

# Senate Study Bill 1176

## Bill Text

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1 1 Section 1. NEW SECTION. 422.11C ETHANOL BLENDED GASOLINE  
1 2 TAX CREDIT.  
1 3 1. As used in this section, unless the context otherwise  
1 4 requires:  
1 5 a. "Ethanol blended gasoline" means the same as defined in  
1 6 section 452A.2.  
1 7 b. "Gasoline" means gasoline that meets the specifications  
1 8 required by the department of agriculture and land stewardship  
1 9 pursuant to section 214A.2 that is dispensed through a metered  
1 10 pump.  
1 11 c. "Metered pump" means a motor vehicle fuel pump licensed  
1 12 by the department of agriculture and land stewardship pursuant  
1 13 to chapter 214.  
1 14 d. "Retail dealer" means a retail dealer as defined in  
1 15 section 214A.1 who operates a metered pump at a service  
1 16 station.  
1 17 e. "Sell" means to sell on a retail basis.  
1 18 f. "Service station" means each geographic location in  
1 19 this state where a retail dealer sells and dispenses gasoline  
1 20 on a retail basis.  
1 21 g. "Tax credit" means the designated ethanol blended  
1 22 gasoline tax credit as provided in this section.  
1 23 2. The taxes imposed under this division, less the credits  
1 24 allowed under sections 422.12 and 422.12B, shall be reduced by  
1 25 an ethanol blended gasoline tax credit for each tax year that  
1 26 the taxpayer is eligible to claim the tax credit under this  
1 27 section. In order to be eligible, all of the following must  
1 28 apply:  
1 29 a. The taxpayer is a retail dealer.  
1 30 b. The taxpayer operates at least one service station at  
1 31 which more than sixty percent of the total gallons of gasoline  
1 32 sold and dispensed through one or more metered pumps by the  
1 33 taxpayer in the tax year is ethanol blended gasoline.  
1 34 c. The taxpayer complies with requirements of the  
1 35 department required to administer this section.  
2 1 3. For each service station, the department shall to the  
2 2 extent necessary in order to administer this section, require  
2 3 that a retail dealer claiming a tax credit be certified to  
2 4 claim the tax credit, maintain records that the retail dealer  
2 5 is eligible for the tax credit, or periodically report to the  
2 6 department information about the total amount of gasoline sold  
2 7 and dispensed through metered pumps, the amount of ethanol  
2 8 blended gasoline sold and dispensed through metered pumps, and  
2 9 the percentage of gasoline sold and dispensed through metered  
2 10 pumps that is ethanol blended gasoline. The department may  
2 11 make the requirements applicable under this section or section  
2 12 452A.9A. If the department requires the taxpayer to report  
2 13 the information to the department, the information is a public  
2 14 record subject to examination and copying under section 22.2.  
2 15 A certificate, record, or report required under this  
2 16 section shall be certified by the retail dealer under  
2 17 penalties for false certification as provided in section  
2 18 714.8.  
2 19 4. The tax credit shall be calculated separately for each  
2 20 service station site operated by the taxpayer. The amount of  
2 21 the tax credit for each eligible service station is two and

2 22 one-half cents multiplied by the total number of gallons of  
2 23 ethanol blended gasoline sold and dispensed through all  
2 24 metered pumps located at that service station during the tax  
2 25 year in excess of sixty percent of all gasoline sold and  
2 26 dispensed through metered pumps at that service station during  
2 27 the tax year.

2 28 5. Any credit in excess of the taxpayer's tax liability  
2 29 shall be refunded. In lieu of claiming a refund, the taxpayer  
2 30 may elect to have the overpayment shown on the taxpayer's  
2 31 final, completed return credited to the tax liability for the  
2 32 following tax year.

