

1999 DRAFTING REQUEST

Bill

Received: **11/23/1998**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Eugene Hahn (608) 266-3404**

By/Representing: **Heather**

This file may be shown to any legislator: NO

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Pre Topic:

No specific pre topic given

T o p i c :

Ethanol incentive program

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	Jacketed	<u>Required</u>
/?	kunkemd 1 1/23/1998	wjackson 12/09/1998		_____			
/1	kunkemd 08/16/1999	ygeller 08/17/1999	jfrantze 12/10/1998	_____	lrb-docadmin 12/10/1998		State
/2	kunkemd 09/01/1999	ygeller 09/01/1999	mclark 08/17/1999	_____	lrb-docadmin 08/18/1999		State
/3			haugeca 09/01/1999	_____	lrb-docadmin 09/01/1999	lrb-docadmin 09/10/1999	

FE Sent For:

<END>

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/3			haugeca 09/01/1999	_____	lrb-docadmin 09/01/1999		

09/01/1999 03:01:25 PM
• Page 2

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/2		<i>13 9/1 jlg</i> mclark 08/17/1999		_____	lrb_docadmin 08/18/1999		
FE Sent For:		<i>ch a-1</i>	<i>ch a-1</i>	<i>RM</i>	<i><END></i>		

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I?	kunkemd 11/23/98	wjackson 12/9/98		_____			
/1		1/2 8/17 jlg	jfrantze 12/10/98	_____	lrb_docadmin 12/10/98		
FE Sent For:			MRC 8/17	MRC/KF 8/17			<END>



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I?	kunkemd	11/13/98 jlg	12/1/98	12/10/98			

FE Sent For:

<END>

O-NOTE

-1001/1

1997 ASSEMBLY BILL 134

RM NOT
run

February 24, 1997 - Introduced by Representatives HAHN, FREESE, HARSDDORF, AINSWORTH, BOYLE, OWENS, MUSSER, SCHAFER, SERATTI and ZUKOWSKI, cosponsored by Senator ZIEN. Referred to Committee on Rural Affairs.

REGEN

1 AN ACT to create 16.957 and 20.505 (1) (dm) of the statutes; relating to: the
2 creation of an ethanol production incentive program. ✓

Also

Analysis by the Legislative Reference Bureau

This bill establishes an ethanol production incentive program to be administered by the department of administration (DOA). Under the program, ethanol producers may receive incentive payments for qualifying ethanol production. In order to qualify for incentive payments, the ethanol must be produced by a facility that was constructed on or after the effective date of the bill. In addition, the ethanol must be at least 99% pure, *denatured and ~~be~~ subsequently blended with gasoline. Finally, the ethanol must be fermented, distilled and dehydrated in a certified production facility. In order to become certified, the production facility must be located in this state and must file an application and a test claim with DOA.

In calculating the amount of an incentive payment to an ethanol producer, DOA is required to allocate the lesser of \$1,000,000 or the amount appropriated for incentive payments in a fiscal year, among ~~3~~^{three} month computation periods. If sufficient funds are allocated to a computation period, DOA is required to pay ethanol producers incentive payments of 20 cents for each gallon of qualifying ethanol produced during the computation period. If the funds allocated to that computation period are insufficient, the available funds are prorated among ethanol producers on the basis of the number of gallons of qualifying ethanol produced during that computation period. Any funds allocated to a computation period that are not needed to make incentive payments to ethanol producers are used to increase the total amount allocated for the next computation period in that fiscal year, if any,

ASSEMBLY BILL 134

The bill imposes certain limitations on the amount of incentive payments that may be received under the program. The amount of the ethanol production incentive payments paid to any ethanol producer, together with any ethanol production incentive payments made to any person controlling, controlled by or under common control with the ethanol producer, may not exceed, in any computation period, 20% of the amount available for incentive payments during the computation period, or, in any fiscal year, \$300,000. DOA may require a producer to submit unqualified opinions based on audits performed by an accountant before paying any claim for incentive payments under the program. In addition, incentive payments may not be made for any ethanol production facility more than ^{five} years after a payment was made for ethanol produced at that facility. Also, λ

first

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.957^x of the statutes is created to read:

2 **16.957 Ethanol production incentive program. (1)** DEFINITIONS. In this
3 section:

4 (a) "Computation period"[✓] means a period of 3 consecutive months ending on
5 March 31, June 30, September 30 or December 31.

