

**REFERENDUM PETITION
TO THE SECRETARY OF STATE
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request Senate Bill 2222 passed by the Fifty-eighth Legislative Assembly be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Norman C. Cooper (Co-chairman) 4848 Highway 85, Lot 119 Williston, ND 58801-8612	Marilyn Duval 507 Lincoln Ave. Finley, ND 58230	Ramona A. Klein 3340 123 rd Ave. SE Oriska, ND 58063	Jack R. Orts 2605 127th Ave. SE Oriska, ND 58063
Ralph Muecke (Co-chairman) 3441 100 th Ave. SW Gladstone, ND 58630	Robert Hale 315 South Main Minot, ND 58701	John Molstad 12014 21 st St. SE Luverne, N.D. 58056	Duane M. Person 12140 33 rd St. SE Valley City, ND 58072
Ronald E. Almquist 2700 74 th St. NW Minot, ND 58703	Daryl B. Hanson 6967 Riverdale Dr. Fargo, ND 58104	Lawrence Meyer 1802 5 th Ave. S. Fargo, ND 58103	Mary L. Person 12140 33 rd St. SE Valley City, ND 58072
Tim Bower 650 11 th St. NW #17 Valley City, ND 58072	Janis L. Hanson 6967 Riverdale Dr. Fargo, ND 58104	Theresa Meyer 1802 5 th Ave. S. Fargo, ND 58103	Ron Powers 2333 125 th Ave. SE Oriska, ND 58063
Jason Christopherson 2021 Park Blvd. Fargo, ND 58103	Conrad D. Hoff 2609 125 th Ave. SE Oriska, ND 58072	Charlene E. Nelson 15703 31 st St SE Casselton, ND 58012	Lisa H. Schwegel 650 11 St. NW #17 Valley City, ND 58072
Sandra Christopherson 2021 Park Blvd. Fargo, ND 58103	David A. Johnson 401 9 th St. NW Valley City, ND 58072	Lillian Noeske 109 Secare Dr. Valley City, ND 58072	Donna Smith 3320 121 R Ave. SE Valley City, ND 58072
Darrell Duval 507 Lincoln Ave. Finley, ND 58230	Daryl N. Klein 3340 123 rd Ave. SE Oriska, ND 58063	Ross L. Noeske 12407 32 R. St. SE Oriska, ND 58063	Richard Smith 3320 121 R Ave. SE Valley City, ND 58072

BALLOT TITLE

The measure being referred, Senate Bill No. 2222, approved by the 2003 Legislative Assembly, provides for ethanol production subsidies to eligible new and existing ethanol production plants.

The measure creates an ethanol production incentive fund. It is funded by a portion of the fees paid for the registration of farm vehicles and by redirecting one cent of the existing seven cents per gallon reduction in the refund of motor vehicle fuel taxes paid on fuel used for agricultural purposes. The redirected one-cent per gallon was previously deposited in the highway tax distribution fund. Annual transfers to the ethanol fund cannot result in a balance in the fund that exceeds five million dollars.

The measure requires the agricultural products utilization commission to distribute subsidy payments to ethanol plants constructed after July 31, 2003. Payments are calculated by a market-derived formula based on the price of corn relative to the price of ethanol. Payments to ethanol manufacturers cannot exceed one million six hundred thousand dollars annually or a cumulative total of ten million dollars.

The measure provides that until July 1, 2005, ethanol production plants in operation before July 1, 1995, may receive limited subsidy payments for a fiscal year based on the plant's production capacity, gallons produced, and gallons marketed.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Definition. In this chapter, unless the context otherwise requires, "eligible facility" means an ethanol production plant constructed in this state after July 31, 2003.

SECTION 2. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Ethanol production incentive - Calculation - Payment. The agricultural products utilization commission shall provide quarterly to each eligible facility a production incentive based on the average North Dakota price per bushel of corn received by farmers during the quarter, as established by the North Dakota agricultural statistics service and the average North Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by the American coalition for ethanol. The amount payable as a production incentive must be calculated by including the sum arrived at under subsection 1 with the sum arrived at under subsection 2.

