

Senate File 531 - Introduced

SENATE FILE 531
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 496)
(SUCCESSOR TO SSB 1148)

A BILL FOR

1 An Act relating to renewable fuels, including by providing for
2 tax credits and refunds, and including effective date and
3 applicability provisions.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I

RETAIL DEALERS — MOTOR FUEL STANDARDS

Section 1. Section 214A.2, subsection 4, paragraph b, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Biodiesel blended fuel classified as B-6 or higher but not higher than B-20 must conform to A.S.T.M. international specification D7467 or a successor A.S.T.M. international specification as established by rules adopted by the department.

DIVISION II

RETAIL DEALERS — LIABILITY

Sec. 2. NEW SECTION. 214A.20 Retail dealers — limitation on liability.

1. A retail dealer is not liable for damages caused by the use of incompatible motor fuel dispensed at the retail dealer's retail motor fuel site, if all of the following applies:

a. The incompatible motor fuel complies with the specifications for a type of motor fuel as provided in section 214A.2.

b. The incompatible motor fuel is selected by a person other than the retail dealer, including an employee or agent of the retail dealer.

c. The incompatible motor fuel is dispensed from a motor fuel pump that correctly labels the type of fuel dispensed.

2. For purposes of this section, a motor fuel is incompatible with a motor according to the manufacturer of the motor.

DIVISION III

RETAIL DEALERS — ETHANOL PROMOTION TAX CREDIT

Sec. 3. Section 422.11N, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. "E-85 gasoline", "ethanol", "ethanol blended gasoline", "gasoline", and "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

Sec. 4. Section 422.11N, subsection 3, paragraph a, Code

1 2011, is amended to read as follows:

2 *a.* The taxpayer is a retail dealer who sells and dispenses
3 ethanol blended gasoline through a motor fuel pump ~~is~~ located
4 at the retail dealer's retail motor fuel site during the tax
5 year in determination period or parts of the determination
6 periods for which the tax credit is claimed as provided in this
7 section.

8 Sec. 5. Section 422.11N, Code 2011, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 3A. *a.* When first claiming the tax
11 credit, the retail dealer shall elect to compute and claim the
12 tax credit on a company-wide basis or site-by-site basis as
13 provided in section 452A.33.

14 (1) In making a company-wide election, the retail dealer
15 must compute and claim the tax credit based on calculations
16 as provided in this section for all retail motor fuel sites
17 where the retail dealer sells and dispenses motor fuel on a
18 retail basis. The retail dealer shall not claim the tax credit
19 based on a calculation which does not include all such retail
20 motor fuel sites. A retail dealer shall use the company-wide
21 election in order to calculate the retail dealer's biofuel
22 threshold percentage as provided in subsection 4, paragraph
23 "b".

24 (2) In making a site-by-site election, the retail dealer
25 must compute and claim the tax credit based on calculations as
26 provided in this section for each retail motor fuel site where
27 the retail dealer sells and dispenses motor fuel on a retail
28 basis. The retail dealer shall not claim the tax credit based
29 on a calculation which includes two or more retail motor fuel
30 sites. Nothing in this subparagraph requires the retail dealer
31 to compute or claim a tax credit for a particular retail motor
32 fuel site. The retail dealer shall not use the site-by-site
33 election in order to calculate the retail dealer's biofuel
34 threshold percentage as provided in subsection 4, paragraph
35 "b".

1 *b.* Once the retail dealer makes an election as provided in
2 paragraph "a", the retail dealer shall not change the election
3 without the written consent of the department.

4 Sec. 6. Section 422.11N, subsection 4, paragraph d, Code
5 2011, is amended by striking the paragraph.

6 Sec. 7. Section 422.11N, subsection 5, paragraph a,
7 subparagraph (1), Code 2011, is amended to read as follows:

8 (1) For any tax year in which the retail dealer has attained
9 a biofuel threshold percentage for the determination period,
10 the tax credit rate is ~~six and one-half~~ eight cents.

11 Sec. 8. Section 422.11N, subsection 5, paragraph a,
12 subparagraph (2), subparagraph divisions (a) and (b), Code
13 2011, are amended to read as follows:

14 (a) If the retail dealer's biofuel threshold percentage
15 disparity equals two percent or less, the tax credit rate is
16 ~~four and one-half~~ six cents.

17 (b) If the retail dealer's biofuel threshold percentage
18 disparity equals more than two percent but not more than four
19 percent, the tax credit rate is ~~two and one-half~~ four cents.

20 Sec. 9. Section 422.11N, subsection 6, Code 2011, is amended
21 to read as follows:

22 6. a. A retail dealer is eligible to claim an ethanol
23 promotion tax credit as provided in this section even though
24 the retail dealer claims ~~an~~ one or all of the following related
25 tax credits:

26 (1) The E-85 gasoline promotion tax credit pursuant to
27 section 422.11O.

28 (2) The E-15 plus gasoline promotion tax credit pursuant to
29 section 422.11Y.

30 b. The retail dealer may claim the ethanol promotion tax
31 credit and one or more of the related tax credits as provided
32 in paragraph "a" for the same tax year and for the same ethanol
33 gallage.

34 Sec. 10. Section 452A.33, subsection 1, paragraph b, Code
35 2011, is amended by striking the paragraph and inserting in

1 lieu thereof the following:

2 *b.* The report shall include information required in
3 paragraph "a" on a company-wide and site-by-site basis, as
4 required by the department.

