

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

663W0077

SENATE STATE AFFAIRS ENGROSSED NO. **SB 1** - 02/09/2015

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Vehle, Omdahl, Parsley, Tidemann, and White and Representatives Duvall, Anderson, Hunhoff (Jean), Schaefer, Verchio, and Werner at the request of the Interim Committee on Highway Needs and Financing

1 FOR AN ACT ENTITLED, An Act to revise certain taxes and fees to fund improvements to
2 public roads and bridges in South Dakota.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created in the state treasury the local bridge improvement grant
5 fund. Interest earned on money in the fund shall be deposited into the fund. Any money in the
6 fund is continuously appropriated to the Department of Transportation. Any money deposited
7 into and distributed from the fund shall set forth in an informational budget as described in § 4-
8 7-7.2.

9 The Transportation Commission may award grants from the fund to any local government
10 entity to construct, reconstruct, and repair bridges. The Transportation Commission shall
11 consider the need for the project and funding mechanisms available to and utilized by the
12 applicant when making a decision to award a grant. No county may receive a grant from the
13 fund unless such county has adopted and annually updated its county highway and bridge



1 improvement plan pursuant to the provisions of section 3 of this Act and has imposed a county
2 wheel tax pursuant to § 32-5A-1.

3 Section 2. The Transportation Commission shall promulgate rules, pursuant to chapter 1-26,
4 regarding the application process and timelines, the guidelines and criteria for approval of
5 applications, and the distribution of funds from the local bridge improvement grant fund. The
6 criteria for evaluating the projects may include the proximity of other bridges and culverts,
7 alternative routes available, structural deficiencies, functionality and use of the bridge or culvert,
8 and project costs.

9 Section 3. The Transportation Commission shall promulgate rules, pursuant to chapter 1-26,
10 to establish the requirements for a county highway and bridge improvement plan that details
11 proposed county highway and bridge improvement projects in a county for the next five years.
12 The rules shall provide for the format of the plan and the time by which an update of the plan
13 must be submitted each year.

14 Section 4. That § 32-11-34 be amended to read as follows:

15 32-11-34. The local government highway and bridge fund is hereby created and appropriated
16 for the use of counties, municipalities, and townships for the purposes of constructing and
17 maintaining highways, streets, and bridges on their highway and street systems. Beginning on
18 October 1, 2015, before each quarterly disbursement is made pursuant to § 32-11-35, the
19 secretary of revenue shall transfer one million seven hundred fifty thousand dollars to the local
20 bridge improvement grant fund created pursuant to section 1 of this Act.

21 Section 5. That § 32-5B-1 be amended to read as follows:

22 32-5B-1. In addition to all other license and registration fees for the use of the highways, a
23 person shall pay an excise tax at the rate of ~~three~~ four percent on the purchase price of any motor
24 vehicle, as defined by § 32-3-1 or 32-5B-21, purchased or acquired for use on the streets and

1 highways of this state and required to be registered under the laws of this state. This tax shall
2 be in lieu of any tax levied by chapters 10-45 and 10-46 on the sales of such vehicles. Failure
3 to pay the full amount of excise tax is a Class 1 misdemeanor.

4 Section 6. That § 32-5B-1.4 be amended to read as follows:

5 32-5B-1.4. A licensed motor vehicle dealer who sells new motor vehicles and has a
6 franchise for that particular motor vehicle may license a new motor vehicle which is part of ~~his~~
7 the dealer's inventory. If the dealer licenses the motor vehicle, ~~he~~ the dealer shall title the motor
8 vehicle and pay the ~~three percent~~ excise tax imposed pursuant to § 32-5B-1 on the
9 manufacturer's suggested dealer list price. The next purchaser ~~shall be~~ is exempt from the excise
10 tax.

11 Section 7. That § 10-47B-4 be amended to read as follows:

12 10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- 13 (1) Motor fuel (except ethyl alcohol, methyl alcohol, biodiesel, biodiesel blends, and
14 aviation gasoline)--~~\$.22 per gallon~~ as provided pursuant to section 8 of this Act;
- 15 (2) Special fuel (except jet fuel)--~~\$.22 per gallon~~ as provided pursuant to section 8 of this
16 Act;
- 17 (3) Aviation gasoline--\$.06 per gallon;
- 18 (4) Jet fuel--\$.04 per gallon;
- 19 (5) Liquid petroleum gas--\$.20 per gallon;
- 20 (6) Compressed natural gas--\$.10 per gallon;
- 21 (7) Ethyl alcohol and methyl alcohol--~~\$.08 per gallon~~ as provided pursuant to section 9
22 of this Act;
- 23 (8) Liquid natural gas--\$.14 per gallon; and
- 24 (9) Biodiesel and biodiesel blends--as provided pursuant to section 8 of this Act, except

1 when the conditions as provided in section 10 of this Act are met.

