

Sec. 6. Section 91.4, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 8. Except as provided in chapter 91A, the commissioner may recover interest, court costs, and any attorney fees incurred in recovering any amounts due. The recovery shall only take place after final agency action is taken under chapter 17A, or upon judicial review, after final disposition of the case by the court. Attorney fees recovered in an action brought under the jurisdiction of the commissioner shall be deposited in the general fund of the state. The commissioner is exempt from the payment of any filing fee or other court costs including but not limited to fees paid to county sheriffs.

NEW SUBSECTION. 9. The commissioner may establish rules pursuant to chapter 17A to assess and collect interest on fees, penalties, and other amounts due the division.

Sec. 7. The portion of section 1 of this Act which amends section 88.14, subsection 1, applies retroactively to July 1, 1991, for cases still pending.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 1992

CHAPTER 1099

RENEWABLE FUEL — ETHANOL PRODUCTION

H.F. 2456

AN ACT relating to the production of ethanol, providing for the appropriation and allocation of moneys, providing applicability and effective dates, and providing for the repeal and recodification of provisions of the Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 159A.5, subsection 2, Code Supplement 1991, is amended to read as follows:

2. The committee shall monitor conditions, practices, policies, programs, and procedures affecting the production and consumption of renewable fuels fuel.

Sec. 2. Section 159A.5, subsection 5, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Review the distribution of ethanol production incentive payments to qualified persons, pursuant to section 159A.8.

Sec. 3. Section 159A.6, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

The committee shall develop standards for decals required pursuant to section 214A.16, which shall be designed to promote the advantages of using renewable fuel. The standards may be incorporated within a model decal adopted by the ~~board~~ committee and approved by the office.

Sec. 4. Section 159A.7, Code Supplement 1991, is amended to read as follows:

159A.7 RENEWABLE FUEL FUND.

1. A renewable fuel fund is created in the state treasury under the control of the office of renewable fuel. The fund is composed of moneys accepted by the office. Moneys in the fund shall be deposited into the renewable fuel activities account or the ethanol production incentive account. The fund may include moneys appropriated by the general assembly, and other moneys available to and obtained or accepted by the office, including moneys from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

2. Moneys in the fund shall be used only to administer this chapter.
2. Moneys in the ~~fund~~ renewable fuel activities account shall be allocated at the beginning of each fiscal year as follows:
 - a. Up to forty percent may be dedicated to support promotion and advertising of ethanol fuel.
 - b. Up to thirty percent may be dedicated to support research at the university of Iowa.
 - c. Up to thirty percent may be dedicated to support research at Iowa state university of science and technology.
 - d. The remaining balance shall be used by the office to support other projects or programs developed by the office.
3. Moneys shall be deposited in the ethanol production incentive account as provided in section 423.24. The moneys shall be allocated to provide financial incentives to support the increased production of ethanol derived from an organic compound, including a photosynthate, as provided in section 159A.8.
- 3 4. Moneys in the fund ~~shall be~~ are subject to an annual audit by the auditor of state. The fund ~~shall be~~ is subject to warrants by the director of revenue and finance, drawn upon the written requisition of the coordinator.
- 4 5. In administering the fund, the office may do all of the following:
 - a. Contract, sue and be sued, and adopt procedures necessary to administer this section. However, the office shall not in any manner, directly or indirectly, pledge the credit of the state.
 - b. Authorize payment from the ~~fund~~ accounts, from any income received by investment of moneys in the fund, for administrative costs, commissions, attorney and accountant fees, and other reasonable expenses related to and necessary for administering the ~~fund and administering the program~~ accounts.
- 5 6. Section 8.33 shall does not apply to moneys in the fund renewable fuel activities account. Income received by investment of moneys in the account shall remain in that account. Moneys appropriated for a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in section 423.24.

Sec. 5. NEW SECTION. 159A.8 ETHANOL PRODUCTION INCENTIVE PROGRAM.