6 (b) "Control" means possess, directly or indirectly, the power to direct or cause
7 the direction of the management and policies of a person, whether that power is
8 exercised through one or more intermediary entities, or alone, or in conjunction with,
9 or by an agreement with, another person, and whether that power is established
10 through majority ownership, minority ownership, voting of securities, common
11 directors, common officers, common stockholders, voting trusts, holding trusts or
12 affiliated companies or by contract or other direct or indirect means. "Control"
13 includes owning, holding or controlling, directly or indirectly, at least 5% of the
14 voting power in the election of directors of a corporation or association.

15 **(2) CREATION.** There is created an ethanol production incentive program to be
16 funded under s. 20.505 (1) (dm)[✓] and administered by the department.[✓]

ASSEMBLY BILL 134

1 (3) CERTIFICATION OF PRODUCTION FACILITIES. ✓ NO ethanol producer may
2 participate in the ethanol incentive program, unless the production facility is
3 certified by the department under this subsection. In order to have a production
4 facility certified, the ethanol producer must submit an application and a test claim
5 for the computation period immediately preceding the computation period in which
6 the initial claim for an incentive payment is made. A test claim shall provide the
7 same information as is required for a claim for payment under sub. (4). ✓ The
8 department may not certify a production facility under this subsection unless the
9 production facility is located in this state.

10 (4) SUBMISSION OF CLAIMS. ✓ In order to receive payments under the ethanol
11 incentive program, an ethanol producer shall submit a claim to the department
12 under this subsection. The claim shall include the name of the producer, the location
13 of the production facility, the computation period for which the claim is submitted,
14 the number of gallons of ethanol produced during the computation period that
15 qualify for incentive payments under sub. (5), ✓ the form of organization of the
16 producer and any other information which may be specified by the department.

17 (5) QUALIFIED ETHANOL PRODUCTION. ✓ In order for an ethanol producer to qualify
18 for incentive payments for ethanol production under this section, the ethanol
19 produced by that producer shall meet all of the following criteria:

20 (a) The ethanol shall have been produced by a facility the construction of which
21 was begun on or after the effective date of this ✓ paragraph [revisor inserts date].

22 (b) The ethanol shall be fermented, distilled and dehydrated in a production
23 facility certified under sub. (3). ✓

24 (c) The ethanol shall be at least 99% pure, ~~be~~ denatured and ~~be~~ subsequently
25 blended with gasoline.

ASSEMBLY BILL 134**SECTION 1**

1 (6) **CALCULATION OF INCENTIVE PAYMENTS.** Subject to sub. (7), incentive payments
2 to ethanol producers for the production of ethanol that qualifies under sub. (5) shall
3 be calculated as follows:

4 (a) In each fiscal year, the department shall allocate the lesser of \$1,000,000
5 or the amount appropriated under s. 20.505 (1) (dm) for that fiscal year, equally
6 among the computation periods for that fiscal year,

7 (b) The department shall pay to each ethanol producer submitting a claim
8 under sub. (4) an incentive payment of 20 cents for each gallon of ethanol that is
9 produced during the computation period and that qualifies for incentive payments
10 under sub. (5), if sufficient funds have been allocated to that computation period to
11 pay all of these claims. If the funds allocated to the computation period are
12 insufficient to pay each ethanol producer an incentive payment of 20 cents for each
13 gallon of ethanol that is produced during the computation period and that qualifies
14 for incentive payments under sub. (5), the department shall distribute the available
15 funds to the ethanol producers that submitted claims in proportion to the number of
16 gallons of ethanol produced by each of the ethanol producers during the computation
17 period that qualify for incentive payments under sub. (5).

18 (c) Any funds remaining after the application of par. (b) shall be used to increase
19 the total amount allocated for the next computation period in that fiscal year, if any.

20 (7) **LIMITATIONS ON INCENTIVE PAYMENTS.** Notwithstanding any other provision
21 in this section:

22 (a) The incentive payment paid to an ethanol producer, together with incentive
23 payments paid to any person controlling, controlled by or under common control with
24 the ethanol producer, may not exceed any of the following:

ASSEMBLY BILL 134

1 1. In any computation period, [✓]20% of the funds available for incentive
2 payments for that computation period.

3 2. In any fiscal year, [✓]\$300,000.

4 (b) No incentive payments may be made to an ethanol producer for ethanol
5 produced at an ethanol production facility certified under sub. [✓](3) [✓]for a computation
6 period that begins at least 5 years after the computation period for which the ethanol
7 producer first received an incentive payment under this section for ethanol produced
8 at that ethanol production facility.

