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SENATE FILE 96
BY KIBBIE and HOUSER

NAT. RES. & ENVIRONMENT

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sale of gasoline, by providing for ethanol
2 blended gasoline, providing for taxes on gasoline, and
3 providing for an effective date and applicability.

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

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SF 96
NAT. RES. & ENVIRONMENT

1 Section 1. Section 214A.1, Code 2005, is amended to read
2 as follows:

3 214A.1 DEFINITIONS.

4 The following definitions shall apply to the various terms
5 used in this chapter:

6 1. "A.S.T.M. international" means the American society for
7 testing and materials international.

8 ~~2. "Motor vehicle fuel" means a substance or combination~~
9 ~~of substances which is intended to be or is capable of being~~
10 ~~used for the purpose of propelling or running by combustion~~
11 ~~any internal combustion engine and is kept for sale or sold~~
12 ~~for that purpose. The products commonly known as kerosene and~~
13 ~~distillate or petroleum products of lower gravity (Baume~~
14 ~~scale), when not used to propel a motor vehicle or for~~
15 ~~compounding or combining with a motor vehicle fuel, are exempt~~
16 ~~from this chapter except as provided in section 214A.2A.~~

17 2. "Ethanol blended gasoline" means gasoline containing at
18 least ten percent alcohol distilled from cereal grains.

19 3. "Motor vehicle" means a self-propelled vehicle that
20 operates using gasoline, including but not limited to any of
21 the following:

- 22 a. An automobile as defined in section 321.1.
- 23 b. A motor truck as defined in section 321.1.
- 24 c. A motor bus as used in section 452A.57.
- 25 d. A motorcycle as defined in section 321.1.
- 26 e. Watercraft as defined in section 462A.2.
- 27 f. An off-road vehicle which is a snowmobile or an all-
28 terrain vehicle as defined in section 321G.1.

29 4. "Motor vehicle fuel" means the same as defined in
30 section 214.1.

31 5. "Motor vehicle fuel pump" or "pump" means a stationary
32 pump located at a service station which is used for measuring
33 and dispensing motor vehicle fuel and which is required to be
34 licensed by the department pursuant to chapter 214.

35 3- 6. "Motor vehicle fuel storage tank" means an

1 aboveground or belowground container that is a fixture, used
2 to keep an accumulation of motor vehicle fuel.

3 ~~4~~ 7. "MTBE" means methyl tertiary butyl ether.

4 ~~5~~ 8. "Oxygenate octane enhancer" means oxygen-containing
5 compounds, including but not limited to alcohols, ethers, or
6 ethanol.

7 ~~6~~ 9. "Retail dealer" ~~shall mean and include any person,~~
8 ~~firm, partnership, association, or corporation who operates,~~
9 ~~maintains, or conducts, either in person, or by any agent,~~
10 ~~employee, or servant, any place of business, filling station,~~
11 ~~pump station, or tank wagon, from which any motor vehicle~~
12 ~~fuel, as defined herein, is sold or offered for sale, at~~
13 ~~retail, or to the final or ultimate consumer.~~ means a person
14 who operates, maintains, or conducts a service station, either
15 in person, or by any agent or an employee.

16 ~~7~~ 10. "Sell" means to sell or to offer for sale.

17 ~~11~~ 11. "Service station" means the location of a for-profit
18 or nonprofit business in this state where motor vehicle fuel
19 is sold or offered for sale on a retail basis.

20 ~~8~~ 12. "Wholesale dealer" ~~shall mean and include any~~
21 ~~person, firm, partnership, association, or corporation, other~~
22 ~~than retail dealers as defined in subsection 3 of this~~
23 ~~section, who sells, keeps, or holds, for sale, or purchase for~~
24 ~~the purpose of sale within this state, any~~ means a person,
25 other than a retail dealer, who provides motor vehicle fuel
26 for sale within this state.

27 Sec. 2. Section 214A.2, subsection 1, Code 2005, is
28 amended to read as follows:

29 1. a. The secretary department shall adopt rules pursuant
30 to chapter 17A for carrying out this chapter. The rules may
31 include, but are not limited to, specifications relating to
32 motor vehicle fuel or oxygenate octane enhancers, including
33 ethanol blended gasoline.

