

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2217

2005 SENATE FINANCE AND TAXATION

SB 2217

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **February 1, 2005**

Tape Number	Side A	Side B	Meter #
#2	X		13.4 - 44.1
Committee Clerk Signature <i>Sharon Lenfrow</i>			

Minutes:

SEN. KLEIN: appeared as prime sponsor stating SB 2217 kind of a result of the Ag Coalition group that we had here a couple of weeks ago and the reception and visiting with the soy bean group where we talked opportunities in renewable fuels and how we relate to our producers and our energy sources here in ND. This bill has a couple of aspects to it, it includes a corporate income tax credit for installing equipment to bio-diesel, what we found is, that even though we're producing bio-diesel there is no place to buy it. In section 1 there is an opportunity and the ability for more people to have access to the fuel. The second is also to give a 5 cent tax credit for the distribution of it. The attempt is to bring bio-diesel in line with the cost of diesel and that would help generate the additional bio-diesel sales. The funding source for that would come from the Resources Trust Fund.

SEN. WARDNER: Have you visited with the water people?

ANSWER: shock finger at them as they walked by but doesn't feel they will be opposed per se.

JACK DALRYMPLE: Lt. Governor appeared stating the time has come to begin to create some incentives for the development of the biodiesel industry. Basically the bill has a credit for blending, it has a credit for equipment sales so that you can install the equipment in your distribution point and it includes an actual tax break for people who are using the fuel. Actually 3 different incentives, all of which do slightly different things but there all very useful to the promotion and the birth of this industry. My guess is, that in the coming 2 yrs the cost of this bill will actually be minimal at best.

REP. MUELLER: cosponsor appeared in support stating I think its time to seriously take a look at biodiesel in our state. Its' good for farmers, its good for the environment and its good for America.

ROGER JOHNSON: Ag Commissioner appeared in support with written testimony stating this provides a tax credit to biodiesel blenders, provides a tax credit (10% for 5 years) to a facility that adapts or adds equipment to a facility for the sale of biodiesel and reduces the excise tax by 5 cents per gallon on the sale or delivery of all biodiesel fuel.

JOCIE ISZLER: ND Renewable Energy Partnership appeared in support with written testimony stating the same reasons as Roger Johnson.

DOUG GOEHRING: a producer in south central ND appeared in support with written testimony stating this is a unique opportunity for biodiesel and renewable fuel industry. If biodiesel is positioned property in the market place and priced competitively, it can be the additive of choice to replace the lost lubricity in the fuel. Mr. Goehring also presented a handout to the committee of Standards and Warranties.

JEFF LEINEN: a farmer from Great Bend, ND appeared in support with written testimony stating this bill is not only important to the renewable fuels industry in ND it is a crucial first step towards biodiesel production in our great state.

RICHARD SCHLOSSER: ND Farmers Union appeared in support with written testimony stating we support the use of biodiesel and biodiesel-blended fuels in all possible applications. Farm incomes could be better and less variable if a portion of every farm's production was used for energy uses, and oilseed crops, crop residues, and even animal byproducts could be used as feed stock for biodiesel fuels.

JARED HAGERT: Vice-president of the ND Soybean Growers Assoc. Appeared in support with written testimony stating with the current federal biodiesel tax incentives and the potential state incentives outlined in SB 2217 in place, ND could increase in the number of retail sites and easily double its usage within the next year.

RON DAY: the Environmental Health Safety Manager at Tesoro Refinery appeared in support of the bill stating we have an opportunity here with this piece of legislation to progress the utilization of biodiesel. I would offer a modification and that would be to modify in Section 1 for the blending of biodiesel, we'd like to see instead of at least 5% to make that up to 5% so that we could utilize a 2 % blend.

CAROL TWO EAGLE: I am the founder and CEO of a micro corporation called Indian Maid Products, Inc. Appeared in support stating that if you care to get more information than you already have, you could go to www.greasel.com, which is a grassroots sight promoting biodiesel use.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2217

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DALE FRINK: ND State Engineer & Chief Engineer Secretary to the State Water Commission appeared in opposition with written testimony stating SB 2217 does not include a fiscal limit for the withdrawals from the Resources Trust Fund and would that you consider eliminating the transfer of funds from the Resources Trust Fund to the Highway Tax Distribution Fund.

NO FURTHER TESTIMONY.

Closed the hearing.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation

☐ Conference Committee

Hearing Date February 7, 2005

Tape Number	Side A	Side B	Meter #
1	<i>L</i>		-486-4037
Committee Clerk Signature <i>Sharon Lenz</i>			

Minutes:

Chairman Urlacher opened the committee meeting on SB 2217. All Senators were present.

Senator Wardner explained the amendments to SB 2217, which were drafted by Senator Jerry Klein. The amendment proposed by the Tax Commissioner's office has been incorporated into this amendment. The amendment does reduce the fiscal note. Senator Wardner explained the proposed amendments, see attached.

Senator Cook- Is the only place that blending occurs for bio-diesel fuel at the rack?

Senator Wardner- I am not sure, but will do the research if necessary.

Senator Wardner- Page 2, line 7 that is the language the Tax Department wanted in the amendment for clarification. Cook has mentioned that it effects the highway distribution fund and the resources trust fund. The money would be transferred out of the resources trust fund.

Senator Tollefson- Do we have a new fiscal note?

Senator Wardner- No.

Donnita Wald of the Tax Department appeared before the committee to clarify a few points.

The section on page 2, line 7 is from language with the last session with the bio-diesel credit, where you don't get the credit unless you are producing or selling bio-diesel fuel.

Senator Tollefson- I would like to see a fiscal note on this. We don't even know how much money we have in the resources trust fund.

Senator Cook- On page 1, line 11, when we talk about a fuel supplier who is licensed are we referring to the rack? I would also like to know the locations of the racks in the state.

Donnita- I will need to have some research done on that. I don't know.

Chairman Urlacher mentioned that a new fiscal note will be requested.

Senator Wardner- It is my understanding that when the resources trust fund was put into position, renewable fuels was including with it, it just hasn't been used.

Senator Bercier- Can you explain what it means by similar bills in the legislation?

Senator Wardner- We have done other bio-diesel bills in previous sessions.

Senator Cook- Currently, we don't have anyone blending bio-diesel fuel in the state, where is it being blended?

Senator Bercier- I know that ethanol is blended at the rack, not sure about bio-diesel.

Senator Wardner- I would prefer that we put the amendments on SB 2217, and then hold on it.

Joan Galster, Motor Fuel Tax Supervisor in the Tax Commissioner's Office appeared before the committee.

Senator Cook- On page 1, line 11, it makes reference to a fuel supplier who blends bio-diesel fuel, is that referring to people at the rack?

Joan- There is a definition for supplier and distributor, that causes some confusion within the bill. The supplier most likely will never be the blender.

Senator Wardner- Where will they blend this at?

Joan- I'm not quite sure, other than those distributors who are licensed blend it when they make the delivery. I'm not sure how they get a proper blend, by statute the bio-diesel is a 2% blend.

Senator Every- Can you name the distributors that are licensed?

Joan- Farstad Oil, several Farmer's Unions in the state. They often blend it on site, before delivering it to a farm, for example.

Senator Wardner- We know this is over the road bio-diesel because it effects the highway distribution fund, correct?

Joan- Yes, because it is subject to a certain tax at this time. The amendments could create a lot of problems for people trying to blend bio-diesel fuel.

Senator Wardner- Why do they have B2 and B5, different levels of bio-diesel fuel?

Joan- They have it that way for different parts of the country, which have different kinds of weather.

Senator Every- I am guessing it would be easier to sell the B2 and claim the B5?

Senator Wardner- Perhaps we could have a 2% discount across the board for bio-diesel fuel.

Senator Bercier- Is there more gelling of bio-diesel when there is a higher percentage rate?

Joan- I am not quite sure.

Senator Every- We had some representatives on behalf of Tesoro that requested that 5% be replaced with 2%.

Chairman Urlacher- We will have to do some research on that area, before we move forward.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **February 9, 2005**

Tape Number	Side A	Side B	Meter #
# 1	X		27.6 - 38.6
Committee Clerk Signature <i>Sharon Benfman</i>			

Minutes:

SEN. WARDNER: handed out amendments to SB 2217.

SEN. EVERY: I spoke with an individual this morning that has close connections to Cenex and they said that there is no biodiesel produced in ND and that they get most of there's from Iowa.

And the way they blend it sounds very unscientific to me. Its called splashing, they splash it in.

SEN. BERCIER: it has to be in an environmentally controlled area so that it doesn't gel when they mix it. The temperature has to remain at a certain temperature so that it does blend because it is oil.

SEN. WARDNER: the idea was to simply say that any biodiesel over the road, this has nothing to do with farm diesel, that's died diesel, we're talking about over the road diesel, if you use B3 or more, you get a 3 cent discount, so on page 2, line 19, that's the key. It says the excise tax proposed in this subsection is reduced by 3 cents. Take out the 5 and put in 3 and I would

MOVE TO ADOPT THOSE AMENDMENTS (50590.0102), seconded by Sen. Every.

VOICE VOTE: 6-0-0 MOTION CARRIES

SEN. EVERY: did I understand correctly, I have written here and don't know why, Resources Trust Fund 1.7 million dollars, is that where this money would go to or come from.

ANSWER: come from.

SEN. EVERY: and a lot of people are okay with that? I would guess so

SEN. WARDNER: you are absolutely correct, this is what it would come from, I was not aware of it but they said that back, way back when they developed the Resources Trust Fund, renewable fields was also included in that. However, with the demand for water projects, I am not going to support this bill.

SEN. EVERY: agrees

SEN. URLACHER: with the demand and being a basic need, water as a basic need, to shift them dollars out of there doesn't make sense to me

SEN. EVERY: with the expansion of rural water across ND, that's going to be a big issue. This is something we are going to have to address on the floor because it's going to come up.

SEN. URLACHER: the Resources Trust Fund is not meeting in dollars anywhere near what they need. Even completing projects we got on line, I don't know how we could stand that shift.

SEN. WARDNER: made a **MOTION FOR DO NOT PASS AS AMENDED**, seconded by Sen. Every.

SEN. WARDNER: commented: one point here and that is that Southwest ND has been taken care of, we still have some things that need to be finished on the SW water pipeline. We have been really supported by the rest of the state over the years and we're going to try to support the

rest of the state in their water projects and I feel for water projects in general, we're opening the door and that's what concerns me.

SEN. URLACHER: I'm not involved in water, when they started the SW pipeline it was intended to be completed in about 7 years and that's stems back into 87 to ___ and they had the NAS that laid off in order to allow some general development rather than starting 2 projects. Now they are going to take funds away to accommodate NAS and a lot of other projects.

SEN. BERCIER: where did that money come from for these water projects?

SEN. URLACHER: Conservancy district, come from federal funding, local funders and state funding. 70% of that funding comes out of the conservancy district, which was involved in the settlement of the tobacco funds.

SEN. BERCIER commented that we are way behind, we produce canola oil, we got all the natural resources, with Ag to really make biodiesel work and we have not one refinery or one place that manufactures biodiesel in the state. Every other state does. So we are buying out of state, not supporting Ag in state. This bill pits the water people against the renewable people and pulling money out of a very important fund because I understand the importance of water, the Nas project, the SW project all of the water projects going on. You want to support the renewable and biodiesel and the Ag community and you need protect the water money.

SEN. URLACHER: it's coming from the wrong source.

ROLL CALL VOTE: with understanding of keeping open for Sen. Tollefson who had to leave the room.

5-0-1 Sen. Wardner will carry the bill.

Sen. Tollefson voted: 6-0-0

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 15, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.5-18.9
1	X		36.5-END
1		X	1-2.5
Committee Clerk Signature <i>Sharon Seymour</i>			

Minutes:

Chairman Urlacher opened the committee meeting to discuss SB 2217. All Senators were present, with the exception of Senator Bercier.

Action taken:

Senator Wardner moved to reconsider the action, which was Do Not Pass as Amended for SB 2217. Seconded by Senator Every. The motion passed unanimously, 5-0-1.

Senator Wardner moved to reconsider the amendments to SB 2217. Seconded by Senator Every. The motion passed unanimously, 5-0-1.

Senator Wardner explained the amendments to the bill (50590.0104). The amendments removed section 4, which had 5 cents instead of 3 cents reimbursement for the use of bio-diesel. Section 5 is also removed from the bill, which takes money out of the resources trust fund. The language on page 2, line 7 is provided by the Tax Department.

Chairman Urlacher- The funding is taken away from the resources trust fund and is left open for other funding sources, correct?

Senator Wardner- Yes, that very well may be the case as the bill progresses. The dealer would receive credit on bio-diesel on their business tax liability, from the 5 cents per gallon.

Senator Every- So, the lost revenue is not replaced at all for the highway distribution tax fund?

Senator Wardner- No.

Senator Cook- So, there will be no fiscal note?

Senator Wardner- I assume if we adopt these amendments there will be a fiscal note.

Senator Cook- Who is the supplier under this definition?

Senator Wardner- I am assuming it would be the retailer.

Chairman Urlacher- Is there any biodiesel currently being produced in North Dakota?

Senator Every- No.

Senator Cook- So, the retailers that are selling it now are bringing it in from out of state.

Doug Goehring, who serves on the bio-diesel task force committee appeared before the committee. The intent of this bill is so the distributors could mix blend the product, and distribute it to businesses across the state.

Senator Cook- Is the intent of the bill, the people who are affected in Section 2 available for that credit, the same people available for the credit in Section 1?

Doug- I believe it could be one in the same.

Senator Tollefson- Under section 1, the corporate income tax credit is for a licensed fuel supplier who blends the bio-diesel, is that blended at the rack?

Doug- The retailer has been having it blended on site, with the right conditions. I hope we are encouraging people to purchase the equipment to do the blending, that it would be done by the distributor, rather than at the rack.

Senator Wardner- In Section 1, who would you consider to be the seller- the rack or the retailer?

Doug- The assumption is that it would be the retailer.

Senator Wardner- Who could apply for the credit in that section?

Doug- Places like Cenex, Missouri Valley Petroleum or Amoco are ones that handle bio-diesel and would apply for the credit.

Senator Wardner- So, wouldn't have a situation where a distributor increases the amount of bio-diesel in order to get a credit?

Doug- There could possibly be a loophole in that situation.

Senator Wardner- If we pass this bill, we need to follow up and close the loophole, so it is specific who gets the credit.

Senator Cook- Does the language in this bill address how it is blended?

Doug- It does not address that issue, other than the biodiesel has to meet certain specifications.

Senator Cook- If a fuel supplier is blending biodiesel right now, could they get the tax credit if this bill is passed?

Doug- Yes that is probably true, however we would encourage them to buy the right equipment for the blending..

Senator Every- The issue in the House isn't going to be who gets the tax credit, its going to be how do we make up for \$1.7 million.

Senator Wardner- I will get the amendments taken care of and check into a fiscal note for this bill.

Chairman Urlacher closed the meeting on SB 2217. No action was taken.

Chairman Urlacher re-opened the committee meeting on SB 2217. All Senators were present with the exception of Senator Bercier.

