

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

663W0077

## SENATE ENGROSSED NO. **SB 1** - 02/11/2015

**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  
14 improvement plan pursuant to the provisions of section 3 of this Act and has imposed a county



1 wheel tax pursuant to § 32-5A-1.

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

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

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

14 32-11-34. The local government highway and bridge fund is hereby created and appropriated  
15 for the use of counties, municipalities, and townships for the purposes of constructing and  
16 maintaining highways, streets, and bridges on their highway and street systems. Beginning on  
17 October 1, 2015, before each quarterly disbursement is made pursuant to § 32-11-35, the  
18 secretary of revenue shall transfer one million seven hundred fifty thousand dollars to the local  
19 bridge improvement grant fund created pursuant to section 1 of this Act.

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

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

1 be in lieu of any tax levied by chapters 10-45 and 10-46 on the sales of such vehicles. Failure  
2 to pay the full amount of excise tax is a Class 1 misdemeanor.

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

4 32-5B-1.4. A licensed motor vehicle dealer who sells new motor vehicles and has a  
5 franchise for that particular motor vehicle may license a new motor vehicle which is part of ~~his~~  
6 the dealer's inventory. If the dealer licenses the motor vehicle, ~~he~~ the dealer shall title the motor  
7 vehicle and pay the ~~three percent~~ excise tax imposed pursuant to § 32-5B-1 on the  
8 manufacturer's suggested dealer list price. The next purchaser ~~shall be~~ is exempt from the excise  
9 tax.

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

11 10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

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

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

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

- 4 (1) \$.24 per gallon from July 1, 2015, to June 30, 2016, inclusive;
- 5 (2) \$.26 per gallon from July 1, 2016, to June 30, 2017, inclusive; and
- 6 (3) Beginning on July 1, 2017, and on July first each year thereafter through June 30,  
7 2023, the fuel excise tax rate shall increase by an additional \$.02 per gallon.

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

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

- 11 (1) \$.10 per gallon from July 1, 2015, to June 30, 2016, inclusive;
- 12 (2) \$.12 per gallon from July 1, 2016, to June 30, 2017, inclusive; and
- 13 (3) Beginning on July 1, 2017, and on July first of each year thereafter through June 30,  
14 2023, the fuel excise tax rate shall increase by an additional \$.02 per gallon.

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

1 section.

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

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

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

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

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

14 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile,  
15 pickup truck, or van licensed pursuant to § 32-5-6 shall be determined by the gross weight of  
16 the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

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

1            § 32-9-15.

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

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

7            32-5-6.1. License fees for any noncommercial motor home shall be determined by the  
8 manufacturer's shipping weight, including accessories, as follows:

9            (1) Six thousand pounds or less, inclusive, ~~ninety~~ ninety-nine dollars;

10           (2) From 6,001 to 8,000 pounds, inclusive, ~~one hundred twenty~~ one hundred thirty-two  
11 dollars;

12           (3) From 8,001 to 10,000 pounds, inclusive, ~~one hundred fifty~~ one hundred sixty-five  
13 dollars; and

14           (4) For each additional 2,000 pounds or major fraction thereof, in excess of 10,000  
15 pounds, ~~thirty~~ thirty-three dollars.

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

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

21           32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1  
22 or for any noncommercial trailer and semitrailer, for use of the highways payable ~~under~~ pursuant  
23 to § 32-5-5 and pulled by a noncommercial motor vehicle on which the license fees were paid  
24 pursuant to § 32-5-6, shall be determined upon the basis of their actual weight as follows:

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

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

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

21 32-5-9. License fees and compensation for use of the highways payable ~~under~~ pursuant to  
 22 § 32-5-5 ~~shall be: fourteen dollars and fifty cents for motorcycles with a~~ shall be determined by  
 23 the piston displacement of less than three hundred fifty cubic centimeters and seventeen dollars  
 24 for motorcycles with a piston displacement of three hundred fifty cubic centimeters or more as

1 follows:

2 (1) Less than three hundred fifty cubic centimeters, sixteen dollars;

3 (2) Three hundred fifty to one thousand cubic centimeters, inclusive, nineteen dollars;

4 and

5 (3) Greater than one thousand cubic centimeters, twenty-two dollars.

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

7 32-6B-21. The department shall issue metal numerical license plates to licensed dealers  
8 upon application and payment of a ~~eighty-four~~ ninety-two dollar yearly fee to be paid at the time  
9 of the annual review date for each set desired. The fees shall be distributed in the manner  
10 specified in §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be  
11 numbered consecutively and shall bear as a prefix the number 77. The plates may be issued for  
12 a multiple year period. If a dealer's license is revoked or canceled or the dealer goes out of  
13 business the 77 plates shall be returned to the department. If any person operates a motor vehicle  
14 with 77 plates after the dealer license is revoked or canceled or after the dealer goes out of  
15 business, or if the person refuses to return the plates, the person is guilty of a Class 2  
16 misdemeanor.

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

18 32-6B-23. The department shall issue to any motorcycle dealer and trailer dealer licensed  
19 pursuant to this chapter metal number plates bearing a prefix of the letter "D" and containing  
20 a distinguishing identification number of the licensee. The dealer shall make application to the  
21 department for the plates and pay a fee of ~~twenty~~ twenty-two dollars for each plate. One license  
22 plate shall be displayed on the rear of any motorcycle, or trailer, semitrailer, or travel trailer,  
23 owned by the dealer while traveling on a public highway. Any vehicle owned by the licensed  
24 dealer and bearing the dealers' metal plate may be operated on the streets and highways of this



1 state for any purpose, including demonstration by a prospective buyer. All money collected  
2 pursuant to this section shall be distributed in the manner specified in § 32-11-2 and §§ 32-11-  
3 4.1 to 32-11-9, inclusive.

