

SENATE BILL NO. 2217

Introduced by

Senators Klein, Grindberg, Taylor

Representatives DeKrey, Mueller, Pollert

1 A BILL for an Act to create and enact two new sections to chapter 57-38, a new subsection to
2 section 57-39.2-04, and a new section to chapter 57-43.2 of the North Dakota Century Code,
3 relating to corporate income tax credits and a sales tax exemption for blending of biodiesel fuel
4 and purchase of biodiesel production equipment and to provide for a transfer to the highway tax
5 distribution fund; to amend and reenact subsection 1 of section 57-43.2-02 of the North Dakota
6 Century Code, relating to a special fuels tax reduction for sale of biodiesel fuel; and to provide
7 an effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Corporate income tax credit for blending of biodiesel fuel.** A licensed fuel supplier
12 who blends biodiesel fuel is entitled to a credit against tax liability determined under section
13 57-38-30 in the amount of five cents per gallon [3.79 liters] of biodiesel fuel of at least five
14 percent blend, otherwise known as B5. For purposes of this section, "biodiesel" means fuel
15 meeting the specifications adopted by the American society for testing and materials. The
16 credit under this section may not exceed the taxpayer's liability as determined under this
17 chapter for the taxable year and each year's unused credit amount may be carried forward for
18 up to five taxable years.

19 **SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Corporate income tax credit for biodiesel sales equipment costs.** A taxpayer is
22 entitled to a credit against tax liability determined under section 57-38-30 in the amount of ten
23 percent per year for five years of the taxpayer's direct costs incurred after December 31, 2004,
24 to adapt or add equipment to a facility, licensed and authorized by the state of North Dakota, to

1 enable the facility to sell diesel fuel containing at least two percent biodiesel fuel by volume.
2 For purposes of this section, "biodiesel fuel" means fuel meeting the specifications adopted by
3 the American society for testing and materials. The credit under this section may not exceed
4 the taxpayer's liability as determined under this chapter for the taxable year and each year's
5 unused credit amount may be carried forward for up to five taxable years. A taxpayer is limited
6 to fifty thousand dollars in the cumulative amount of credits under this section for all taxable
7 years.

8 **SECTION 3.** A new subsection to section 57-39.2-04 of the North Dakota Century Code
9 is created and enacted as follows:

10 Gross receipts from the sale of equipment to a facility, licensed and authorized by
11 the state of North Dakota, to enable the facility to sell diesel fuel containing at least
12 two percent biodiesel fuel by volume. For purposes of this subsection, "biodiesel
13 fuel" means fuel meeting the specifications adopted by the American society for
14 testing and materials.

15 **SECTION 4. AMENDMENT.** Subsection 1 of section 57-43.2-02 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 1. Except as otherwise provided in this chapter, an excise tax of twenty-one cents per
18 gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used
19 in this state. The excise tax imposed in this subsection is reduced by five cents
20 per gallon [3.79 liters] on the sale or delivery of all biodiesel fuel of at least five
21 percent blend that meets the specifications adopted by the American society for
22 testing and materials. For the purpose of determining the tax upon compressed
23 natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of
24 compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
25 The tax under this subsection is reduced by one and five-hundredths cents per
26 gallon [3.79 liters] on the sale or delivery of diesel fuel that contains at least two
27 percent biodiesel fuel by weight.

28 **SECTION 5.** A new section to chapter 57-43.2 of the North Dakota Century Code is
29 created and enacted as follows:

30 **Transfer from resources trust fund for biodiesel fuel tax reduction.** Before August
31 first of each year, the tax commissioner shall report to the state treasurer the amount of

1 revenue lost to the highway tax distribution fund resulting from the special fuels excise tax
2 reduction for biodiesel fuel under subsection 1 of section 57-43.2-02 during the twelve months
3 ending on the most recent June thirtieth. The state treasurer shall transfer the amount reported
4 by the tax commissioner from the resources trust fund to the highway tax distribution fund.

5 **SECTION 6. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable
6 years beginning after December 1, 2004. Sections 3, 4, and 5 of this Act are effective for
7 taxable events occurring after June 30, 2005.