EXHIBIT 3
DATE 4/12/05
SB 293

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Amendments to Senate Bill No. 293
3rd Reading Copy

Requested by Representative Joan Andersen

For the House Agriculture Committee

Prepared by Krista Lee Evans
April 12, 2005 (8:06am)

1. Title, page 1, line 10.
Strike: "AMOUNTS"
Insert: "LEVELS"
Strike: "MTBE;"
Insert: "METHYL TERTIARY BUTYL ETHER; REDUCING THE TAX INCENTIVE FROM 30 CENTS TO 20 CENTS A GALLON; REVISING THE TIME PERIOD IN WHICH TAX CREDITS MAY BE PAID; REDUCING THE AMOUNT OF PAYMENTS THAT MAY BE MADE TO AN ALCOHOL DISTRIBUTOR IN A CALENDAR YEAR FROM $3 MILLION TO $2 MILLION; PROVIDING FOR CONTRACTS FOR ETHANOL PRODUCERS ELIGIBLE FOR TAX INCENTIVES; REQUIRING AN ETHANOL PRODUCER TO USE AT LEAST A CERTAIN PERCENTAGE OF MONTANA PRODUCT IN ITS TOTAL PRODUCTION TO QUALIFY FOR THE TAX INCENTIVE;"

2. Title, page 1, line 17.
Following: "15-70-204,"
Insert: "15-70-522,"

3. Page 3, line 24.
Insert: **"Section 4.** Section 15-70-522, MCA, is amended to read:
"15-70-522. Tax incentive for production of alcohol -- ~~written plan required -- reservation of incentives --~~ rules.
(1) (a) If the alcohol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol that:

(i) is to be blended with gasoline for sale as gasohol in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as gasohol; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under 15-70-204.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of alcohol distilled in accordance with

subsection (1) is ~~30~~ 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount of agricultural or wood products not produced in Montana that is used in the production of the alcohol. ~~Beginning July 1, 2010, there is no tax incentive.~~ The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding any changes to the business plan.

(3) Regardless of the alcohol tax incentive provided in subsection (2)~~,~~:

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period; and

(b) an alcohol distributor is not eligible to receive the tax incentive unless at least:

(i) 25% Montana product is used to produce alcohol at the facility in the first year of production;

(ii) 30% Montana product is used to produce alcohol at the facility in the second year of production;

(iii) 35% Montana product is used to produce alcohol at the facility in the third year of production;

(iv) 45% Montana product is used to produce alcohol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce alcohol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce alcohol at the facility in the sixth year of production.

(4) (a) An alcohol distributor may not receive tax incentive payments under subsection (2) that exceed ~~$3~~ $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an alcohol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to 15-70-205.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of alcohol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

~~(5) An alcohol distributor may not receive tax incentive payments under subsection (2) unless the distributor has provided a written business plan to the department of transportation at least 24 months before the distributor's anticipated collection~~

~~of the tax incentives and has complied with the schedule provided for in subsection (6). The plan must contain the following information:~~

~~(a) the source or sources of financing for the acquisition of the plant, land, and equipment used for the production of alcohol for use in gasohol;~~

~~(b) the anticipated source of agricultural products used in the production of alcohol for use in gasohol; and~~

~~(c) the anticipated time, quantity, and duration of production of alcohol for use in gasohol.~~

~~(6) An applicant that has provided the department with a written business plan shall meet the following schedule to be able to receive alcohol tax incentive payments:~~

~~(a) start building construction or remodeling within 24 months of the date on which the department received the business plan;~~

~~(b) complete 50% of construction or remodeling of a production facility within 36 months of the date on which the business plan was received; and~~

~~(c) complete 100% of construction or remodeling of a production facility and be in production of alcohol for use in gasohol for distribution within 48 months of the date on which the business plan was received.~~

~~(7) If the applicant does not adhere to the schedule in subsection (6), the applicant loses its priority for receiving incentive payments.~~

~~(8)~~(5)(a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the alcohol tax incentives based on actual production according to the terms of ~~subsection~~ subsections (2) and (4).

~~(9) The department shall reserve, in the order that written plans required under subsection (5) are received by the department, alcohol tax incentives based on the anticipated time, quantity, and duration of production.~~

~~(10) A new tax incentive payment may not be made if the total tax incentive established in subsection (3) has been~~

~~reserved or paid. If an alcohol tax incentive has been reduced or canceled, the amount by which the tax incentive has been reduced or canceled is available for reservation as provided in subsection (9).~~

~~(11)~~ (7) The department shall prescribe rules necessary to carry out the provisions of this section within 1 year of [the effective date of this act]. The department shall coordinate and request information and input from the alcohol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4."

{*Internal References to 15-70-522: None.*}"

Renumber: subsequent sections

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