5 (1) The information submitted on a company-wide basis shall
6 include the total motor fuel gallonage, including for each
7 classification and subclassification, sold and dispensed by the
8 retail dealer as provided in paragraph "a" for all retail motor
9 fuel sites from which the retail dealer sells and dispenses
10 motor fuel.

11 (2) The information submitted on a site-by-site basis shall
12 include the total motor fuel gallonage, including for each
13 classification and subclassification, sold and dispensed by the
14 retail dealer as provided in paragraph "a" separately for each
15 retail motor fuel site from which the retail dealer sells and
16 dispenses motor fuel.

17 Sec. 11. 2006 Iowa Acts, chapter 1142, section 49,
18 subsection 2, as amended by 2006 Iowa Acts, chapter 1175,
19 section 17, is amended to read as follows:

20 2. For a retail dealer who may claim an ethanol promotion
21 tax credit under section 422.11N or 422.33, subsection 11A, as
22 enacted in this Act and amended in subsequent Acts, in calendar
23 year 2020 and whose tax year ends prior to December 31, 2020,
24 the retail dealer may continue to claim the tax credit in the
25 retail dealer's following tax year. In that case, the tax
26 credit shall be calculated in the same manner as provided in
27 section 422.11N or 422.33, subsection 11A, as enacted in this
28 Act and amended in subsequent Acts, for the remaining period
29 beginning on the first day of the retail dealer's new tax year
30 until December 31, 2020. For that remaining period, the tax
31 credit shall be calculated in the same manner as a retail
32 dealer whose tax year began on the previous January 1 and who
33 is calculating the tax credit on December 31, 2020.

34 Sec. 12. ADMINISTRATIVE RULES. The department of revenue
35 may adopt rules under chapter 17A prior to the effectiveness

1 and applicability of section 422.11N, as amended in this
2 division of this Act, and the application of section 422.33,
3 subsection 11A, due to this division of this Act. The
4 department's rules shall not take effect earlier than January
5 1, 2012.

6 Sec. 13. EFFECTIVE DATES.

7 1. Except as provided in subsection 2, this division of this
8 Act takes effect on July 1, 2011.

9 2. a. The section of this division of this Act authorizing
10 the department of revenue to adopt rules takes effect upon
11 enactment.

12 b. Section 422.11N, as amended in this division of this Act,
13 and the application of section 422.33, subsection 11A, due to
14 this division of this Act, take effect on January 1, 2012.

15 Sec. 14. APPLICABILITY. Section 422.11N, as amended in this
16 division of this Act, and the application of section 422.33,
17 subsection 11A, due to this division of this Act, apply to tax
18 years beginning on and after January 1, 2012.

19 DIVISION IV

20 E-85 GASOLINE PROMOTION TAX CREDIT

21 Sec. 15. Section 422.110, subsection 2, Code 2011, is
22 amended to read as follows:

23 2. The taxes imposed under this division, less the credits
24 allowed under section 422.12, shall be reduced by an E-85
25 gasoline promotion tax credit for each tax year that the
26 taxpayer is eligible to claim the tax credit under this
27 subsection.

28 a. In order to be eligible, all of the following must apply:

29 ~~a.~~ (1) The taxpayer is a retail dealer who sells and
30 dispenses E-85 gasoline through a motor fuel pump ~~in~~ located
31 at the retail dealer's retail motor fuel site during the tax
32 calendar year in or parts of the calendar year for which the
33 tax credit is claimed as provided in this section.

34 ~~b.~~ (2) The retail dealer complies with requirements of the
35 department to administer this section.

1 b. The tax credit shall apply to E-85 gasoline that meets
2 the standards provided in section 214A.2.

3 Sec. 16. Section 422.110, subsection 3, Code 2011, is
4 amended by striking the subsection and inserting in lieu
5 thereof the following:

6 3. For a retail dealer whose tax year is on a calendar year
7 basis, the retail dealer shall calculate the amount of the tax
8 credit by multiplying sixteen cents by the retail dealer's
9 total E-85 gasoline gallonage as provided in sections 452A.31
10 and 452A.32.

11 Sec. 17. Section 422.110, subsection 5, Code 2011, is
12 amended to read as follows:

13 5. a. A retail dealer is eligible to claim an E-85 gasoline
14 promotion tax credit as provided in this section even though
15 the retail dealer claims an one or all of the following related
16 tax credits:

17 (1) The ethanol promotion tax credit pursuant to section
18 422.11N for the same tax year for the same ethanol gallonage.

19 (2) The E-15 plus gasoline tax credit pursuant to section
20 422.11Y.

21 b. (1) The retail dealer may claim the E-85 gasoline
22 promotion tax credit and one or more of the related tax credits
23 as provided in paragraph "a" for the same tax year.

24 (2) The retail dealer may claim the ethanol promotion
25 tax credit as provided in paragraph "a" for the same ethanol
26 gallonage used to calculate and claim the E-85 gasoline
27 promotion tax credit.

28 Sec. 18. Section 422.110, subsection 8, Code 2011, is
29 amended to read as follows:

30 8. This section is repealed on January 1, ~~2021~~ 2018.

31 Sec. 19. Section 422.33, subsection 11B, paragraph c, Code
32 2011, is amended to read as follows:

33 c. This subsection is repealed on January 1, ~~2021~~ 2018.