Senator Wardner explained the amendments regarding the tax credit on bio-diesel.

Senator Cook- How is this going to get put in place with the Tax Department? Also on the issue of a supplier who may have already received the tax credit.

Joan Galster from the Tax Department appeared before the committee. Once blending occurs, it is difficult to keep track of suppliers that may have received credits. The process becomes very complicated and requires a larger tax form. The supplier could be a distributor or a retailer.

Chairman Urlacher- What if there was just one blend that would qualify?

Joan- Then we are back to where things were before this bill.

Senator Wardner- The way the bill was written meant that anyone could do the blending whether it be at the supplier level or the distributor level, so they would get the credit?

Joan- The way it was originally drafted, the supplier is the only one getting the credit.

Senator Cook- The problem is the definition of what a supplier is in this case.

Joan- A specific definition is found at 57.43.201 in the bill regarding each category.

Senator Tollefson- A licensed supplier would be a rack, correct?

Joan- Yes.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2217

Hearing Date February 15, 2005

Senator Tollefson- That would define the party that would be eligible for the five cent break, correct?

Joan- Quite possibly.

Senator Wardner- Is it hard to administer at the point from the Tax Department?

Joan- The parties selling it would report to our office on that.

Chairman Urlacher- Narrowing it down would help accomplish the administrative part of this, correct?

Joan- Yes.

Senator Wardner- Now that we have identified who gets the credit, I suggest we go back to the amendments.

Chairman Urlacher- Is there a fiscal effect for this?

Senator Wardner- We are amending Section 4 with the amendments (50590.0104) On Page 2, line 7, there is a tax department amendment, getting equipment to blend bio-diesel. On Page 2, it removes Section 4 and Section 5.

Senator Wardner moved to adopt the amendments. Seconded by Senator Every.

Discussion:

Senator Tollefson- I'm still not understanding the issue of a licensed fuel supplier on a retail or wholesale level?

Senator Wardner- It would be at the rack.

Senator Cook- On Section 2, it says the taxpayer gets a credit to purchase the blending equipment. I'm wondering if they can't go back from previous years and get the credit?

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Senate Finance and Taxation Committee

Bill/Resolution Number SB 2217

Hearing Date February 15, 2005

Senator Wardner- I refer you to Section 6 where it has the effective date beginning after Dec. 1, 2004.

The amendment passed, 5-0-1 by a voice vote.

Senator Wardner moved a Do Pass as Amended on SB 2217. Seconded by Senator Every.

Senator Cook- So, there is no fiscal note for this bill?

Senator Wardner- The amendment will not change a fiscal note for this.

The bill as amended passed, 4-1-1. Senator Wardner is the carrier of the bill.

Chairman Urlacher closed the meeting on SB 2217.

FISCAL NOTE
Requested by Legislative Council
04/05/2005

Amendment to: Engrossed
SB 2217

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

According to the North Dakota State Tax Department, sections 2,3,4 and 5 of Engrossed SB 2217 with House Amendments create income tax credits for suppliers and sellers of biodiesel fuel, and a sales tax exemption for sellers of biodiesel fuel. The fiscal impact of these sections of Engrossed SB 2217 with House Amendments cannot be estimated because it is unknown to what degree the tax credits and exemptions for biodiesel fuel will be utilized.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Bank of North Dakota will have an estimated annual expenditure of \$2,500 to cover the costs of an external audit required for the BioDiesel partnership in assisting community expansion fund.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Bob Humann	Agency:	Bank of North Dakota
Phone Number:	701-328-5703	Date Prepared:	04/05/2005

FISCAL NOTE
Requested by Legislative Council
04/01/2005

Amendment to: Engrossed
SB 2217

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 2, 3 and 4 of Engrossed SB 2217 with House Amendments creates two income tax credits for suppliers and sellers of biodiesel fuel, and a sales tax exemption for sellers of biodiesel fuel. The fiscal impact of these sections of Engrossed SB 2217 with House Amendments cannot be estimated because it is unknown to what degree the tax credits and exemptions for biodiesel fuel will be utilized.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	04/04/2005

FISCAL NOTE
Requested by Legislative Council
03/17/2005

Amendment to: Engrossed
SB 2217

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 2,3 and 4 of Engrossed SB 2217 with House Amendments creates two corporate income tax credits for suppliers and sellers of biodiesel fuel, and a sales tax exemption for sellers of biodiesel fuel. The fiscal impact of these sections of Engrossed SB 2217 with House Amendments cannot be estimated because it is unknown to what degree the tax credits and exemptions for biodiesel fuel will be utilized.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/20/2005

FISCAL NOTE

Requested by Legislative Council
02/17/2005

Amendment to: SB 2217

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed SB 2217 creates two corporate income tax credits for suppliers and sellers of biodiesel fuel, and a sales tax exemption for sellers of biodiesel fuel. The fiscal impact of Engrossed SB 2217 cannot be estimated because it is unknown to what degree the tax credits and exemptions for biodiesel fuel will be utilized.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/23/2005

FISCAL NOTE
Requested by Legislative Council
01/14/2005

Bill/Resolution No.: SB 2217

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2217 creates two corporate income tax credits for suppliers and sellers of biodiesel fuel, and a sales tax exemption for sellers of biodiesel fuel. It also provides a 5-cent per gallon reduction in the special fuels tax rate for sales of B5 fuel, with the associated revenue loss to the highway distribution fund being made up with transfers from the resources trust fund. The fiscal impact of SB 2217 cannot be estimated because it is unknown to what degree the tax credits and exemptions for biodiesel fuel will be utilized.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/31/2005

February 7, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2217

Page 1, line 11, remove "licensed" and after "supplier" insert "licensed pursuant to section 57-43.2-05"

Page 2, line 7, after the underscored period insert "A taxpayer may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel fuel containing at least two percent biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel fuel begin."

Page 2, line 19, remove "The excise tax imposed in this subsection is reduced by five cents"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "testing and materials."

Page 2, line 25, overstrike "by one and five-hundredths cents per"

Page 2, line 26, overstrike "gallon [3.79 liters]" and overstrike "at least two"

Page 2, line 27, overstrike "percent" and overstrike "by weight" and insert immediately thereafter:

"as follows:

- a. Two cents per gallon [3.79 liters] for diesel fuel that contains at least two percent biodiesel fuel but less than three percent biodiesel fuel by weight.
- b. Three cents per gallon [3.79 liters] for diesel fuel that contains at least three percent biodiesel fuel but less than four percent biodiesel fuel by weight.
- c. Four cents per gallon [3.79 liters] for diesel fuel that contains at least four percent biodiesel fuel but less than five percent biodiesel fuel by weight.
- d. Five cents per gallon [3.79 liters] for diesel fuel that contains at least five percent biodiesel fuel by weight"

Renumber accordingly

JB
2-9-5

PROPOSED AMENDMENTS TO SENATE BILL NO. 2217

Page 1, line 11, remove "licensed" and after "supplier" insert "licensed pursuant to section 57-43.2-05"

Page 2, line 7, after the underscored period insert "A taxpayer may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel fuel containing at least two percent biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel fuel begin."

Page 2, line 19, replace "five" with "three"

Page 2, line 20, replace "five" with "three"

Renumber accordingly

Date: 2-9-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate **Finance and Taxation** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50.590.0102

Action Taken Adopt Amendments

Motion Made By Wardner Seconded By Evans

[illegible]

Total	(Yes)	No
100	50	50

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2-9-06
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amended

Motion Made By Wardner Seconded By Every

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Wardner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2217: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2217 was placed on the Sixth order on the calendar.

Page 1, line 11, remove "licensed" and after "supplier" insert "licensed pursuant to section 57-43.2-05"

Page 2, line 7, after the underscored period insert "A taxpayer may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel fuel containing at least two percent biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel fuel begin."

Page 2, line 19, replace "five" with "three"

Page 2, line 20, replace "five" with "three"

Renumber accordingly

Date: 2-15-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate	Finance and Taxation	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider actions of DNP

Motion Made By Wardner Seconded By Evans

[illegible]

Total (Yes) 5 No 0

Absent 1 Benson

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2-15-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider Action of Amendments

Motion Made By Wardner Seconded By Every

[illegible]

Total (Yes) 5 No 0

Absent / Berrier

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO SENATE BILL NO. 2217

In lieu of the amendments as printed on page 424 of the Senate Journal, Senate Bill No. 2217 is amended as follows:

Page 1, line 1, replace the comma with "and"

Page 1, line 2, remove ", and a new section to chapter 57-43.2"

Page 1, line 4, remove "and to provide for a transfer to the highway tax"

Page 1, remove line 5

Page 1, line 6, remove "Century Code, relating to a special fuels tax reduction for sale of biodiesel fuel"

Page 1, line 11, remove "licensed" and after "supplier" insert "licensed pursuant to section 57-43.2-05"

Page 2, line 7, after the underscored period insert "A taxpayer may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel fuel containing at least two percent biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel fuel begin."

Page 2, remove lines 15 through 31

Page 3, remove lines 1 through 4

Page 3, line 6, replace "Sections" with "Section", remove ", 4, and 5", and replace "are" with "is"

Renumber accordingly

Date: 2-15-05
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50590.0/04

Action Taken adopt Amendments

Motion Made By Wardner Seconded By Evans

[illegible]

Total (Yes) 5 No 0

Absent 1

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2-15-05
Roll Call Vote #: 4

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate	Finance and Taxation	Committee
--------	-----------------------------	-----------

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass AS Amended

Motion Made By Wardner Seconded By Every

[illegible]

Total (Yes) 4 No 1

Absent 1

Floor Assignment Waldner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2217: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2217 was placed on the Sixth order on the calendar.

In lieu of the amendments as printed on page 424 of the Senate Journal, Senate Bill No. 2217 is amended as follows:

Page 1, line 1, replace the comma with "and"

Page 1, line 2, remove ", and a new section to chapter 57-43.2"

Page 1, line 4, remove "and to provide for a transfer to the highway tax"

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Page 2, line 7, after the underscored period insert "A taxpayer may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel fuel containing at least two percent biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel fuel begin."

Page 2, remove lines 15 through 31

Page 3, remove lines 1 through 4

Page 3, line 6, replace "Sections" with "Section", remove ", 4, and 5", and replace "are" with "is"

Renumber accordingly

2005 HOUSE FINANCE AND TAXATION

SB 2217

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 8, 2005**

Tape Number	Side A	Side B	Meter #
1	x		34.8
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

SEN. JERRY KLEIN, DIST. 14 Introduced the bill. This is a combination of things which we worked out with the soybean folks to move some ideas to create a bigger industry as it relates to biodiesel in North Dakota. Things we hear about is in 2006, we are going to be looking at a reduction of sulphur and diesel fuel from the current three hundred miligrams or three hundred parts to fifteen parts, which was on Ag In The Morning at 5:25 AM this morning. There is some real interest in this. He went on to explain every section of the bill.

He stated he had some amendments to present which create a check off for the soybean industry. There is a current soybean check off, but it is instituted to the national level, and has no opportunity to be refunded, it represents a half of percent for value. This amend will represent a quarter of a percent of value and will be refundable in addition to the current national check off,

and that money will be put into a fund and be controlled by the Soybean Council. They would use that to also create additional incentives. We had anticipated raising about 2.5 million dollars.

REP. BELTER Asked him to go over SB 2332.

SEN. KLEIN There is a ten million dollar fund being created which is a Venture Capital investment, which will take an equity position in the facility, then we would use two million out of that ten million.

LT. GOVERNOR JACK DALRYMPLE Testified in support of the bill. He stated that Sen. Klein should be commended for his leadership in the area of renewable fuels. He has done a tremendous amount of work and put together a lot of different ideas, especially in regard to biodiesel, and he is not even a farmer. From the point of view, from the Governor's Office, we feel that we do need to do what we can in this session to move renewable energy forward, in a dramatic way. We really have a national issue in front of us because of 9 1 1, and because of the war in Iraq. We find ourselves spending, at the federal level, eighty billion dollars a year, to sustain our troops in the middle east. We have probably already committed, in one form or other, over two hundred billion dollars in the effort. If a large scale ethanol plant costs forty million dollars for a forty million gallon plant, that war expenditure could build two thousand large scale ethanol plants in the United States. We have to think about what we are doing to get out of this long term situation, where we feel we need to make those kinds of expenditures in order to keep that region stable. We cannot have that kind of dependency on any individual part of the world or any single source of energy. This is obviously, not a short term solution. This bill is one of the answers, in addition to ethanol, wind, and other things that will tend to break this dependency. Biodiesel is where ethanol was twelve or fifteen years ago. Biodiesel, in many

ways, has more promise than ethanol. There is less energy expended in producing the BTU's from biodiesel, then there is in ethanol. We need much less subsidy along the way. There really is no subsidy suggested until you get to the production level. Ethanol, as you know, is subsidized at many different levels. We would like to be a leader of biodiesel in North Dakota. What you see in SB 2217, is a collection of ideas which have come from a number of different sources. I believe the majority leader in the house is very committed to renewable fuels. He is suggesting an even more dramatic incentive, cash on the table, to anybody who will begin to show us how to build a plant in North Dakota. I would encourage you, between this bill, SB 2281, which you heard yesterday, regarding support for Red Trail Ethanol, HB 1478 regarding E85, SB 2270, which will allow new capacity in ethanol plants to be incented, plus the transmission authority, the swapping of energy credits. I strongly encourage you to continue to do this.

REP. CONRAD Are you endorsing the soybean plant and the amendments as well?

JACK DALRYMPLE Yes, we are. The Soybean Council has suggested that we proceed with this approach, you will probably want to concur with them directly. We feel it is a better approach, let the Soybean Council actually manage it. We can do it more effectively, by delegating that to the Soybean Council, let them collect the funds. If you want to give them some guidance in the incentives of this bill, you certainly can. I think we can trust them to come up with the most affective incentives that they can, in regard to their own check off. The investment from the Venture Capital Fund, we have concurred with those who were the original opponents to that feature, and I think they agree with us, that if we were able to invest in a biodiesel plant, that would be as good a capital venture we could make. The other safeguard is, that if the plant

does not come together, that money is simply returned to the fund to be used for other investments.

REP. WEILER On page 2, of the amendment, at the bottom, the sunset clause which deals with Section 1, the three fourths of one percent, instead of one half, is the sunset clause on the entire three fourths, or just on the extra one quarter of one percent?

JACK DALRYMPLE I am sure it is intended to apply only to the additional quarter percent. I was a little surprised to see it drafted as three quarters of a percent and then referred to one third of three quarters being for the incentive. It seemed a little cumbersome to me too.

ROGER JOHNSON, STATE AGRICULTURAL COMMISSIONER Testified in support of the bill. See attached written testimony.

JARED HAGERT, SOYBEAN PRODUCER AND VICE-PRESIDENT OF THE NORTH DAKOTA SOYBEAN GROWERS ASSOCIATION, EMERADO, ND Testified in support of the bill. See attached written testimony.

REP. DROVDAL You stated that the use of biodiesel is restricted because of the availability at the local level, do you see an incentive for the local retailer to install the additional tanks or service to have that available?

JARED HAGERT Referred to Section 2 of the bill, which deals with an income tax credit for installation of biodiesel equipment.