2 Section 8. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The fuel excise tax rate for motor fuel and special fuel is:

- 5 (1) \$.24 per gallon from July 1, 2015, to June 30, 2016, inclusive;
- 6 (2) \$.26 per gallon from July 1, 2016, to June 30, 2017, inclusive; and
- 7 (3) Beginning on July 1, 2017, and on July first each year thereafter through June 30,
8 2023, the fuel excise tax rate shall increase by an additional \$.02 per gallon.

9 Section 9. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The fuel excise tax rate for ethyl alcohol and methyl alcohol fuel is:

- 12 (1) \$.10 per gallon from July 1, 2015, to June 30, 2016, inclusive;
- 13 (2) \$.12 per gallon from July 1, 2016, to June 30, 2017, inclusive; and
- 14 (3) Beginning on July 1, 2017, and on July first of each year thereafter through June 30,
15 2023, the fuel excise tax rate shall increase by an additional \$.02 per gallon.

16 Section 10. The tax imposed by § 10-47B-4 on biodiesel or biodiesel blends shall be reduced
17 by two cents per gallon in the quarter after biodiesel production facilities in South Dakota reach
18 a name plate capacity of at least twenty million gallons per year and fully produce at least ten
19 million gallons of biodiesel within one year as determined by the secretary of revenue. The
20 secretary shall file a certification of the determination with the secretary of state and the
21 Legislative Research Council as the means of determining the rate of tax applied by § 10-47B-4.
22 The provisions of this section are repealed in the quarter after thirty-five million gallons of taxed
23 biodiesel and biodiesel blended fuel are sold as determined by the secretary of revenue. The
24 secretary shall file a certification of the determination with the secretary of state and the

1 Legislative Research Council as the means of determining the effective date of the repeal of this
2 section.

3 Section 11. That section 7 of chapter 64 of the 2014 Session Laws, section 12 of chapter 55
4 of the 2009 Session Laws, and sections 3, 5, and 6 of chapter 54 of the 2008 Session Laws be
5 repealed.

6 Section 12. That § 32-5-6 be amended to read as follows:

7 32-5-6. License fees and compensation on a noncommercial motor vehicle which is an
8 automobile, pickup truck, or van as provided by § 32-5-5, shall be determined by the
9 manufacturer's shipping weight, including accessories, as follows:

- 10 (1) Two thousand pounds or less, inclusive, ~~thirty~~ thirty-three dollars;
- 11 (2) From 2,001 to 4,000 pounds, inclusive, ~~sixty~~ sixty-six dollars;
- 12 (3) From 4,001 to 6,000 pounds, inclusive, ~~ninety~~ ninety-nine dollars; and
- 13 (4) Over 6,000 pounds, ~~one hundred twenty~~ one hundred thirty-two dollars.

14 Section 13. That § 32-5-6.3 be amended to read as follows:

15 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile,
16 pickup truck, or van licensed pursuant to § 32-5-6 shall be determined by the gross weight of
17 the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

- 18 (1) Eight thousand pounds or less, inclusive, ~~one hundred~~ one hundred ten dollars;
- 19 (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 20,000
20 pounds, inclusive, ~~ten~~ eleven dollars; and
- 21 (3) For a vehicle in excess of 20,000 pounds, from July 1, 2015, to June 30, 2016,
22 inclusive, the total license fee shall be ~~sixty~~ seventy percent of the total license fee
23 established for commercial vehicles of equivalent weight pursuant to § 32-9-15. On
24 and after July 1, 2016, the total license fee shall be seventy-five percent of the total

1 license fee established for commercial vehicles of equivalent weight pursuant to
2 § 32-9-15.

3 It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this
4 section at a gross weight in excess of the gross weight for which it has been licensed. If the
5 owner chooses to lower the registered weight, the plate shall be returned along with any
6 validation decal and a new plate issued with the correct registered weight.

7 Section 14. That § 32-5-6.1 be amended to read as follows:

8 32-5-6.1. License fees for any noncommercial motor home shall be determined by the
9 manufacturer's shipping weight, including accessories, as follows:

- 10 (1) Six thousand pounds or less, inclusive, ~~ninety~~ ninety-nine dollars;
- 11 (2) From 6,001 to 8,000 pounds, inclusive, ~~one hundred twenty~~ one hundred thirty-two
12 dollars;
- 13 (3) From 8,001 to 10,000 pounds, inclusive, ~~one hundred fifty~~ one hundred sixty-five
14 dollars; and
- 15 (4) For each additional 2,000 pounds or major fraction thereof, in excess of 10,000
16 pounds, ~~thirty~~ thirty-three dollars.