1. An ethanol production incentive program administered by the office is established. The office shall adopt rules pursuant to chapter 17A necessary to administer this section. The purpose of the program is to provide financial incentives to support the increased production of ethanol derived from an organic compound, including a photosynthate.
2. The office shall certify that a production facility is eligible to participate in the program. In order to receive a certificate, the producer must submit an application, and provide a test claim for one computation period immediately preceding a claim for payment. A test claim shall provide the same information required for a claim for payment under subsection 3. A person applying to be certified under this section must satisfy the following requirements:
 - a. The production facility is located in this state.
 - b. The production facility has an annual production capacity of at least five million gallons of ethanol.
 - c. The production facility begins construction on or after July 1, 1992, or the annual production capacity of the production facility increases by at least fifty percent, but not less than five million gallons, on or after July 1, 1993.
3. A certified producer may participate in the program by submitting a claim to the office for approval in a manner and according to procedures established by the office. The office shall provide a certified ethanol producer with an incentive payment of twenty cents for each qualifying gallon of ethanol produced. The producer shall be paid according to the total number of gallons produced by a new facility or according to the number of gallons produced by an expanded facility which is attributable to the expansion. In order to qualify for the payment, all fermentation, distillation, and dehydration of the ethanol must occur at the facility. The ethanol produced at the facility must be at least ninety-nine percent pure and must be denatured and subsequently blended with gasoline.

4. The office shall approve a claim for an incentive payment. The claim shall at least include the following:

- a. The name of the producer.
- b. The location of the facility producing ethanol.
- c. The gallons of qualifying ethanol which were produced in the calculation period.
- d. Whether the producer is a cooperative association organized pursuant to chapter 497, 498, or 499 carrying out purposes of an agricultural association as described in section 499.2.

The office shall verify the accuracy of the claims submitted by a producer. The office may require that a producer submit regular unqualified opinions based upon audits performed by a person certified pursuant to section 116.5. The office shall approve a claim and make an incentive payment within thirty days following receipt of the claim, unless the office notifies the producer otherwise.

5. a. The payment shall be based on the number of gallons of ethanol produced in a computation period. The office shall establish a schedule of computation periods. The computation periods shall be equal divisions within a state fiscal year and measured on a monthly basis. One computation period shall equal three consecutive months in duration. Moneys available for payments during the state fiscal year shall be divided equally according to the computation periods. The office shall allocate moneys in the ethanol production incentive account as follows:

(1) An amount equal to fifty percent of the moneys available in the account shall be reserved for purposes of making incentive payments to claimants which are cooperative associations. As used in this section "cooperative association" means a cooperative association organized pursuant to chapter 497, 498, or 499 carrying out the purposes of an agricultural association as described in section 499.2. All stockholders, shareholders, or members of a cooperative association must hold a legal or equitable interest in land located in this state.

(2) An amount equal to fifty percent of the moneys available in the account shall be reserved for the purpose of making incentive payments to persons who are claimants other than cooperative associations as provided in this subsection.

b. If moneys remain from the amount reserved to satisfy all claims made by cooperative associations at the end of a computation period, the office shall use the remaining moneys to increase payments made to persons other than cooperative associations submitting claims for that computation period, to the extent that the claims of those persons were not completely satisfied. If moneys remain from the amount reserved to satisfy all claims made by persons other than cooperative associations at the end of a computation period, the office shall use the remaining moneys to increase payments made to cooperative associations submitting claims for that computation period, to the extent that the claims of those cooperative associations were not completely satisfied. These remaining moneys shall be paid on a prorated basis according to the proportionate amount of ethanol produced during the computation period. If moneys remain from the amount reserved to satisfy the claims made by all cooperative associations and other persons, the moneys shall be allocated to ensure equal payments to cooperative associations and persons who are not cooperative associations during the remainder of the subsequent computation periods in the state fiscal year.

c. If sufficient moneys are not available to satisfy the claims of all cooperative associations from moneys available for that computation period, the office shall prorate the payments to each cooperative association according to the proportionate amount of ethanol produced by each cooperative association for that computation period. If sufficient moneys are not available to satisfy the claims of all persons other than cooperative associations from moneys available for that computation period, the office shall prorate the payments to each of the persons according to the proportionate amount of ethanol produced by each person for that computation period. Except as provided in paragraph "b", a claimant who has received a prorated payment does not have a claim for the part of the payment which was not received.

d. The office shall begin making payments on and after January 1, 1994. For the fiscal year beginning on July 1, 1993, and ending on June 30, 1994, the fund shall not pay more than three million dollars for incentive payments. For each fiscal year following June 30, 1994, the fund

shall not pay more than four million dollars for incentive payments. A producer is not eligible to receive more than twenty percent of the moneys available for incentive payments during any computation period. A producer is not eligible to receive payments in a state fiscal year after receiving payments based on claims for the production of more than fifteen million gallons of ethanol during the fiscal year.

Sec. 6. Section 423.24, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph after paragraph a, and relettering subsequent paragraphs:

NEW PARAGRAPH. b. Beginning on July 1, 1993, three and one-half percent of the remaining revenue, not to exceed one million dollars per quarter, derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, shall be deposited in the ethanol production incentive account of the renewable fuel fund created in section 159A.7. Moneys deposited according to this paragraph are a continuing appropriation for expenditure under section 159A.8. Moneys deposited during a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in this section.