2 33 6. An individual may claim the tax credit allowed a  
2 34 partnership, limited liability company, S corporation, estate,  
2 35 or trust electing to have the income taxed directly to the  
3 1 individual. The amount claimed by the individual shall be  
3 2 based upon the pro rata share of the individual's earnings of  
3 3 a partnership, limited liability company, S corporation,  
3 4 estate, or trust.

3 5 Sec. 2. Section [422.33](#), Code 2001, is amended by adding  
3 6 the following new subsection:

3 7 NEW SUBSECTION. 11. a. As used in this subsection,  
3 8 unless the context otherwise requires:

3 9 (1) "Ethanol blended gasoline", "gasoline", "metered  
3 10 pump", "retail dealer", "sell", and "service station", mean  
3 11 the same as defined in section 422.11C.

3 12 (2) "Tax credit" means the designated ethanol blended  
3 13 gasoline tax credit as provided in this subsection.

3 14 b. The taxes imposed under this division shall be reduced  
3 15 by an ethanol blended gasoline tax credit for each tax year  
3 16 that the taxpayer is eligible to claim the tax credit under  
3 17 this subsection. In order to be eligible, all of the  
3 18 following must apply:

3 19 (1) The taxpayer is a retail dealer.

3 20 (2) The taxpayer operates at least one service station at  
3 21 which more than sixty percent of the total gallons of gasoline  
3 22 sold and dispensed through one or more metered pumps by the  
3 23 taxpayer is ethanol blended gasoline.

3 24 (3) The taxpayer complies with requirements of the  
3 25 department required to administer this subsection.

3 26 c. For each service station, the department shall to the  
3 27 extent necessary in order to administer this subsection,  
3 28 require that a retail dealer claiming a tax credit be  
3 29 certified to claim the tax credit, maintain records that the  
3 30 retail dealer is eligible for the tax credit, or periodically  
3 31 report to the department information about the total amount of  
3 32 gasoline sold and dispensed through metered pumps, the amount  
3 33 of the gasoline classified as designated ethanol blended  
3 34 gasoline sold and dispensed through metered pumps, and the  
3 35 percentage of gasoline sold and dispensed through metered  
4 1 pumps that is ethanol blended gasoline. The department may  
4 2 make the requirements applicable under this subsection or  
4 3 section 452A.9A. If the department requires the taxpayer to  
4 4 report the information, the information is a public record and  
4 5 subject to examination and copying under section 22.2.

4 6 A certificate, record, or report required under this  
4 7 paragraph shall be certified by the retail dealer under  
4 8 penalties for false certification as provided in section  
4 9 714.8.

4 10 d. The tax credit shall be calculated separately for each  
4 11 service station site operated by the taxpayer. The amount of  
4 12 the tax credit for each eligible service station is two and  
4 13 one-half cents multiplied by the total number of gallons of  
4 14 ethanol blended gasoline sold and dispensed through all  
4 15 metered pumps located at that service station during the tax  
4 16 year in excess of sixty percent of all gasoline sold and  
4 17 dispensed through metered pumps at that service station during  
4 18 the tax year.

4 19 e. Any credit in excess of the taxpayer's tax liability  
4 20 shall be refunded. In lieu of claiming a refund, the taxpayer  
4 21 may elect to have the overpayment shown on the taxpayer's  
4 22 final, completed return credited to the tax liability for the  
4 23 following tax year.

4 24 Sec. 3. Section [452A.3](#), subsection 1, Code 2001, is  
4 25 amended by striking the subsection and inserting in lieu  
4 26 thereof the following:

4 27 1. Except as otherwise provided in this section and in  
4 28 this division, until June 30, 2007, this subsection shall  
4 29 apply to the excise tax imposed on each gallon of motor fuel  
4 30 used for any purpose for the privilege of operating motor  
4 31 vehicles in this state.