34 Sec. 20. 2006 Iowa Acts, chapter 1142, section 49,
35 subsection 3, is amended to read as follows:

1 3. For a retail dealer who may claim an E-85 gasoline
2 promotion tax credit under section 422.110 or 422.33,
3 subsection 11B, as enacted in this Act and amended in
4 subsequent Acts, in calendar year ~~2020~~ 2017 and whose tax
5 year ends prior to December 31, ~~2020~~ 2017, the retail dealer
6 may continue to claim the tax credit in the retail dealer's
7 following tax year. In that case, the tax credit shall be
8 calculated in the same manner as provided in section 422.110
9 or 422.33, subsection 11B, as enacted in this Act and amended
10 in subsequent Acts, for the remaining period beginning on the
11 first day of the retail dealer's new tax year until December
12 31, ~~2020~~ 2017. For that remaining period, the tax credit shall
13 be calculated in the same manner as a retail dealer whose tax
14 year began on the previous January 1 and who is calculating the
15 tax credit on December 31, ~~2020~~ 2017.

16 Sec. 21. ADMINISTRATIVE RULES. The department of revenue
17 may adopt rules under chapter 17A prior to the effectiveness
18 and applicability of section 422.110, and section 422.33,
19 subsection 11B, as amended in this division of this Act, due to
20 this division of this Act. The department's rules shall not
21 take effect earlier than January 1, 2012.

22 Sec. 22. EFFECTIVE DATES.

23 1. Except as provided in subsection 2, this division of this
24 Act takes effect on July 1, 2011.

25 2. a. The section of this division of this Act authorizing
26 the department of revenue to adopt rules takes effect upon
27 enactment.

28 b. Section 422.110, as amended in this division of this Act,
29 and section 422.33, subsection 11B, as amended in this division
30 of this Act, take effect on January 1, 2012.

31 Sec. 23. APPLICABILITY. Section 422.110, as amended in this
32 division of this Act, and section 422.33, subsection 11B, as
33 amended in this division of this Act and applied due to this
34 division of this Act, apply to tax years beginning on and after
35 January 1, 2012.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION V

RETAIL DEALERS — BIODIESEL BLENDED FUEL TAX CREDIT

Sec. 24. Section 422.11P, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. For purposes of this section, biodiesel blended fuel is classified in the same manner as provided in section 214A.2.

Sec. 25. Section 422.11P, subsection 2, Code 2011, is amended to read as follows:

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by ~~the amount~~ a biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer who sells and dispenses qualifying biodiesel blended fuel through a motor fuel pump located at a the retail dealer's retail motor fuel site ~~operated by the retail dealer in~~ during the tax calendar year in or parts of the calendar years for which the tax credit is claimed as provided in this section.

~~(2) Of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps located at a motor fuel site operated by the retail dealer during the retail dealer's tax year, fifty percent or more is biodiesel blended fuel which meets the requirements of this section.~~

~~(3)~~ (2) The retail dealer complies with requirements of the department established to administer this section.

b. The tax credit shall apply to biodiesel blended fuel ~~formulated with a minimum percentage of two percent by volume of biodiesel, if the formulation~~ classified as provided in this section, if the classification meets the standards provided in section 214A.2.

Sec. 26. Section 422.11P, subsection 3, Code 2011, is amended by striking the subsection and inserting in lieu

1 thereof the following:

2 3. For a retail dealer whose tax year is on a calendar year
3 basis, the retail dealer shall calculate the amount of the tax
4 credit by multiplying a designated rate by the retail dealer's
5 total biodiesel blended fuel gallonage as provided in sections
6 452A.31 and 452A.33 which qualifies under this subsection.

7 a. In calendar year 2012, in order to qualify for the tax
8 credit, the biodiesel blended fuel must be classified as B-2
9 or higher.

10 (1) For biodiesel blended fuel classified as B-2 or higher
11 but not as high as B-5, the designated rate is two cents.

12 (2) For biodiesel blended fuel classified as B-5 or higher,
13 the designated rate is four and one-half cents.

14 b. In calendar year 2013 and for each subsequent calendar
15 year, in order to qualify for the tax credit, the biodiesel
16 blended fuel must be classified as B-5 or higher. The
17 designated rate for the qualifying biodiesel blended fuel is
18 four and one-half cents.

19 Sec. 27. Section 422.11P, Code 2011, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 3A. For a retail dealer whose tax year is
22 not on a calendar year basis, the retail dealer shall calculate
23 the tax credit as follows:

24 a. If a retail dealer has not claimed a tax credit in the
25 retail dealer's previous tax year, the retail dealer may claim
26 the tax credit in the retail dealer's current tax year for that
27 period beginning on January 1 of the retail dealer's previous
28 tax year to the last day of the retail dealer's previous tax
29 year. For that period the retail dealer shall calculate the
30 tax credit in the same manner as a retail dealer who will
31 calculate the tax credit on December 31 of that calendar year
32 as provided in subsection 3.

33 b. (1) For the period beginning on the first day of the
34 retail dealer's tax year until December 31, the retail dealer
35 shall calculate the tax credit in the same manner as a retail

1 dealer who calculates the tax credit on that same December 31
2 as provided in subsection 3.

3 (2) For the period beginning on January 1 to the end of the
4 retail dealer's tax year, the retail dealer shall calculate
5 the tax credit in the same manner as a retail dealer who will
6 calculate the tax credit on the following December 31 as
7 provided in subsection 3.