9 (8) PAYMENT AND VERIFICATION OF INCENTIVE PAYMENTS. [✓]The department shall
10 approve a claim submitted under sub. [✓](4) [✓]and shall make the incentive payment
11 calculated under sub. [✓](6) [✓]within 30 days after receiving the claim, unless the
12 department notifies the producer otherwise. The department shall verify the
13 accuracy of the claims submitted by a producer. The department may require that
14 the producer submit regular, unqualified opinions based on audits performed by an
15 accountant certified under ch. [✓]442 [✓]before paying any claim made under this section
16 for incentive payments.

17 SECTION 2.20.005 (3) (schedule) of the statutes: at the appropriate place, insert
18 the following amounts for the purposes indicated:

1 999-~~1100~~ 2000-01
~~1997-98~~ 1998-99

19 **20.505 Administration, department of**

20 (1) SUPERVISION AND MANAGEMENT

[✓] LAND INFORMATION BOARD

21 (dm) Ethanol production incentive/

22 program

GPR

A

-0-

-0-

23 SECTION 3. 20.505 (1) (dm) [✓]of the statutes is created to read:

w/o ignore marks

INSERT 5-16 ✓

ASSEMBLY BILL 134

SECTION 3

1 **20.505 (1) (dm) Ethanol production incentive program.** The amounts in the
2 schedule for making incentive payments under the ethanol production incentive
3 program under s. ~~16.957~~^{16.957}.

4 **SECTION 4. Effective date.**

5 (1) This act takes effect on July 1, ~~1997~~¹⁹⁹⁹, or on the 2nd day after publication of
6 the ~~1997-98~~ biennial budget act, whichever is later.

7

(END)

1999-2001

D-NOTE

(INSERT 5-16:)

**ASSEMBLY AMENDMENT 2,
TO 1997 ASSEMBLY BILL 134**

June 5, 1997 - Offered by COMMITTEE ON RURAL & FAIR+%

1 At the locations indicated, amend the bill as follows:

2 1. Page 5, line 16: after that line insert:

3 (9) FUNDING. If, on November 1, ²⁰⁰⁰~~1998~~, the amount appropriated under s.
4 20.505 (1) (dm) for the ²⁰⁰⁰⁻⁰¹~~1998-99~~ fiscal year is less than \$1,000,000, the secretary of
5 administration shall include in the budget compilation under s. 16.43 for the
6 ²⁰⁰¹⁻²⁰⁰³~~1999-2001~~ biennial budget a proposal to appropriate, under s. 20.505 (1) (dm, at
7 ²⁰⁰¹⁻²⁰⁰³~~1999-2001~~ least \$1,000,000 for each fiscal year in the ~~1999-2001~~ fiscal biennium.-

8

(END) 

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1001/1dn

MDK:/:...

WLJ
+
JLg

Representative Hahn:

Please review this bill, which is a redraft of 1997 **AB**[⊖]134, as amended by Assembly Amendment 2, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The bill ~~includes~~[✓] an appropriation, but specifies "\$-0-" for expenditure in fiscal years 1999-2000 and 2000-01. When you know the dollar amounts that you want to include in the bill, contact me and I will either redraft the bill or draft an amendment, whichever is appropriate.

[⊖] 2. The bill does not have the delayed effective date specified in Amendment 3 to 1997 **AB**134 because the budget bill repeals and recreates the chapter%0 schedule. Therefore, the bill has a delayed effective date of July 1, 1999, or the 2nd day after publication of the biennial budget act, whichever is later.

3. Please note that, under section [✓]16.47 (2)[✓] of the statutes, any bill that creates an[✓] appropriation or increases the cost of state government by more than \$10,000 generally may not be passed by either house of the legislature until the budget bill passes both houses unless the governor or the joint committee on finance recommends the bill's passage.

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel
Legislative Attorney
266-0131

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1001/1dn
MDK:wlj&jlg:jf

December 10, 1998

Representative Hahn:

Please review this bill, which is a redraft of 1997 AB-134, as amended by Assembly Amendment 2, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The bill includes an appropriation, but specifies "\$-0-" for expenditure in fiscal years 1999-2000 and 2000-01. When you know the dollar amounts that you want to include in the bill, contact me and I will either redraft the bill or draft an amendment, whichever is appropriate.

2. The bill does not have the delayed effective date specified in Amendment 3 to 1997 AB-134 because the budget bill repeals and recreates the chapter 20 schedule. Therefore, the bill has a delayed effective date of July 1, 1999, or the 2nd day after publication of the biennial budget act, whichever is later.