34 b. In the interest of uniformity, the secretary department
35 shall adopt by reference or otherwise specifications relating

1 to tests and standards for motor vehicle fuel or oxygenate
2 octane enhancers, established by A.S.T.M. (~~American society~~
3 ~~for testing and materials~~) international, unless the secretary
4 department determines those specifications are inconsistent
5 with this chapter or are not appropriate to the conditions
6 which exist in this state.

7 Sec. 3. Section 214A.2, subsection 3, Code 2005, is
8 amended to read as follows:

9 3. a. Gasoline with a mixture of less than ten percent
10 ethanol shall be known as high-emission gasoline.

11 b. Gasoline with a mixture of ten percent or more ethanol,
12 but not more than thirteen percent, shall be known as
13 conventional blend ethanol.

14 ~~b.~~ c. Gasoline with a mixture of more than thirteen
15 percent ethanol, but not more than twenty-five percent
16 ethanol, shall be known as high blend ethanol. For purposes
17 of chapters 323A, 422, and 452A, high blend ethanol shall be
18 treated as conventional blend ethanol.

19 d. Gasoline with a mixture of eighty-five percent or more
20 ethanol shall be known as E-85 blended gasoline.

21 Sec. 4. Section 214A.2A, Code 2005, is amended to read as
22 follows:

23 214A.2A KEROSENE LABELING AND LOW GRAVITY PETROLEUM.

24 1. Fuel which is sold or is kept, offered, or exposed for
25 sale as kerosene shall be labeled as kerosene. The label
26 shall include the word "kerosene" and a designation as either
27 "K1" or "K2", and shall indicate that the kerosene is in
28 compliance with the standard specification adopted by the
29 ~~A.S.T.M.~~ American society for testing and materials in
30 specification D-3699 (1982).

31 2. Kerosene and distillate or petroleum products of lower
32 gravity according to the Baume scale, when not used to propel
33 a motor vehicle or compounded or combined with a motor vehicle
34 fuel, are exempt from this chapter.

35 Sec. 5. Section 214A.16, Code 2005, is amended to read as

1 follows:

2 214A.16 NOTICE TO PUBLIC OF BLENDED-FUEL-----DECAL TYPES OF
3 MOTOR VEHICLE FUEL SOLD AT A PUMP.

4 1. If motor vehicle fuel containing a renewable fuel is
5 sold from a motor vehicle fuel pump, the pump shall have
6 affixed a decal identifying the name of the renewable fuel.
7 The decal may be different based on the type of renewable fuel
8 used. The design and location of the decal shall be
9 prescribed by rules adopted by the department. A decal
10 identifying a renewable fuel shall be consistent with
11 standards adopted pursuant to section 159A.6. The department
12 may approve an application to place a decal in a special
13 location on a pump or container or use a decal with special
14 lettering or colors, if the decal appears clear and
15 conspicuous to the consumer. The application shall be made in
16 writing pursuant to procedures adopted by the department.

17 2. If high-emission gasoline is sold from a motor vehicle
18 fuel pump, the pump shall have affixed a label. The label
19 shall identify the gasoline as high-emission gasoline and
20 provide notice that its use is restricted under this chapter.
21 The design and location of the decal shall be prescribed by
22 rules adopted by the department.

23 Sec. 6. NEW SECTION. 214A.18A PROHIBITION -- HIGH-
24 EMISSION GASOLINE.

25 1. Except as provided in this section, a retail dealer
26 shall not sell high-emission gasoline, as described in section
27 214A.2, in this state.

28 2. This section shall not apply to a retail dealer that
29 sells gasoline used to operate any of the following:

- 30 a. An aircraft as defined in section 328.1.
- 31 b. A motor vehicle used exclusively for motor sports,
32 including on a raceway, if the motor vehicle cannot operate on
33 a highway as provided in chapter 321 or rules adopted by the
34 state department of transportation.
- 35 c. A motor vehicle operated by using diesel fuel.