8 Sec. 28. Section 422.11P, subsection 6, Code 2011, is
9 amended to read as follows:

10 6. This section is repealed January 1, ~~2012~~ 2018.

11 Sec. 29. Section 422.33, subsection 11C, paragraphs c and d,
12 Code 2011, are amended to read as follows:

13 ~~c. The tax credit shall be calculated separately for each
14 retail motor fuel site operated by the taxpayer in the same
15 manner as provided in section 422.11P.~~

16 ~~d. c.~~ This subsection is repealed on January 1, ~~2012~~ 2018.

17 Sec. 30. TAX CREDIT AVAILABILITY — CLAIMS FOR THE 2011
18 CALENDAR YEAR. Nothing in this Act affects a retail dealer's
19 claiming of a biodiesel blended fuel tax credit as provided in
20 2006 Iowa Acts, chapter 1142, section 49, subsection 5.

21 Sec. 31. TAX CREDIT AVAILABILITY. For a retail dealer who
22 may claim a biodiesel blended fuel promotion tax credit under
23 section 422.11P or 422.33, subsection 11C, as amended in this
24 Act and amended in subsequent Acts, in calendar year 2017, and
25 whose tax year ends prior to December 31, 2017, the retail
26 dealer may continue to claim the tax credit in the retail
27 dealer's following tax year. In that case, the tax credit
28 shall be calculated in the same manner as provided in section
29 422.11P or 422.33, subsection 11C, as amended in this Act and
30 amended in subsequent Acts, for the remaining period beginning
31 on the first day of the retail dealer's new tax year until
32 December 31, 2017. For that remaining period, the tax credit
33 shall be calculated in the same manner as a retail dealer whose
34 tax year began on the previous January 1 and who is calculating
35 the tax credit on December 31, 2017.

1 *c.* "Sell" means to sell on a retail basis.

2 *d.* "Tax credit" means the E-15 plus gasoline tax credit as
3 provided in this section.

4 2. For purposes of this section, ethanol blended gasoline is
5 classified in the same manner as provided in section 214A.2.

6 3. The taxes imposed under this division, less the credits
7 allowed under section 422.12, shall be reduced by the amount
8 of the E-15 plus gasoline tax credit for each tax year that
9 the taxpayer is eligible to claim a tax credit under this
10 subsection.

11 *a.* In order to be eligible, all of the following must apply:

12 (1) The taxpayer is a retail dealer who sells and dispenses
13 qualifying ethanol blended gasoline through a motor fuel pump
14 located at the retail dealer's retail motor fuel site during
15 the calendar year or parts of the calendar years for which the
16 tax credit is claimed as provided in this section.

17 (2) The retail dealer complies with requirements of the
18 department established to administer this section.

19 *b.* The tax credit shall apply to ethanol blended gasoline
20 classified as provided in this section, if the classification
21 meets the standards provided in section 214A.2.

22 4. For a retail dealer whose tax year is on a calendar
23 year basis, the retail dealer shall calculate the amount of
24 the tax credit by multiplying a designated rate by the retail
25 dealer's total ethanol blended gasoline gallonage as provided
26 in sections 452A.31 and 452A.33 which qualifies under this
27 subsection.

28 *a.* In order to qualify for the tax credit, the ethanol
29 blended gasoline must be classified as E-15 or higher but not
30 classified as E-85.

31 *b.* The designated rate of the tax credit is as follows:

32 (1) For calendar year 2012, calendar year 2013, and calendar
33 year 2014, three cents.

34 (2) For calendar year 2015, calendar year 2016, and calendar
35 year 2017, two cents.

1 5. For a retail dealer whose tax year is not on a calendar
2 year basis, the retail dealer shall calculate the tax credit
3 as follows:

4 a. If a retail dealer has not claimed a tax credit in the
5 retail dealer's previous tax year, the retail dealer may claim
6 the tax credit in the retail dealer's current tax year for that
7 period beginning on January 1 of the retail dealer's previous
8 tax year to the last day of the retail dealer's previous tax
9 year. For that period the retail dealer shall calculate the
10 tax credit in the same manner as a retail dealer who will
11 calculate the tax credit on December 31 of that calendar year
12 as provided in subsection 4.

13 b. (1) For the period beginning on the first day of the
14 retail dealer's tax year until December 31, the retail dealer
15 shall calculate the tax credit in the same manner as a retail
16 dealer who calculates the tax credit on that same December 31
17 as provided in subsection 4.

18 (2) For the period beginning on January 1 to the end of the
19 retail dealer's tax year, the retail dealer shall calculate
20 the tax credit in the same manner as a retail dealer who will
21 calculate the tax credit on the following December 31 as
22 provided in subsection 4.

23 6. a. A retail dealer is eligible to claim an E-15 plus
24 gasoline promotion tax credit as provided in this section even
25 though the retail dealer claims one or all of the following
26 related tax credits:

27 (1) The ethanol promotion tax credit pursuant to section
28 422.11N.

29 (2) The E-85 gasoline promotion tax credit pursuant to
30 section 422.110.

31 b. (1) The retail dealer may claim the E-15 plus gasoline
32 promotion tax credit and one or more of the related tax credits
33 as provided in paragraph "a" for the same tax year.

34 (2) The retail dealer may claim the ethanol promotion
35 tax credit as provided in paragraph "a" for the same ethanol

1 gallonage used to calculate and claim the E-15 plus gasoline
2 tax credit.

