

Fifty-ninth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2229**

Introduced by

Senators Heitkamp, Thane

Representatives Gulleason, Nelson

1 A BILL for an Act to establish a renewable energy development commission; to create and  
2 enact a new section to chapter 19-10, three new sections to chapter 54-44.4, three new  
3 subsections to section 57-38-30.3, and six new sections to chapter 57-38 of the North Dakota  
4 Century Code, relating to the ethanol content of gasoline, state purchasing of energy, and  
5 corporate and individual income tax credits for renewable energy use; to amend and reenact  
6 section 19-10-03.1 of the North Dakota Century Code, relating to the ethanol content of  
7 gasoline; to provide a transfer; to provide a continuing appropriation; and to provide an effective  
8 date.

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

10 **SECTION 1. AMENDMENT.** Section 19-10-03.1 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **19-10-03.1. Retail sale of alcohol-blended gasoline - Notice required.** No dealer  
13 may sell at retail alcohol-blended gasoline unless the dispensing unit and any price advertising  
14 bear the name of the alcohol blended with the gasoline if the alcohol-blended gasoline consists  
15 of ~~one~~ ten percent or more by volume of any alcohol. The disclosure must be in letters at least  
16 the same size as those used for the label of the basic grade of gasoline and must be next to the  
17 gasoline grade label. A producer of alcohol-blended gasoline may provide a retailer with a label  
18 promoting the benefits of alcohol-blended gasoline, if the label at least meets the requirements  
19 of this section.

20 **SECTION 2.** A new section to chapter 19-10 of the North Dakota Century Code is  
21 created and enacted as follows:

22 **Retail sale of ethanol.** Effective January 1, 2006, and notwithstanding any other  
23 provision of law, every dealer offering gasoline for sale in this state must offer a ten percent  
24 blend of ethanol for sale at that dealer's place of business.

1           **SECTION 3. Renewable energy policy.** It is the public policy of this state to stimulate  
2 the development of renewable energy within this state for the goal of providing secure, diverse,  
3 sustainable, and competitive renewable energy supplies. It is also the public policy of this state  
4 to promote the development of new technologies, provide innovative opportunities for farmers,  
5 create additional employment and wealth that contributes to rural development, decrease  
6 dependence on foreign energy supplies, improve the environment, and encourage a renewable  
7 energy industry within this state that is competitive for both domestic and export markets. In  
8 furtherance of these public policies, this state provides assistance in research, development,  
9 and marketing of renewable energy sources necessary to meet these goals.

10           **SECTION 4. Renewable energy development commission - Establishment -**  
11 **Composition - Compensation - Administrative expenses.**

- 12           1. The renewable energy development commission consists of:
- 13           a. The energy program manager for energy programs, division of community  
14 services, department of commerce, or the energy program manager's  
15 designee, who is chairman.
  - 16           b. The agriculture commissioner or the commissioner's designee.
  - 17           c. The commissioner of the department of commerce or the commissioner's  
18 designee.
  - 19           d. A member selected by the North Dakota soybean council.
  - 20           e. A member selected by the North Dakota oilseed council.
  - 21           f. A member selected by the North Dakota corn utilization council.
  - 22           g. A member selected by the North Dakota petroleum council.
  - 23           h. A member selected by the North Dakota retail and petroleum marketers  
24 association.
  - 25           i. A member selected by the membership of the greater North Dakota chamber  
26 of commerce.
  - 27           j. A member selected by the members of the commission under subdivisions a  
28 through i from a list of names submitted by wind energy interests.
  - 29           k. A member selected by the members of the commission under subdivisions a  
30 through i from a list of names submitted by biomass interests.

2. If not otherwise employed by the state of North Dakota, members of the commission are entitled to receive as per diem compensation one hundred dollars for each day devoted to attending meetings and performing other duties relating to the official business of the commission and are entitled to receive reimbursement for travel, lodging, and meals at the rate provided for state employees.
3. Administrative expenses of the commission, including expenses of members of the commission, employment of needed personnel, hiring of consultants, and contracting with public or private entities for services may not exceed two and one-half percent of the funds provided to the commission each biennium excluding federal funds.
4. The energy program of the division of community services shall provide administrative and staff services to the commission.