4 32 a. The rate of the excise tax shall be based on the number  
4 33 of gallons of ethanol blended gasoline that is distributed in  
4 34 this state as expressed as a percentage of the number of  
4 35 gallons of motor fuel distributed in this state, which is  
5 1 referred to as the distribution percentage. The department  
5 2 shall determine the percentage basis for each determination  
5 3 period beginning January 1 and ending December 31. The rate  
5 4 for the excise tax shall apply for the period beginning July 1  
5 5 and ending June 30 following the end of the determination  
5 6 period. Information compiled by the department in order to  
5 7 make its determination shall be a public record subject to  
5 8 examination and copying under section 22.2.

5 9 b. The rate for the excise tax shall be as follows:

5 10 (1) If the distribution percentage is not greater than  
5 11 fifty percent, the rate shall be nineteen cents for ethanol  
5 12 blended gasoline and twenty cents for motor fuel other than  
5 13 ethanol blended gasoline.

5 14 (2) If the distribution percentage is greater than fifty  
5 15 percent but not greater than fifty-five percent, the rate  
5 16 shall be nineteen cents for ethanol blended gasoline and  
5 17 twenty and one-tenth cents for motor fuel other than ethanol  
5 18 blended gasoline.

5 19 (3) If the distribution percentage is greater than fifty-  
5 20 five percent but not greater than sixty percent, the rate  
5 21 shall be nineteen cents for ethanol blended gasoline and  
5 22 twenty and three-tenths cents for motor fuel other than  
5 23 ethanol blended gasoline.

5 24 (4) If the distribution percentage is greater than sixty  
5 25 percent but not greater than sixty-five percent, the rate  
5 26 shall be nineteen cents for ethanol blended gasoline and  
5 27 twenty and five-tenths cents for motor fuel other than ethanol  
5 28 blended gasoline.

5 29 (5) If the distribution percentage is greater than sixty-  
5 30 five percent but not greater than seventy percent, the rate  
5 31 shall be nineteen cents for ethanol blended gasoline and  
5 32 twenty and seven-tenths cents for motor fuel other than  
5 33 ethanol blended gasoline.

5 34 (6) If the distribution percentage is greater than seventy  
5 35 percent but not greater than seventy-five percent, the rate  
6 1 shall be nineteen cents for ethanol blended gasoline and  
6 2 twenty-one cents for motor fuel other than ethanol blended  
6 3 gasoline.

6 4 (7) If the distribution percentage is greater than  
6 5 seventy-five percent but not greater than eighty percent, the  
6 6 rate shall be nineteen and three-tenths cents for ethanol  
6 7 blended gasoline and twenty and eight-tenths cents for motor  
6 8 fuel other than ethanol blended gasoline.

6 9 (8) If the distribution percentage is greater than eighty  
6 10 percent but not greater than eighty-five percent, the rate  
6 11 shall be nineteen and five-tenths cents for ethanol blended  
6 12 gasoline and twenty and seven-tenths cents for motor fuel  
6 13 other than ethanol blended gasoline.

6 14 (9) If the distribution percentage is greater than eighty-  
6 15 five percent but not greater than ninety percent, the rate

6 16 shall be nineteen and seven-tenths cents for ethanol blended  
6 17 gasoline and twenty and four-tenths cents for motor fuel other  
6 18 than ethanol blended gasoline.

6 19 (10) If the distribution percentage is greater than ninety  
6 20 percent but not greater than ninety-five percent, the rate  
6 21 shall be nineteen and nine-tenths cents for ethanol blended  
6 22 gasoline and twenty and one-tenth cents for motor fuel other  
6 23 than ethanol blended gasoline.

6 24 (11) If the distribution percentage is greater than  
6 25 ninety-five percent, the rate shall be twenty cents for  
6 26 ethanol blended gasoline and twenty cents for motor fuel other  
6 27 than ethanol blended gasoline.

6 28 1A. Except as otherwise provided in this section and in  
6 29 this division, after June 30, 2007, an excise tax of twenty  
6 30 cents is imposed on each gallon of motor fuel used for any  
6 31 purpose for the privilege of operating motor vehicles in this  
6 32 state.