1 3. A retail dealer may sell high-emission gasoline if all
2 of the following apply:

3 a. The high-emission gasoline is premium grade unleaded
4 gasoline as provided in section 214A.2.

5 b. The high-emission gasoline is sold exclusively for the
6 operation of one of the following:

7 (1) A motorcycle as defined in section 321.1.

8 (2) An antique vehicle registered under section 321.115.

9 (3) A snowmobile as defined in section 321G.1.

10 (4) An all-terrain vehicle as defined in section 321G.1.

11 (5) Watercraft as defined in section 462A.2.

12 (6) A small motor vehicle such as a lawnmower.

13 c. The retail dealer's service station does not use more
14 than one motor vehicle fuel pump to sell high-emission
15 gasoline at any one time.

16 Sec. 7. Section 422.11C, Code 2005, is amended to read as
17 follows:

18 422.11C ~~ETHANOL-BLENDED~~ E-85 GASOLINE TAX CREDIT.

19 1. As used in this section, unless the context otherwise
20 requires:

21 a. ~~"Ethanol-blended-gasoline" means the same as defined in~~
22 ~~section 452A-2.~~ "E-85 ethanol blended gasoline" means E-85
23 ethanol blended gasoline that meets the specifications
24 required by the department of agriculture and land stewardship
25 pursuant to section 214A.2 and that is dispensed through a
26 motor vehicle fuel pump.

27 b. "Gasoline" means gasoline that meets the specifications
28 required by the department of agriculture and land stewardship
29 pursuant to section 214A.2 and that is dispensed through a
30 metered motor vehicle fuel pump.

31 c. ~~"Metered-pump" means a motor vehicle fuel pump licensed~~
32 ~~by the department of agriculture and land stewardship pursuant~~
33 ~~to chapter 214.~~ "Motor vehicle fuel pump", "retail dealer",
34 "sell", and "service station" mean the same as defined in
35 section 214A.1.

1 d.---"Retail-dealer"-means-a-retail-dealer-as-defined-in
2 section-214A:1-who-operates-a-metered-pump-at-a-service
3 station-

4 e.---"Sell"-means-to-sell-on-a-retail-basis-

5 f.---"Service-station"-means-each-geographic-location-in
6 this-state-where-a-retail-dealer-sells-and-dispenses-gasoline
7 on-a-retail-basis-

8 g. d. "Tax credit" means the designated ethanol-blended
9 E-85 gasoline tax credit as provided in this section.

10 2. The taxes imposed under this division, less the credits
11 allowed under sections 422.12 and 422.12B, shall be reduced by
12 an ethanol-blended E-85 gasoline tax credit for each tax year
13 that the taxpayer is eligible to claim the tax credit under
14 this section. In order to be eligible, all of the following
15 must apply:

16 a. The taxpayer is a retail dealer-

17 b.---The-taxpayer who operates at least one service station
18 at which more-than-sixty-percent-of-the-total-gallons-of E-85
19 ethanol blended gasoline is sold and dispensed through one or
20 more metered motor vehicle fuel pumps by-the-taxpayer located
21 at each service station in the tax year is-ethanol-blended
22 gasoline.

23 c. b. The taxpayer complies with requirements of the
24 department required to administer this section.

25 3. a. The-tax-credit-shall-be-calculated-separately-for
26 each-service-station-site-operated-by-the-taxpayer. The
27 amount of the E-85 ethanol blended gasoline tax credit for
28 each-eligible-service-station is two-and-one-half ten cents
29 multiplied by the total number of gallons of ethanol-blended
30 E-85 ethanol blended gasoline sold and dispensed through all
31 metered motor vehicle fuel pumps located-at-that-service
32 station operated at each of the taxpayer's service stations
33 during the tax year in-excess-of-sixty-percent-of-all-gasoline
34 sold-and-dispensed-through-metered-pumps-at-that-service
35 station-during-the-tax-year.