REP. CONRAD Related to the amendments, are you endorsing them?

JARED HAGERT Some of it is new to us, right now, I would like to comment on some of the things which should probably be changed. We think you should not strike the one half and replace it with three fourths. A quarter of one percent should be added in a different place. The

way the national check off works, you have the check off of one half of one percent, and one half of that stays in North Dakota, the other half goes to the United Soybean Board for promotion of the use of soybeans. We would like to see the century code, as it was written.

REP. CONRAD Related to the use of funds for the facilities, If this would use canola as well as soybeans, would you have a problem with that?

JARED HAGERT As a soybean producer, I would have to say, I would be opposed to using other types of feed stocks to fuel this plant, if the soybean producer is voluntarily putting in part of the money to fund this plant. One possible solution would be to provide an incentive for the plant itself to use soybeans for a feed stock, other than other commodities.

REP. DROVDAL I assume your last comment is based more on your expertise as a farmer and not necessarily representing the Soybean Council?

JARED HAGERT The Soybean Growers Association and the Soybean Council are two different entities, and sometimes they get confused. One other thing that would be a problem in the first part of the amendment, would be the council owning bricks and mortar, it is not allowed by statute to do that.

REP. PHIL MUELLER, DIST. 24 Testified in support of the bill. I am not so sure we should get overly enthused about check offs for biodiesel. These folks have been on one of them, produced soybeans, and we do our share in terms of contributing to the state coffers. I do think, with the recent budget forecast, it would seem to me we ought to put some money into the effort out of those general funds in dollars which we did not anticipate to be there. I think on a bigger picture, biodiesel or all of our renewable energies, it is just the time to do that. We need to move away from our dependence on foreign oil. This is a good step in that direction.

REP. CONRAD The increase is coming from fuel tax, if we are going to make biodiesel, doesn't that sound like a good combination of money we are making from the oil extraction tax?

REP. MUELLER Certainly the intent of those kinds of funds, in my opinion, is exactly what we are talking about here.

DOUG GOEHRING, PRODUCER, MENOKEN, NORTH DAKOTA Testified in support of the bill. See attached written testimony.

Commented on the amendments. The proposed quarter percent of value check off, is a unique way of funding a production incentive.

REP. FROELICH Have you done a poll or survey regarding the extra check off?

DOUG GOEHRING No, I think this came together in such a big hurry in the last couple weeks. There was some discussion with the boards just to get a feel for what they thought of it. Part of what made this tolerable is the fact, that it will sunset in two years, and the fact, that the growers themselves, will actually controll those funds, and criteria will be established by them.

REP. DROVDAL The amendment did surprise you the last minute, it does seem strange that we are going to put a tax on soybeans if it does help canola, wouldn't it be a fact, that if there was a market for this canola, that you will probably be back next session and say, I raise wheat, corn, canola and soybeans, wouldn't you go to those markets?

DOUG GOEHRING If the canola growers wish to look at something like this, I am sure they could. The soybean industry feels that soybeans will be the feedstock of choice because it is cheaper.

REP. DROVDAL My point is, isn't the market going to control what they utilize in the plan?

DOUG GOEHRING Yes, if canola oil is cheaper, they certainly will use it.

REP. KELSH We had a bill earlier this session which gave a tax credit to updating environmental controls of the plant in Mandan, and I supported that both in committee and on the floor. We saw that as a tax credit that everyone in North Dakota would help pay for, someone else would have to make up that tax credit, or that loss of funds. I am just wondering, giving the new budget numbers that came out, would you support just having an appropriation come out of the general fund to help pay for this funding in this bill?

DOUG GOEHRING Absolutely, any place that we can look for this. I am in total support of that.

REP. SCHMIDT Is there federal incentives, and how much is it?

DOUG GOEHRING There is a tax credit out there, or an excise tax, it is right now one dollar per gallon on D100, which breaks down to one penny per percent. Right now, if you were to buy B10, which is diesel fuel, there would be ten cents off of that, at the federal level, suppliers and distributors have to actually fill out the paperwork, do the application and request those funds for every gallon that they have sold or blended. There are no matching funds.

REP. SCHMIDT This is also a national issue, wouldn't you think the federal government should do more for the production of soybeans, and canola and everything else. Maybe we, as soybean growers and canola growers can get our congressmen to give us more money for the production of this, because it is a national issue as well as a state issue.

DOUG GOEHRING Absolutely. I think what we need to have is an energy bill, with renewable energy standards that are set.

RON DAY, MANDAN TESORO REFINERY Testified in support of the bill. It is kind of a unique opportunity for us to support renewable fuel. In this particular case, the biodiesel, as you

heard in testimony, would provide an opportunity for us to examine as an additive. There would be challenges in the blending of this material. When you receive biodiesel, it is a solid additive, of zero degrees, you have to heat it up. You also have to heat up diesel fuel. What this bill does, it gives us some incentive to take a look at the opportunity to take that risk, and bring it into a full scale refinery utilization technique. Right now, most of the biodiesel that is blended, is blended at the bulk distributors. It is not blended at any refinery that I am aware of. In 2006, we will have to remove all of the natural occurring sulphur. When you remove that sulphur, you have to replace it with a lubricity additive. Right now, there are lubricity additives on the market, which essentially, can be blended at any temperature. There is a need to figure out how to get this done. There is some research going on in Grand Forks with ERC, that is looking at how do we make this biodiesel blend at subzero temperatures.

REP. BELTER Are you aware of the various states that do have technology or processing plants, are any of those located near a refinery or are they done at distribution facilities?

RON DAY All of the biodiesel that I am aware of, right now, has to be blended at the biodiesel bulk terminals. The disadvantage with the biodiesel right now is, you can't ship it in the diesel fuel pipeline. It is a solvant type material and it will extract materials off of the pipeline, it is difficult to transmit that down a thousand miles of pipeline without picking up materials.

REP. SCOT KELSH, DIST. 11, Testified in support of the bill. He proposed an amendment to the bill which will reinstate an attempt at redemption, of some of the provisions of HB 1308. There are some language changes to address some of the concerns which were brought forth on the floor shortly before crossover. He referred to Section 6 of the amendment, instead of saying "shall attempt", the language will make a good faith effort to meet the objectives. On Section 7,

there were concerns about the renewable energy policies statement, this simply adds language to address those concerns.

REP. DROVDAL Since many of us consider the budget we have been looking at is about 30 million dollars of unsustainable funding, how will we get 5 million dollars of new wealth?

REP. KELSH As I have calculated, we have probably from 9 million to 20 million in new spending ability. We see that as a way to help foster the development.

REP. DROVDAL Do you feel funding everything up to this point, this is additional money far and above anything we needed to fund, so far?

REP. KELSH That is the debate for this legislature to have. If there are other priorities, that require attention, this is one of those areas.

TERRY GOERGER, FARMER/BUSINESSMAN, MANTADOR, ND Testified in support of the bill. See attached written testimony. Also supported Rep. Kelsh's amendment.

WOODY BARTH, REPRESENTING THE NORTH DAKOTA FARMERS UNION

Testified in support of the bill. See attached written testimony.

REP. CONRAD If we do the amendments Rep. Kelsh put in, then we don't do the amendments Sen. Klein put in?

WOODY BARTH That is the way the Farmers Union would see it, that the money would come from the general fund appropriations to promote lobbying initiatives in North Dakota.

REP. CONRAD If somebody comes along with a biodiesel plant, it doesn't matter whether it is canola or soybeans?

WOODY BARTH That is the way we would see it. We want to make sure we are able to utilize the funds for any kind of product people plant in North Dakota.

BARRY COLEMAN, NORTHERN CANOLA GROWERS ASSOCIATION Testified in support of the bill. See attached written testimony. He stated the canola growers do not support the check off.

REP. CONRAD Do you support Rep. Kelsh's amendment?

BARRY COLEMAN Yes we do support them.

PAUL THOMAS, ADMINISTRATOR OF THE NORTH DAKOTA AG COALITION

Testified in support of the bill. He stated their organization is made up of 38 agricultural organizations accross North Dakota. They support the original format of SB 2217, the tax credits as well as the excise tax credit which was in their originally. We have gone on support of renewable energy, and would really like to see it come out of this session.

REP. CONRAD Did you support HB 1308?

PAUL THOMAS Our organization has 38 members, for us to take a position on a bill, seventy five percent of our general voting members, have to vote in support of a bill, HB 1308 was before our organization, but we did not receive a seventy five percent majority to support it. It doesn't mean we are against it, but we did not have the majority support on that bill.

HARLAN FUGELSTEN, NORTH DAKOTA REC'S Testified in support of the bill.

Purpose here today is to pass out testimony from Bruce Carlson, General Manager of Verendrye Electric Cooperative. See attached testimony.

ERIC AASMUNDSTAD, REPRESENTING THE NORTH DAKOTA FARM BUREAU

Testified in support of the bill. He stated they are in support of the amendments presented by Sen. Klein prescribing a check off for this, as long as it is refundable. They approve the sunset and set criteria that is controlled by the growers.

REP. SCHMIDT Are you aware of any moratoriums?

ERIC AASMUNDSTAD No, I haven't heard anything about it.

REP. DROVDAL We heard the opposition on the check off on the soybeans, there seems to be some concern from the canola growers, if we do the check off, should we also do one for canola growers?

ERIC AASMUNDSTAD That is a tough one for me to answer.

CAROL TWO EAGLES, FOUNDER OF A SMALL COMPANY, Testified in support of the bill. She stated she is the owner of a small valued added agricultural company. When we decided to buy our first company truck, we wanted diesel, after we bought the truck, we found we could only get biodiesel from one place. Related to a magazine she has which has articles in it regarding biodiesel.

ED GOERGER, FARMER/PRODUCER, WYNDMERE, NORTH DAKOTA Testified in support of the bill. See written testimony.

REP. CONRAD Asked whether he supported HB 1308

ED GOERGER Stated he was not up to speed on it.

REP. CONRAD Asked whether he was in support of Sen. Klein's amendments.

ED GOERGER Yes

REP. DROVDAL How do you stand on the check off, would you be in agreement that the check off should also be for canola growers?

ED GOERGER It is hard to talk about another commodity I don't raise. In general, as a producer, I will say when check off is used for a specific use, and I know that if I don't use it, I get my money back, and I know there is a time limit, my general mind set is more positive, then

on the general check offs, where there is limited control where the money goes. When the money stays within the state, my access to my representatives would be much greater, then they are with the USB board, which represents certain growers. Being past president, I have dealt on that level, I would be much more comfortable with this quarter percent check off, for this specific use and having to explain to growers what this use is for and why it will benefit them, then I was on a general check off. Regarding the check offs, if you are biased as a soybean producer, and we put the money in to get this going, yes, I will be biased agasint other feedstock, but on the other hand, perhaps, we could have an incentive to keep it on soybeans, and say, if you switch the plant over to something else, which is a cheaper feedstock, which makes more economic sense, then perhaps, there could be a mechanism to pay back the money invested over time, if the money is not going to be used for what it was intended.

DONNITA WALD, STATE TAX DEPARTMENT She stated there was a technical issue which needed to be addressed by a separate amendment or in any of the amendments if you do adopt them. Referred to Lines 16 and 17, for the corporate income tax credit. Need to change the date for taxable years beginning after December 1, that needs to be December 31.

With no further testimony, the committee hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 15, 2005**

Tape Number	Side A	Side B	Meter #
1	X		26.9
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. BELTER Presented amendments to committee members. The intent of these amendments is to try to clarify some confusion on the 1/2 percent which is currently deducted and then the quarter percent which would be the additional one for biodiesel. Rep. Belter stated they would act on the amendments and the bill as soon as they hear from the Soybean Growers, who are now in Washington, D.C. The bill will be acted on later in the day.

COMMITTEE ACTION, LATER IN THE DAY TAPE #1, SIDE A, METER 36

REP. HEADLAND Made a motion to adopt the amendments which were presented to the committee earlier in the day.

REP. IVERSON Second the motion. Motion carried with one no vote from Rep. Kelsh.

REP. NICHOLAS Gave his comments on the incentives of the ethanol plant. He felt to cut back at this time would be a mistake. He stated he would speak against amendments.

Page 2

House Finance and Taxation Committee

Bill/Resolution Number **SB 2217**

Hearing Date **March 15, 2005**

REP. KELSH Presented amendments which he stated the original five million was a direct appropriation on the general fund, these amendments are just scaling that back a little.

REP. KELSH Made a motion to adopt the amendments as he presented them.

REP. CONRAD Second the motion. Motion failed by voice vote.

REP. BRANDENBURG Made a motion for a **do pass as amended**.

REP. IVERSON Second the motion. **MOTION CARRIED.**

14 YES 0 NO 0 ABSENT

REP. NICHOLAS Was given the floor assignment.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 31, 2005**

Tape Number	Side A	Side B	Meter #
1	X		30.3
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

COMMITTEE ACTION

REP. IVERSON Made a motion to reconsider the action by which the bill was passed out of committee.

REP. DROVDAL Second the motion. Motion carried by voice vote.

REP. BELTER Submitted amendments to committee members and asked John Walstad to explain the amendments.

JOHN WALSTAD, LEGISLATIVE COUNCIL Explained what the amendments did.

The beginning of this amendment is the recreation of the PACE Program that currently exists under the auspice of the Bank of North Dakota. It is reworded for the extent that it is a PACE Program for biodiesel production only. The PACE Program pulls the Bank of North Dakota profits in to fund that program, this PACE Program does not take any Bank of North Dakota

funding. There is a state general fund appropriation of \$500,000 to the Bank of North Dakota to put into the biodiesel partnership in its expansion fund, the biodiesel PACE fund.

REP. BELTER Stated it was his intent, to increase that \$500,000 to 1.2 million.

JOHN WALSTAD Asked, how much would the funding per facility be, \$250,000 per facility.

REP. BELTER Stated that would not change.

Some committee members questioned why there was a maximum put on the facility.

REP. BELTER Stated, under the **PACE** Program, you only need three million dollars of cash into the plan, the other seven million you can borrow. The three million they are putting in, so if you take the tax credit, the investors will actually have a tax credit of 1.3 million, then on the seven million they are borrowing, if you buy down the interest rate of by 5% for two years, actually, you are allowed \$250,000 in a buydown in a program, if we add another \$250,000, you can buy down seven million dollars, which would be \$700,000, on a ten million dollar plan, you would be eligible for two million for tax payer credit. From that perspective, it is really a decent deal for the investor.

REP. BRANDENBURG Made a motion to adopt the amendment 50590.0218 with the change of \$500,000 to 1.2 million.

REP. HEADLAND Second the motion. Motion carried by voice vote.

REP. BRANDENBURG Made a motion for a **do pass as amended and be referred to the appropriation committee.**

REP. NICHOLAS Second the motion. **MOTION CARRIED**

12 YES 0 NO 2 ABSENT

REP. BRANDENBURG Was given the floor assignment.

Date: 3-15-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass as amended

Motion Made By

Rep. Brandenburg

Seconded By

Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Rep. Nicholas

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2217, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2217 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "and" with "to amend and reenact section 4-10.5-07 of the North Dakota Century Code, relating to a levy on soybeans; to provide an appropriation; to provide a continuing appropriation; to provide for investments by the Bank of North Dakota;" and after "date" insert "; and to provide an expiration date"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Section 4-10.5-07 of the North Dakota Century Code is amended and reenacted as follows:

4-10.5-07. Tax levies - Collection - Reports - Refunds - Biodiesel production facility funding assistance by soybean growers association - Continuing appropriation. ~~Effective August 1, 1995, an~~ An assessment at the rate of one-half of one percent of the value of the sale must be levied and imposed upon all soybeans sold to a designated handler. This assessment is due upon any identifiable lot or quantity of soybeans.

A separate and additional assessment of one-fourth of one percent of the value of the sale must be levied and imposed upon all soybeans sold to a designated handler. This assessment is due upon any identifiable lot or quality of soybeans.

A designated handler of soybeans shall file an application with the council on forms prescribed and furnished by the council. The forms must contain the name under which the designated handler is transacting business within the state, the designated handler's places of business, the location of loading and shipping places of agents of the designated handler, the names and addresses of the several persons constituting the firm partnership, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state, and, if a limited liability company, the limited liability company name and the names and addresses of its principal managers and agents within this state. The council shall issue a certificate to the designated handler. A designated handler may not sell, process, or ship any soybeans until it has furnished a certificate as required by this section.

Every designated handler of soybeans shall collect ~~the assessment~~ assessments imposed by this section by charging and collecting from the seller the assessment at the rate of one-half of one percent of the value of the sale and the assessment at the rate of one-fourth of one percent of the value of the sale by deducting the ~~assessment~~ assessments from the purchase price of all soybeans subject to the ~~assessment~~ assessments and purchased by the designated handler.

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of soybeans, which may be examined by the council at all reasonable times. Every designated handler shall report to the council, in a manner and at a time prescribed by the council, stating the quantity in individual and total amounts of soybeans received, sold, or shipped by it. The report must state from whom each individual amount was received. The remittance of the assessment as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid within thirty days of the end of each quarterly period to the council, which shall transfer revenue from the one-half of one percent assessment of the value of the sale levied under this section for deposit in the state treasury to the credit of an account designated "soybean fund" to be used exclusively to carry out this

chapter and shall transfer the revenue from the separate and additional assessment of one-fourth of one percent of the value of the sale under this section for deposit in the biodiesel production incentive fund. Before transferring the revenue for deposit in the biodiesel production incentive fund, the council may deduct and retain an amount equal to its actual expenses of collection and administration of the additional assessment of one-fourth of one percent. Quarterly periods end on March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.

Any producer who sells soybeans to the first designated handler in this state and who pays the separate and additional assessment provided in this section may make application by personal letter to the council, within sixty days following the assessment or final settlement, to receive a refund application blank. Upon return of the blank properly executed by the producer and accompanied by a record of the assessment by the purchaser, the producer must be refunded the portion of the separate and additional assessment equal to one-fourth of one percent of the value of the sale. A refund paid under this section must be paid from the biodiesel production incentive fund and amounts necessary for refunds are appropriated as a standing and continuing appropriation to the council. If no request for refund has been made within sixty days following the assessment or final settlement, the producer is presumed to have agreed to the assessment. However, a producer who for any reason has paid the assessment more than once on the same soybeans, upon furnishing proof of this to the council, is entitled to a refund of the overpayment. The council shall develop and disseminate information and instructions to inform producers relating to the purpose of the separate and additional soybean tax levy and the manner in which refunds may be claimed.

The North Dakota soybean growers association may provide funding assistance from funds provided by legislative appropriation from the biodiesel production incentive fund for assistance to a producer to build and operate a biodiesel production facility in North Dakota for production of biodiesel from North Dakota soybeans. Any expenditure by the North Dakota soybean growers association must be approved by a majority vote of its board of directors."

Page 2, after line 15, insert:

"SECTION 5. BIODIESEL FACILITY FUNDING APPROPRIATION. There is appropriated out of any moneys in the biodiesel production incentive fund in the state treasury, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the North Dakota soybean growers association for the purpose of providing funding assistance for establishment of a biodiesel production facility in North Dakota as provided in section 4-10.5-07, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. BANK OF NORTH DAKOTA INVESTMENT IN BIODIESEL PRODUCTION FACILITY. Of the funds the Bank of North Dakota may invest under subdivision c of subsection 4 of section 6-09-15 for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds, the Bank of North Dakota shall reserve \$2,000,000 for investment in a new biodiesel production facility to be located in North Dakota. If no construction has commenced on such a facility by June 30, 2007, the \$2,000,000 reserved under this section may be released for other allowable investments."

Page 2, line 16, after "**DATE**" insert "**- EXPIRATION DATE**", after the second boldfaced period insert "Section 1 of this Act is effective for soybean assessments after June 30, 2005,

REPORT OF STANDING COMMITTEE (410)
March 16, 2005 8:11 a.m.

Module No: HR-48-5098
Carrier: Nicholas
Insert LC: 50590.0212 Title: .0300

and before July 1, 2007, and is thereafter ineffective.", replace "1" with "2", and replace "2" with "3"

Page 2, line 17, replace "1" with "31" and "3" with "4"

Renumber accordingly

Date: 3-31-05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

50590. 0218

Action Taken

Do Pass as amended referred

Motion Made By

Rep. Brandenburg

Seconded By

Rep. Nicholas

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes)

12

No

0

Absent

2

Floor Assignment

Rep. Brandenburg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2217, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2217 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 1142 and 1143 of the House Journal, Engrossed Senate Bill No. 2217 is amended as follows:

Page 1, line 1, after "enact" insert "chapter 6-09.17," and after "57-38" insert ", a new subsection to section 57-38-30.3,"

Page 1, line 2, after the second "to" insert "a biodiesel partnership in assisting community expansion program and" and after "corporate" insert "and individual"

Page 1, line 4, after the semicolon insert "to provide an appropriation; to provide a continuing appropriation;"

Page 1, after line 5, insert:

"SECTION 1. Chapter 6-09.17 of the North Dakota Century Code is created and enacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel production facilities as provided under this chapter.
2. "Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.
3. "Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area.

6-09.17-02. Biodiesel partnership in assisting community expansion fund - Continuing appropriation - Administration. A biodiesel partnership in assisting community expansion fund is hereby established. This is a revolving fund, and all moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11. The Bank of North Dakota shall administer the fund.

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed seventy percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.

6-09.17-04. Fund moneys - Eligible uses.

1. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel production facility for the following eligible uses:
 - a. Purchase of real property and equipment.
 - b. Expansion of facilities.
 - c. Working capital.
 - d. Inventory.

The loan funds cannot be used to refinance any existing debt or for the relocation of the business within North Dakota.
2. The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source.
3. The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.
4. The maximum amount from the fund in the interest rate buydown may not exceed two hundred fifty thousand dollars per loan and not more than one loan may be provided to any single biodiesel production facility under this chapter. The fund participation must be limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
5. The Bank of North Dakota shall adopt rules to implement this chapter."

Page 1, line 8, replace "Corporate income" with "Income"

Page 1, line 10, after "section" insert "57-38-29," and after "57-38-30" insert ", or 57-38-30.3"

Page 1, after line 15, insert:

"A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 1, line 18, replace "Corporate income" with "Income" and replace "taxpayer" with "seller of biodiesel fuel"

Page 1, line 19, after "section" insert "57-38-29," and after "57-38-30" insert ", or 57-38-30.3"

Page 1, line 20, replace "taxpayer's" with "biodiesel fuel seller's"

Page 2, line 1, replace the first "the" with "a"

Page 2, line 2, replace "taxpayer" with "biodiesel fuel seller"

Page 2, line 4, replace "taxpayer" with "biodiesel fuel seller"

Page 2, after line 8, insert:

"A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

SECTION 4. A new subsection to section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credits provided under sections 2 and 3 of this Act."

Page 2, after line 15, insert:

"SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the Bank of North Dakota for deposit in the biodiesel partnership in assisting community expansion fund for use as provided in chapter 6-09.17, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Page 2, line 16, replace "1 and 2" with "2, 3, and 4"

Page 2, line 17, replace "1" with "31" and replace "3" with "5"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

SB 2217

2005 HOUSE STANDING COMMITTEE MINUTES

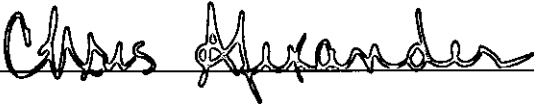
BILL/RESOLUTION NO. SB2217

Bio diesel Tax Exemption

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 23, 2005

Tape Number	Side A	Side B	Meter #
1		X	#15.1 - #36.5
1		X	#41.9 - # end
Committee Clerk Signature 			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on SB2217.

Rep Belter explained that this bill allows for a quarter percent refundable check-off from the soybean growers which collected by the soybean council and remitted to the soybean growers to be used for soybean bio diesel production and distribution. This also includes a \$2 million venture capital loan from the Bank of North Dakota and a 5 cents per gallon tax credit on bio diesel for those who are in the blending business. There is an income tax credit for the sellers of bio diesel fuel for 10% per year for up to 5 years capped at \$50,000 in the direct cost for bio diesel sales equipment such as pumps, hoses and tanks purchased by the retailers, which also includes limited partnerships. There is also a sales tax exemption on all new equipment and facilities to enable a facility to sell bio diesel containing at lease 2% bio diesel. There was language that Rep Skarphol had asked for in here that would give the interim committee the authority to audit the growers just like they have the authority to audit other commodity groups.

This language did not get in these amendments so this committee would need to further amend if you want to include this. Amendment #0214 clarifies the language on the check-off to comply for federal regulations and extends the eligibility for tax credit under section 2.

Rep. Tom Brusegaard asked if the check-off dollars would go through check-off group and then the grower group and then on from there.

Rep Belter answered that the way this is set up the council collects the funds because they already have the authority to collect funds. There is currently a half a percent check off that is not refundable and this would give them an addition quarter percent check-off which would be refundable. Once the council receives the money, then they turn it over to the growers.

Rep. Mike Timm, Vice Chairman asked if the planned bio diesel refinery that uses canola in Minot would be eligible

Rep Belter answered that this particular plant would probably not be covered here since this particular bill is for the use of North Dakota grown soybeans.

Rep. Mike Timm, Vice Chairman asked if there were enough soybeans grown in North Dakota

Rep Belter answered that most of the growers are in Cass county, but there are soybeans being grown throughout the state.

Rep. Al Carlson asked if there were already commitments on the funds mentioned in section 7 of the amendments.

Rep Belter answered that some of the dollars in these funds are accounted for but there are still some dollars available for this. The Bank of North Dakota will make sure that the funds are available if this bill passes and there is language in this bill that releases these funds if they are not used.

Rep. Al Carlson asked legislative council to identify where these fund would come from in the bank.

Mr. Allen Knudson answered that it appears to be coming from the capital of the bank. (meter Tape #1, side B, #25.6)

Rep. Al Carlson commented that he was unsure that the moneys would be available due to the additional commitments on this fund. If we go into the capital assets of the bank for venture capital investments then we have violated the intent of this.

Rep Belter answered that there was \$10 million originally in the capital venture fund and there is still \$5 million left.

Rep. Mike Timm, Vice Chairman commented that there is always a battle between the producers when there is a check-off increase and asked what reaction was when this increase was introduced

Rep Belter answered that there was some initial resistance but then it seemed there was support from the growers. As of yesterday, after the announcement of the new plant in Minot, there is some concern on the part of the growers and it would be best if this committee held off on its decision on this bill until after this concern is better defined.

Rep. Ken Svedjan, Chairman clarified that this is a refundable quarter percent.

Rep. Ron Carlisle asked how much is left in the fund

Ms Karlene Fine from the Industrial Commission answered that \$5 million was authorized for the venture capital program. The majority of this has been committed. SB2032 has additional \$5 million to add to this fund if it is passed and these moneys have not been committed. There is

currently a balance of \$400,000 of the original \$5 million but if SB2032 passes there will be an additional \$5 million.

Rep. Belter requested that these amendments and this bill be held until we receive further information.

Rep. Bob Skarphol asked that this committee be assured that there are the same protections in the law with this check-off as we have with the others. This would need to be included in an audit and be presented to legislative audit and fiscal review as all check-offs are.

Rep. Tom Brusegaard commented that the growers would need to appear before the audit groups too.

Rep. Bob Skarphol commented that the ultimate recipient of the funds need to report to the legislative audit and fiscal review so that there is some kind of accountability for what they do with the funding.

Rep. Al Carlson noted the fiscal note of February 17, 2005 shows to be indeterminable.

Rep. Pam Gulleeson noted her concern regarding the check-off on the growers. This is unprecedented. We did not add a check-off on the corn growers because we saw that as an investment on the state side that would move the entire state forward. The renaissance loans did not add costs to the downtown businesses who benefited from those loans. Why would we ask this one group of soybean growers to tax themselves for an industry that will really benefit the entire state of North Dakota. We have a fistful of tax credits and incentives for the petroleum industry. Rep Gulleeson noted that she would not support this approach to funding.

Rep. Bob Skarphol commented on the mechanics of this bill. Finance and Tax put on the amendments to the bill as we currently have it. Rep Belter's amendments, #0214, would have to

be accepted in lieu of the Finance and Tax committee's amendments in the bill because there are additional provisions on the bill that are not in amendment #0214.

Rep. Ken Svedjan, Chairman stated that the committee would set this bill aside until Rep Skarphol gathers the information needed for this discussion.

Rep. Ken Svedjan, Chairman reopened discussion on SB2217. (meter Tape #1, side B, #41.9)

Rep. Bob Skarphol explained to legislative council that his concern was that there was no audit of the funds once they leave the soybean council, and asked if it would be appropriate that there be language in this bill that would require an audit of the soybean growers since they are the entity that ultimately would receive and disperse the funds.

Mr. Jim Smith of legislative council commented that there was a previous amendment that would have required a report to the budget section and release their audit report to the committee.

Rep. Ken Svedjan, Chairman asked if this amendment was considered.

Rep. Bob Skarphol commented that this was probably in the amendment attached to the bill, but it is not included in amendment #0214 from Rep Belter.

Rep. Tom Brusegaard asked if it was proper to audit a private group.

Mr. Jim Smith answered that in the cases of the ethanol incentives, legislative council was receiving the audit reports from this third party. There were not action required. This was more for informational purposes and to know that this entity had been audited. In these cases this also told us whether or not these entities had a profit without the incentives.

Rep. Ken Svedjan, Chairman asked if this language requested is currently part of the bill.

Mr. Jim Smith answered that he did not believe so. The amendment he was referring to was done last week. It is unclear why it wasn't part of amendment #0214, but it could be added to this if the committee so chooses.

Rep. Bob Skarphol stated that would request that the amendment referred to be added to Rep Belter's amendment #0214. This reporting needs to be added to the bill

Rep. Ken Svedjan, Chairman asked legislative council to draw an amendment including the discussions here and the committee will come back to this later. Rep Svedjan closed the discussion on SB2217.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2217
Corporate Income Tax Credits

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date April 1, 2005

Tape Number	Side A	Side B	Meter #
1	X		5.1-27.3
Committee Clerk Signature <i>Robin Rusley for Chris Alexander</i>			

Minutes: Chairman Svedjan called meeting on SB2217 back to order. We have been informed that a new fiscal note is on its way.

Rep. Wes Belter, District 22 Let me walk you through the bill a little. Section one allows for a 5 cent per gallon tax credit for the sale of 5% blended fuels. Section two allows for an 10% per year up to five years tax credit for acquiring equipment that can be used to facilitate the blending of fuels. Section three allows for the exemption of sales tax on all equipment associated with facilities involved in enabling a facility to sell diesel fuel containing at least 2% biodiesel by volume. The amendments, previously we had \$2 million in venture capital credit for this bill. We changed it to a biodiesel partnership, a Pace Program Current Pace Program allows for the Bank of North Dakota to make a loan that allows then \$250,000 per project in interest buy down. Continued to explain bill.

Chairman Svedjan What is the match requirement?

Rep. Belter The maximum amount that could be asked for from each committee is \$135,000.

Vice Chairman Timm The plant around Minot, is that biodiesel and does that qualify under this bill?

Rep. Belter I would assume that it would.

Vice Chairman Timm What I'm trying to get at, is they announced the building of this plant before this would be law. Would they still qualify or is this something for the future?

Rep. Belter No, they would qualify.

Chairman Svedjan Does it matter at all what the production capacity is of the plant coming on?

Rep. Belter No it does not.

Rep. Delzer Why did you not put a minimum amount required because surely there must be a minimum amount to produce before it is valid for this type of program.

Rep. Belter The proper answer to that is the financial institutions would make that determination because I wouldn't think that the banks would put out any money to facilities they think don't have capacity to be viable.

Rep. Kempenich On page two, subsection four, what's that doing? Language in there if you don't have adequate funds you can get up to \$500,000 on a buy down?

Rep. Belter I believe that refers to that portion of... Maybe Bob could answer that.

Bob Human, Sr. VP of Lending for Bank of North Dakota That section ends up to is, have the biodiesel plant come in and use the existing Pace Program for \$250,000 of interest buy down and then go the biodiesel program for another \$250,000 of interest buy down. For some reason the existing Pace Program would run out of funds, a biodiesel plant would be able to come in and apply for a full \$500,000 of interest buy down under the Biodiesel Pace Program. Section four

goes on to explain further that if that happens we would require community match for the first \$250,000 of buy down.

Rep. Belter Section six is asking for a General Fund appropriation of \$1.2 million.

Rep. Kempenich The continuing appropriation of this, this is a one time shot, the \$1.2 million?

Rep. Belter Yes, asking for \$1.2 million for this biennium.

Rep. Delzer How did you come up with the \$1.2 million? Is there any cases where anyone would be coming in at less than \$250,000?

Rep. Belter I would say not.

Rep. Delzer This doesn't figure out. If people are coming in at \$250,000 or \$500,000, that last \$250,000 is unusable. Might as well go down to \$1 million. If you take \$250,000 at four plants, that would be a million. If you get two plants at \$500,000, that would be a million. Even if you want another one, you only have \$200,000 left - you can't do it. Have to go up to \$1.25 million or down to \$1 million, which is where I'd like to go.

Bob Human What would probably happen is there will be some cases where the dollars might not get maxed out. Depends on how large the loan request is going to be.

Rep. Delzer Does this money go back to the General Fund at the end of the biennium if it is not used?

Bob Human As I read the bill, the dollars will be separate. They won't go in the existing Pace Fund but the dollars sitting there at the end of the biennium, if they haven't been used, the Legislature can make a determination of what happens to those funds.

Rep. Delzer If the Legislature doesn't do anything, then what happens, that's the question?

Chairman Svedjan They would remain in the fund.

Rep. Belter That would be the Biodiesel Trust Fund.

Vice Chairman Timm If there is concern by Rep. Delzer and other members of the committee, we could put language in there, if the funds isn't used at the end of the biennium then it goes back to General Fund and next session legislature can appropriate money again, right?

Rep. Delzer That would be a smart thing to do.

Rep. Brusegaard Move to addendum to amendment .0220 to SB2217.

Rep. Carlisle Second.

VOICE VOTE to adopt amendment .0220 to SB2217 carried.

Rep. Delzer I would move to further amend, whatever language need here to say money not spent at the end of the biennium is returned to the General Fund.

Vice Chairman Timm Second.

VOICE VOTE to further amend requiring any unspent funds to return to General Fund carried.

Rep. Gulleeson I have another amendment, .0221. (See handout #60-1) The other two sheets are just for your information. This amendment addresses the extension of the reduced excise tax on biodiesel fuel. This is an incentive to get people to buy biodiesel fuel at the pump. It was brought to my attention that this is set to expire June 30, 2005. If we don't act on it, the reduction will go out of place in June, 2005. Logical to me, that if we are trying to develop this as an industry with a plant, and corresponding increased use, we should keep that incentive in place, for at least one more biennium. I would like to move this amendment, .0221.

Rep. Metcalf Second.

Rep. Carlise Do you have a fiscal note from the Tax Department - there must be some tax ramifications?

Rep. Gulleon I did call this morning, but have not gotten anything yet.

Rep. Belter I did get that information from the Tax Department and if you make the assumption that 10% of the fuel sold in this state was biodiesel, the fiscal note was \$374,000.

Rep. Delzer Do we have any numbers on what the amount is going through this year?

John Wahlstead Zero is the amount now. This reduction does not become effective until the Tax Commissioner certified to the Governor's office and our office that there is a facility in North Dakota operational that has a production capacity of 10 million galloons of biodiesel per year.

Rep. Delzer That is still in place?

John Walhstead I have not been notified.

Rep. Delzer No, is that law still in place? This won't take effect unless that happens.

John Walhstead Yes, I made very sure that trigger was still there when I drafted this amendment.

Chairman Svedjan I have that fiscal note here. "This bill also allows a special fuel tax reduction for fuel containing biodiesel. It is unknown how much biodiesel fuel will be used in the state during '03-'05. If 10% of the special fuels contain biodiesel, the total fiscal impact would be a biennial reduction in highway distribution, county and city funds of \$375,000".

Vice Chairman Timm No fiscal effect if there is no plant and the plant has to produce 10 million galloons?

Chairman Svedjan Yes.

Page 6
House Appropriations Committee
Bill/Resolution Number SB2217
Hearing Date April 1, 2005

VOICE VOTE to adopt amendment .0221 carries.

Rep. Brusegaard I move a Do Pass As Amended on SB2217.

Vice Chairman Timm Second.

**VOTE 17 YES and 0 NO with 6 absent and not voting. DO PASS AS AMENDED on
SB2217. Rep. Brandenburg will carry to floor.**

Meeting on SB2217 adjourned.

Date: April 1, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2217

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50590.0222

Action Taken DO PASS AS AMENDED

Motion Made By Rep Brusegaard Seconded By Rep Timm

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	AB	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	AB	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	AB	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	AB		Rep. Chet Pollert	AB	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	AB				

Total Yes 17 No 0

Absent 6

Floor Assignment Rep Brandenburg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2217, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 0 NAYS, 6 ABSENT AND NOT VOTING). Engrossed SB 2217 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 1459-1461 of the House Journal, Engrossed Senate Bill No. 2217 is amended as follows:

Page 1, line 1, after "enact" insert "chapter 6-09.17," and after "57-38" insert ", a new subsection to section 57-38-30.3,"

Page 1, line 2, after the second "to" insert "a biodiesel partnership in assisting community expansion program," and after "corporate" insert "and individual"

Page 1, line 3, after "credits" insert a comma

Page 1, line 4, after "equipment" insert "; to amend and reenact section 7 of chapter 531 of the 2003 Session Laws, relating to extending the time special fuels tax reductions are available for biodiesel fuel", replace "and" with "to provide an appropriation; to provide a continuing appropriation;", and after "date" insert "; and to provide an expiration date"

Page 1, after line 5, insert:

"SECTION 1. Chapter 6-09.17 of the North Dakota Century Code is created and enacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel production facilities as provided under this chapter.
2. "Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.
3. "Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area.

6-09.17-02. Biodiesel partnership in assisting community expansion fund - Continuing appropriation - Administration. A biodiesel partnership in assisting community expansion fund is hereby established. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is subject to section 54-44.1-11 and any unexpended and unobligated balance in the fund at the end of the biennium must be transferred to the state general fund. The Bank of North Dakota shall administer the fund.

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation

may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.

6-09.17-04. Fund moneys - Eligible uses.

1. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel production facility for the following eligible uses:
 - a. Purchase of real property and equipment.
 - b. Expansion of facilities.
 - c. Working capital.
 - d. Inventory.

The loan funds cannot be used to refinance any existing debt or for the relocation of the business within North Dakota.

2. The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.
3. The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.
4. The maximum amount from the fund in the interest rate buydown may not exceed two hundred fifty thousand dollars per loan and not more than one loan may be provided to any single biodiesel production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to five hundred thousand dollars per loan and, in that event, the community funds required for participation in the interest rate buydown must be limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The fund participation must be limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
5. The Bank of North Dakota shall adopt rules to implement this chapter."

Page 1, line 8, replace "Corporate income" with "Income"

Page 1, line 10, after "section" insert "57-38-29," and after "57-38-30" insert ", or 57-38-30.3"

Page 1, after line 15, insert:

"A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 1, line 18, replace "Corporate income" with "Income" and replace "taxpayer" with "seller of biodiesel fuel"

Page 1, line 19, after "section" insert "57-38-29," and after "57-38-30" insert ", or 57-38-30.3"

Page 1, line 20, replace "taxpayer's" with "biodiesel fuel seller's"

Page 2, line 1, replace the first "the" with "a"

Page 2, line 2, replace "taxpayer" with "biodiesel fuel seller"

Page 2, line 4, replace "taxpayer" with "biodiesel fuel seller"

Page 2, after line 8, insert:

"A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

SECTION 4. A new subsection to section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credits provided under sections 2 and 3 of this Act."

Page 2, after line 15, insert:

"SECTION 6. AMENDMENT. Section 7 of chapter 531 of the 2003 Session Laws is amended and reenacted as follows:

SECTION 7. EXPIRATION DATE. Sections 1, 3, 4, and 5 of this Act are effective for taxable events occurring from the effective date of this Act through June 30, ~~2005~~ 2007, and are thereafter ineffective.

SECTION 7. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the Bank of North Dakota for deposit in the biodiesel partnership in assisting community expansion fund for use as provided in chapter 6-09.17, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Page 2, line 16, replace "1 and 2" with "2, 3, and 4"

Page 2, line 17, replace "1" with "31" and replace "3" with "5"

REPORT OF STANDING COMMITTEE (410)
April 4, 2005 8:32 a.m.

Module No: HR-61-7062
Carrier: Brandenburg
Insert LC: 50590.0222 Title: .0400

Renumber accordingly

2005 SENATE FINANCE AND TAXATION

CONFERENCE COMMITTEE

SB 2217

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

Senate Finance and Taxation Committee

☒ Conference Committee

Hearing Date **April 7, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		0.0 - 18.6
Committee Clerk Signature <i>Sharon Pennington</i>			

Minutes:

CONFERENCE COMMITTEE

SEN. WARDNER: we are going to work on sections 2 and 3 because those are the sections that were in the bill as 1 and 2 when they left the Senate. I want to get those squared away before we go to the part where we deal with the biodiesel partnership. When the bill left the Senate the credit was available to basically a corporation. The House changed that to a partnership subchapter s corporation, limited partnership, limited liability company or any other past serenity entitled to the credit under this section. Must be considered a taxpayer and they also did it in section 3 of the bill which is on page 4, lines 19 through 24. The same type of language and to the House members, I like what you did. What you did was expanded who the individual would be. What they did was simply expanded who could get the credit. Section 2 its blending of biodiesel, when you blend it you get this income tax credit. Section 3 of the bill its an income tax credit for sales equipment costs for facilities to build it, there they put that language in to expand who can be the taxpayer.

DEE WALD: Tax Dept., going back to page 3, lines 28 to 29, when you talk about blending biodiesel fuel, this is a credit for the gallons that are blended.

SEN. WARDNER: its really a technical thing, any questions or problems with it.

REP. BELTER: I believe that license refers to licensed dealers, petroleum licensed dealers.

DEE WALD: but those are wholesalers.

SEN. BERCIER: this is equipment dealers vs. petroleum dealers, correct?

DEE: section 3 is the sales equipment cost, they get a credit for those costs of 10% of those costs for adapting or ____ a facility to sell biodiesel. What's happening on Section 5 on page 5 the tangible personal property that is being used is exempt from the sales tax., so kind of technical issues that come up.

SEN. WARDNER: with those 2 sections we're okay other than making those technical adjustments. Next move to section 1.

REP. BELTER: page 2, the biodiesel partnership is identical to the pace program.

BOB HUMANN, Bank of ND, really what we're looking at here is the same language that's in century code right now to the existing pace program with some minor modifications to that. This really would be a separate pace program that would be used to fund biodiesel projects. Under the existing pace program that the Bank of ND works with right now, a project could get up to \$250,000 worth of interest buy down to buy the interest down on a loan that would be used to fund the biodiesel project. And what biodiesel pace would do would be to provide another \$250,000 as it worded, so that there would be a total \$500,000 of interest buy down that would be provided by the State of ND to help incur biodiesel energies to come to the State of ND. One difference that we would have in this bill between the regular pace program and the biodiesel

pace program is that with the regular pace program there is community match. Some of the interest comes from the community where the biodiesel plants can be located. The way it is with the biodiesel pace program there would not be community match required, unless for some reason and its written into the bill this way if we would be out of regular pace money, they could get the biodiesel borrower to get up to \$500,000 of interest buy down from the biodiesel program and they would still have to come up with community match then for the first \$250,000 of that interest buy down, the same way the pace program is put into place now. That's the way the bill is put together and from I understand is 1.2 million dollars is going to be ear marked for the biodiesel pace program at the dollar amount of \$250,000 per project for biodiesel ____ that would do just about 5 different projects in the state. This money will then be ear marked for the Bank of ND to administer biodiesel pace program and if there isn't any of the funds to get used throughout the biennium, the dollars will be returned to the general fund.

REP. S. KELSH: are the requirements for the biodiesel pace the same in terms of job development applications, is that the same as the regular pace program?

BOB: that's a good question, right now you'll no job requirement or anything in the bill, same way the regular pace program is. We will have to set those parameters by loan policy at the Bank of ND. What we will do is we will put those policy procedures in place and then we'll go to the advisory board and the industrial commission and we'll have those proposals actually approved. The reason for that and one thing that I can see already that is going to be a potential problem that we will have to address with biodiesel pace is that under the existing pace program right now, the entity has to create one job for every \$75,000 worth of loan, these are going to be some pretty good sized loans that biodiesel plants are going to be working for. I can see that's going to

be a problem if we require job for every \$75,000 alone, that's going to be a problem for the biodiesel pace. So we're probably not going to put that requirement in the biodiesel pace its just going to stay in the regular pace program where the community match is involved anyhow. Because what happens on the pace loans is there is community match with the pace loan because we want to make sure that the community wants to have this project in their back yard and they want to see those jobs created there, those are the type of jobs they want to create, those are the types of industries they want in their back yard. So that's why I think its important that we still use regular pace and then go to biodiesel pace.

SEN. WARDNER: if we got 1.2 million dollars ear marked, that means that we could do 4 projects and there'd be a little left over, in your opinion as you look out over the 2 years could we increase the amount that we could go with the biodiesel pace per project and probably do 4 \$100,000 and that goes into there evenly 3 times, 3 projects. Is that something?

ANSWER; that would make sense to me. Will there be 5 plants happening in the next 2 years, that's going to be pretty unlikely, now I'm not saying it could not happen, but basically there's a good chance then that there will be dollars returned to the general fund. Really what has to happen is really we have to identify how much of an incentive does the State want to provide to attract biodiesel and once we determine what that dollar amount is we can figure out how much that 1.2 million dollars should be designated for each project. My opinion, I think that \$250,000 should definitely be increased because if it isn't there's going to be dollars returned to the general fund.

SEN. WARDNER: is this correct that we have one that's announced up by Minot that's a possibility, right?

ANSWER; what I'm aware of is what's in the paper like anybody else.

REP. BRANDENBURG: I think we'd be better off with doing 3 - \$400,000 pace or biopace programs or 2 - \$600,000

SEN. WARDNER: Mr. Humann did mention that we could maybe go to 2 projects and go with \$600,000 each and make sure that something happens.

SEN. TOLLEFSON: that could be any multiple

SEN. WARDNER: we have to set in law

REP. BELTER: I guess have no problem and I think we should certainly increase it to \$400,000, if we go to the \$600,000 I think we have to face reality that the announced plant I would assume would more than likely come in and take \$600,000, which I don't have problem with but then it would eliminate, we'd only be talking the possibility of one of plant than.

REP. BRANDENBURG; made a **MOTION TO UP TO \$400,000**, seconded by Sen. Tollefson.

ROLL CALL VOTE: 6-0-0 **MOTION PASSES**

SEN. WARDNER: is there anything else that the committee would like to bring forward at this time?

REP. BRANDENBURG: discussion on renewable office, maybe I should check into it a little bit more.

SEN. WARDNER: I received an e-mail from Joan Galster who had a few concerns about how we're going to administer this thing. She'll address those at the next meeting.

Adjourned the meeting.

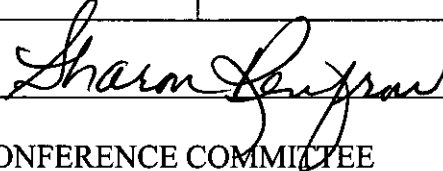
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

Senate Finance and Taxation Committee

☒ Conference Committee

Hearing Date **April 11, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		0.0 - 13.7
Committee Clerk Signature 			

Minutes:

CONFERENCE COMMITTEE

SEN. WARDNER: handed out 3 handouts stating this is what we're going to focus in on, this piece of legislation was passed in 2001 and it was renewed again last session 2003. What we've done is enacted a piece of legislation that if there was a biodiesel plant in the State, I triggered the tax on undyed diesel fuel containing biodiesel is reduced by 1 and 500th cent per gallon and the tax on dyed diesel fuel containing biodiesel is reduced to 1 and 9/10th %. I don't have any problem with the concept except I have Joan Galster with the Tax Dept. And it is a little bit of a night mare, its never triggered so they've never had to administer it but we need to take a look at it to see if we can do something with it or what we want to do, so at this time I'd like Joan Galster to come to the podium and explain some of the problems with administering this particular part.

JOAN GALSTER: Tax Dept. Appeared to explain the handouts and stating this will go into affect now that there is a plant going in and this will retain this difference in tax and their are

several problems we might have and I just want you to be aware of them. (see attached sheet entitled SB 2217 First Engrossment with House Amendments)

SEN. WARDNER: if those deductions or sales tax deductions, if they were rounded off to whole cents, would that help much?

ANSWER; not really, its just an easier number for the tax payer to work with if its rounded off but in the end result, we'd still have the issue about how do we have this reported and how do we work it into the taxpayers ____.

SEN. WARDNER: is there anyway that you see this concept could be fixed?

ANSWER; no

REP. BELTER: what about what if we would look at something like the gas tax refund type thing that, I mean farmers are already doing that and they could just file for that portion and I realize that you'd also then be dealing with truckers and anybody using biodiesel again would be brought into the program, might that be?

ANSWER; right now there are no refund provisions in our special fuel tax statute, so you'd have to write something in there again and to do this and to really monitor, we're talking about possibly thousand and thousand of refunds, but again we'd need additional resources. Once we're able to track how much sold and where its going, we'd have better information for you as to the validity of anything.

SEN. WARDNER: committee any discussion of this particular, you can leave it in, you can take it out, I'm not sure right now we have a biodiesel plant that is on the horizon, whether it will kick in in two years or if we should wait 2 years and take a look at refining this piece of legislation, I'm not sure.

SEN. TOLLEFSON: I assume your talking about the one that would be up by Minot presumably. Frankly I think we're all a little premature. There's too many questions Mr. Chairman. I would doubt very much if that plants going to be on line in 2 years because I don't think there's been any date set for ground breaking and I understand there are still financing concerns, I don't that this is an issue, its something that we certainly need to fix the way it looks to me but whether we need to do it during this session I would think not.

SEN. WARDNER: Just a little review of what I think we need to do, I already visited with Mr. Walstad about drafting the corrections. You'll recall in a previous session we set the number at 400,000 for the biopace buy down so that there would be 3 projects that could qualify and we also had the Tax Dept., Donnita Wald pointed out some language that needed to be corrected and I talked to Mr. Walstad about that and he agrees. So I told him to hold up drafting the amendments until we had this meeting, my plans now would be to take this bill up to get the amendments drafted for those things and we will meet one more time to look over the amendments and act on the bill.

Adjourned the meeting.

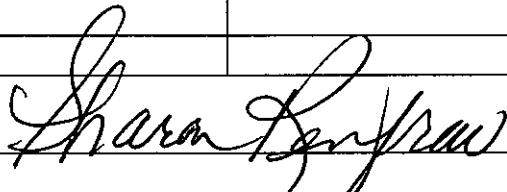
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2217**

Senate Finance and Taxation Committee

☒ Conference Committee

Hearing Date **April 12, 2005**

Tape Number	Side A	Side B	Meter #
#1		X	0.0 - 11.8
Committee Clerk Signature 			

Minutes:

CONFERENCE COMMITTEE

SEN. WARDNER; called the conference committee to order and had the clerk call the roll.

SEN. WARDNER: Rep. Belter and I went up and visited with John Walstad at Legislative Council in doing the amendments. If you recall committee we voted that we would go with 400,000 per project from the biopace program, when we put that amendment in then we had to also, we know that we're going to get they can get \$250,000 from the regular pace program so that makes it \$650,000 and then we said that the community match would be based on \$250,000. So you all understand that that stays, it didn't go on \$400,000 it stays on \$250,000 and that stays at 135, so the total amount that a project could get is about \$785,000 through this and there could be 3 of them. Now, the other thing that Mr. Walstad brought to our attention he said before the way it was stated that if the regular pace program ran out of money then they could take another \$250,000 out of the biopace program so now we've raised it to \$400,000 instead of \$250,000 so that's what we dealt with and Rep. Belter before I have Rep. Belter speak, I just want to point out

that the chances of the regular pace program running out of money is slim. It not none but its slim and so we were just covering the worst case scenario there and Rep. Belter what we decided then was that if that did happen, they could get up to 600, they could take 4 and 2 more so they could get, they wouldn't get 650 but they could get \$600,000 as long as the money is there. If the money wasn't there and you had 2 projects vying for it, it would be left up to the dept. To give them each a piece of the action if they were certifiable projects. Does that make sense?

REP. BELTER: Yes.

WAITING FOR JOHN WALSTAD

SEN. WARDNER: page 4 on the first engrossment with the house amendment line 6, talks about the biodiesel seller's direct costs incurred after December 31, 2004, to adapt or add equipment to a facility, licensed and authorized by the state of ND, he was going to correct that and I haven't found it on the amendments yet. What he did is this, instead of authorized by the State of ND you would take that out with under section 57-43.2-05, I'm not sure what that is but that's where they do it in that section of law. The other corrections were taken care of with respect to the entities and investments if we took that wording out on page 4 on line 21 and 22 just took it out so that the amount of the credit allowed must be determined by the pass-through. Its just extra language that could be taken out and there was on page 4 and on page 3 that had to be taken out. But before we act on this so everybody knows who licenses this thing, Aaron will have that information for us here shortly. Any other discussion or questions that you might have as far as the way this program is going to work?

AARON EIKEN (INTERN): read to the committee the section in the code where licensed fees were.

REP. S. KELSH: just for point of clarification, there was an excise tax credit set to sunset at the end of this biennium, was that included in this bill, that extension?

REP. BELTER: that was put in the House Appropriations portion of it and so these amendments should not have altered that.

SEN. WARDNER: that's what we brought Joan Galster down yesterday for, we left it in, as I mentioned yesterday between now and the next session we have to tweak that or do something with it so its better to administrate. That code refers to this licensing and goes through the tax commissioner.

REP. BRANDENBURG: made a **MOTION TO ADOPT THE AMENDMENTS**, seconded by Rep. Kelsh.

REP. BELTER: just a point of clarification. There is no need for us to remove any amendments, etc.?

SEN. WARDNER: the amendment shows where its the House Recede from the House Amendments and adopt amendments.

REP. KELSH: if the House recedes from its amendments, then doesn't that excise tax credit come off the bill? Cuz that was part of the house amendment.

SEN. WARDNER: I think you have a point. The only thing that this refers to page 1282 and 1285 of the Senate Journal and it may not be a part of that, so we made it very clear to Mr. Walstad that that was to stay in and not taken out.

AARON (INTERN): we're still looking for John Walstad, I've called up there twice and they can't find him.

Page 4
Senate Finance and Taxation Committee
Bill/Resolution Number SB 2217
Hearing Date April 12, 2005

REP. BELTER: I think on page 1, line 4 it says after equipment insert to amend and reenact section 7 of chapter 531 (read the part in the amendment on p 1, L 4)

SEN. WARDNER: that right, its put back in, we're good to go, any discussion?

ROLL CALL VOTE: 6-0-0 **MOTION PASSES**

SEN. BERCIER: made a **MOTION FOR DO PASS AS AMENDED**, seconded by Rep. Brandenburg.

SEN. WARDNER: any other discussion?

ROLL CALL VOTE; 6-0-0 Sen. Wardner and Rep. Brandenburg to carry the bill.

Date: 4-7-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments (To replace 250,000 w/ 400,000)

Motion Made By Rep. Brandenburg Seconded By Sen. Tollefson

Senators	Yes	No		Yes	No
Sen. Wardner	✓		Rep. Beeler ✓	✓	
Sen. Tollefson	✓		Rep. Brandenburg ✓	✓	
Sen. ✓ Berier	✓		Rep S. Kelsch ✓	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2217

That the House recede from its amendments as printed on pages 1282-1285 of the Senate Journal and pages 1459-1461 of the House Journal and that Engrossed Senate Bill No. 2217 be amended as follows:

Page 1, line 1, after "enact" insert "chapter 6-09.17," and after "57-38" insert ", a new subsection to section 57-38-30.3,"

Page 1, line 2, after the second "to" insert "a biodiesel partnership in assisting community expansion program," and after "corporate" insert "and individual"

Page 1, line 3, after "credits" insert a comma

Page 1, line 4, after "equipment" insert "; to amend and reenact section 7 of chapter 531 of the 2003 Session Laws, relating to extending the time special fuels tax reductions are available for biodiesel fuel", replace "and" with "to provide an appropriation; to provide a continuing appropriation;", and after "date" insert "; and to provide an expiration date"

Page 1, after line 5, insert:

"SECTION 1. Chapter 6-09.17 of the North Dakota Century Code is created and enacted as follows:

6-09.17-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel production facilities as provided under this chapter.
2. "Biodiesel production facility" means a corporation, limited liability company, partnership, individual, or association involved in production of diesel fuel containing at least five percent biodiesel meeting the specifications adopted by the American society for testing and materials.
3. "Community" means the city or county in which an eligible biodiesel production facility is located, or a local development corporation, community organization, or any other group whose interest is in the economic growth of the area.

6-09.17-02. Biodiesel partnership in assisting community expansion fund - Continuing appropriation - Administration. A biodiesel partnership in assisting community expansion fund is hereby established. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is subject to section 54-44.1-11 and any unexpended and unobligated balance in the fund at the end of the biennium must be transferred to the state general fund. The Bank of North Dakota shall administer the fund.

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the biodiesel partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation

may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.

6-09.17-04. Fund moneys - Eligible uses.

1. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel production facility for the following eligible uses:

- a. Purchase of real property and equipment.
- b. Expansion of facilities.
- c. Working capital.
- d. Inventory.

The loan funds cannot be used to refinance any existing debt or for the relocation of the business within North Dakota.

2. The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.
3. The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.
4. The maximum amount from the fund in the interest rate buydown may not exceed four hundred thousand dollars per loan and not more than one loan may be provided to any single biodiesel production facility under this chapter. However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an interest rate buydown for a biodiesel production facility, the maximum amount from the fund under this subsection is increased to six hundred thousand dollars per loan. The community funds required for participation in the interest rate buydown are limited to the amount required when the fund provides two hundred fifty thousand dollars per loan. The fund participation must be limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
5. The Bank of North Dakota shall adopt rules to implement this chapter."

Page 1, line 8, replace "**Corporate income**" with "**Income**"

Page 1, line 10, after "section" insert "57-38-29," and after "57-38-30" insert ", or 57-38-30.3"

Page 1, after line 15, insert:

"A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the

total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

Page 1, line 18, replace "**Corporate income**" with "**Income**" and replace "taxpayer" with "seller of biodiesel fuel"

Page 1, line 19, after "section" insert "57-38-29," and after "57-38-30" insert ", or 57-38-30.3"

Page 1, line 20, replace "taxpayer's" with "biodiesel fuel seller's"

Page 1, line 21, replace "and authorized by the state of North Dakota" with "under section 57-43.2-05"

Page 2, line 1, replace the first "the" with "a"

Page 2, line 2, replace "taxpayer" with "biodiesel fuel seller"

Page 2, line 4, replace "taxpayer" with "biodiesel fuel seller"

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SECTION 4. A new subsection to section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credits provided under sections 2 and 3 of this Act."

Page 2, line 11, replace "and authorized by" with "under section 57-43.2-05"

Page 2, line 12, remove "the state of North Dakota"

Page 2, after line 15, insert:

"SECTION 6. AMENDMENT. Section 7 of chapter 531 of the 2003 Session Laws is amended and reenacted as follows:

SECTION 7. EXPIRATION DATE. Sections 1, 3, 4, and 5 of this Act are effective for taxable events occurring from the effective date of this Act through June 30, ~~2005~~ 2007, and are thereafter ineffective.

SECTION 7. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the Bank of North Dakota for deposit in the biodiesel partnership in assisting community expansion fund for use as provided in chapter 6-09.17, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Page 2, line 16, replace "1 and 2" with "2, 3, and 4"

Page 2, line 17, replace "1" with "31" and replace "3" with "5"

Renumber accordingly

Date: 4-12-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Brandenburg Seconded By S. Kelsch

Senators	Yes	No	Representatives	Yes	No
Sen. Wardner	✓		Rep. Belter	✓	
			Rep. Brandenburg	✓	
			Rep. S. Kelsch	✓	
Sen. Tollefson	✓				
Sen. Bercier	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4-12-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

Senate Finance and Taxation Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By _____ Seconded By _____

Senators	Yes	No	Representatives	Yes	No
			Rep. Butler	✓	
Sen. Wardner	✓		Rep. Brandenburg	✓	
			Rep. S. Kelsh	✓	
Sen. Tollefson	✓				
Sen. Bercier	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner on Senate - Brandenburg, House

If the vote is on an amendment, briefly indicate intent:

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

4.7.05
2:30

11 Number) SB 2217 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen. Wardner

Sen. Tollefsen

Sen. Bereier

*4.12.05
4.11.05
4.7.05
4.6.05
4.5.05
Amend
to be engrossed*

✓	✓	✓	✓	✓
✓	✓	✓	✓	✓
✓	✓	✓	✓	✓

For the House:

Rep. Belter

Rep. Brandenburg

Rep. S. Kelsh

*4.12.05
4.11.05
4.7.05
4.6.05
4.5.05
Amend
to be engrossed*

✓	✓	✓	✓	✓
✓	✓	✓	✓	✓
✓	✓	✓	✓	✓

☐ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/B726 S723/B725

the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

☐ and place _____ on the Seventh order.
727

☒ , adopt (further) amendments as follows, and place
_____ on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the
calendar.

DATE: 4 / 12 / 05

CARRIER: Wardner, Brandenburg

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2217, as engrossed: Your conference committee (Sens. Wardner, Tollefson, Bercier and Reps. Belter, Brandenburg, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1282-1285, adopt amendments as follows, and place SB 2217 on the Seventh order:

That the House recede from its amendments as printed on pages 1282-1285 of the Senate Journal and pages 1549-1552 of the House Journal and that Engrossed Senate Bill No. 2217 be amended as follows:

Page 1, line 1, after "enact" insert "chapter 6-09.17," and after "57-38" insert ", a new subsection to section 57-38-30.3,"

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Page 2, line 16, replace "1 and 2" with "2, 3, and 4"

Page 2, line 17, replace "1" with "31" and replace "3" with "5"

Renumber accordingly

Engrossed SB 2217 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2217

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of Roger Johnson
Agriculture Commissioner
SB 2217**

**Senate Finance & Taxation Committee
Lewis & Clark Room
February 1, 2005**

Chairman Urlacher and members of the Senate Finance & Taxation Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2217, which provides a tax credit to biodiesel blenders, provides a tax credit (10 percent for five years) to a facility that adapts or adds equipment to a facility for the sale of biodiesel and reduces the excise tax by 5 cents per gallon on the sale or delivery of all biodiesel fuel. I would also encourage you to consider amending this legislation to include a production incentive for biodiesel.

Biodiesel: Great Potential for North Dakota

Biodiesel is a growing industry that holds promise for North Dakota – if we choose to seize the opportunity. As a leading producer of soybeans, North Dakota has great potential for the development of a biodiesel industry that would add further value to these commodities. The production of biodiesel not only produces fuel but also co-products that can be used to feed our growing livestock industry.

Biodiesel is the name for a variety of ester-based oxygenated fuels made from soybean oil or other vegetable or animal fats. Biodiesel can be used as a pure fuel and as a blending stock with petrodiesel. According to the ND Soybean Council, 79 retail locations in North Dakota currently offer biodiesel for sale to their customers.

Although biodiesel can be made from vegetable or animal plants, North Dakota's focus is primarily on biodiesel produced from soybean or canola oil. Soybeans are a plentiful cash crop in North Dakota generating nearly 14% of our agricultural cash receipts. Cass County is the #1 soybean producing county in the United States (2003). North Dakota is also the leading producer of canola, growing 90% of the nation's crop (Source: ND Agricultural Statistics Service).

Based on statistics compiled by the North Dakota Soybean Growers Association, approximately 3% of North Dakota's soybean production would be processed and utilized as biodiesel if a 2% biodiesel requirement in diesel fuel was put in place. North Dakota's annual diesel usage is approximately 162,422,000 gallons. The ND State Fleet's annual diesel usage is 900,000 gallons.

Biodiesel can be substituted for petroleum diesel in virtually any standardized diesel engine. And, used in small percentages biodiesel can dramatically increase the lubricity of diesel fuel. Since the implementation of EPA regulations that require reduced sulfur content in diesel fuel from 5000 to 500 parts per million, significant wear problems have emerged in high-pressure diesel fuel pumps. These problems are expected to increase as EPA phases in an additional sulfur content reduction of diesel fuel to 15 parts per million by 2006. Biodiesel may very well be the best lubricity additive on the market, thus becoming an even more important renewable fuel.

Biodiesel is an industry poised for tremendous growth in the coming years. New federal incentives provide a federal excise tax credit that equates to one penny per percent of biodiesel in a fuel blend made from agricultural products. The National Biodiesel Board estimates that the tax incentive could lower the price of B20 to be approximately the same price as diesel in some cases.

Biodiesel is also an energy efficient renewable fuel. According to a study conducted by the DOE and USDA, "...Biodiesel yields 3.2 units of fuel product energy for every unit of fossil energy consumed in its life cycle." The report continues, "By contrast, Petroleum diesel's life cycle yields only 0.83 units of fuel energy per unit of fossil energy consumed." According to this analysis, the energy yield of biodiesel is $(3.2/0.83)$ 280 percent greater than petroleum diesel fuel (Life Cycle Inventory of Biodiesel and Petroleum Diesel for Use in an Urban Bus -- May 1998).

North Dakota does not have a biodiesel production facility; however, the North Dakota Biodiesel Taskforce continues to work to develop a favorable plan for a biodiesel plant in the state.

Below is a listing of current and proposed biodiesel plants around the country. As you can see, states like Iowa and Minnesota are much farther ahead of us on the development curve (Table 1).

State	Operational Facility	Proposed Facility
Texas	5	1
California	4	
Iowa	3	1
Utah	2	2
Illinois	2	
Hawaii	2	
Nevada	2	2
Minnesota	1	2
Missouri	1	2
Georgia	1	2
Ohio	1	2
Florida	1	1
Colorado	1	1
North Carolina		2
Kentucky	1	
Virginia	1	
Mississippi	1	1
Wisconsin	1	1
South Dakota		1
Washington		1
Montana		1
New Mexico		2
Massachusetts		1
Delaware		1

Table 1

North Dakota Can and Should Do More to Promote Biodiesel and Other Renewable Energies

Elected officials on both sides of the aisle continually pledge their support for and speak to the benefits of value-added agriculture. I believe that it is time to put action behind the words. If we are truly looking to add value to agricultural products in this state and to encourage new markets and new products, we in government have to be willing to play an appropriate role to foster that process.

In 2003, the North Dakota Department of Agriculture organized the first-ever 2003 Renewable Energy Summit: *A Vision for the Future*. The focus of that conference was to bring together all of the interests in four major renewable energy sectors – biodiesel, biomass, ethanol and wind – to formulate a vision and a plan of action for the future.

A recommendation from that summit was to create an ongoing coalition of renewable energy interests that could work to advance issues and initiatives that would foster the growth of the industry. That recommendation led to the creation of the North Dakota Renewable Energy Partnership (NDREP). The NDREP has 41 general and associate members, including the North Dakota Department of Agriculture.

The NDREP, along with my office, organized a second summit – the 2004 Renewable Energy Summit: *A Call to Action*, which was held on December 6-7, 2004. The summit participants

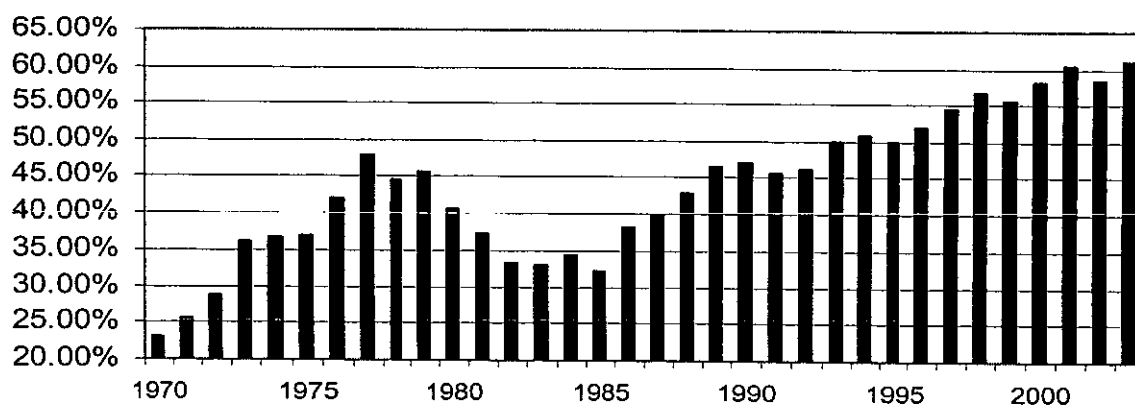
were challenged to formulate state legislative ideas and initiatives – some of which are encompassed in SB 2217 and other pieces of renewable energy legislation before you this session. The NDREP has been working with legislators on both sides of the aisle to try and advance renewable energy legislation that will have a meaningful impact in North Dakota.

Renewable Fuels Can Help Decrease Dependence on Foreign Oil

I also believe that we must do more as a state and as a country to decrease our dependence on foreign oil today. The United States currently imports 61 percent of our oil supply versus 36 percent during the energy crisis that began in 1973 (Source: Energy Information

Administration/Annual Energy Review 2003) (See Figure 1)

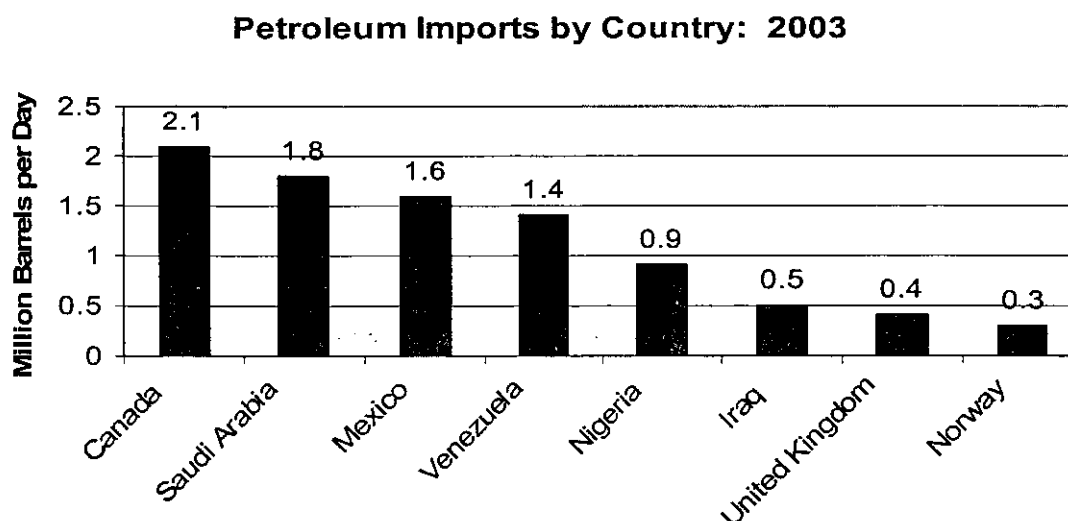
Percentage of Imports - US Oil Supply (1970-2003)



Source: Energy Information Administration/Annual Energy Review 2003

Figure 1

Canada, Saudi Arabia and Mexico are the leading exporters of oil to the United States (Figure 2).

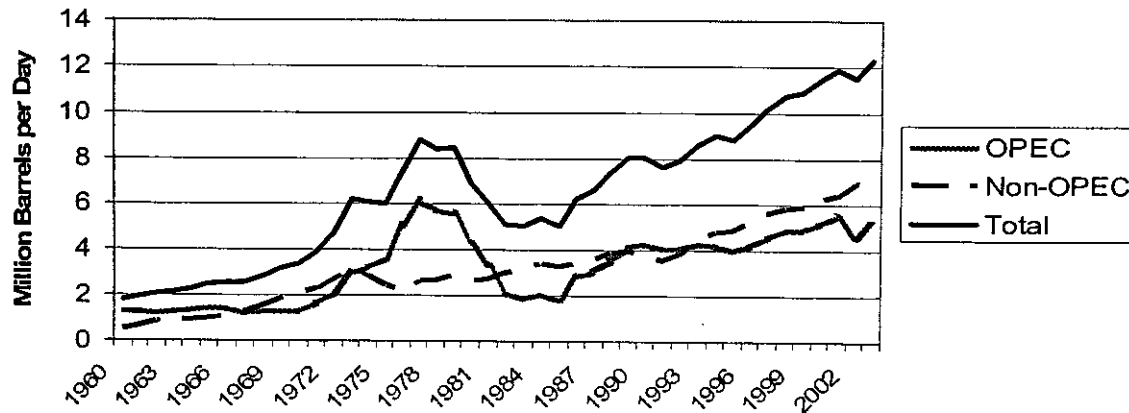


Source: Energy Information Administration/Annual Energy Review 2003

Figure 2

The stability of these imports seems questionable, especially during this time of crisis in the Middle East. Figure 3 demonstrates our enormous dependence on oil imports from OPEC countries.

Petroleum Imports - Total, OPEC and Non-OPEC, 1960-2003.



Source: Energy Information Administration/Annual Energy Review 2003

Figure 3

The production and use of renewable fuels will contribute to the reduction of our dependency on sources of foreign oil.


We can and must do more to promote the production and use of renewable fuels such as biodiesel. The US marketplace is too often overlooked by agriculture as we focus on acquiring new international markets. Biodiesel is a great example of new demand for agricultural commodities as opposed to displaced demand often resulting from new international markets. Both are important, but new demand results in a bigger pie, not just a bigger piece of the old pie.



Conclusion

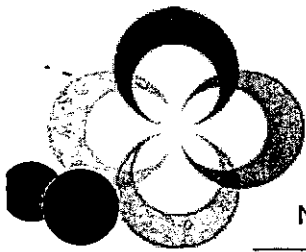
The opportunities are right in front of us. We produce an abundance of soybeans for biodiesel and we are growing our cattle industry to eat the co-products resulting from biodiesel production.

For years, we've produced the world's best commodities -- only to see them shipped elsewhere and have others seize the profits from processing them. We can watch as others benefit from the significant economic development these industries bring. And we can watch as our young people leave to take the jobs created by these facilities in other states. Or, we can do something about it.



We can promote and develop these resources ourselves. We can enjoy all of the benefits of new economic development and new jobs. We can create entire new industries that will benefit not only North Dakota, but the entire nation.