6 33 Sec. 4. Section [452A.3](#), subsection 2, paragraph b, Code  
6 34 2001, is amended by striking the paragraph.

6 35 Sec. 5. NEW SECTION. 452A.9A ETHANOL BLENDED GASOLINE  
7 1 TAX CREDIT.

7 2 The department shall to the extent necessary in order to  
7 3 administer this section, require that a dealer claiming an  
7 4 ethanol blended gasoline tax credit as provided in section  
7 5 422.11C or section 422.33 be certified to claim the tax  
7 6 credit, maintain records that the dealer is eligible for the  
7 7 tax credit, or periodically report to the department  
7 8 information as otherwise required under those provisions as  
7 9 part of the department's administration of this chapter. If  
7 10 the department requires the taxpayer to report the information  
7 11 to the department, the information is a public record subject  
7 12 to examination and copying under section 22.2.

7 13 Sec. 6. APPLICABILITY.

7 14 1. Notwithstanding section 452A.3, as amended in this Act,  
7 15 the excise tax imposed upon motor vehicle fuel, including  
7 16 ethanol blended gasoline, as provided in that section shall be  
7 17 the same as provided in that section on June 30, 2001, until  
7 18 July 1, 2002. The excise tax for the period beginning July 1,  
7 19 2002, and ending June 30, 2003, and for each subsequent  
7 20 period, shall be based on a determination made by the  
7 21 department of revenue and finance as provided in section  
7 22 452A.3, subsection 1.

7 23 2. The ethanol blended gasoline tax credits provided in  
7 24 sections 422.11C, 422.33, and 452A.9A apply to tax years  
7 25 beginning on or after January 1, 2002. The department of  
7 26 revenue and finance shall perform functions, prior to the  
7 27 beginning of that tax year, necessary in order to implement  
7 28 the tax credits.

7 29 EXPLANATION

7 30 This bill provides for the sale of ethanol blended  
7 31 gasoline. According to Code section 452A.2, this means motor  
7 32 fuel containing at least 10 percent alcohol distilled from  
7 33 cereal grains.

7 34 The bill provides an income tax credit for retail dealers  
7 35 of gasoline who sell ethanol blended gasoline. The tax credit  
8 1 applies to both taxpayers filing as individuals under Code  
8 2 section 422.11C and businesses under Code section 422.33. The  
8 3 bill provides for the tax credit for each service station at  
8 4 which more than 60 percent of the total gallons of gasoline  
8 5 sold by the taxpayer is ethanol blended gasoline. The amount  
8 6 of the tax credit is 2 1/2 cents multiplied by the total  
8 7 number of gallons of ethanol blended gasoline sold at that  
8 8 service station during the tax year. The bill also provides  
8 9 for refund or carryforward of any credit in excess of the  
8 10 taxpayer's liability.

8 11 The bill also amends provisions in Code section 452A.3 that  
8 12 provide for an excise tax on each gallon of motor fuel sold in

8 13 the state. The general rate is 20 cents per gallon. The  
8 14 section provides a number of exceptions. One exception  
8 15 provides that until June 30, 2007, the rate is 19 cents per  
8 16 gallon of ethanol blended gasoline. The bill provides that  
8 17 until that date the general rate and the special rate for  
8 18 ethanol blended gasoline is determined each year beginning on  
8 19 July 1 and ending on June 30 by the department of revenue and  
8 20 finance, based on the number of gallons of ethanol blended  
8 21 gasoline distributed in this state. The general rate is  
8 22 between 20 cents and 20.8 cents and the special rate for  
8 23 ethanol blended gasoline is between 19 and 20 cents.  
8 24 The bill contains special applicability provisions. It  
8 25 provides that the tax credit applies to tax years beginning on  
8 26 and after January 1, 2002. It also provides that the excise  
8 27 tax provisions apply on and after July 1, 2002.  
8 28 LSB 2151XC 79  
8 29 da/cf/24.2