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

6 5. 4. An individual may claim the E-85 ethanol blended
7 gasoline tax credit allowed a partnership, limited liability
8 company, S corporation, estate, or trust electing to have the
9 income taxed directly to the individual. The amount of the
10 tax credit claimed by the individual shall be based upon the
11 pro rata share of the individual's earnings of a partnership,
12 limited liability company, S corporation, estate, or trust.

13 Sec. 8. Section 422.33, subsection 11, Code 2005, is
14 amended to read as follows:

15 11. a. As used in this subsection, unless the context
16 otherwise requires:

17 (1) ~~"Ethanol-blended-gasoline"~~ ~~"gasoline"~~ ~~"metered~~
18 "Gasoline" and "E-85 ethanol blended gasoline" mean motor
19 vehicle fuel that meets the standards required by the
20 department of agriculture and land stewardship pursuant to
21 section 214A.2.

22 (2) "Motor vehicle fuel pump", "retail dealer", "sell",
23 and "service station" mean the same as defined in section
24 ~~422.11C~~ 214A.1.

25 ~~(2)~~ (3) "Tax credit" means the designated E-85 ethanol
26 blended gasoline tax credit as provided in this subsection.

27 b. The taxes imposed under this division shall be reduced
28 by an E-85 ethanol blended gasoline tax credit for each tax
29 year that the taxpayer is eligible to claim the tax credit
30 under this subsection. In order to be eligible, all of the
31 following must apply:

32 (1) The taxpayer is a retail dealer.

33 ~~(2) The taxpayer who operates at least one or more service~~
34 ~~station stations at which more than sixty percent of the total~~
35 ~~gallons of~~ E-85 ethanol blended gasoline is sold and dispensed

1 through one or more metered motor vehicle fuel pumps by the
2 taxpayer-is-ethanol-blended-gasoline located at the service
3 stations in the tax year.

4 (3) (2) The taxpayer complies with requirements of the
5 department required to administer this subsection.

6 c. ~~The tax credit shall be calculated separately for each~~
7 ~~service-station-site-operated-by-the-taxpayer.~~ The amount of
8 the tax credit ~~for each eligible service station~~ is two and
9 one-half ten cents multiplied by the total number of gallons
10 of ethanol-blended E-85 ethanol blended gasoline sold and
11 dispensed through all metered motor vehicle fuel pumps ~~located~~
12 operated at that each of the taxpayer's service station
13 stations during the tax year ~~in excess of sixty percent of all~~
14 ~~gasoline sold and dispensed through metered pumps at that~~
15 ~~service station during the tax year.~~

16 d. Any credit in excess of the taxpayer's tax liability
17 shall be refunded. In lieu of claiming a refund, the taxpayer
18 may elect to have the overpayment shown on the taxpayer's
19 final, completed return and credited to the tax liability for
20 the following tax year.

21 Sec. 9. Section 452A.3, subsections 1 through 4, Code
22 2005, are amended to read as follows:

23 ~~1.--Except as otherwise provided in this section and in~~
24 ~~this division, until June 30, 2007, this subsection shall~~
25 ~~apply to the excise tax imposed on each gallon of motor fuel~~
26 ~~used for any purpose for the privilege of operating motor~~
27 ~~vehicles in this state.~~

28 ~~a.--The rate of the excise tax shall be based on the number~~
29 ~~of gallons of ethanol-blended gasoline that is distributed in~~
30 ~~this state as expressed as a percentage of the number of~~
31 ~~gallons of motor fuel distributed in this state, which is~~
32 ~~referred to as the distribution percentage.--The department~~
33 ~~shall determine the percentage basis for each determination~~
34 ~~period beginning January 1 and ending December 31.--The rate~~
35 ~~for the excise tax shall apply for the period beginning July 1~~

1 and ending June 30 following the end of the determination
2 period.

3 b.--The rate for the excise tax shall be as follows:

4 (1)--If the distribution percentage is not greater than
5 fifty percent, the rate shall be nineteen cents for ethanol
6 blended gasoline and twenty cents for motor fuel other than
7 ethanol blended gasoline.