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

5 32-6B-36.3. The department shall issue metal numerical license plates to an auction agency  
6 upon application and payment of a ~~eighty-four~~ ninety-two dollar yearly fee to be paid at the time  
7 of the annual review date for each set desired. Such fees shall be distributed in the manner  
8 specified in §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be  
9 numbered consecutively and shall bear as a prefix the number "99." The plates may be issued  
10 for a multiple year period. If an auction agency's license is revoked or canceled or the auction  
11 agency goes out of business, the "99" plates shall be returned to the department. If any person  
12 operates a motor vehicle with "99" plates after the auction agency's license is revoked or  
13 canceled or after the auction agency goes out of business, or if the person refuses to return the  
14 plates, the person is guilty of a Class 2 misdemeanor.

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

16 10-12-13. The board of county commissioners may levy an annual tax not to exceed one  
17 dollar and twenty cents per thousand dollars of taxable valuation as a reserve fund to be  
18 accumulated and used for the purpose of ~~matching federal aid grants which have or may~~  
19 ~~hereafter become available~~ maintaining, repairing, constructing, and reconstructing roads and  
20 bridges. Moneys in the fund may be expended ~~in cooperation with the federal government~~ in the  
21 laying out, marking, maintaining, constructing, and reconstructing roads and maintaining,  
22 constructing, and reconstructing bridges, under the jurisdiction of the board of county  
23 commissioners. The tax levy shall be in addition to all other levies authorized to be made by the  
24 board of county commissioners for road and bridge purposes provided for in § 10-12-21. The

1 proceeds of such levy shall be placed in a special fund to be known as the "county highway and  
2 bridge reserve fund." Any increased tax levy imposed pursuant to this section is exempt from  
3 the provisions of § 10-13-35, if the county establishes the amount of revenue payable from taxes  
4 on real property pursuant to section 21 of this Act. Each year thereafter, the county may increase  
5 the amount of revenue payable from property taxes by applying the growth and the index factor  
6 pursuant to § 10-13-35.

7 Section 21. The governing body of the county may, by resolution, impose the increased tax  
8 levy provided in § 10-12-13 with an affirmative two-thirds vote of the governing body on or  
9 before July fifteenth. The decision of the governing body to impose the increased tax levy shall  
10 be published within ten days of the decision and shall be published at least twice in each legal  
11 newspaper designated by the county. The decision to increase the tax levy provided in § 10-12-  
12 13 shall be referred to a vote of the people for its approval or disapproval.

13 Section 22. The voters of an organized civil township at the annual township meeting may  
14 authorize an annual property tax levy not to exceed fifty cents per thousand dollars of the  
15 taxable valuation of the township for the secondary road capital improvement fund for projects  
16 and purposes as defined in section 24 of this Act. The secondary road capital improvement tax  
17 levy authorized by this section is in addition to the levies authorized in §§ 10-12-28 and  
18 31-13-22. The tax levy imposed pursuant to this section is exempt from the provisions of § 10-  
19 13-35, if the township establishes the amount of revenue payable from taxes on real property  
20 for purposes authorized by this section pursuant to section 23 of this Act. Each year thereafter,  
21 the township may increase the amount of revenue payable from property taxes by applying the  
22 growth and the index factor pursuant to § 10-13-35.

23 Section 23. The governing body of the township may, by resolution, impose the tax levy  
24 provided in section 22 of this Act with an affirmative two-thirds vote of the governing body on

1 or before July fifteenth. The decision of the governing body to impose the tax levy shall be  
2 published within ten days of the decision and shall be published at least twice in each legal  
3 newspaper designated by the township. The decision to impose the tax levy provided in section  
4 22 of this Act shall be referred to a vote of the people for its approval or disapproval.

5 Section 24. The township board of supervisors may establish a secondary road capital  
6 improvement fund for the purpose of constructing, reconstructing, repairing, and maintaining  
7 secondary roads, bridges, and culverts under the jurisdiction of the township board of  
8 supervisors.

9 Section 25. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 The Department of Transportation shall establish performance standards designed to  
12 measure the overall condition of the highways and bridges on the state highway system, along  
13 with establishing ten-year goals for maintenance of these conditions. When establishing  
14 appropriate performance standards, the department may include nationally established standards  
15 and measurements required to be reported to the United States Department of Transportation.

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

22 Section 26. That § 32-5A-1 be amended to read as follows:

23 32-5A-1. ~~Any~~ Each county may, by ordinance, impose a wheel tax on all motor vehicles, as  
24 defined in § 32-3-1, registered in the county at a rate not to exceed four dollars per vehicle

1 wheel. The tax shall be administered and collected by the county. The total vehicle tax may not  
2 exceed ~~sixteen~~ forty-eight dollars per vehicle.

3 Section 27. Beginning on July 1, 2016, and on July first each year thereafter until July 1,  
4 2023, the motor vehicle registration fee provided in § 32-5-6, subdivision 32-5-6.3(1),  
5 subdivisions 32-5-6.1(1), (2), and (3), subdivisions 32-5-8(1) to (10), inclusive, § 32-5-9, § 32-  
6 6B-21, § 32-6B-23, and § 32-6B-36.3 shall be increased by:

- 7 (1) One dollar, if the fee is less than seventy-five dollars;
- 8 (2) Two dollars, if the fee is seventy-five dollars to one hundred fifty dollars, inclusive;
- 9 and
- 10 (3) Three dollars, if the fee is greater than one hundred fifty dollars.