3. Please note that, under section 16.47 (2) of the statutes, any bill that creates an appropriation or increases the cost of state government by more than \$10,000 generally may not be passed by either house of the legislature until the budget bill passes both houses unless the governor or the joint committee on finance recommends the bill's passage.

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel
Legislative Attorney
266-0131

Kunkel. Mark

From: Schubert, Heather
Sent: Monday, August 16, 1999 2:31 PM
To: Kunkel, Mark
Subject: RE: Ethanol bill

yes, that is correct, thank you.

-----Original Message-----

From: Kunkel, Mark
Sent: Monday, August 16, 1999 2:25 PM
To: Schubert, Heather
Subject: RE: Ethanol bill

Heather,

I assume that you want to appropriate \$1 million in FY 1999-00 and \$1 million in FY 2000-01. Is this correct? Also, I will redraft the effective date to eliminate the reference to July 1, 1999.

Mark Kunkel
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

mark.kunkel@legis.state.wi.us
(608) 266-0131

-----Original Message-----

From: Schubert, Heather
Sent: Monday, August 16, 1999 10:34 AM
To: Kunkel, Mark
Subject: RE: Ethanol bill

Mark:

Gene would like to specify an appropriation of \$2 million in GPR to fund this incentive program. Also, do we need to change the delayed effective date?

Heather Schubert
Research Assistant
Rep. Gene Hahn
266-3404

-----Original Message-----

From: Kunkel, Mark
Sent: Monday, August 16, 1999 9:26 AM
To: Schubert, Heather
Subject: Ethanol bill

cc File: 99-1001/1 >> << File: 99-1 0010.pdf >>

Heather, the bill regarding ethanol (and drafter's note) is above. If you have trouble printing it, give me a call, and I will send you a copy in interdepartmental mail.

Mark Kunkel
Legislative Attorney
State of Wisconsin
Legislative Reference Bureau

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1001/7dn
MDK:wlj&jlg:jf

December 10, 1998

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1. The bill includes an appropriation, but specifies "\$-0-" for expenditure in fiscal years 1999-2000 and 2000-01. When you know the dollar amounts that you want to include in the bill, contact me and I will either redraft the bill or draft an amendment, whichever is appropriate.

2. The bill does not have the delayed effective date specified in Amendment 3 to 1997 AB-134 because the budget bill repeals and recreates the chapter 20 schedule. Therefore, the bill has a delayed effective date of July 1, 1999, or the 2nd day after publication of the biennial budget act, whichever is later.

3. Please note that, under section 16.47 (2) of the statutes, any bill that creates an appropriation or increases the cost of state government by more than \$10,000 generally may not be passed by either house of the legislature until the budget bill passes both houses unless the governor or the joint committee on finance recommends the bill's passage.

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266-0131

O-NOTE

2

1999 BILL

*RM
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Regen

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This bill establishes an ethanol production incentive program to be administered by the department of administration (DOA). Under the program, ethanol producers may receive incentive payments for qualifying ethanol production. In order to qualify for incentive payments, the ethanol must be produced by a facility that was constructed on or after the effective date of the bill. In addition, the ethanol must be at least 99% pure, denatured and subsequently blended with gasoline. Also, the ethanol must be fermented, distilled and dehydrated in a certified production facility. In order to become certified, the production facility must be located in this state and must file an application and a test claim with DOA.

In calculating the amount of an incentive payment to an ethanol producer, DOA is required to allocate the lesser of \$1,000,000 or the amount appropriated for incentive payments in a fiscal year, among three-month computation periods. If sufficient funds are allocated to a computation period, DOA is required to pay ethanol producers incentive payments of 20 cents for each gallon of qualifying ethanol produced during the computation period. If the funds allocated to that computation period are insufficient, the available funds are prorated among ethanol producers on the basis of the number of gallons of qualifying ethanol produced during that computation period. Any funds allocated to a computation period that are not needed to make incentive payments to ethanol producers are used to increase the total amount allocated for the next computation period in that fiscal year, if any.

BILL

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.957 of the statutes is created to read:

2 **16.957 Ethanol production incentive program. (1) DEFINITIONS.** In this
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4 (a) "Computation period" means a period of 3 consecutive months ending on
5 March 31, June 30, September 30 or December 31.

