the snowmobile trails' fund equal to the product of multiplying the number of licensed snowmobiles as of July first, times one hundred twenty-five gallons, times the rate of tax provided for motor fuel under this chapter;
- (2) Each July transfer from the amount of motor fuel tax collected from the motor fuel used for nonhighway purposes to the value added agriculture subfund created in § 1-16G-25 one hundred thirty-five thousand dollars;
- (3) Each July transfer from the amount of motor fuel tax collected from the motor fuel used for nonhighway purposes to the Department of Agriculture seventy-five thousand dollars to be used for a grant to the Northern Crops Institute;
- (4) Transfer to the motor fuel tax administration account two percent of the deposits made to the motor fuel tax fund during the preceding month to cover the expenses incurred in administering all motor fuel and special fuel tax laws of this state. On or about August first of each year, the preceding year's remaining motor fuel tax administration account balance, less an amount to provide cash flow within the account, shall be transferred to the state highway fund. The remaining balance is to be calculated by subtracting from the total of monthly deposits, the amount of corresponding expenses. The expense of

administering the chapters relating to motor and special fuel taxation shall be paid out of appropriations made by the Legislature;

- (5) Each July transfer from the amount of motor fuel tax collected from the motor fuel used for nonhighway purposes to the coordinated natural resources conservation fund five hundred thousand dollars;
- (6) Each July transfer to the parks and recreation fund an amount equal to the product of multiplying the number of licensed motorized boats as of the previous December thirty-first, times one hundred forty gallons, times the rate of tax provided for motor fuels under this chapter;
- (7) Each July distribute to counties and townships as provided in section 3 of this Act seven hundred thousand dollars;
- (8) Transfer to the member jurisdictions taxes collected under the provisions of the international fuel tax agreement; and
- (9) Transfer the remaining cash balance to the state highway fund.

Section 3. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The amount to be distributed to counties and townships pursuant to section 2 of this Act shall be distributed among the counties, pro rata, twenty-five percent according to truck registrations, twenty-five percent according to population, and fifty percent according to total road mileage. Each county shall distribute sixty percent of the amount received pursuant to this section to the county road and bridge fund and forty percent to the special highway fund to be distributed pursuant to the provisions of subdivision 32-11-4.1(2) and § 32-11-6.

Section 4. That § 32-11-6 be amended to read as follows:

32-11-6. The amount set aside to the various unorganized and organized civil townships pursuant

to § 32-11-4.1 and section 3 of this Act shall be apportioned among the townships according to the number of miles of maintained township roads within the townships. The county treasurer shall distribute the money to each organized township within the county within thirty days of apportionment. However, an organized township may request in writing that the money remain in the custody of the county treasurer and shall be paid out only on warrants issued by the county auditor in payment of claims for the construction, reconstruction, or maintenance of roads and highways within the township highway system.

Section 5. That § 10-47B-135 be amended to read as follows:

10-47B-135. No refund of motor fuel or special fuel taxes paid may be made for any of the following uses of fuel:

- (1) Fuel used in motor vehicles operated on the public highways of this state;
- (2) Fuel used for propulsion on the highway in any vehicles, machinery, or equipment for any highway construction or maintenance work which is paid for, wholly or in part, by public moneys;
- (3) Fuel used in aircraft or watercraft;
- (4) Undyed special fuel used in off-road machinery or equipment;
- (5) Fuel used from the engine fuel supply tank by a motor vehicle while idling. Fuel used by a motor vehicle while idling shall be included in the total amount of fuel consumed when calculating average miles per gallon; or
- (6) Fuel used in any motor vehicle, recreation vehicle, or farm equipment used for nonhighway agricultural purposes or, unless otherwise provided by this chapter, used in any motor vehicle or equipment for nonhighway commercial uses.

Section 6. That § 10-47B-144 be amended to read as follows:

10-47B-144. Interest at the rate provided for under § 10-59-6 shall be paid on any refund claim

amount authorized by §§ 10-47B-119.2 to 10-47B-131, inclusive, which has not been refunded to the claimant within sixty days of acceptance by the department during the months of January, February, or March. Claims received during any other month shall be paid within forty-five days, otherwise interest shall be paid to the claimant. No interest may be paid for refunds made to interstate fuel tax agreement licensees or licensed interstate users.

Section 7. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The Legislature finds, based on historical data, that one million four hundred ten thousand dollars represents the amount of motor fuel taxes collected annually on motor fuel for nonhighway agricultural uses. The Legislature further finds that these funds should be utilized in a manner which benefits agriculture and the citizens of the state.

Section 8. That § 38-7-26 be amended to read as follows:

38-7-26. The coordinated natural resources conservation fund consists of money transferred from the sale of motor fuel for nonhighway agricultural uses in the motor fuel tax fund as provided in § 10-47B-149, and all public and private sources including legislative appropriations or federal grants.

Section 9. That § 10-47B-119.1 be repealed.

Section 10. That § 10-47B-127 be repealed.

Section 11. That § 10-47B-138 be repealed.

Section 12. That § 10-47B-139 be repealed.

Section 13. That § 10-47B-140 be repealed.

Section 14. That § 10-47B-141 be repealed.

Section 15. That § 10-47B-142 be repealed.

Section 16. That § 10-47B-154 be repealed.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1215

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1215
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State