17 For the purposes of this section, a motor home is a vehicle designed to provide temporary
18 living quarters for recreational, camping, or travel use, built on or permanently attached to a
19 self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the
20 completed vehicle.

21 Section 15. That § 32-5-8 be amended to read as follows:

22 32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1
23 or for any noncommercial trailer and semitrailer, for use of the highways payable ~~under~~ pursuant
24 to § 32-5-5 and pulled by a noncommercial motor vehicle on which the license fees were paid

1 pursuant to § 32-5-6, shall be determined upon the basis of their actual weight as follows:

- 2 (1) One thousand pounds or less, inclusive, ~~fifteen~~ seventeen dollars;
- 3 (2) From 1,001 to 2,000 pounds, inclusive, ~~thirty~~ thirty-three dollars;
- 4 (3) From 2,001 to 3,000 pounds, inclusive, ~~forty-five~~ fifty dollars;
- 5 (4) From 3,001 to 4,000 pounds, inclusive, ~~sixty~~ sixty-six dollars;
- 6 (5) From 4,001 to 5,000 pounds, inclusive, ~~seventy-five~~ eighty-three dollars;
- 7 (6) From 5,001 to 6,000 pounds, inclusive, ~~ninety~~ ninety-nine dollars;
- 8 (7) From 6,001 to 7,000 pounds, inclusive, ~~one hundred five~~ one hundred sixteen dollars;
- 9 (8) From 7,001 to 8,000 pounds, inclusive, ~~one hundred twenty~~ one hundred thirty-two
- 10 dollars;
- 11 (9) From 8,001 to 9,000 pounds, inclusive, ~~one hundred thirty-five~~ one hundred forty-
- 12 nine dollars;
- 13 (10) From 9,001 to 10,000 pounds, inclusive, ~~one hundred fifty~~ one hundred sixty-five
- 14 dollars; and
- 15 (11) For each additional 1,000 pounds or major fraction thereof, in excess of 10,000
- 16 pounds, ~~fifteen~~ seventeen dollars.

17 Any trailer or semitrailer licensed pursuant to this section may be pulled by a
18 noncommercial motor vehicle licensed pursuant to § 32-5-8.1 or a commercially licensed motor
19 vehicle if the motor vehicle is registered at a gross weight to cover the weight of the trailer and
20 its load.

21 Section 16. That § 32-5-9 be amended to read as follows:

22 32-5-9. License fees and compensation for use of the highways payable ~~under~~ pursuant to
23 § 32-5-5 ~~shall be: fourteen dollars and fifty cents for motorcycles with a~~ shall be determined by
24 the piston displacement of less than three hundred fifty cubic centimeters and seventeen dollars

1 ~~for motorcycles with a piston displacement of three hundred fifty cubic centimeters or more~~ as
2 follows:

- 3 (1) Less than three hundred fifty cubic centimeters, sixteen dollars;
4 (2) Three hundred fifty to one thousand cubic centimeters, inclusive, nineteen dollars;
5 and
6 (3) Greater than one thousand cubic centimeters, twenty-two dollars.

7 Section 17. That § 32-6B-21 be amended to read as follows:

8 32-6B-21. The department shall issue metal numerical license plates to licensed dealers
9 upon application and payment of a ~~eighty-four~~ ninety-two dollar yearly fee to be paid at the time
10 of the annual review date for each set desired. The fees shall be distributed in the manner
11 specified in §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be
12 numbered consecutively and shall bear as a prefix the number 77. The plates may be issued for
13 a multiple year period. If a dealer's license is revoked or canceled or the dealer goes out of
14 business the 77 plates shall be returned to the department. If any person operates a motor vehicle
15 with 77 plates after the dealer license is revoked or canceled or after the dealer goes out of
16 business, or if the person refuses to return the plates, the person is guilty of a Class 2
17 misdemeanor.

18 Section 18. That § 32-6B-23 be amended to read as follows:

19 32-6B-23. The department shall issue to any motorcycle dealer and trailer dealer licensed
20 pursuant to this chapter metal number plates bearing a prefix of the letter "D" and containing
21 a distinguishing identification number of the licensee. The dealer shall make application to the
22 department for the plates and pay a fee of ~~twenty~~ twenty-two dollars for each plate. One license
23 plate shall be displayed on the rear of any motorcycle, or trailer, semitrailer, or travel trailer,
24 owned by the dealer while traveling on a public highway. Any vehicle owned by the licensed

1 dealer and bearing the dealers' metal plate may be operated on the streets and highways of this
2 state for any purpose, including demonstration by a prospective buyer. All money collected
3 pursuant to this section shall be distributed in the manner specified in § 32-11-2 and §§ 32-11-
4 4.1 to 32-11-9, inclusive.