6 (b) "Control" means possess, directly or indirectly, the power to direct or cause
7 the direction of the management and policies of a person, whether that power is
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9 or by an agreement with, another person, and whether that power is established
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11 directors, common officers, common stockholders, voting trusts, holding trusts or
12 affiliated companies or by contract or other direct or indirect means. "Control"
13 includes owning, holding or controlling, directly or indirectly, at least 5% of the
14 voting power in the election of directors of a corporation or association.

15 **(2) CREATION.** There is created an ethanol production incentive program to be
16 funded under s. 20.505 (1) (dm) and administered by the department.

BILL

1 **(3) CERTIFICATION OF PRODUCTION FACILITIES.** No ethanol producer may
2 participate in the ethanol incentive program, unless the production facility is
3 certified by the department under this subsection. In order to have a production
4 facility certified, the ethanol producer must submit an application and a test claim
5 for the computation period immediately preceding the computation period in which
6 the initial claim for an incentive payment is made. A test claim shall provide the
7 same information as is required for a claim for payment under sub. (4). The
8 department may not certify a production facility under this subsection unless the
9 production facility is located in this state.

10 **(4) SUBMISSION OF CLAIMS.** In order to receive payments under the ethanol
11 incentive program, an ethanol producer shall submit a claim to the department
12 under this subsection. The claim shall include the name of the producer, the location
13 of the production facility, the computation period for which the claim is submitted,
14 the number of gallons of ethanol produced during the computation period that
15 qualify for incentive payments under sub. (5), the form of organization of the
16 producer and any other information which may be specified by the department.

17 **(5) QUALIFIED ETHANOL PRODUCTION.** In order for an ethanol producer to qualify
18 for incentive payments for ethanol production under this section, the ethanol
19 produced by that producer shall meet all of the following criteria:

20 (a) The ethanol shall have been produced by a facility the construction of which
21 was begun on or after the effective date of this paragraph [revisor inserts date].

22 (b) The ethanol shall be fermented, distilled and dehydrated in a production
23 facility certified under sub. (3).

24 (c) The ethanol shall be at least 99% pure, denatured and subsequently blended
25 with gasoline.

BILL

1 (6) **CALCULATION OF INCENTIVE PAYMENTS.** Subject to sub. (7), incentive payments
2 to ethanol producers for the production of ethanol that qualifies under sub. (5) shall
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5 or the amount appropriated under s. 20.505 (1) (dm) for that fiscal year, equally
6 among the computation periods for that fiscal year.

7 (b) The department shall pay to each ethanol producer submitting a claim
8 under sub. (4) an incentive payment of 20 cents for each gallon of ethanol that is
9 produced during the computation period and that qualifies for incentive payments
10 under sub. (5), if sufficient funds have been allocated to that computation period to
11 pay all of these claims. If the funds allocated to the computation period are
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14 for incentive payments under sub. (5), the department shall distribute the available
15 funds to the ethanol producers that submitted claims in proportion to the number of
16 gallons of ethanol produced by each of the ethanol producers during the computation
17 period that qualify for incentive payments under sub. (5).

18 (c) Any funds remaining after the application of par. (b) shall be used to increase
19 the total amount allocated for the next computation period in that fiscal year, if any.

20 (7) **LIMITATIONS ON INCENTIVE PAYMENTS.** Notwithstanding any other provision
21 in this section:

22 (a) The incentive payment paid to an ethanol producer, together with incentive
23 payments paid to any person controlling, controlled by or under common control with
24 the ethanol producer, may not exceed any of the following:

BILL

1 1. In any computation period, 20% of the funds available for incentive
2 payments for that computation period.

3 2. In any fiscal year, \$300,000.

4 (b) No incentive payments may be made to an ethanol producer for ethanol
5 produced at an ethanol production facility certified under sub. (3) for a computation
6 period that begins at least 5 years after the computation period for which the ethanol
7 producer first received an incentive payment under this section for ethanol produced
8 at that ethanol production facility.

9 **(8) PAYMENT AND VERIFICATION OF INCENTIVE PAYMENTS.** The department shall
10 approve a claim submitted under sub. (4) and shall make the incentive payment
11 calculated under sub. (6) within 30 days after receiving the claim, unless the
12 department notifies the producer otherwise. The department shall verify the
13 accuracy of the claims submitted by a producer. The department may require that
14 the producer submit regular, unqualified opinions based on audits performed by an
15 accountant certified under ch. 442 before paying any claim made under this section
16 for incentive payments.