Sec. 7. Section 497.1, Code 1991, is amended to read as follows:

497.1 PLAN AUTHORIZED.

Any number of persons, not less than five, may associate themselves as a co-operative association, society, company or exchange, for the purpose of conducting any agricultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business on the co-operative plan. For the purposes of this chapter, the words "association", "company", "corporation", "exchange", "society", or "union", shall be construed to mean the same.

Sec. 8. Section 498.2, Code 1991, is amended to read as follows:

498.2 ORGANIZATION.

Any number of persons, not less than five, may associate themselves as a co-operative association, without capital stock, for the purpose of conducting any agricultural, livestock, horticultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business, or the constructing and operating of telephone and high tension electric transmission lines on the co-operative plan and of acting as a co-operative selling agency. Co-operative livestock shipping associations organized under this chapter shall do business with members only.

Sec. 9. Section 499.2, unnumbered paragraph 4, Code 1991, is amended to read as follows:

"Agricultural associations" are those formed to produce, grade, blend, preserve, process, store, warehouse, market, sell, or handle an agricultural product, or a by-product of an agricultural product; to produce ethanol; to purchase, produce, sell, or supply machinery, petroleum products, equipment, fertilizer, supplies, business services, or educational service to or for those engaged as bona fide producers of agricultural products; to finance any such activities; or to engage in any co-operative activity connected with or for any number of these purposes.

Sec. 10. **DATE OF APPLICABILITY.** Section 159A.7 as amended by this Act, section 159A.8, and sections 159A.5, subsection 5, paragraph "e" and 423.24, subsection 1, paragraph "b", as created in this Act, shall be applicable on and after July 1, 1993. However, the office of renewable fuel and the department of revenue and finance shall adopt rules necessary to implement those sections prior to July 1, 1993. The office shall accept applications and test claims relating to computation periods beginning on July 1, 1993, for purposes of certifying production facilities pursuant to section 159A.8 before January 1, 1994.

Sec. 11. **FUTURE REPEALS.**

1. Section 159A.7, as amended by this Act, is repealed and the Code editor shall recodify the language in section 159A.7 contained in the 1991 Code Supplement.

2. Section 159A.8, as created in this Act, is repealed.

3. Section 159A.5, subsection 5, paragraph "e", as enacted in this Act, is amended by striking the paragraph.

4. Section 423.24, subsection 1, paragraph "b", as enacted in this Act, is amended by striking the paragraph.

5. Moneys deposited in the ethanol production incentive account of the renewable fuel fund during the state fiscal year beginning July 1, 1997, and ending June 30, 1998, shall be used to satisfy last computation period claims after June 30, 1998, as provided in this Act. Moneys which remain unobligated and unencumbered on July 31, 1998, shall be credited to the road use tax fund as provided in this Act.

6. This section takes effect July 1, 1998.

Approved April 20, 1992

CHAPTER 1100

DEPARTMENT OF TRANSPORTATION — MISCELLANEOUS PROVISIONS

S.F. 2094

AN ACT relating to the regulation of transportation and the placement of special event signs, the recalculation of needs on transferred roads, the maximum speed limits for movement of certain truck trailers, mobile homes, and factory-built structures, and the penalty for failure to maintain adequate records.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 306C.23, Code 1991, is amended to read as follows:
306C.23 SPECIAL EVENT SIGNS.

It is lawful to place a special event sign on private property with permission of the owner or person in charge of the property at any time during the period beginning ~~thirty~~ sixty days prior to the date of the special event to which the sign pertains and ending on the day of the special event. Special event signs shall be removed not later than twenty-four hours following the end of the special event. This section does not authorize placement of a special event sign at a location where it may, because of its size, location, content, coloring, or lighting, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by detracting from the visibility of a traffic-control device or by being confused with an authorized traffic-control device.

Sec. 2. Section 307A.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 14A. Annually recalculate the construction and maintenance needs of roads under the jurisdiction of each county to take into account the needs of a road whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year. The recalculation shall be reported by January 1 of the year following the transfer and shall take effect the following July 1 for the purposes of allocating moneys under sections 312.3 and 312.5.

Sec. 3. Section 312.3, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. "Latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year as recalculated pursuant to section 307A.2, subsection 14A.

Sec. 4. Section 312.5, subsection 4, Code Supplement 1991, is amended by adding the following new unnumbered paragraph: