

Reprinted

MAR 18 1992

HOUSE FILE 2456
BY COMMITTEE ON WAYS AND MEANS

APPROPRIATIONS

No Pass 3/26

(SUCCESSOR TO HF 2286)

Passed House, Date 3/31/92 (*p. 950*) Passed Senate, Date 4/14/92 (*p. 1383*)
Vote: Ayes 56 Nays 42 Vote: Ayes 30 Nays 17
Approved April 20, 1992

A BILL FOR

1 An Act relating to the production of ethanol, providing for the
2 appropriation and allocation of moneys, and providing
3 applicability dates.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2456

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

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

6 Sec. 2. Section 159A.5, subsection 5, Code Supplement
7 1991, is amended by adding the following new paragraph:

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

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

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

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

20 159A.7 RENEWABLE FUEL FUND.

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

31 2- Moneys in the fund shall be used only to administer
32 this chapter.

33 2. Moneys in the fund renewable fuel activities account
34 shall be allocated at the beginning of each fiscal year as
35 follows:

1 a. Up to forty percent may be dedicated to support
2 promotion and advertising of ethanol fuel.

3 b. Up to thirty percent may be dedicated to support
4 research at the university of Iowa.

5 c. Up to thirty percent may be dedicated to support
6 research at Iowa state university of science and technology.

7 d. The remaining balance shall be used by the office to
8 support other projects or programs developed by the office.

9 3. Moneys shall be deposited in the ethanol production
10 incentive account as provided in section 423.24. The moneys
11 shall be allocated to provide financial incentives to support
12 the increased production of ethanol derived from an organic
13 compound, including a photosynthate, as provided in section
14 159A.8.

15 3 4. Moneys in the fund shall-be are subject to an annual
16 audit by the auditor of state. The fund shall-be is subject
17 to warrants by the director of revenue and finance, drawn upon
18 the written requisition of the coordinator.

19 4 5. In administering the fund, the office may do all of
20 the following:

21 a. Contract, sue and be sued, and adopt procedures
22 necessary to administer this section. However, the office
23 shall not in any manner, directly or indirectly, pledge the
24 credit of the state.

25 b. Authorize payment from the fund accounts, from any
26 income received by investment of moneys in the fund, for
27 administrative costs, commissions, attorney and accountant
28 fees, and other reasonable expenses related to and necessary
29 for administering the ~~fund-and-administering-the-program~~
30 accounts.

31 5 6. Section 8.33 shall does not apply to moneys in the
32 fund renewable fuel activities account. Income received by
33 investment of moneys in the account shall remain in that
34 account. Unobligated and unencumbered moneys remaining in the
35 ethanol production incentive account on June 30 of each year

1 shall be credited to the road use tax fund as provided in
2 section 423.24.

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

5 1. An ethanol production incentive program administered by
6 the office is established. The office shall adopt rules
7 pursuant to chapter 17A necessary to administer this section.
8 The purpose of the program is to provide financial incentives
9 to support the increased production of ethanol derived from an
10 organic compound, including a photosynthate.

11 2. To qualify for the incentive, the producer must submit
12 a claim to the office for approval in a manner and according
13 to procedures established by the office. A person applying
14 for assistance is not eligible to receive assistance under
15 this section unless the following requirements are satisfied:

- 16 a. The production facility is located in this state.
- 17 b. The production facility has an annual production
18 capacity of at least five million gallons of ethanol.
- 19 c. The production facility begins construction on or after
20 July 1, 1992, or the annual production capacity of the
21 production facility increases by at least fifty percent, but
22 not less than five million gallons, on or after July 1, 1993.

23 3. The office shall provide a qualified ethanol producer
24 with an incentive payment of twenty cents for each qualifying
25 gallon of ethanol produced. The producer shall be paid
26 according to the total number of gallons produced by a new
27 facility or according to the number of gallons produced by an
28 expanded facility which is attributable to the expansion. In
29 order to qualify for the payment, all fermentation,
30 distillation, and dehydration of the ethanol must occur at the
31 facility. The ethanol produced at the facility must be at
32 least ninety-nine percent pure and must be denatured and
33 subsequently blended with gasoline.

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

- 1 a. The name of the producer.
2 b. The location of the facility producing ethanol.
3 c. The gallons of qualifying ethanol which were produced
4 in the calculation period.
5 d. Whether the producer is organized as a cooperative
6 association organized pursuant to chapter 497, 498, or 499.
- 7 The office shall verify the accuracy of the claims
8 submitted by a producer. The office may require that a
9 producer submit regular unqualified opinions based upon audits
10 performed by a person certified pursuant to section 116.5.
11 The office shall approve a claim and make an incentive payment
12 within thirty days following receipt of the claim, unless the
13 office notifies the producer otherwise.
- 14 5. a. The payment shall be based on the number of gallons
15 of ethanol produced in a computation period. The office shall
16 establish a schedule of computation periods. The computation
17 periods shall be equal divisions within a state fiscal year
18 and measured on a monthly basis. One computation period shall
19 not be more than three consecutive months in duration. Moneys
20 available for payments during the state fiscal year shall be
21 divided equally according to the computation periods. The
22 office shall allocate moneys in the ethanol production
23 incentive account as follows:
- 24 (1) An amount equal to fifty percent of the moneys
25 available in the account shall be reserved for purposes of
26 making incentive payments to claimants which are cooperative
27 associations organized pursuant to chapter 497, 498, or 499.
28 All stockholders, shareholders, or members of a cooperative
29 association must hold a legal or equitable interest in land
30 located in this state.
- 31 (2) An amount equal to fifty percent of the moneys
32 available in the account shall be reserved for the purpose of
33 making incentive payments to persons who are claimants other
34 than cooperative associations organized pursuant to chapter
35 497, 498, or 499.

1 b. If moneys remain from the amount reserved to satisfy
2 all claims made by cooperative associations at the end of a
3 computation period, the office shall use the remaining moneys
4 to increase payments made to persons other than cooperative
5 associations submitting claims for that computation period, to
6 the extent that the claims of those persons were not
7 completely satisfied. If moneys remain from the amount
8 reserved to satisfy all claims made by persons other than
9 cooperative associations at the end of a computation period,
10 the office shall use the remaining moneys to increase payments
11 made to cooperative associations submitting claims for that
12 computation period, to the extent that the claims of those
13 cooperative associations were not completely satisfied. These
14 remaining moneys shall be paid on a prorated basis according
15 to the proportionate amount of ethanol produced during the
16 computation period. If moneys remain from the amount reserved
17 to satisfy the claims made by all cooperative associations and
18 other persons, the moneys shall be allocated to ensure equal
19 payments to cooperative associations and persons who are not
20 cooperative associations during the remainder of the
21 subsequent computation periods in the state fiscal year.

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

1 d. The office shall begin making payments on and after
2 January 1, 1994. For the fiscal year beginning on July 1,
3 1993, and ending on June 30, 1994, the fund shall not pay more
4 than three million dollars for incentive payments. For each
5 fiscal year following June 30, 1994, the fund shall not pay
6 more than four million dollars for incentive payments. A
7 producer is not eligible to receive more than twenty percent
8 of the moneys available for incentive payments during any
9 computation period. A producer is not eligible to receive
10 payments in a state fiscal year after receiving payments based
11 on claims for the production of more than fifteen million
12 gallons of ethanol during the fiscal year.

13 Sec. 6. Section 423.24, subsection 1, Code Supplement
14 1991, is amended by adding the following new paragraph after
15 paragraph a, and relettering subsequent paragraphs:

16 NEW PARAGRAPH. b. Beginning on July 1, 1993, three and
17 one-half percent of the remaining revenue, not to exceed one
18 million dollars per quarter, derived from the use tax on motor
19 vehicles, trailers, and motor vehicle accessories and
20 equipment as collected pursuant to section 423.7, shall be
21 deposited in the ethanol production incentive account of the
22 renewable fuel fund created in section 159A.7. Moneys
23 deposited according to this paragraph are a continuing
24 appropriation for expenditure under section 159A.8.
25 Unobligated or unencumbered moneys remaining in the account on
26 June 30 of each year shall be credited to the road use tax
27 fund as provided in this section.

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

30 497.1 PLAN AUTHORIZED.

31 Any number of persons, not less than five, may associate
32 themselves as a co-operative association, society, company or
33 exchange, for the purpose of conducting any agricultural,
34 dairy, ethanol production, mercantile, mining, manufacturing,
35 or mechanical business on the co-operative plan. For the

1 purposes of this chapter, the words "association", "company",
2 "corporation", "exchange", "society", or "union", shall be
3 construed to mean the same.

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

6 498.2 ORGANIZATION.

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

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

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

29 Sec. 10. DATE OF APPLICABILITY. Section 159A.7 as amended
30 by this Act, section 159A.8, and sections 159A.5, subsection
31 5, paragraph "e" and 423.24, subsection 1, paragraph "b", as
32 created in this Act, shall be applicable on and after July 1,
33 1993. However, the office of renewable fuel and the
34 department of revenue and finance shall adopt rules necessary
35 to implement those sections prior to July 1, 1993.

1 Sec. 11. FUTURE REPEALS.

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

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

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

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

10 5. Unobligated or unencumbered moneys in the ethanol
11 production incentive account of the renewable fuel fund shall
12 be credited to the road use tax fund as provided in section
13 423.24.

14 6. This section takes effect July 1, 1998.

15 EXPLANATION

16 This bill amends provisions relating to renewable fuel. In
17 1991, the general assembly adopted a number of provisions,
18 including chapter 159A, designed to support the production and
19 consumption of renewable fuel.

20 This bill first amends provisions for purposes of
21 conformity. The bill establishes a new program administered
22 by the office of renewable fuel which provides financial
23 incentives to support the increased production of ethanol
24 derived from an organic compound, including a photosynthate.
25 The bill provides procedures for the administration of the
26 payment of claims by eligible producers. Moneys to make
27 payment derive from an account established within the
28 renewable fuel fund. Moneys are deposited into the account
29 from revenue raised by the use tax on motor vehicles,
30 trailers, and motor vehicle accessories and equipment as
31 collected pursuant to section 423.7. In order to qualify for
32 a payment an ethanol production facility must be located in
33 this state, the facility must have an annual production
34 capacity of at least 5,000,000 gallons of ethanol, and the
35 facility must either begin construction on or after July 1,

1 1992, or the annual production capacity of the facility must
2 increase by at least 50 percent and at least 5,000,000 gallons
3 on or after July 1, 1993. The payments are based on the
4 number of gallons of ethanol produced in a computation period
5 established by the office. Payments shall be made according
6 to the total number of gallons produced by a new facility or
7 the percentage produced by an expanded facility which is
8 attributable to the expansion. The office shall allocate
9 moneys equally between cooperative associations organized
10 under Iowa law and persons other than cooperative
11 associations. The bill provides for the allocation of moneys
12 when too few or too many claims exist. The bill provides that
13 a single producer shall not receive more than 20 percent of
14 the moneys available for incentive payments during any
15 computation period. A producer is also prohibited from
16 receiving a payment after submitting claims for payments for
17 the production of more than 15,000,000 gallons of ethanol
18 during a fiscal year. Claims are to be paid beginning on
19 January 1, 1994. For the fiscal year beginning on July 1,
20 1993, the account cannot pay more than \$3 million in incentive
21 payments. For each following fiscal year, the account cannot
22 pay more than \$4 million in incentive payments.

23 The bill amends provisions relating to the allowable
24 purposes of cooperative associations to include ethanol
25 production.

26 The provisions creating the program and account are
27 repealed on July 1, 1998.

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HOUSE FILE 2456

H-5580

1 Amend House File 2456 as follows:

2 1. Page 2, by striking lines 34 and 35 and
3 inserting the following: "account. Moneys
4 appropriated for a state fiscal year to the ethanol
5 production incentive account which remain unobligated
6 and unencumbered on July 31 of the following state
7 fiscal year".

8 2. Page 3, by striking lines 11 through 15, and
9 inserting the following:
10 " . The office shall certify that a production
11 facility is eligible to participate in the program.
12 In order to receive a certificate, the producer must
13 submit an application, and provide a test claim for
14 one computation period immediately preceding a claim
15 for payment. A test claim shall provide the same
16 information required for a claim for payment under
17 subsection 3. A person applying to be certified under
18 this section must satisfy the following
19 requirements:".

20 3. Page 3, line 23, by inserting after the figure
21 "3." the following: "A certified producer may
22 participate in the program by submitting a claim to
23 the office for approval in a manner and according to
24 procedures established by the office."

25 4. Page 3, line 23, by striking the word
26 "qualified" and inserting the following: "certified".

27 5. Page 4, line 5, by striking the words
28 "organized as".

29 6. Page 4, line 6, by inserting after the figure
30 "499" the following: "carrying out purposes of an
31 agricultural association as described in section
32 499.2".

33 7. Page 4, by striking line 19, and inserting the
34 following: "equal three consecutive months in
35 duration. Moneys".

36 8. Page 4, line 27, by inserting after the word
37 "associations" the following: ". As used in this
38 section "cooperative association" means a cooperative
39 association".

40 9. Page 4, line 27, by inserting after the figure
41 "499" the following: "carrying out the purposes of an
42 agricultural association as described in section
43 499.2".

B 44 10. Page 4, by striking lines 28 through 30.

A 45 11. Page 4, by striking lines 34 and 35 and
46 inserting the following: "than cooperative
47 associations as provided in this subsection."

C 48 12. Page 6, by striking lines 7 through 9 and in-
49 serting the following: "producer is not eligible to
50 receive more than three million dollars in incentive

H-5580

H-5580

Page 2

1 payments during one state fiscal year. A producer is
2 not eligible to receive".

3 13. Page 6, by striking lines 25 and 26 and
4 inserting the following: "Moneys deposited during a
5 state fiscal year to the ethanol production incentive
6 account which remain unobligated and unencumbered on
7 July 31 of the following state fiscal year shall be
8 credited to the road use tax".

9 14. Page 7, line 35, by inserting after the
10 figure "1993." the following: "The office shall
11 accept applications and test claims relating to
12 computation periods beginning on July 1, 1993, for
13 purposes of certifying production facilities pursuant
14 to section 159A.8 before January 1, 1994."

15 15. Page 8, by striking lines 10 through 13 and
16 inserting the following:

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

25 16. Title page, line 2, by striking the words
26 "and providing" and inserting the following:
27 "providing".

28 17. Title page, by striking line 3, and inserting
29 the following: "applicability and effective dates,
30 and providing for the repeal and recodification of
31 provisions of the Act."

32 18. By renumbering as necessary.

By MUHLBAUER of Crawford

H-5580 FILED MARCH 27, 1992

A- Adopted 3/31, B.C. Lane

HOUSE FILE 2456

H-5619

1 Amend the amendment, H-5580, to House File 2456, as
2 follows:

3 1. Page 1, by striking lines 2 through 7 and
4 inserting the following:

5 "_____. Page 2, line 10, by striking the figure
6 "423.24" and inserting the following: "159A.9".

7 _____ . By striking page 2, line 34 through page 3,
8 line 2, and inserting the following: "account.

9 Moneys appropriated for a state fiscal year to the
10 ethanol production incentive account which remain
11 unobligated and unencumbered on July 31 of the
12 following fiscal year shall revert to the general fund
13 of the state as provided in section 159A.9."

14 2. Page 2, by striking lines 3 through 8 and
15 inserting the following:

16 "_____. Page 6, by striking lines 13 through 27 and
17 inserting the following:

18 "Sec. ____ . NEW SECTION. 159A.9 APPROPRIATIONS.

19 There is appropriated from the general fund of the
20 state to the office for deposit in the ethanol
21 production incentive account one million dollars each
22 quarter for each fiscal year beginning July 1, 1993,
23 July 1, 1994, July 1, 1995, July 1, 1996, and July 1,
24 1997. Moneys deposited according to this section are
25 a continuing appropriation for expenditure under
26 section 159A.8. Moneys deposited during a state
27 fiscal year to the ethanol production incentive
28 account which remain unobligated and unencumbered on
29 July 31 of the following state fiscal year shall
30 revert to the general fund of the state."

31 3. Page 2, by inserting after line 14 the
32 following:

33 "_____. Page 8, line 5, by striking the word and
34 figure "Section 159A.8" and inserting the following:
35 "Sections 159A.8 and 159A.9".

36 _____ . Page 8, line 5, by striking the word "is"
37 and inserting the following: "are"."

38 4. Page 2, line 15, by striking the figure "10"
39 and inserting the following: "8".

40 5. Page 2, line 24, by striking the words "road
41 use tax" and inserting the following: "general".

42 6. By renumbering as necessary.

By BANKS of Plymouth
BARTZ of Worth

H-5619 FILED MARCH 31, 1992

LOST (p. 748)

HOUSE FILE 2456

H-5625

1 Amend the amendment, H-5580, to House File 2456 as
2 follows:

3 1. By striking page 1, line 2 through page 2,
4 line 32, and inserting the following:

5 "_____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. NEW SECTION. 214A.20 REQUIRED SALE
8 OF ETHANOL BLENDED MOTOR VEHICLE FUEL.

9 1. On or after January 1, 1994, a retail dealer
10 shall not sell, offer for sale, or distribute motor
11 vehicle fuel from a storage tank, if the fuel is used
12 to propel a motor vehicle, as defined in section
13 321.1, unless the storage tank holds either diesel
14 fuel or the storage tank holds motor vehicle fuel
15 blended with at least ten percent ethanol.

16 2. A retail dealer shall maintain accurate records
17 showing storage tanks which are designated to hold
18 ethanol blended motor vehicle fuel, and regarding
19 distributions of motor vehicle fuel by wholesale
20 dealers to the dealer. The department may inspect
21 such records during regular business hours.

22 3. The department may upon application by a retail
23 dealer, suspend requirements imposed upon the dealer
24 under this section for ninety days, if the department
25 finds that a supply of ethanol blended motor vehicle
26 fuel is not available to the dealer and that the
27 dealer would suffer severe financial hardship by
28 failing to sell other motor vehicle fuel.

29 4. The department shall notify the department of
30 revenue and finance of a retail dealer violating this
31 section, and of a wholesale dealer distributing the
32 motor vehicle fuel which is sold, offered for sale, or
33 distributed in violation of this section. The
34 department shall also notify the department of revenue
35 and finance of a retail dealer allowed to purchase
36 unblended motor vehicle fuel under subsection 3, and
37 each wholesale dealer servicing the retail dealer.

38 Sec. _____. NEW SECTION. 324.4A LICENSE REVOCATION
39 -- DISTRIBUTION OF MOTOR VEHICLE FUEL NOT CONTAINING
40 ETHANOL.

41 A person licensed under section 324.4 shall not
42 knowingly distribute motor vehicle fuel to a dealer
43 selling or offering to sell the motor vehicle fuel in
44 this state to consumers in violation of section
45 214A.20. A person shall be deemed to have knowledge
46 of a violation, if the person fills a storage tank, as
47 defined in section 214A.1, which is used to service a
48 motor vehicle fuel pump from which motor vehicle fuel
49 is sold in violation of section 214A.20. The
50 department may suspend or revoke the license of a

Page 2
1 person violating this section."

2 _____. Title page, line 1, by inserting before the
3 word "providing" the following: "by".

4 _____. Title page, by striking lines 2 and 3 and
5 inserting the following: "sale of ethanol blended
6 gasoline.""

By HALVORSON of Clayton
LAGESCHULTE of Bremer
HARBOR of Mills

HOUSE FILE 2456

H-5618

1 Amend the amendment, H-5580, to House File 2456, as
2 follows:

3 1. By striking page 1, line 2 through page 2,
4 line 32, and inserting the following:

5 "_____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. Section 324.3, unnumbered paragraph 4,
8 Code Supplement 1991, is amended to read as follows:

9 For the privilege of operating motor vehicles in
10 this state an excise tax of ~~nineteen~~ eighteen cents
11 per gallon until June 30, 2000, is imposed upon the
12 use of motor fuel containing at least ten percent
13 alcohol distilled from cereal grains grown in the
14 United States and used for any purpose except as
15 otherwise provided in this division."

16 _____. Title page, line 1, by inserting before the
17 word "providing" the following: "by".

18 _____. Title page, by striking lines 2 and 3, and
19 inserting the following: "imposition of an excise tax
20 upon gasoline containing ethanol.""

By HALVORSON of Clayton
LAGESCHULTE of Bremer
HARBOR of Mills

H-5618 FILED MARCH 31, 1992
NOT GERMANE (p. 949)

Sen Wye + Mrs 4/1, Amend & Pass (S-565) 4/10

HOUSE FILE 2456
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2286)

(As Amended and Passed by the House March 31, 1992)

Passed House, Date 3/31/92 (p. 950) Passed Senate, Date 4/14/92 (p. 1383)
Vote: Ayes 56 Nays 42 Vote: Ayes 30 Nays 17
Approved April 20, 1992 (p. 1652)

A BILL FOR

1 An Act relating to the production of ethanol, providing for the
2 appropriation and allocation of moneys, providing
3 applicability and effective dates, and providing for the
4 repeal and recodification of provisions of the Act.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____
Deleted Language *

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

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

6 Sec. 2. Section 159A.5, subsection 5, Code Supplement
7 1991, is amended by adding the following new paragraph:

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

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

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

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

20 159A.7 RENEWABLE FUEL FUND.

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

31 ~~2.~~ Moneys in the fund shall be used only to administer
32 this chapter.

33 2. Moneys in the fund renewable fuel activities account
34 shall be allocated at the beginning of each fiscal year as
35 follows:

1 a. Up to forty percent may be dedicated to support
2 promotion and advertising of ethanol fuel.

3 b. Up to thirty percent may be dedicated to support
4 research at the university of Iowa.

5 c. Up to thirty percent may be dedicated to support
6 research at Iowa state university of science and technology.

7 d. The remaining balance shall be used by the office to
8 support other projects or programs developed by the office.

9 3. Moneys shall be deposited in the ethanol production
10 incentive account as provided in section 423.24. The moneys
11 shall be allocated to provide financial incentives to support
12 the increased production of ethanol derived from an organic
13 compound, including a photosynthate, as provided in section
14 159A.8.

15 ~~3~~ 4. Moneys in the fund ~~shall-be~~ are subject to an annual
16 audit by the auditor of state. The fund ~~shall-be~~ is subject
17 to warrants by the director of revenue and finance, drawn upon
18 the written requisition of the coordinator.

19 ~~4~~ 5. In administering the fund, the office may do all of
20 the following:

21 a. Contract, sue and be sued, and adopt procedures
22 necessary to administer this section. However, the office
23 shall not in any manner, directly or indirectly, pledge the
24 credit of the state.

25 b. Authorize payment from the fund accounts, from any
26 income received by investment of moneys in the fund, for
27 administrative costs, commissions, attorney and accountant
28 fees, and other reasonable expenses related to and necessary
29 for administering the ~~fund-and-administering-the-program~~
30 accounts.

31 ~~5~~ 6. Section 8.33 ~~shall~~ does not apply to moneys in the
32 fund renewable fuel activities account. Income received by
33 investment of moneys in the account shall remain in that
34 account. Moneys appropriated for a state fiscal year to the
35 ethanol production incentive account which remain unobligated

1 and unencumbered on July 31 of the following state fiscal year
2 shall be credited to the road use tax fund as provided in
3 section 423.24.

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

6 1. An ethanol production incentive program administered by
7 the office is established. The office shall adopt rules
8 pursuant to chapter 17A necessary to administer this section.
9 The purpose of the program is to provide financial incentives
10 to support the increased production of ethanol derived from an
11 organic compound, including a photosynthate.

12 2. The office shall certify that a production facility is
13 eligible to participate in the program. In order to receive a
14 certificate, the producer must submit an application, and
15 provide a test claim for one computation period immediately
16 preceding a claim for payment. A test claim shall provide the
17 same information required for a claim for payment under
18 subsection 3. A person applying to be certified under this
19 section must satisfy the following requirements:

- 20 a. The production facility is located in this state.
21 b. The production facility has an annual production
22 capacity of at least five million gallons of ethanol.
23 c. The production facility begins construction on or after
24 July 1, 1992, or the annual production capacity of the
25 production facility increases by at least fifty percent, but
26 not less than five million gallons, on or after July 1, 1993.

27 3. A certified producer may participate in the program by
28 submitting a claim to the office for approval in a manner and
29 according to procedures established by the office. The office
30 shall provide a certified ethanol producer with an incentive
31 payment of twenty cents for each qualifying gallon of ethanol
32 produced. The producer shall be paid according to the total
33 number of gallons produced by a new facility or according to
34 the number of gallons produced by an expanded facility which
35 is attributable to the expansion. In order to qualify for the

1 payment, all fermentation, distillation, and dehydration of
2 the ethanol must occur at the facility. The ethanol produced
3 at the facility must be at least ninety-nine percent pure and
4 must be denatured and subsequently blended with gasoline.

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

7 a. The name of the producer.

8 b. The location of the facility producing ethanol.

9 c. The gallons of qualifying ethanol which were produced
10 in the calculation period.

* 11 d. Whether the producer is a cooperative association
12 organized pursuant to chapter 497, 498, or 499 carrying out
13 purposes of an agricultural association as described in
14 section 499.2.

15 The office shall verify the accuracy of the claims
16 submitted by a producer. The office may require that a
17 producer submit regular unqualified opinions based upon audits
18 performed by a person certified pursuant to section 116.5.

19 The office shall approve a claim and make an incentive payment
20 within thirty days following receipt of the claim, unless the
21 office notifies the producer otherwise.

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

32 (1) An amount equal to fifty percent of the moneys
33 available in the account shall be reserved for purposes of
34 making incentive payments to claimants which are cooperative
35 associations. As used in this section "cooperative

1 association" means a cooperative association organized
2 pursuant to chapter 497, 498, or 499 carrying out the purposes
3 of an agricultural association as described in section 499.2.

4 All stockholders, shareholders, or members of a cooperative
5 association must hold a legal or equitable interest in land
6 located in this state.

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

11 b. If moneys remain from the amount reserved to satisfy
12 all claims made by cooperative associations at the end of a
13 computation period, the office shall use the remaining moneys
14 to increase payments made to persons other than cooperative
15 associations submitting claims for that computation period, to
16 the extent that the claims of those persons were not
17 completely satisfied. If moneys remain from the amount
18 reserved to satisfy all claims made by persons other than
19 cooperative associations at the end of a computation period,
20 the office shall use the remaining moneys to increase payments
21 made to cooperative associations submitting claims for that
22 computation period, to the extent that the claims of those
23 cooperative associations were not completely satisfied. These
24 remaining moneys shall be paid on a prorated basis according
25 to the proportionate amount of ethanol produced during the
26 computation period. If moneys remain from the amount reserved
27 to satisfy the claims made by all cooperative associations and
28 other persons, the moneys shall be allocated to ensure equal
29 payments to cooperative associations and persons who are not
30 cooperative associations during the remainder of the
31 subsequent computation periods in the state fiscal year.

32 c. If sufficient moneys are not available to satisfy the
33 claims of all cooperative associations from moneys available
34 for that computation period, the office shall prorate the
35 payments to each cooperative association according to the

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

11 d. The office shall begin making payments on and after
12 January 1, 1994. For the fiscal year beginning on July 1,
13 1993, and ending on June 30, 1994, the fund shall not pay more
14 than three million dollars for incentive payments. For each
15 fiscal year following June 30, 1994, the fund shall not pay
16 more than four million dollars for incentive payments. A
17 producer is not eligible to receive more than twenty percent
18 of the moneys available for incentive payments during any
19 computation period. A producer is not eligible to receive
20 payments in a state fiscal year after receiving payments based
21 on claims for the production of more than fifteen million
22 gallons of ethanol during the fiscal year.

23 Sec. 6. Section 423.24, subsection 1, Code Supplement
24 1991, is amended by adding the following new paragraph after
25 paragraph a, and relettering subsequent paragraphs:

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

1 incentive account which remain unobligated and unencumbered on
2 July 31 of the following state fiscal year shall be credited
3 to the road use tax fund as provided in this section.

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

6 497.1 PLAN AUTHORIZED.

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

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

17 498.2 ORGANIZATION.

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

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

30 "Agricultural associations" are those formed to produce,
31 grade, blend, preserve, process, store, warehouse, market,
32 sell, or handle an agricultural product, or a by-product of an
33 agricultural product; to produce ethanol; to purchase,
34 produce, sell, or supply machinery, petroleum products,
35 equipment, fertilizer, supplies, business services, or

1 educational service to or for those engaged as bona fide
2 producers of agricultural products; to finance any such
3 activities; or to engage in any co-operative activity
4 connected with or for any number of these purposes.

5 Sec. 10. DATE OF APPLICABILITY. Section 159A.7 as amended
6 by this Act, section 159A.8, and sections 159A.5, subsection
7 5, paragraph "e" and 423.24, subsection 1, paragraph "b", as
8 created in this Act, shall be applicable on and after July 1,
9 1993. However, the office of renewable fuel and the
10 department of revenue and finance shall adopt rules necessary
11 to implement those sections prior to July 1, 1993. The office
12 shall accept applications and test claims relating to
13 computation periods beginning on July 1, 1993, for purposes of
14 certifying production facilities pursuant to section 159A.8
15 before January 1, 1994.

16 Sec. 11. FUTURE REPEALS.

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

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

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

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

25 5. Moneys deposited in the ethanol production incentive
26 account of the renewable fuel fund during the state fiscal
27 year beginning July 1, 1997, and ending June 30, 1998, shall
28 be used to satisfy last computation period claims after June
29 30, 1998, as provided in this Act. Moneys which remain
30 unobligated and unencumbered on July 31, 1998, shall be
31 credited to the road use tax fund as provided in this Act.

32 6. This section takes effect July 1, 1998.

33
34
35

HOUSE FILE 2456

S-5631

1 Amend House File 2456, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 3, by striking lines 18 and 19 and
4 inserting the following: "subsection 3. A producer
5 shall not be certified or retain certification, unless
6 both of the following requirements are satisfied:"

7 2. Page 3, line 22, by inserting after the word
8 "five" the following: "but not more than fifteen".

9 3. Page 3, by striking lines 23 through 26.

10 4. Page 3, by striking lines 32 through 35 and
11 inserting the following: "produced. In order to
12 qualify for the".

13 5. Page 4, line 34, by striking the word
14 "claimants" and inserting the following: "certified
15 producers".

16 6. Page 5, line 9, by striking the word
17 "claimants" and inserting the following: "certified
18 producers".

19 7. Page 6, by striking lines 19 through 22 and
20 inserting the following: "computation period."

By COMMITTEE ON WAYS AND MEANS
WILLIAM W. DIELEMAN, CHAIRPERSON

S-5631 FILED APRIL 10, 1992

Loose 4/14/92 (p 1382)

HOUSE FILE 2456

S-5668

- 1 Amend House File 2456, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 2, line 10, by striking the figure
4 "423.24" and inserting the following: "159A.9".
- 5 2. By striking page 2, line 34 through page 3,
6 line 3, and inserting the following: "account.
7 Moneys appropriated for a state fiscal year to the
8 ethanol production incentive account which remain
9 unobligated and unencumbered on July 31 of the
10 following fiscal year shall revert to the general fund
11 of the state as provided in section 159A.9."
- 12 3. By striking page 6, line 23 through page 7,
13 line 3 and inserting the following:
14 "Sec. ____ . NEW SECTION. 159A.9 APPROPRIATIONS.
15 There is appropriated from the general fund of the
16 state to the office for deposit in the ethanol
17 production incentive account one million dollars each
18 quarter for each fiscal year beginning July 1, 1993,
19 July 1, 1994, July 1, 1995, July 1, 1996, and July 1,
20 1997. Moneys deposited according to this section are
21 a continuing appropriation for expenditure under
22 section 159A.8. Moneys deposited during a state
23 fiscal year to the ethanol production incentive
24 account which remain unobligated and unencumbered on
25 July 31 of the following state fiscal year shall
26 revert to the general fund of the state."
- 27 4. Page 8, line 20, by striking the word and
28 figure "Section 159A.8" and inserting the following:
29 "Sections 159A.8 and 159A.9".
- 30 5. Page 8, line 20, by striking the word "is" and
31 inserting the following: "are".
- 32 6. Page 8, by striking lines 23 and 24.
- 33 7. Page 8, line 31, by striking the words "road
34 use tax" and inserting the following: "general".
- 35 8. By renumbering as necessary.

By RICHARD F. DRAKE

S-5668 FILED APRIL 14, 1992

LOST (p. 13 of 2)

HOUSE FILE 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 421.24.

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.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2456, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 20, 1992

TERRY E. BRANSTAD
Governor

HF 2456