3 7. Any credit in excess of the retail dealer's tax liability
4 shall be refunded. In lieu of claiming a refund, the retail
5 dealer may elect to have the overpayment shown on the retail
6 dealer's final, completed return credited to the tax liability
7 for the following tax year.

8 8. An individual may claim the tax credit allowed a
9 partnership, limited liability company, S corporation, estate,
10 or trust electing to have the income taxed directly to the
11 individual. The amount claimed by the individual shall be
12 based upon the pro rata share of the individual's earnings of a
13 partnership, limited liability company, S corporation, estate,
14 or trust.

15 9. This section is repealed on January 1, 2018.

16 Sec. 36. Section 422.33, Code 2011, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 11D. The taxes imposed under this division
19 shall be reduced by an E-15 plus gasoline promotion tax credit
20 for each tax year that the taxpayer is eligible to claim the
21 tax credit under this subsection.

22 a. The taxpayer shall claim the tax credit in the same
23 manner as provided in section 422.11Y. The taxpayer may claim
24 the tax credit according to the same requirements, for the same
25 amount, and calculated in the same manner, as provided for the
26 E-15 plus gasoline promotion tax credit pursuant to section
27 422.11Y.

28 b. Any E-15 plus gasoline promotion tax credit which is in
29 excess of the taxpayer's tax liability shall be refunded or may
30 be shown on the taxpayer's final, completed return credited to
31 the tax liability for the following tax year in the same manner
32 as provided in section 422.11Y.

33 c. This subsection is repealed on January 1, 2018.

34 Sec. 37. TAX CREDIT AVAILABILITY. For a retail dealer who
35 may claim an E-15 plus gasoline promotion tax credit under

1 section 422.11Y or 422.33, subsection 11D, as enacted in this
2 Act and amended in subsequent Acts, in calendar year 2017, and
3 whose tax year ends prior to December 31, 2017, the retail
4 dealer may continue to claim the tax credit in the retail
5 dealer's following tax year. In that case, the tax credit
6 shall be calculated in the same manner as provided in section
7 422.11Y or 422.33, subsection 11D, as enacted in this Act and
8 amended in subsequent Acts, for the remaining period beginning
9 on the first day of the retail dealer's new tax year until
10 December 31, 2017. For that remaining period, the tax credit
11 shall be calculated in the same manner as a retail dealer whose
12 tax year began on the previous January 1 and who is calculating
13 the tax credit on December 31, 2017.

14 Sec. 38. ADMINISTRATIVE RULES. The department of revenue
15 may adopt rules under chapter 17A prior to the effectiveness
16 and applicability of section 422.11Y, as enacted in this
17 division of this Act, and section 422.33, subsection 11D, as
18 enacted in this division of this Act and applied due to this
19 division of this Act. The department's rules shall not take
20 effect earlier than January 1, 2012.

21 Sec. 39. EFFECTIVE DATES.

22 1. Except as provided in subsection 2, this division of this
23 Act takes effect July 1, 2011.

24 2. a. The section of this division of this Act authorizing
25 the department of revenue to adopt administrative rules takes
26 effect upon enactment.

27 b. Section 422.11Y, as enacted in this division of this Act,
28 and section 422.33, subsection 11D, as enacted in this division
29 of this Act, take effect January 1, 2012.

30 Sec. 40. APPLICABILITY. Section 422.11Y, as enacted in this
31 division of this Act, and section 422.33, subsection 11D, as
32 enacted in this division of this Act and applied due to this
33 division of this Act, apply to tax years beginning on and after
34 January 1, 2012.

35

DIVISION VII

1 RENEWABLE FUEL INFRASTRUCTURE — TRANSFER
2 OF AUTHORITY FROM DEPARTMENT OF ECONOMIC DEVELOPMENT
3 TO DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

4 Sec. 41. Section 15.104, subsection 8, paragraph j, Code
5 2011, is amended by striking the paragraph.

6 Sec. 42. Section 15G.201, subsection 2, Code 2011, is
7 amended to read as follows:

8 2. "*Department*" means the ~~Iowa department of economic~~
9 ~~development created in section 15.105~~ department of agriculture
10 and land stewardship.

11 Sec. 43. Section 15G.202, subsection 2, paragraph c,
12 subparagraph (4), Code 2011, is amended to read as follows:

13 (4) The Iowa ~~motor truck association~~ biodiesel board.

14 Sec. 44. Section 15G.205, subsection 4, paragraph c, Code
15 2011, is amended to read as follows:

16 c. Notwithstanding section 8.33, unencumbered and
17 unobligated moneys remaining in the infrastructure fund at the
18 close of each fiscal year shall not revert but shall remain
19 available in the infrastructure fund ~~for expenditure for the~~
20 ~~same purposes until the end of the fiscal year that begins July~~
21 ~~1, 2011, at which time the unencumbered and unobligated moneys~~
22 ~~remaining shall revert to the funds from which appropriated.~~

23 Sec. 45. Section 159.20, subsection 1, paragraph j, Code
24 2011, is amended to read as follows:

25 j. Provide for the promotion and expansion of renewable
26 fuels and coproducts, by doing all of the following:

27 ~~j.~~ (1) Assist the office of renewable fuels and coproducts
28 in administering the provisions of chapter 159A, subchapter I.

29 (2) Assist the renewable fuel infrastructure board, provide
30 for the administration of the renewable fuel infrastructure
31 programs, and provide for the management of the renewable fuel
32 infrastructure fund, as provided in chapter 159A, subchapter
33 II.