17 **(9) FUNDING.** If, on November 1, 2000, the amount appropriated under s. 20.505
18 (1) (dm) for the 2000-01 fiscal year is less than \$1,000,000, the secretary of
19 administration shall include in the budget compilation under s. 16.43 for the
20 2001-03 biennial budget a proposal to appropriate, under s. 20.505 (1) (dm), at least
21 \$1,000,000 for each fiscal year in the 2001-03 fiscal biennium.

22 **SECTION 2.20.005 (3) (schedule) of the statutes:** at the appropriate place, insert
23 the following amounts for the purposes indicated:

BILL

SECTION 2

1999-00

2000-01

1 **20.505 Administration, department of**

2 (1) SUPERVISION AND MANAGEMENT; LAND INFORMATION

3 BOARD

4 (dm) Ethanol production incentive

\$1,000,000

\$1,000,000

5 program

GPR A

1402

1402

6 **SECTION 3.** 20.505 (1) (dm) of the statutes is created to read:

7 20.505 (1) (dm) *Ethanol production incentive program.* The amounts in the
8 schedule for making incentive payments under the ethanol production incentive
9 program under s. 16.957.

10 **SECTION 4. Effective date.**

11 (1) This act takes effect on ~~July 1, 1999~~ or on the 2nd day after publication of
12 the 1999-2001 biennial budget act, ~~whichever is later.~~

13

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1001/2dn

MDK:.....

^
Hahn

Representative Hahn:

This version is identical to LRB-1001/l, except for the appropriation amounts and the text of the delayed effective date.

Please note that, under section 16.47 (2) ✓ of the statutes, any bill that creates an appropriation or increases the cost of state government by more than \$10,000 ✓ generally may not be passed by either house of the legislature until the budget bill passes both houses unless the governor or the joint committee on finance recommends the bill's passage.

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1001/2dn
MDK:jlg:mrc

August 17, 1999

Representative Hahn:

This version is identical to LRB-1001/l, except for the appropriation amounts and the text of the delayed effective date.

Please note that, under section 16.47 (2) of the statutes, any bill that creates an appropriation or increases the cost of state government by more than \$10,000 generally may not be passed by either house of the legislature until the budget bill passes both houses unless the governor or the joint committee on finance recommends the bill's passage.

If you have any questions or redraft instructions, please contact me.

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SOON

D-NOTE

3

1999 BILL

RM NOT RUN

Regen

AN ACT to **create** 16.957 and 20.505 (1) (dm) of the statutes; **relating to:** the creation of an ethanol production incentive program and making an appropriation.

shown in the appropriation schedule

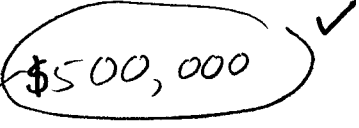
Analysis by the Legislative Reference Bureau

This bill establishes an ethanol production incentive program to be administered by the department of administration (DOA). Under the program, ethanol producers may receive incentive payments for qualifying ethanol production. In order to qualify for incentive payments, the ethanol must be produced by a facility that was constructed on or after the effective date of the bill. In addition, the ethanol must be at least 99% pure, denatured and subsequently blended with gasoline. Also, the ethanol must be fermented, distilled and dehydrated in a certified production facility. In order to become certified, the production facility must be located in this state and must file an application and a test claim with DOA.

✓

In calculating the amount of an incentive payment to an ethanol producer, DOA is required to allocate the ~~lesser of \$1,000,000 or the~~ amount appropriated for incentive payments in a fiscal year, among three-month computation periods. If sufficient funds are allocated to a computation period, DOA is required to pay ethanol producers incentive payments of 20 cents for each gallon of qualifying ethanol produced during the computation period. If the funds allocated to that computation period are insufficient, the available funds are prorated among ethanol producers on the basis of the number of gallons of qualifying ethanol produced during that computation period. Any funds allocated to a computation period that are not

BILL



\$500,000 ✓

needed to make incentive payments to ethanol producers are used to increase the total amount allocated for the next computation period in that fiscal year, if any.

The bill imposes certain limitations on the amount of incentive payments that may be received under the program. The amount of the ethanol production incentive payments paid to any ethanol producer, together with any ethanol production incentive payments made to any person controlling, controlled by or under common control with the ethanol producer, may not exceed, in any computation period, 20% of the amount available for incentive payments during the computation period, or, in any fiscal year, ~~\$500,000~~. In addition, incentive payments may not be made for any ethanol production facility more than five years after a payment was first made for ethanol produced at that facility. Also, DOA may require a producer to submit unqualified opinions based on audits performed by an accountant before paying any claim for incentive payments under the program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.957 of the statutes is created to read:

2 **16.957 Ethanol production incentive program. (1) DEFINITIONS.** In this
3 section:

4 (a) "Computation period" means a period of 3 consecutive months ending on
5 March 31, June 30, September 30 or December 31.