8 (2)--If the distribution percentage is greater than fifty
9 percent but not greater than fifty-five percent, the rate
10 shall be nineteen cents for ethanol blended gasoline and
11 twenty and one-tenth cents for motor fuel other than ethanol
12 blended gasoline.

13 (3)--If the distribution percentage is greater than fifty-
14 five percent but not greater than sixty percent, the rate
15 shall be nineteen cents for ethanol blended gasoline and
16 twenty and three-tenths cents for motor fuel other than
17 ethanol blended gasoline.

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

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

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

33 (7)--If the distribution percentage is greater than
34 seventy-five percent but not greater than eighty percent, the
35 rate shall be nineteen and three-tenths cents for ethanol

1 blended-gasoline-and-twenty-and-eight-tenths-cents-for-motor
2 fuel-other-than-ethanol-blended-gasoline.

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

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

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

18 (11)--If-the-distribution-percentage-is-greater-than
19 ninety-five-percent, the-rate-shall-be-twenty-cents-for
20 ethanol-blended-gasoline-and-twenty-cents-for-motor-fuel-other
21 than-ethanol-blended-gasoline.

22 ~~1A~~ 1. Except as otherwise provided in this section and
23 in this division, after June 30, 2007, an excise tax of twenty
24 cents is imposed on each gallon of motor fuel used for any
25 purpose for the privilege of operating motor vehicles in this
26 state. However, special rates shall be imposed as follows:

27 a. Until June 30, 2010, for the operation of motor
28 vehicles in this state, no excise tax is imposed on the use of
29 E-85 ethanol blended gasoline that meets the standards
30 required by the department of agriculture and land stewardship
31 pursuant to section 214A.2.

32 b. For the operation of motor vehicles in this state, an
33 excise tax of thirty cents per gallon is imposed on the use of
34 high-emission gasoline that meets the standards required by
35 the department of agriculture and land stewardship pursuant to

1 section 214A.2.

2 2. c. For the ~~privilege-of-operating~~ operation of
3 aircraft in this state an excise tax of eight cents per gallon
4 is imposed on the use of ~~all~~ aviation gasoline.

5 3. d. For the ~~privilege-of-operating~~ operation of motor
6 vehicles or aircraft in this state, there is imposed an excise
7 tax on the use of special fuel in a motor vehicle or aircraft.
8 The tax rate on special fuel for diesel engines of motor
9 vehicles is twenty-two and one-half cents per gallon. The
10 rate of tax on special fuel for aircraft is three cents per
11 gallon. On all other special fuel, unless otherwise specified
12 in this section, the per gallon rate is the same as the motor
13 fuel tax. Indelible dye meeting United States environmental
14 protection agency and internal revenue service regulations
15 must be added to fuel before or upon withdrawal at a terminal
16 or refinery rack for that fuel to be exempt from tax and the
17 dyed fuel may be used only for an exempt purpose.

18 3A. e. For liquefied petroleum gas used as a special
19 fuel, the rate of tax shall be twenty cents per gallon.

20 4. f. For compressed natural gas used as a special fuel,
21 the rate of tax that is equivalent to the motor fuel tax shall
22 be sixteen cents per hundred cubic feet adjusted to a base
23 temperature of sixty degrees Fahrenheit and a pressure of
24 fourteen and seventy-three hundredths pounds per square inch
25 absolute.

26 Sec. 10. EFFECTIVE AND APPLICABILITY DATES.

27 1. a. Except as provided in subsection 2, this Act takes
28 effect January 1, 2006.

29 b. The provisions of this Act amending sections 422.11C
30 and 422.33, to the extent those provisions make changes in the
31 amounts and methods of assessing and administering the ethanol
32 blended or E-85 gasoline tax credits, take effect July 1,
33 2005, and apply to tax years beginning on or after January 1,
34 2005.

35 2. The department of agriculture and land stewardship and

1 the department of revenue and finance shall perform functions
2 prior to the effective date of this Act that are necessary in
3 order to implement this Act.