34 Sec. 46. Section 159A.2, unnumbered paragraph 1, Code 2011,
35 is amended to read as follows:

1 As used in this ~~chapter~~ subchapter, unless the context
2 otherwise requires:

3 Sec. 47. TRANSITIONAL PROVISIONS — ADMINISTRATIVE
4 RULES. The rules adopted by the department of economic
5 development as codified in 261 IAC, chapters 311 through
6 314, shall continue in full force and effect until amended,
7 repealed, or supplemented by affirmative action of the
8 department of agriculture and land stewardship.

9 Sec. 48. TRANSITIONAL PROVISIONS — EMERGENCY
10 ADMINISTRATIVE RULEMAKING. The department of agriculture and
11 land stewardship may adopt emergency rules under section 17A.4,
12 subsection 3, and section 17A.5, subsection 2, paragraph "b",
13 to implement the provisions of this division of this Act, and
14 the rules shall be effective July 1, 2011, unless a later date
15 is specified in the rules. Any rules adopted in accordance
16 with this section shall also be published as a notice of
17 intended action as provided in section 17A.4.

18 Sec. 49. TRANSITIONAL PROVISIONS — ADMINISTRATIVE HEARINGS
19 OR COURT PROCEEDINGS. An administrative hearing or court
20 proceeding arising out of an enforcement action under chapter
21 15G pending on July 1, 2011, shall not be affected due to
22 this division of this Act. Any cause of action or statute
23 of limitations relating to an action taken by the department
24 of economic development shall not be affected as a result
25 of this division of this Act and such cause or statute of
26 limitation shall apply to the department of agriculture and
27 land stewardship.

28 Sec. 50. TRANSITIONAL PROVISIONS — REPLACEMENT ITEMS. A
29 replacement item, including but not limited to logos,
30 stationery, or insignia, that is made due to the effect of
31 this division of this Act shall be done as part of the normal
32 replacement cycle for such item.

33 Sec. 51. TRANSITIONAL PROVISIONS — TRANSFER OF RECORDS.

34 1. The department of economic development shall provide the
35 department of agriculture and land stewardship with records

1 necessary to administer and enforce chapter 15G, subchapter
2 II, including sections of the subchapter amended by this Act,
3 and rules adopted by the department of economic development
4 pursuant to that subchapter.

5 2. The transfer described in subsection 1, shall be
6 accomplished by June 15, 2011, unless the department of
7 economic development and the department of agriculture and land
8 stewardship agree to a different date in 2011.

9 Sec. 52. TRANSITIONAL PROVISIONS — OUTSTANDING CONTRACTS.

10 1. The department of economic development shall assign
11 and the department of agriculture and land stewardship
12 shall assume all outstanding cost-share agreements executed
13 by the department of economic development pursuant to the
14 renewable fuel infrastructure program for retail motor fuel
15 sites as provided in section 15G.203 and the renewable fuel
16 infrastructure program for biodiesel terminal facilities as
17 provided in section 15G.204.

18 2. The assignment and assumption of the cost-share
19 agreements described in subsection 1 shall be effective on July
20 1, 2011, unless the department of economic development and
21 the department of agriculture and land stewardship agree to a
22 different date in 2011.

23 Sec. 53. TRANSITIONAL PROVISIONS — RENEWABLE FUEL
24 INFRASTRUCTURE BOARD. The department of economic development
25 and the department of agriculture and land stewardship shall
26 jointly consult with the renewable fuel infrastructure board
27 as created in section 15G.202, as amended by this Act, when
28 effectuating the transitional provisions of this division of
29 this Act.

30 Sec. 54. TRANSFER OF SECTIONS. Chapter 15G, subchapter
31 II, is transferred to chapter 159A, new subchapter III.
32 Chapter 159A, subchapter I, shall include section 159A.1, Code
33 2011. Chapter 159A, subchapter II, shall include all of the
34 following: section 159A.2, Code 2011, as amended by this Act;
35 and sections 159A.3 through 159A.8, Code 2011. Chapter 159A,

1 subchapter III, shall include all of the following: sections
2 15G.201, 15G.201A, and 15G.202, Code 2011, as amended by this
3 Act; sections 15G.203 and 15G.204, Code 2011; section 15G.205,
4 Code 2011, as amended by this Act; and section 15G.206, Code
5 2011.

6 Sec. 55. EFFECTIVE DATES.

7 1. Except as provided in subsection 2, this division of this
8 Act takes effect on July 1, 2011.

9 2. a. The section of this division of this Act amending
10 section 15G.202, subsection 2, paragraph c, subparagraph (4),
11 takes effect upon enactment.

12 b. The section of this division of this Act amending
13 section 15G.205, subsection 4, paragraph c, takes effect upon
14 enactment.

15 c. The sections of this division of this Act which include
16 transitional provisions to accomplish the transfer of powers
17 and duties of the department of economic development to the
18 department of agriculture and land stewardship, being deemed
19 of immediate importance, take effect upon enactment. As used
20 in this paragraph, such transitional provisions are limited to
21 those uncodified sections of this division of this Act which
22 provide for the transfer of powers and duties by the department
23 of economic development associated with chapter 15G, subchapter
24 II, including those sections in subchapter II as amended or
25 transferred to chapter 159A by this Act.

26 DIVISION VIII

27 BIODIESEL PRODUCTION REFUND

28 Sec. 56. Section 422.7, Code 2011, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 54. Subtract, to the extent included, the
31 amount of any biodiesel production refund provided pursuant to
32 section 423.4.