**SECTION 5. Renewable energy development commission - Duties.** The commission shall:

1. Administer and use the renewable energy trust fund to carry out the renewable energy policy of this state.
2. Provide grants, loans, equity investments, support for research and development, demonstration projects, training, public information, and market development for projects that advance the use of renewable energy, including ethanol, biodiesel, wind energy, fuel cells, biomass, geothermal, and solar energy.
3. Serve as a resource and promoter of other renewable fuel projects and assist in facilitating and moving forward economically viable projects developed by the private sector.
4. Submit a biennial report to the legislative council and also make a report of its activities, accomplishments, and recommendations to the legislative assembly.
5. Accept federal and private funds to carry out its purposes.
6. Establish a revolving loan fund to make loans for the purposes described in subsection 2. Loans made under this subsection must bear interest at the same rate as Bank of North Dakota agriculture partnership in assisting community expansion loans.

**SECTION 6. Renewable energy trust fund - Transfer - Funding - Continuing**

**appropriation.** The renewable energy trust fund is a special fund in the state treasury. During the 2005-07 biennium, the Bank of North Dakota shall transfer one-third of its profits, not to exceed twenty million dollars, to the renewable energy trust fund. Following the 2005-07 biennium, the Bank of North Dakota shall transfer thirty percent of its profits each biennium, not to exceed twenty million dollars per biennium, to the renewable energy trust fund. All funds in the renewable energy trust fund are appropriated to the renewable energy development commission on a continuing basis for the purpose of carrying out the purposes of the commission. Any interest earned by the fund must be credited to the fund.

**SECTION 7.** Three new sections to chapter 54-44.4 of the North Dakota Century Code are created and enacted as follows:

**Purchase of electricity - Requirements.** The office of management and budget, and any state agency or institution that has authority to purchase electricity, shall ensure that beginning on the effective date of this Act, at least ten percent of the total of all electricity purchased for state agencies and institutions be obtained from wind energy, with preference given to wind energy generated within this state. The electricity may be obtained from wind turbine generation installed after July 1, 2005. In fulfillment of this requirement, a generator or utility supplying power to the state may provide evidence of the retirement of verified renewable energy credits, commonly known as green tags, in lieu of an actual transfer of wind-generated electricity, as the economics and practicalities of power generation and transmission warrant.

**Purchase of motor vehicles and diesel-powered or gasoline-powered equipment.** The office of management and budget, and any state agency or institution that has authority to purchase products, shall ensure that beginning on the effective date of this Act, all state-owned vehicles and equipment powered by diesel or gasoline utilize renewable fuels as provided in this section. Gasoline engines must operate on gasoline containing at least a ten percent ethanol blend and diesel engines must operate on diesel fuel containing at least a five percent biodiesel blend.

**Request for proposals for construction contracts and projects utilizing motor fuel.** All requests for proposals for construction contracts and projects in an amount of one hundred thousand dollars or more utilizing motor fuel must include a renewable fuel use requirement. Gasoline engines used in construction projects utilizing motor fuel as provided in

this section must operate on gasoline containing at least a ten percent ethanol blend. Diesel engines used in construction projects utilizing motor fuel as provided in this section must operate on diesel fuel containing at least a five percent biodiesel blend.

**SECTION 8.** Three new subsections to section 57-38-30.3 of the North Dakota Century Code are created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 9 of this Act.

A taxpayer filing a return under this section is entitled to the credit provided under section 10 of this Act.

A taxpayer filing a return under this section is entitled to the credit provided under section 11 of this Act.