4 EXPLANATION

5 BACKGROUND. In 2001 the general assembly enacted House
6 File 716 (2001 Iowa Acts, chapter 123), which promoted the
7 production and consumption of ethanol. That Act created
8 provisions providing a tax credit for retail dealers of
9 gasoline who sell ethanol blended gasoline (motor fuel
10 containing at least 10 percent alcohol). The tax credit
11 applies to both taxpayers filing as individuals under Code
12 section 422.11C and businesses under Code section 422.33.
13 Specifically, the Act provided a tax credit for a retail
14 dealer who operates at least one service station at which more
15 than 60 percent of the total gallons of gasoline sold by the
16 retail dealer is ethanol blended gasoline. The Act also
17 amended provisions in Code section 452A.3 that provide for an
18 excise tax on each gallon of motor fuel sold in the state.
19 Under the Act, until June 30, 2007, the rates for unblended
20 and blended motor fuel are adjusted each year based on the
21 number of gallons of ethanol blended gasoline that are
22 distributed in this state as expressed as a percentage of the
23 total number of gallons of motor fuel distributed in this
24 state.

25 ETHANOL REQUIREMENTS. This bill amends Code chapter 214A
26 which provides authority to the department of agriculture and
27 land stewardship to regulate the sale of motor vehicle fuel.
28 The bill amends Code section 214A.2, which provides for
29 different types of gasoline. It designates gasoline with a
30 mixture of 85 percent or more ethanol as E-85 blended
31 gasoline. It also provides that gasoline with a mixture of
32 less than 10 percent ethanol is to be known as high-emission
33 gasoline. The bill prohibits retail dealers of gasoline from
34 selling high-emission gasoline, and provides a number of
35 exceptions. The prohibition does not apply to gasoline used

1 to operate aircraft, motor vehicles involved exclusively in
2 motor sports events, or motor vehicles operating using diesel
3 fuel. The requirement also does not apply to selling gasoline
4 for use in certain vehicles such as antique vehicles,
5 snowmobiles, all-terrain vehicles, watercraft, and small motor
6 vehicles. The bill also provides that all high-emission
7 gasoline must be premium grade unleaded gasoline. The bill
8 prohibits a retail dealer from using more than one pump to
9 dispense such gasoline, and the pump must be labeled notifying
10 the public of its restricted use. Code section 214A.11
11 provides that any person violating the provisions of Code
12 chapter 214A is guilty of a simple misdemeanor. A simple
13 misdemeanor is punishable by confinement for no more than 30
14 days or a fine of at least \$50, but not more than \$500, or by
15 both.

16 TAXES. The bill amends the tax credit provisions in Code
17 sections 422.11C and 422.33 to provide that a retail dealer
18 who sells E-85 ethanol blended gasoline is eligible to receive
19 a tax credit. The amount of the tax credit is 10 cents
20 multiplied by the total number of gallons of E-85 ethanol
21 blended gasoline sold and dispensed through all motor vehicle
22 fuel pumps operated at each of the taxpayer's service stations
23 during the tax year.

24 The bill also amends provisions in Code section 452A.3 that
25 provide for an adjustable excise tax on gallons of gasoline
26 sold in the state based on ethanol blended gasoline purchased
27 in this state. The bill eliminates that formula and
28 establishes a general rate of 20 cents per gallon. The bill
29 creates two exceptions. Until June 30, 2010, no excise tax is
30 imposed on the use of E-85 ethanol blended gasoline. An
31 excise tax of 30 cents per gallon is imposed on the use of
32 high-emission gasoline.

33 EFFECTIVE DATE AND APPLICABILITY. The bill takes effect on
34 January 1, 2006, and the tax credit provisions apply to tax
35 years beginning on or after January 1, 2005.

Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 96 – Ethanol (LSB 1447 SS)

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Fiscal Note Version – New

Requested By – Senator Jack Kibbie

Description

Senate File 96 makes several changes in the way motor vehicle fuel is taxed. The Bill provides for the following statutory changes:

1. Adds the following definitions for certain motor fuels:
 - High-Emission Gasoline – Mixture of less than 10.0% ethanol
 - E-85 Blended Gasoline – Mixture of 85.0% or more ethanol
2. Prohibits the sale of High-Emission Gasoline except for limited purposes.
3. Institutes the following tax rates:
 - High-Emission Gasoline: 30.0 cents per gallon
 - Conventional Blend Gasoline: 20.0 cents per gallon
 - High Blend Gasoline: 20.0 cents per gallon
 - Until June 30, 2010: E-85 Gasoline: 0.0 cents per gallon
 - On and after July 1, 2010: E-85 Gasoline: 20.0 cents per gallon
4. Provides a 10-cent per gallon income tax credit for retailers that sell E-85 fuel.
5. Repeals the tax changes enacted in HF 716 (during the 2001 Legislative Session), which created a 2.5-cent per gallon income tax credit for ethanol and changed the gasoline and ethanol excise taxes based on fuel sales.
6. The Bill takes effect on January 1, 2006, except for the provisions pertaining to the E-85 income tax credit, which are effective retroactively to July 1, 2005, and apply to tax years beginning on or after January 1, 2005.

Background

1. In FY 2004, the total amount of ethanol and gasoline consumed was 1.617 billion gallons, of which 1.027 billion was ethanol and 589.4 million was gasoline.
2. Much of federal highway funding distributed to states is based on the amount of federal gas tax remitted to the Federal Highway Trust Fund. Prior to January 1, 2005, the federal tax on ethanol was 5.2 cents per gallon less than regular gasoline. As a result, an increase in Iowa's consumption of ethanol decreased the amount of federal highway funds that Iowa received. On January 1, 2005, the 5.2-cent federal tax exemption on ethanol was eliminated. In addition, a 2.5-cent deficit reduction that was previously retained in the General Fund was transferred to the Federal Highway Trust Fund (the transfer was retroactive to FFY 2004). As a result, Iowa's federal fund allotment will not be affected by an increase in the sale of ethanol-blended fuel.
3. Road Use Tax Fund revenues in the first half of FY 2006 will not be affected by the proposed legislation. The second half of FY 2006 and all of FY 2007 and beyond will be affected.

Assumptions

1. This analysis assumes a 2.5% increase in the total gallons of gasoline and ethanol sold annually, and a 66.0% market share of ethanol in FY 2005. Beyond FY 2005, the market share is estimated to increase 2.0% each year, until FY 2009 when the market share reaches 74.0% and remains constant through subsequent fiscal years.
2. The amount of High-Emission Gasoline that will be consumed for the limited purposes specified in Section 6 of the Bill is unknown. This analysis assumes that 2.0% of the total gasoline and ethanol consumed is for these purposes.

3. The amount of E-85 fuel consumed in CY 2003 was an estimated 82,000 gallons. This analysis assumes a 15.0% increase in the annual consumption of E-85 fuel.

Fiscal Impact

Senate File 96 will have the following estimated fiscal impacts:

Road Use Tax Fund

- An increase in motor vehicle fuel tax revenue to the Road Use Tax Fund as follows:
 - FY 2006 (second half) – \$5.6 million
 - FY 2007 – \$13.1 million
 - FY 2008 – \$14.0 million
- The estimated decrease in revenues to the Road Use Tax Fund due to the elimination of the excise tax on E-85 fuel through FY 2010 is anticipated to be minimal. The estimated increase in revenues to the Road Use Tax Fund due to the 20-cent excise tax on E-85 fuel in FY 2011 and beyond is anticipated to be minimal.

General Fund

- The estimated decrease in revenues to the General Fund for the 10-cent per gallon income tax credit on E-85 fuel is anticipated to be minimal.
- An estimated increase in revenues to the General Fund in the following amounts due to the repeal of the tax changes enacted in HF 716 (during the 2001 Legislative Session):
 - FY 2006 – \$3.6 million
 - FY 2007 – \$4.8 million
 - FY 2008 – \$6.1 million

Federal Funds

There will be no fiscal impact on Iowa's allotment of federal highway funds.

Correctional Impact

The correctional impact of SF 96 cannot be determined as the number of persons who will violate the provisions of the Bill is unknown.

Sources

Department of Transportation
Department of Revenue (Monthly Fuel Tax Reports)

March 8, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