33 Sec. 57. Section 422.35, Code 2011, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 25. Subtract, to the extent included, the

1 amount of any biodiesel production refund provided pursuant
2 section 423.4.

3 Sec. 58. Section 423.4, Code 2011, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 9. A person who qualifies as a biodiesel
6 producer as provided in this subsection may apply to the
7 director for a refund of the amount of the sales tax imposed
8 and paid upon purchases made by the person.

9 a. The person must be engaged in the manufacturing
10 of biodiesel who has registered with the United States
11 environmental protection agency as a manufacturer according to
12 the requirements in 40 C.F.R. §79.4. The biodiesel must be
13 for use in biodiesel blended fuel in conformance with section
14 214A.2. The person must comply with the requirements of this
15 subsection and rules adopted by the department pursuant to this
16 subsection.

17 b. The amount of the refund shall be calculated by
18 multiplying a designated rate by the total number of gallons
19 of biodiesel produced by the biodiesel producer in this state
20 during each quarter of a calendar year. The designated rate
21 shall be as follows:

22 (1) For the calendar year 2012, three cents.

23 (2) For the calendar year 2013, two and one-half cents.

24 (3) For the calendar year 2014, two cents.

25 c. A biodiesel producer shall not be eligible to receive
26 a refund under this subsection on more than twenty-five
27 million gallons of biodiesel produced each calendar year by
28 the biodiesel producer at each facility where the biodiesel
29 producer manufactures biodiesel.

30 d. A person shall obtain a refund by completing forms
31 furnished by the department and filed by the person on a
32 quarterly basis as required by the department. The department
33 shall refund the amount claimed by the person after subtracting
34 any amount owing from the sales or use taxes imposed and paid
35 upon purchases made by the person.

1 e. This subsection is repealed on January 1, 2015.

2 Sec. 59. EFFECTIVE DATE. This division of this Act takes
3 effect January 1, 2012.

4 EXPLANATION

5 GENERAL. This bill provides for the regulation and
6 promotion of renewable fuels, including ethanol used in the
7 formulation of gasoline containing various percentages of
8 fuel grade alcohol and biodiesel used in the formulation of
9 diesel fuel containing various percentages of oils or fats.
10 Renewable fuel is classified according to those designations.
11 For example, E-10 contains between 9 and 10 percent ethanol,
12 E-15 contains at least 15 percent ethanol but is not classified
13 as E-85. E-85 contains between 70 and 85 percent ethanol,
14 B-2 contains 2 percent biodiesel, and B-5 contains 5 percent
15 biodiesel (Code section 214A.2). The bill concerns retail
16 dealers of renewable fuels (persons selling a renewable fuel on
17 a retail basis) and biodiesel producers. The bill addresses
18 the following state agencies: the department of agriculture
19 and land stewardship (DALs), the department of revenue (DOR),
20 and the department of economic development (DED).

21 RETAIL DEALERS — MOTOR FUEL STANDARDS. DALs regulates
22 standards for motor fuel based on specifications promulgated
23 by A.S.T.M. international (Code section 214A.2). The bill
24 provides a new standard for biodiesel blended fuel classified
25 from B-6 to B-20 based on A.S.T.M. international specification
26 D7467.

27 RETAIL DEALERS — LIABILITY. The bill provides that a
28 retail dealer regulated under Code chapter 214A is not liable
29 for damages caused to a motor by the use of an incompatible
30 motor fuel (e.g., the use of E-85 gasoline in a conventional
31 gasoline-powered motor). The bar against liability depends
32 upon the satisfaction of certain conditions: (1) the motor
33 fuel must meet legal specifications, (2) the retail dealer
34 cannot have selected it for use in the motor, and (3) the
35 dispensing pump must be correctly labeled.

1 RETAIL DEALERS — TAX CREDITS. The bill amends a number of
2 existing tax credits and creates a new tax credit for retail
3 dealers who sell and dispense renewable fuel. A tax credit
4 is calculated on a calendar year basis regardless of whether
5 the tax credit is claimed on a retail dealer's calendar year
6 or noncalendar year's tax return. The tax credits apply to
7 individual and corporate tax filers. The changes to the
8 current tax credits and the new tax credit all take effect on
9 January 1, 2012, and apply to tax years on or after that date.

10 ETHANOL PROMOTION TAX CREDIT. The bill amends the ethanol
11 promotion tax credit (Code sections 422.11N and 422.33,
12 subsection 11A). The tax credit is calculated and claimed on
13 100 percent ethanol used in ethanol blended gasoline sold and
14 dispensed by a retail dealer as ethanol blended gasoline.

15 Under current law, the tax credit rate depends upon the
16 retail dealer's total ethanol gallonage plus the retail
17 dealer's total biodiesel gallonage (referred to as the retail
18 dealer's biofuel distribution percentage). There are two
19 tax credit schedules based on the dealer's biofuel threshold
20 percentage: the first schedule applies to retail dealers who
21 sell and distribute more than 200,000 gallons of motor fuel in
22 a calendar year (determination period) and the second schedule
23 applies to retail dealers who sell 200,000 gallons or less of
24 motor fuel in the same determination period. The tax credit is
25 eliminated on January 1, 2021.