1. a. If the average quarterly price per bushel of corn is above one dollar and eighty cents, for each one cent by which the quarterly price is above one dollar and eighty cents, the agricultural products utilization commission shall add to the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.
- b. If the average quarterly price per bushel of corn is one dollar and eighty cents, the agricultural products utilization commission shall add zero to any amount payable under this section.
- c. If the average quarterly price per bushel of corn is below one dollar and eighty cents, for each one cent by which the quarterly price is below one dollar and eighty cents, the agricultural products utilization commission shall subtract from the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

2.
 - a. If the average quarterly rack price per gallon of ethanol is above one dollar and thirty cents, for each one cent by which the average quarterly rack price is above one dollar and thirty cents, the agricultural products utilization commission shall subtract from the amount payable under this section, two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.
 - b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty cents, the agricultural products utilization commission shall subtract zero from any amount payable under this section.
 - c. If the average quarterly rack price per gallon of ethanol is below one dollar and thirty cents, for each one cent by which the average quarterly rack price is below one dollar and thirty cents, the agricultural products utilization commission shall add to the amount payable under this section two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

SECTION 3. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Subsidy limitations. The agricultural products utilization commission may not distribute more than one million six hundred thousand dollars annually in payments under section 2 of this Act. No eligible facility may receive state ethanol payments that exceed a cumulative total of ten million dollars. Change in ownership of an eligible facility does not affect the ten million dollar cumulative total allowed to be paid to that eligible facility under this section.

SECTION 4. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Ethanol production incentive fund - Continuing appropriation. There is created in the state treasury a special fund known as the ethanol production incentive fund. The fund consists of transfers made in accordance with section 39-04-39 and deposits made in accordance with section 57-43.1-03.1. All moneys in the fund are appropriated on a continuing basis to the agricultural products utilization commission for use in paying ethanol production incentives under sections 2 and 3 of this Act and section 4-14.1-07.

SECTION 5. AMENDMENT. Section 4-14.1-07 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-07. Duration and limitation of ethanol plant production incentives - Report to budget section. ~~Notwithstanding any other provision of law, an ethanol plant may not receive production incentives except as permitted under this section.~~

1. ~~An ethanol plant that was in operation before July 1, 1995, may not receive production incentives in the form of direct payments from the state for more than fourteen fiscal years of operation after June 30, 1995. An ethanol plant that begins operation after June 30, 1995, may not receive production incentives in the form of direct payments from the state for more than~~

~~fourteen fiscal years of operation. After December 31, 2009, the state may not provide production incentives in the form of direct payments to any ethanol plant.~~

~~2. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to ~~seven~~ six hundred ~~fifty~~ thousand dollars in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which produced fifteen million [56781000 liters] or more gallons in the previous fiscal year ~~and an ethanol plant that begins operations after June 30, 1995, are each~~ is eligible to receive ~~an equal share in~~ up to ~~five~~ three hundred thousand dollars in production incentives from the state in a fiscal year.~~

~~2. The agricultural products utilization commission shall determine the amount of production incentives to which a plant is entitled under this section by multiplying the number of gallons of ethanol produced by the plant and marketed to a distributor or wholesaler by forty cents. The commission shall forward the production incentives to the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative council a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.~~

SECTION 6. AMENDMENT. Section 39-04-39 of the North Dakota Century Code is amended and reenacted as follows:

39-04-39. Distribution of registration fees collected. Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, must be promptly deposited in the highway tax distribution fund which must be distributed in the manner as prescribed by law. The state treasurer shall transfer annually from the highway tax distribution fund to the ethanol production incentive fund an amount equal to forty percent of all sums collected for the registration of farm vehicles under subsection 5 of section 39-04-19 except that no transfer may be made in an amount that would result in the balance of the ethanol production incentive fund exceeding five million dollars.

SECTION 7. AMENDMENT. Section 57-43.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. ~~(Effective through December 31, 2003)~~ Refund of tax for fuel used for agricultural purposes - Reductions. Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. The amount of the tax refund under this section must be reduced by seven cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users. Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, one cent per gallon [3.79 liters] withheld from the refund must be ~~retained~~ deposited in the ~~highway tax distribution~~ ethanol production incentive fund, and four cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.

~~(Effective January 1, 2004) Refund of tax for fuel used for agricultural purposes--~~

~~**Reductions.** Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. The amount of the tax refund under this section must be reduced by six cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users. Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund and four cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.~~

SECTION 8. REPEAL. Section 4-14.1-07 of the North Dakota Century Code is repealed.

SECTION 9. EFFECTIVE DATE. Section 8 of this Act becomes effective on July 1, 2005.

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition.

QUALIFIED ELECTORS

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STATE OF NORTH DAKOTA)

COUNTY OF _____) ss.
(county where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside at _____
(circulator) (address)

_____ North Dakota; that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each person whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

(Signature of Circulator)

Subscribed and sworn to before me on this ____ day of _____, 2003, at _____, North Dakota.

(SEAL)

(Signature of Notary)
My commission expires _____