

AN ACT

ENTITLED, An Act to provide funds to the precision agriculture fund by revising the allocation of petroleum release compensation and inspection fee revenues and online lottery revenues and to repeal the ethanol fuel fund.

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

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

34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10, inclusive, 10-47B-9.1, and 10-47B-13. None of the exemptions from fuel excise tax allowed in § 10-47B-19 apply to this fee. The parties required to pay the fuel excise tax pursuant to the provisions of §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are liable for payment of the petroleum release and tank inspection fee. In cases where the fuel is exempt from the fuel excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5), the supplier shall pay the fee. Responsibility for payment of the fee ceases if the petroleum product is sold and delivered by a licensed exporter outside of the state. The amount of the fee imposed is twenty dollars per one thousand gallons of petroleum. The revenue collected pursuant to this section shall be distributed monthly in the following manner:

- (1) In fiscal year 2019, fifty-five percent shall be deposited in the state capital construction fund, twenty-five percent shall be deposited in the ethanol fuel fund, and twenty percent shall be deposited in the petroleum release compensation fund;
- (2) In fiscal year 2020, sixty percent shall be deposited in the state capital construction fund, twenty percent shall be deposited in the ethanol fuel fund, nineteen percent shall be deposited in the petroleum release compensation fund, and one percent shall be deposited in the ethanol infrastructure incentive fund as created in § 10-47B-164.1;

- (3) In fiscal year 2021, sixty-six percent shall be deposited in the state capital construction fund, fifteen percent shall be deposited in the ethanol fuel fund, eighteen percent shall be deposited in the petroleum release compensation fund, and one percent shall be deposited in the ethanol infrastructure incentive fund;
- (4) In fiscal year 2022, seventy-two percent shall be deposited in the state capital construction fund, ten percent shall be deposited in the ethanol fuel fund, seventeen percent shall be deposited in the petroleum release compensation fund, and one percent shall be deposited in the ethanol infrastructure incentive fund; and
- (5) Beginning in fiscal year 2023, eighty-one and one-half percent shall be deposited in the state capital construction fund, seventeen percent shall be deposited in the petroleum release compensation fund, and one and one-half percent shall be deposited in the ethanol infrastructure incentive fund.

Section 2. That chapter 34A-13 be amended by adding a NEW SECTION to read:

If the balance of the petroleum release compensation fund falls below two million dollars and has additional accounts payable that exceed projected monthly deposits pursuant to section 1 of this Act, a transfer shall be made from the state highway fund to the petroleum release compensation fund in an amount that brings the balance of the petroleum release compensation fund to five million dollars.

Any balance in the petroleum release compensation fund in excess of six million dollars, after any monthly deposit made pursuant to § 34A-13-20, shall be transferred to the state highway fund.

Section 3. That § 10-47B-164.1 be amended to read:

10-47B-164.1. There is hereby established the ethanol infrastructure incentive fund to receive funds pursuant to § 34A-13-20. Any money in the ethanol infrastructure incentive fund is continuously appropriated for the following purposes:

- (1) To award incentive grants to motor fuel retail dealers as defined in § 10-47B-3 for the purpose of entering into contracts for the purchase or installation, or for the purchase and installation, of ethanol blender pumps and associated piping and storage systems and related equipment to be used at facilities operated by the motor fuel retail dealers for the sale of motor fuel to the public;
- (2) To award incentive grants to motor fuel retail dealers as defined in § 10-47B-3 for the purpose of entering into contracts for the purchase, or the purchase, of pumps and pump equipment authorized to dispense gasoline containing up to and including eighty-five percent ethanol;
- (3) To award incentive grants to encourage the purchase of flex fuel vehicles;
- (4) To encourage the increased use of ethanol in South Dakota; and
- (5) To otherwise encourage the installation of infrastructure related to sale and distribution of ethanol.

The Governor's Office of Economic Development shall establish, by rules promulgated pursuant to chapter 1-26, such regulations and procedures as are necessary to implement this section. For the purposes of this section, the term, ethanol blender pump, refers to a mechanism provided by the retail dealer for the dispensing at retail as defined in § 10-47B-3 of ethanol blend so that the end user may choose a particular grade of ethanol to gasoline to be dispensed. The Governor's Office of Economic Development may use up to five percent of any amount appropriated to the ethanol infrastructure incentive fund for administration of the fund or any incentive programs established by this section.

Section 4. That chapter 10-47B be amended by adding a NEW SECTION to read:

Any balance in the ethanol infrastructure incentive fund in excess of one million dollars, after the monthly deposit made pursuant to § 34A-13-20, shall be transferred to the state highway fund.

