

**HOUSE BILL NO. 1309**

Introduced by

Representatives Gulleason, Mueller, Nelson, Nicholas

Senators Heitkamp, Thane

1 A BILL for an Act to create and enact a new section to chapter 19-10 and a new section to  
2 chapter 57-38 of the North Dakota Century Code, relating to a biodiesel fuel mandate and a  
3 corporate income tax credit for a portion of the cost of retrofitting a facility for producing or  
4 blending diesel fuel containing biodiesel fuel; and to provide an effective date.

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

6 **SECTION 1.** A new section to chapter 19-10 of the North Dakota Century Code is  
7 created and enacted as follows:

**Diesel fuel required biodiesel content - Contingency - Limitation.**

- 9 1. Beginning July 1, 2007, all diesel fuel sold or offered for sale in this state for use in  
10 internal combustion engines must contain at least two percent biodiesel fuel by  
11 volume.
- 12 2. Subsection 1 is not applicable unless the agriculture commissioner determines and  
13 certifies to the governor, tax commissioner, and legislative council before  
14 January 1, 2007, that:
  - 15 a. Plants in this state have an annual biodiesel fuel production capacity that  
16 exceeds five million gallons; and
  - 17 b. There exists federal law that reduces by two cents or more the prices of fuel  
18 containing at least two percent biodiesel by volume when compared to the  
19 prices of diesel fuel that does not contain biodiesel.
- 20 3. Subsection 1 is not applicable to diesel fuel sold or offered for sale in this state for  
21 use in railroad locomotives or off-road coal mining equipment and machinery.

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

1           **Corporate income tax credit for biodiesel production equipment costs.** A taxpayer  
2 is entitled to a credit against tax liability determined under section 57-38-30 in the amount of  
3 sixteen percent per year for five years of the taxpayer's costs incurred to adapt or add  
4 equipment to a facility required to produce or blend diesel fuel containing biodiesel fuel that  
5 meets the minimum content requirements of section 1 of this Act. The credit under this section  
6 may not exceed the taxpayer's liability as determined under this chapter for the taxable year  
7 and may not be carried forward.

8           **SECTION 3. EFFECTIVE DATE.** Section 2 of this Act is effective for taxable years  
9 beginning after December 31, 2002.