6 (b) "Control" means possess, directly or indirectly, the power to direct or cause
7 the direction of the management and policies of a person, whether that power is
8 exercised through one or more intermediary entities, or alone, or in conjunction with,
9 or by an agreement with, another person, and whether that power is established
10 through majority ownership, minority ownership, voting of securities, common
11 directors, common officers, common stockholders, voting trusts, holding trusts or
12 affiliated companies or by contract or other direct or indirect means. "Control"
13 includes owning, holding or controlling, directly or indirectly, at least 5% of the
14 voting power in the election of directors of a corporation or association.

BILL

1 (2) **CREATION.** There is created an ethanol production incentive program to be
2 funded under s. 20.505 (1) (dm) and administered by the department.

3 (3) **CERTIFICATION OF PRODUCTION FACILITIES.** No ethanol producer may
4 participate in the ethanol incentive program, unless the production facility is
5 certified by the department under this subsection. In order to have a production
6 facility certified, the ethanol producer must submit an application and a test claim
7 for the computation period immediately preceding the computation period in which
8 the initial claim for an incentive payment is made. A test claim shall provide the
9 same information as is required for a claim for payment under sub. (4). The
10 department may not certify a production facility under this subsection unless the
11 production facility is located in this state.

12 (4) **SUBMISSION OF CLAIMS.** In order to receive payments under the ethanol
13 incentive program, an ethanol producer shall submit a claim to the department
14 under this subsection. The claim shall include the name of the producer, the location
15 of the production facility, the computation period for which the claim is submitted,
16 the number of gallons of ethanol produced during the computation period that
17 qualify for incentive payments under sub. (5), the form of organization of the
18 producer and any other information which may be specified by the department.

19 (5) **QUALIFIED ETHANOL PRODUCTION.** In order for an ethanol producer to qualify
20 for incentive payments for ethanol production under this section, the ethanol
21 produced by that producer shall meet all of the following criteria:

22 (a) The ethanol shall have been produced by a facility the construction of which
23 was begun on or after the effective date of this paragraph [revisor inserts date].

24 (b) The ethanol shall be fermented, distilled and dehydrated in a production
25 facility certified under sub. (3).

BILL

1 (c) The ethanol shall be at least 99% pure, denatured and subsequently blended
2 with gasoline.

3 (6) **CALCULATION OF INCENTIVE PAYMENTS.** Subject to sub. (7), incentive payments
4 to ethanol producers for the production of ethanol that qualifies under sub. (5) shall
5 be calculated as follows:

shown in the schedule for the appropriation

6 (a) In each fiscal year, the department shall allocate the lesser of \$1,000,000
7 *or* the amount ~~appropriated~~ under s. 20.505 (1) (dm) for that fiscal year, equally
8 among the computation periods for that fiscal year.

9 (b) The department shall pay to each ethanol producer submitting a claim
10 under sub. (4) an incentive payment of 20 cents for each gallon of ethanol that is
11 produced during the computation period and that qualifies for incentive Payments
12 under sub. (5), if sufficient funds have been allocated to that computation period to
13 pay all of these claims. If the funds allocated to the computation period are
14 insufficient to pay each ethanol producer an incentive payment of 20 cents for each
15 gallon of ethanol that is produced during the computation period and that qualifies
16 for incentive payments under sub. (5), the department shall distribute the available
17 funds to the ethanol producers that submitted claims in proportion to the number of
18 gallons of ethanol produced by each of the ethanol producers during the computation
19 period that qualify for incentive payments under sub. (5).

20 (c) Any funds remaining after the application of par. (b) shall be used to increase
21 the total amount allocated for the next computation period in that fiscal year, if any.

22 (7) **LIMITATIONS ON INCENTIVE PAYMENTS.** Notwithstanding any other provision
23 in this section:

BILL

1 (a) The incentive payment paid to an ethanol producer, together with incentive
2 payments paid to any person controlling, controlled by or under common control with
3 the ethanol producer, may not exceed any of the following:

4 1. In any computation period, 20% of the funds available for incentive
5 payments for that computation period.