Section 5. That § 42-7A-24 be amended to read:

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

In fiscal year 2019, the commission shall transfer twenty-five percent of the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the general fund and seventy-five percent of the net proceeds from the sale of on-line lottery tickets shall be transferred to the state capital construction fund created in § 5-27-1. In fiscal year 2020, the commission shall transfer thirty-five percent of the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the general fund and sixty-five percent of the net proceeds from the sale of on-line lottery tickets shall be transferred to the state capital construction fund created in § 5-27-1. In fiscal year 2021, the commission shall transfer thirty-five percent of the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the general fund and sixty-five percent of the net proceeds from the sale of on-line lottery tickets shall be transferred to the state capital construction fund created in § 5-27-1. In fiscal year 2022, the commission shall transfer fifty percent of the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the general fund and fifty percent of the net proceeds from the sale of on-line lottery tickets shall be

transferred to the state capital construction fund created in § 5-27-1. In fiscal year 2023 and each year thereafter, the commission shall transfer seventy percent of the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the general fund and thirty percent of the net proceeds from the sale of on-line lottery tickets shall be transferred to the state capital construction fund created in § 5-27-1.

Section 6. That § 5-27-1 be amended to read:

5-27-1. There is hereby established within the state treasury the state capital construction fund into which shall be deposited the net proceeds to the state from the sale of on-line lottery tickets pursuant to § 42-7A-24, and such other revenues as the Legislature may designate. The fund shall be a participating fund and shall be credited for all interest earned on fund balances. Expenditures from the fund shall be made only upon approval by the Legislature.

Section 7. That § 5-27-4 be amended to read:

5-27-4. In fiscal year 2019, the Bureau of Finance and Management shall transfer each month twenty-one and one-half percent of the monthly state capital construction fund revenues from the state capital construction fund to the ethanol fuel fund. In fiscal year 2020, the Bureau of Finance and Management shall transfer each month fifteen percent of the monthly state capital construction fund revenues for the state capital construction fund to the ethanol fuel fund. In fiscal year 2021, the Bureau of Finance and Management shall transfer each month ten percent of the monthly state capital construction fund revenues for the state capital construction fund to the ethanol fuel fund. In fiscal year 2022, the Bureau of Finance and Management shall transfer each month five percent of the monthly state capital construction fund revenues for the state capital construction fund to the ethanol fuel fund.

Section 8. That § 5-27-5 be amended to read:

5-27-5. In fiscal year 2019, the Bureau of Finance and Management shall transfer each month

fourteen and one-half percent of the monthly state capital construction fund revenues from the state capital construction fund to the state highway fund. In fiscal year 2020, the Bureau of Finance and Management shall transfer each month twenty-three percent of the monthly state capital construction fund revenues for the state capital construction fund to the state highway fund. In fiscal year 2021, the Bureau of Finance and Management shall transfer each month twenty-nine percent of the monthly state capital construction fund revenues for the state capital construction fund to the state highway fund. In fiscal year 2022, the Bureau of Finance and Management shall transfer each month thirty-four percent of the monthly state capital construction fund revenues for the state capital construction fund to the state highway fund. Beginning in fiscal year 2023 and each year thereafter, the Bureau of Finance and Management shall transfer each month thirty-six percent of the monthly state capital construction fund revenues from the state capital construction fund to the state highway fund.

Section 9. That § 5-27-6 be amended to read:

5-27-6. During fiscal year 2019, the Bureau of Finance and Management shall transfer each month sixty-four percent of the monthly state capital construction fund revenues from the state capital construction fund to the water and environment fund. In fiscal year 2020, the Bureau of Finance and Management shall transfer each month sixty-two percent of the monthly state capital construction fund revenues from the state capital construction fund to the water and environment fund. In fiscal year 2021, the Bureau of Finance and Management shall transfer each month sixty-one percent of the monthly state capital construction fund revenues from the state capital construction fund to the water and environment fund. In fiscal year 2022, the Bureau of Finance and Management shall transfer each month sixty-one percent of the monthly state capital construction fund revenues from the state capital construction fund to the water and environment fund. Beginning in fiscal year 2023 and each year thereafter, the Bureau of Finance and Management shall transfer each month

sixty-four percent of the monthly state capital construction fund revenues from the state capital construction fund to the water and environment fund.

Section 10. That § 10-47B-162 to 10-47B-164, inclusive, be repealed.

Section 11. That §§ 10-47B-165 and 10-47B-166 be repealed.

Section 12. Sections 10 and 11 of this Act are effective on July 1, 2022.

Section 13. Pursuant to the General Appropriations Act, six hundred fifty thousand dollars will be annually transferred to the precision agriculture fund from the revenues generated by this Act until the first day of the fiscal year following a determination by the Board of Regents that the bonds financing the precision agriculture classroom and laboratory building are satisfied and paid in full.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 183

\_\_\_\_\_  
Secretary of the Senate  
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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 183  
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  
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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