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

**Corporate income tax credit for biodiesel sales equipment costs.** A taxpayer is entitled to a credit against tax liability determined under section 57-38-30 in the amount of ten percent per year for five years of the taxpayer's direct costs incurred after December 31, 2004, to adapt or add equipment to a facility to enable the facility to sell diesel fuel containing at least two percent biodiesel fuel by volume. For purposes of this section, "biodiesel" means fuel meeting the specifications adopted by the American society for testing and materials. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for the taxable year and each year's credit amount may be carried forward for up to five taxable years. A taxpayer is limited to fifty thousand dollars in the cumulative amount of credits under this section for all taxable years.

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

**Corporate income tax credit for use of biodiesel fuel.** A taxpayer is entitled to credit against tax liability determined under section 57-38-30 in the amount of two cents per gallon of the taxpayer's direct costs incurred after December 31, 2004, for the use of biodiesel fuel of at least ten percent blend. For purposes of this section, "biodiesel" means fuel meeting the specifications adopted by the American society for testing and materials. The credit under

1 this section may not exceed the taxpayer's liability as determined under this chapter for the  
2 taxable year and each year's credit amount may be carried forward for up to five taxable years.

3 **SECTION 11.** A new section to chapter 57-38 of the North Dakota Century Code is  
4 created and enacted as follows:

5 **Corporate income tax credit for hydrogen-powered fuel cell costs.** A taxpayer is  
6 entitled to a credit against tax liability determined under section 57-38-30 in the amount of one  
7 thousand five hundred dollars per year of the taxpayer's direct costs incurred after  
8 December 31, 2004, for the purchase of hydrogen-powered fuel cells or hybrid vehicles. The  
9 credit under this section may not exceed the taxpayer's liability as determined under this  
10 chapter for the taxable year and each year's credit amount may be carried forward for up to five  
11 taxable years. To qualify for the hydrogen-powered fuel cell tax credit, the hydrogen fuel cell  
12 must be powered from a renewable energy source.

13 **SECTION 12.** A new section to chapter 57-38 of the North Dakota Century Code is  
14 created and enacted as follows:

15 **Individual income tax credit for use of biodiesel fuel.** An individual taxpayer is  
16 entitled to a credit against tax liability determined under section 57-38-30.3 of two cents per  
17 gallon of the taxpayer's direct costs incurred after December 31, 2004, for the use of biodiesel  
18 fuel of at least ten percent blend. The credit may not exceed the taxpayer's liability and each  
19 year's credit may be carried forward for up to five taxable years.

20 **SECTION 13.** A new section to chapter 57-38 of the North Dakota Century Code is  
21 created and enacted as follows:

22 **Individual income tax credit for use of hydrogen-powered fuel cells.** An individual  
23 taxpayer is entitled to a credit against tax liability determined under section 57-38-30.3 of up to  
24 one thousand five hundred dollars of the taxpayer's direct costs incurred after December 31,  
25 2004, for the purchase of hydrogen-powered fuel cells or hybrid vehicles. To qualify for the tax  
26 credit, the hydrogen fuel cell must be powered from a renewable energy source.

27 **SECTION 14.** A new section to chapter 57-38 of the North Dakota Century Code is  
28 created and enacted as follows:

29 **Individual income tax credit for investment in qualified renewable energy**  
30 **projects.** An individual taxpayer is entitled to a credit against tax liability determined under  
31 section 57-38-30.3 in the amount of fifty percent of the taxpayer's direct costs incurred after

1 December 31, 2004, of an equity investment in a qualified renewable energy project. The  
2 maximum credit available under this section is twenty thousand dollars per person per project.  
3 The credit must be distributed thirty percent in the first year, ten percent in the second year, and  
4 ten percent in the third year. The tax credit under this section may be carried forward for up to  
5 fifteen taxable years. As used in this section, qualified renewable energy projects include  
6 investor-owned projects as well as cooperative-owned and limited liability partnership-owned  
7 projects.

8 **SECTION 15. EFFECTIVE DATE.** This Act is effective for taxable years beginning  
9 after December 31, 2004, and section 7 of this Act becomes effective on July 1, 2006.