6 2. In any fiscal year, ~~\$800,000~~ \$500,000 ✓

7 (b) No incentive payments may be made to an ethanol producer for ethanol
8 produced at an ethanol production facility certified under sub. (3) for a computation
9 period that begins at least 5 years after the computation period for which the ethanol
10 producer first received an incentive payment under this section for ethanol produced
11 at that ethanol production facility.

12 **(8) PAYMENT AND VERIFICATION OF INCENTIVE PAYMENTS.** The department shall
13 approve a claim submitted under sub. (4) and shall make the incentive payment
14 calculated under sub. (6) within 30 days after receiving the claim, unless the
15 department notifies the producer otherwise. The department shall verify the
16 accuracy of the claims submitted by a producer. The department may require that
17 the producer submit regular, unqualified opinions based on audits performed by an
18 accountant certified under ch. 442 before paying any claim made under this section
19 for incentive payments.

20 **(9) FUNDING.** If, on November 1, 2000, the amount appropriated under s. 20.505
21 (1) (dm) for the 2000-01 fiscal year is less than \$1,000,000, the secretary of
22 administration shall include in the budget compilation under s. 16.43 for the
23 2001-03 biennial budget a proposal to appropriate, under s. 20.505 (1) (dm), at least
24 \$1,000,000 for each fiscal year in the 2001-03 fiscal biennium.

INSERT 5-24 ✓

BILL

1 SECTION 2.20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

1999-00 2000-01

3 **20.505 Administration, department of**

4 (1) SUPERVISION AND MANAGEMENT; LAND INFORMATION
5 BOARD

6 (dm) Ethanol production incentive
7 program

GPR ^(B) ~~\$1,000,000~~ ⁻⁰⁻ ~~\$1,000,000~~ ^{\$2,000,000}

8 SECTION 3. 20.505 (1) (dm) of the statutes is created to read:

9 20.505 (1) (dm) *Ethanol production incentive program.* ^{Biennially} The amounts in the
10 schedule for making incentive payments under the ethanol production incentive
11 program under s. 16.957.

12 **SECTION 4. Effective date.**

13 (1) This act takes effect on the 2nd day after publication of the 1999-2001
14 biennial budget act.

15 INSERT 6-14 ✓
(END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1001/3ins
MDK:.....

1

INSERT 5-24:

2

(9) ~~SUNSET~~. The department may not make any ~~incentive~~ incentive payment under

3

sub. (8) ✓ unless the department receives, before June 30, 2003, an application under

4

sub. (3) ✓ for certification of a production facility.

5

INSERT 6-14:

6

26
#

, or on the day after publication, whichever is later

✓ 30
#

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1001/3dn

MDK: : : ...

↑
JK

Representative Hahn:

Under this version, I eliminated the requirement that DOA allocate the lesser of \$1,000,000 or the amount appropriated in a fiscal year among the 3-month computation periods in determining the amount of an incentive payment. I did this because I assumed that you want a biennial appropriation and that you want to show \$2,000,000 in the schedule for fiscal year 2000-01. The \$1,000,000 limitation is inconsistent with this approach.

Please contact me if you have any questions or redraft instructions.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1001/3dn
MDK:jlg:ch

September 1, 1999

Representative Hahn:

Under this version, I eliminated the requirement that DOA allocate the lesser of \$1,000,000 or the amount appropriated in a fiscal year among the 3-month computation periods in determining the amount of an incentive payment. I did this because I assumed that you want a biennial appropriation and that you want to show \$2,000,000 in the schedule for fiscal year 2000-01. The \$1,000,000 limitation is inconsistent with this approach.

Please contact me if you have any questions or redraft instructions.

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Legislative Attorney
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E-mail: Mark.Kunkel@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 09/01/1999

To: Representative Hahn

Relating to LRB drafting number: LRB-1001

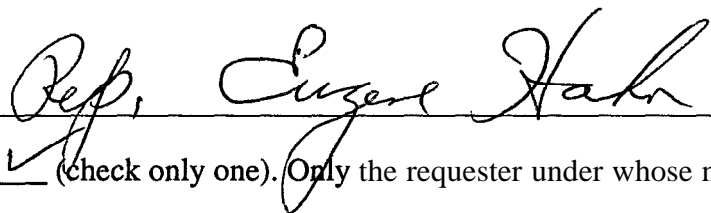
Topic

Ethanol incentive program

Subject(s)

Public Util. - energy

1 **JACKET** the draft for introduction



in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the **LRB's** drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mark D. Kunkel, Legislative Attorney
Telephone: (608) 266-O 13 1