5 Section 19. That § 32-6B-36.3 be amended to read as follows:

6 32-6B-36.3. The department shall issue metal numerical license plates to an auction agency
7 upon application and payment of a ~~eighty-four~~ ninety-two dollar yearly fee to be paid at the time
8 of the annual review date for each set desired. Such fees shall be distributed in the manner
9 specified in §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be
10 numbered consecutively and shall bear as a prefix the number "99." The plates may be issued
11 for a multiple year period. If an auction agency's license is revoked or canceled or the auction
12 agency goes out of business, the "99" plates shall be returned to the department. If any person
13 operates a motor vehicle with "99" plates after the auction agency's license is revoked or
14 canceled or after the auction agency goes out of business, or if the person refuses to return the
15 plates, the person is guilty of a Class 2 misdemeanor.

16 Section 20. That § 10-12-13 be amended to read as follows:

17 10-12-13. The board of county commissioners may levy an annual tax not to exceed one
18 dollar and twenty cents per thousand dollars of taxable valuation as a reserve fund to be
19 accumulated and used for the purpose of ~~matching federal aid grants which have or may~~
20 ~~hereafter become available~~ maintaining, repairing, constructing, and reconstructing roads and
21 bridges. Moneys in the fund may be expended ~~in cooperation with the federal government~~ in the
22 laying out, marking, maintaining, constructing, and reconstructing roads and maintaining,
23 constructing, and reconstructing bridges, under the jurisdiction of the board of county
24 commissioners. The tax levy shall be in addition to all other levies authorized to be made by the

1 board of county commissioners for road and bridge purposes provided for in § 10-12-21. The
2 proceeds of such levy shall be placed in a special fund to be known as the "county highway and
3 bridge reserve fund." Any tax levy imposed pursuant to this section is exempt from the tax
4 limitations imposed on a county pursuant to chapter 10-13.

5 Notwithstanding any other provision of law, any action by the board of county
6 commissioners to authorize a tax levy pursuant to this section is subject to the referendum
7 process in accordance with chapter 7-18A.

8 Section 21. The voters of an organized civil township at the annual township meeting may
9 authorize an annual property tax levy not to exceed fifty cents per thousand dollars of the
10 taxable valuation of the township for the secondary road capital improvement fund for projects
11 and purposes as defined in section 22 of this Act. The secondary road capital improvement tax
12 levy authorized by this section is in addition to the levies authorized in §§ 10-12-28 and
13 31-13-22. Any tax levy imposed pursuant to this section is exempt from the tax limitations
14 imposed on a township pursuant to chapter 10-13.

15 Section 22. The township board of supervisors may establish a secondary road capital
16 improvement fund for the purpose of constructing, reconstructing, repairing, and maintaining
17 secondary roads, bridges, and culverts under the jurisdiction of the township board of
18 supervisors.

19 Section 23. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The Department of Transportation shall establish performance standards designed to
22 measure the overall condition of the highways and bridges on the state highway system, along
23 with establishing ten-year goals for maintenance of these conditions. When establishing
24 appropriate performance standards, the department may include nationally established standards

1 and measurements required to be reported to the United States Department of Transportation.

2 The department shall, before the fourth Tuesday in January of each year, report to the Senate
3 and House standing committees on transportation on the current and projected condition of the
4 highways and bridges on the state trunk highway system. This report shall include progress on
5 meeting the ten-year goals for condition of the state highway system. If the projections show the
6 ten-year goals will not be met, the department shall report the estimated amount of additional
7 funding needed to achieve the goals.

8 Section 24. That § 32-5A-1 be amended to read as follows:

9 32-5A-1. ~~Any~~ Each county may, by ordinance, impose a wheel tax on all motor vehicles, as
10 defined in § 32-3-1, registered in the county at a rate not to exceed four dollars per vehicle
11 wheel. The tax shall be administered and collected by the county. The total vehicle tax may not
12 exceed ~~sixteen~~ forty-eight dollars per vehicle.

13 Section 25. Beginning on July 1, 2016, and on July first each year thereafter until July 1,
14 2023, the motor vehicle registration fee provided in § 32-5-6, subdivision 32-5-6.3(1),
15 subdivisions 32-5-6.1(1), (2), and (3), subdivisions 32-5-8(1) to (10), inclusive, § 32-5-9, § 32-
16 6B-21, § 32-6B-23, and § 32-6B-36.3 shall be increased by:

- 17 (1) One dollar, if the fee is less than seventy-five dollars;
18 (2) Two dollars, if the fee is seventy-five dollars to one hundred fifty dollars, inclusive;
19 and
20 (3) Three dollars, if the fee is greater than one hundred fifty dollars.