26 The bill adjusts the tax credit rates for retail dealers who
27 either meet or do not meet the applicable biofuel threshold
28 percentage for a determination period. The tax credit rate
29 is increased from 6.5 to 8 cents for a determination period
30 in which the retail dealer attains the biofuel threshold
31 percentage. The tax credit rate is increased from 4.5 to 6
32 cents or from 2.5 to 4 cents for a determination period in
33 which the retail dealer fails to attain the biofuel threshold
34 percentage. The bill also allows a retail dealer to calculate
35 the tax credit based on a site-by-site basis (each individual

1 motor fuel site operated by a retail dealer) or a company-wide
2 basis (all motor fuel sites operated by a retail dealer)
3 assuming that the retail dealer's biofuel threshold percentage
4 is calculated on a company-wide basis. The bill also amends
5 provisions requiring retail dealers to report motor fuel
6 gallonage to DOR, by specifically recognizing site-by-site or
7 company-wide reporting.

8 E-85 GASOLINE PROMOTION TAX CREDIT. The bill amends the
9 E-85 promotion tax credit (Code sections 422.110 and 422.33,
10 subsection 11B) based on the total gallons of E-85 gasoline
11 sold and dispensed by the retail dealer. The bill eliminates
12 the current declining tax credit rate schedule allowing for 25
13 cents per gallon of E-85 gasoline in calendar year 2006 to 1
14 cent in calendar year 2020, and fixes the tax credit rate at a
15 constant 16 cents for each calendar year until the end of 2017.

16 RETAIL DEALERS — BIODIESEL BLENDED TAX CREDIT. The bill
17 amends the biodiesel blended fuel tax credit based on the total
18 gallons of biodiesel blended fuel sold and dispensed (Code
19 sections 422.11P and 422.33, subsection 11C). Currently, the
20 tax credit is multiplied by taking a constant (designated)
21 rate multiplied by the number of gallons of B-2 or higher sold
22 and dispensed. The tax credit is due to expire at the end of
23 calendar year 2011.

24 The bill eliminates an eligibility requirement specifying
25 that of all gallons of diesel fuel sold and dispensed by a
26 retail dealer, 50 percent or more must be biodiesel blended
27 fuel. It establishes a two-tiered tax credit rate system for
28 calendar year 2012 based on whether the retail dealer sold or
29 dispensed B-2 through B-4 or B-5 and higher. The designated
30 rate for B-2 through B-4 is 2 cents and the designated rate for
31 B-5 and higher is 4.5 cents. Beginning in calendar year 2013,
32 the tax credit rate is only calculated on B-5 and higher. The
33 tax credit is extended until the end of calendar year 2017.

34 E-15 PLUS GASOLINE PROMOTION TAX CREDIT. The bill creates
35 an E-15 plus gasoline promotion tax credit which is calculated

1 on the total gallons of ethanol blended gasoline, classified
2 as E-15 and higher but not E-85, sold and dispensed by a retail
3 dealer (new Code sections 422.11Y and 422.33, subsection 11D).
4 The amount of the tax credit equals a constant (designated)
5 rate multiplied by the total number of gallons of E-15 or
6 higher sold and dispensed by the retail dealer. A designated
7 rate of 3 cents applies for calendar years 2012 through 2014
8 and a designated rate of 2 cents applies for calendar years
9 2015 through 2017. The tax credit expires at the end of
10 calendar year 2017.

11 RENEWABLE FUEL INFRASTRUCTURE. The bill amends provisions
12 which establish a renewable fuel infrastructure board
13 (Code section 15G.202) which includes members representing
14 agricultural producers, petroleum refiners, petroleum
15 marketers, petroleum equipment contractors, the trucking
16 industry, insurers, and the renewable fuels industry. The
17 board is housed within DED. The board, with assistance
18 from DED, is responsible for administering two programs:
19 the renewable fuel infrastructure program for retail motor
20 fuel sites (Code section 15G.203) and the renewable fuel
21 infrastructure program for biodiesel terminal facilities (Code
22 section 15G.204). The programs are supported by a renewable
23 fuel infrastructure fund (Code section 15G.205).

24 The bill replaces a board member representing the Iowa motor
25 truck association with a member representing the Iowa biodiesel
26 board. The bill eliminates a provision that requires the
27 reversion of moneys credited to the fund to their originating
28 sources, including the Iowa comprehensive petroleum underground
29 storage tank fund (2006 Iowa Acts, ch. 1175). The bill also
30 transfers administration of the programs and the fund to DALs,
31 and includes a number of transitional provisions to accomplish
32 the transfer.

33 BIODIESEL PRODUCERS — SALES TAX REFUND CALCULATED ON
34 PRODUCTION. The bill allows a biodiesel producer to apply
35 to DOR for a sales tax refund (Code section 423.4). The

1 person must be engaged in the manufacturing of biodiesel for
2 use in biodiesel blended fuel meeting state standards (Code
3 section 214A.2), and must be registered with the United States
4 environmental protection agency as a manufacturer.

5 The amount of the refund is calculated by multiplying a
6 constant (designated) rate by the total number of gallons of
7 biodiesel produced by the biodiesel producer in this state
8 during each quarter of a calendar year. The designated rate
9 declines for each calendar year beginning in 2012 and ending
10 in 2014. The biodiesel producer cannot claim a refund on more
11 than 25 million gallons of biodiesel produced each calendar
12 year at each facility where manufacturing occurs. The sales
13 tax refund expires at the end of the 2012 calendar year. A
14 refund is excluded from the biodiesel producer's net income.