Chairman Urlacher and committee members, I urge a do pass on SB 2217. I would be happy to answer any questions you may have.



NDREP

North Dakota Renewable Energy Partnership

Mailing address:

1325 23rd St S, Fargo, ND 58103

(701) 239-7258

Fax: (701) 298-7810

Testimony of
Jocie Iszler
Chair
North Dakota Renewable Energy Partnership
SB 2217
Senate Finance & Taxation Committee
Lewis & Clark Room
February 1, 2005

Good morning Chairman Urlacher and members of the Finance & Taxation Committee. My name is Jocie Iszler and I am here today on behalf of the North Dakota Renewable Energy Partnership (NDREP) to testify in support of SB 2217.

The NDREP is an alliance of organizations and individuals aimed at advancing renewable energy in North Dakota. The NDREP's focuses on renewable sectors – biodiesel, biomass, ethanol and wind. The organization has more than 40 general and associate members.

The NDREP has endorsed SB 2217, which provides a tax credit to biodiesel blenders, provides a tax credit (10% for 5 yrs) to a facility that adapts or adds equipment to a facility for the sale of biodiesel and reduces excise tax by 5 cents per gallon on the sale or delivery of all biodiesel fuel.

The NDREP urges to look favorably on SB 2217 and other legislation that will benefit renewable energy industries in North Dakota. I'd be happy to answer any questions.

Chair

Jocie Iszler
ND Corn Utilization Council
jiszler@state.nd.us

Vice-Chair

Jay Haley
Wind Energy Council
jhaley@eapc.net

Secretary-Treasurer

Terry Goerger
ND Biodiesel Taskforce
tgrgr@rrt.net

February 1, 2005

Testimony before the Senate Finance & Taxation Committee
Lewis & Clark Room
Senator Herb Urlacher, Chair

**Senate Bill 2217 – Relating to corporate income tax credits, sales tax credits and
excise tax exemption for blending of biodiesel**

Chairman Urlacher and members of the Senate Finance & Taxation Committee,
My name is Doug Goehring and I am a producer in south central North Dakota, I raise
spring wheat, corn and soybeans. I have been using Biodiesel for 4 years now I am here
to testify in favor of Senate Bill 2217.

The petroleum industry faces several problems in the very near future with their
diesel fuel. In 2006 EPA has mandated that refined fuels used in agriculture and over the
road reduce their sulfur content from 1500ppm and 500ppm down to 15ppm. Doing this
strips the fuel of its lubricating properties. Biodiesel can be a solution for this problem.
By adding biodiesel to petroleum fuel you can not only replace the lubricity lost by the
removal sulfur but increase it by over 66%. This is a unique opportunity for biodiesel
and renewable fuel industry. If biodiesel is positioned properly in the market place and
priced competitively it can be the additive of choice to replace the lost lubricity in the
fuel.

The biodiesel industry has come a long way in a few years. The industry now has
the support of major engine manufactures. Detroit, Cummings, International, John Deere
and Caterpillar all support the use of biodiesel in their engines up to a five percent blend.
In fact it was recently announced that John Deere will be putting a 2% Biodiesel blend in
all of their tractors and combines leaving the factory going to dealerships across the

country. It is also important to keep in mind that the use of biodiesel in any blend does not void warranties as long as it meets ASTM D9751 standards. The ASTM D9751 is a standard set for biodiesel that meets the criteria required by engine manufactures.

Biodiesel sold by a licensed retailer must meet these standards.

North Dakota has an opportunity to support the renewable fuels industry, expanding availability. A public investment in biodiesel will show industry that we want to create a favorable environment for renewable fuels. Last year North Dakota consumed an estimated 400,000 gallons of B100. If an average blend of ten percent was used that would produce four million gallons of blended product. If we assume that we double consumption next year and if approximately fifty percent of that fuel was used for highway use and the state offered a five cent excise credit per gallon it would only have a cost to the state of approximately \$400,000 per year.

This excise tax credit would not affect the Highway Trust Fund since any money credited to the fuel would be replaced by a transfer from the Resources Trust Fund which was designed to help water, conservation and renewable energy projects in the state.

Chairman Urlacher and committee members, I thank for the opportunity to come before you today, and ask for your support and a do pass on SB 2217.

Standards and Warranties

All engines are designed and manufactured for a fuel that has certain characteristics. In the US, the industry organization that defines the consensus on fuels is the American Society for Testing and Materials (ASTM). In the case of diesel fuel (and biodiesel), the responsibility for setting standards lies within ASTM Committee D02 on Petroleum Products and Lubricants. In order to assure that the standards are rigorous and robust, ASTM committee D02 is comprised of fuel producers, engine equipment manufacturers, and third party interests (users, government agencies, consultants). ASTM also uses a complicated ballot process in which a single negative vote is enough to defeat a ballot, so this is a true consensus organization. An ASTM standard is not easily achieved. Some standards can take over 10 years to gain agreement and be issued by ASTM. This rigorous, time-consuming process is why ASTM standards are recognized and adopted by others worldwide.

ASTM fuel standards are the minimum accepted values for properties of the fuel to provide adequate customer satisfaction and/or protection. For diesel fuel, the ASTM standard is ASTM D 975. All engine and fuel injection manufacturers design their engines around ASTM D 975. In cooperative discussions with the engine community early in the biodiesel industry's development, engine manufacturers strongly encouraged the biodiesel industry to develop an ASTM standard for biodiesel fuel which would allow them to provide their customers with a more definitive judgment on how the fuel would affect engine and fuel system operations compared to ASTM D 975 fuel for which an engine was designed.

In June of 1994, a task force was formed within ASTM Subcommittee E on Burner, Diesel, Non-Aviation Gas Turbine, and Marine Fuels of ASTM Committee D02, with the expressed objective of developing an ASTM standard for biodiesel. The biodiesel standard, ASTM PS 121-99, was approved by Subcommittee E, and subsequently issued by ASTM in June of 1999 (for copies, see the ASTM web site at www.astm.org). In December of 2001, ASTM approved the full standard for biodiesel, with the new designation of D-6751 (succeeds PS 121-99). This standard covers pure biodiesel (B100), for blending with petrodiesel in levels up to 20% by volume. Higher levels of biodiesel are allowed on a case-by-case basis after discussion with the individual engine company, since most of the experience in the US thus far has been with B20 blends.

The approval of this biodiesel standard, and the technical reviews necessary to secure its approval, has provided both the engine community and customers with the information needed to assure trouble free operation with biodiesel blends.

Engine Warranties

All diesel engine companies warranty the product they make - engines. They warranty their engines for "materials and workmanship." If there is a problem with an engine part or with engine operation due to an error in manufacturing or assembly within the prescribed warranty period, the problem will be covered by the engine company.

Typically, an engine company will define what fuel the engine was designed for and will recommend the use of that fuel to their customers in their owner's manuals.

Engine companies do not manufacture fuel or fuel components. Therefore, engine companies do not warranty fuel - whether that fuel is biodiesel or petrodiesel fuel. Since engine manufacturers warranty the materials and workmanship of their engines, they do not warranty fuel of any kind. If there are engine problems caused by a fuel (again, whether that fuel is petrodiesel fuel or biodiesel fuel) these problems are not related to the materials or workmanship of the engine, but are the responsibility of the fuel supplier and not the engine manufacturer. Any reputable fuel supplier (biodiesel, petrodiesel, or a blend of both) should stand behind its products and cover any fuel quality problems if they occur.

Therefore, the most important aspect regarding engine warranties and biodiesel is whether an engine manufacturer will void its parts and workmanship warranty when biodiesel is used, and whether the fuel producer or marketer will stand behind its fuels should problems occur.

Most major engine companies have stated formally that the use of blends up to B20 will not void their parts and workmanship warranties. This includes blends below 20% biodiesel, such as the 2% biodiesel blends that are becoming more common. Several statements from the engine companies are available on the NBB website. Some engine companies have already specified that the biodiesel must meet ASTM D-6751 as a condition, while others are still in the process of adopting D-6751 within their company or have their own set of guidelines for biodiesel use that were developed prior to the approval of D-6751. It is anticipated that the entire industry will incorporate the ASTM biodiesel standard into their owner's manuals over time.

The National Biodiesel Board, the trade association for the biodiesel industry, has formed the National Biodiesel Accreditation Commission (NBAC) to audit fuel producers and marketers in order to enforce fuel quality standards in the US. NBAC issues a 'Certified Biodiesel Marketer' seal of approval for biodiesel marketers that have met all requirements of fuel accreditation audits. This seal of approval will provide added assurance to customers, as well as engine manufacturers, that the biodiesel marketed by these companies meets the ASTM standards for biodiesel and that the fuel supplier will stand behind its products.

With biodiesel that meets the D-6751 specification, there have been over 45 million miles of successful, problem-free, real-world operation with B20 blends in a wide variety of engines, climates, and applications. The steps taken by the biodiesel industry to work with the engine companies and to ensure that fuel meets the newly accepted ASTM standards provides confidence to users and engine manufacturers that their biodiesel experiences will be positive and trouble-free.

Statements

- Caterpillar
- Cummins

- [Detroit Diesel](#) - (Extracted pages from DDC's Sept 2002 Lubricating Oil, Fuel and Filters Engine Requirements guide.) For a complete copy of the document visit: <http://www.detroitdiesel.com/public/technicianguides/7se270.pdf>
- [International](#)
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14 September 2001

John Deere Power Systems

BIODIESEL FUEL IN JOHN DEERE DIESEL ENGINES

John Deere PowerTech® and Non PowerTech® Diesel Engines

The expression "Biodiesel" describes the various fuels collectively known as Fatty Acid Methyl Ester (FAME):

- Rape Methyl Ester (RME)
- Plant Methyl Ester (PME)
- Soybean Methyl Ester (SOME)

Biodiesel fuels may be used in John Deere diesel engines only if the fuel meets the ASTM PS121 or DIN 51606 specification (Table A). Performance loss or failures related to the use of these products are not considered the responsibility of John Deere. John Deere product warranty covers defects in workmanship and material as manufactured and sold by John Deere.

NOTE: Raw pressed vegetable oils are NOT acceptable for use for fuel in any concentration. In John Deere engines, these oils do not burn completely, and will cause engine failure by leaving deposits on injectors and in the combustion chamber.

Emission certified engines are equipped with fuel injection pumps (FIP) that are compatible with Biodiesel with the exception of engines with Delphi DP200 series FIP. Refer to Table B for a parts list needed to make the Delphi DP200 compatible with Biodiesel. Consult your local ADS shop for all other FIP.

When using a blend of Biodiesel fuel in a rotary FIP, the engine oil level must be checked daily when the air temperature is -10° C (14° F) or lower. If oil becomes diluted with fuel, oil change intervals must be shortened. Correct intervals may be established by using OilScan®/OilScan Plus™ programs. Another factor due to cold temperatures is the cloud point of the fuel. When blending Biodiesel the minimum temperature at which the fuel will start to cloud is raised.

While a major environmental benefit of a Biodiesel fuel is its ability to biodegrade, users must recognize that storage and handling is of prime importance as indicated below:

- Ensure the quality of the fresh fuel, (fuel meets the specifications in Table A).
- Keep storage and vehicle tanks as full as possible to prevent moisture from collecting inside.
- Ensure all tank caps and covers are installed properly to prevent water from entering.

- Monitor water content of the fuel regularly (Bonds with water, creating acids).
- Limit the storage tanks from extreme temperatures (i.e. Direct sun or frost).
- Problems due to aging of the fuel (Store properly, degrades quickly).
- Wash down spills with clean water immediately to prevent corrosion and damage to paint.
- Fuel filter may need to be replaced more often due to premature plugging.
- Check engine oil sump level daily prior to starting, a rising level may indicate lubricating oil delution.
- Instability resulting from blending Biodiesel with mineral diesel fuel.
- Consult your fuel supplier for additives to improve storage and performance of Biodiesel fuels.

Potential problems resulting from deficiencies in the above areas when using Biodiesel fuel in concentrations above 5% may lead to the following symptoms:

- Power loss and deterioration of performance
- Fuel leakage through seals and hoses
- Corrosion of fuel injection equipment
- Coked/blocked injector nozzles, leading to poor atomization of fuel
- Filter plugging
- Lacquering/seizure of internal injection system components
- Sludge and sediments
- Reduced service life

Table A

Biodiesel Property List			
Property	Unit	ASTM PS121-99	DIN 51606 Sept 1997
Density at 15° C (59° F)	g/cm ³ (lb/ft ³)		0.875 - 0.900 (55 - 56)
Viscosity at 40° C (104° F)	mm ² /s (cST)	1.9 - 6.0	3.5 - 5.0
Cloud Point	°C (°F)	Report to Customer	
Flash Point	°C (°F)	Min. 100	Min. 110 (230)
Total Sulfur	% Mass	Max. 0.05	Max. 0.01
Cetane Number	—	Min. 40	Min. 49
Ash Content	% Mass	Max. 0.02	Max. 0.03
Water Content	% Mass	Max. 0.050	Max. 0.03
Copper Corrosion (3 hours, 50° C) (3 hours, 122° F)	Degree of Corrosion	No. 3 Max.	No. 1
Free Glycerin	% Mass	0.02 Max.	Max. 0.02
Total Glycerin	% Mass	0.240 Max.	Max. 0.25
Carbon Residue 100% sample	% Mass	0.05 Max.	
Acid Number	Mg KOH/gm	0.80 Max.	
Total Contamination	% Mass		Max. 0.002
Neutralization Value	mg KOH/g		Max. 0.5
Methanol Content	% Mass		Max. 0.3
Monoglycerides	% Mass		Max. 0.8
Diglycerides	% Mass		Max. 0.4
Triglycerides	% Mass		Max. 0.4
Iodine Number	—		Max. 115
Phosphorus	% Mass		Max. 0.001
Alkali Content (Na + K)	% Mass		Max. 0.0005
(Cold Filter Plugging Point)—Summer	°C (°F)		Max. 0 (32)
(Cold Filter Plugging Point)—Winter	°C (°F)		Max. -20 (-4)

Table B

Delphi (Lucas) DP200 Fuel Injection Pump			
LSN	Part Number	Qty.	Description
Without Boost Control:			
106	7185-816	1	Drive Shaft Seal
With Boost Control:			
106	7185-816	1	Drive Shaft Seal
732	7185-781A	1	Boost Diaphragm Assembly
802	5855-30GG	1	O-Ring

LSN - Line Sequence Number

NOTE: Experience shows that Biodiesel is not always conforming to standards defined. In addition, the specifications listed in Table A are broadly defined which results in variation of the Biodiesel quality. The FAME fuel composition can vary in quality. This variation of quality can cause fuel injection system failures with all engines. The operator must ensure the supply of qualified Biodiesel does not harm any parts of the engines fuel system.



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John Deere approves eco-friendly Biodiesel fuel for its products*

Lenexa, Kansas – February 21, 2002 – John Deere has approved the use of up to 5% concentration soy-based Biodiesel fuel in its PowerTech® diesel engines. This announcement is just the latest step in John Deere's ongoing 35-year commitment to the development of bio-based alternative fuels that benefit both the environment and the agricultural community.

"We're excited to be able to support the use of Biodiesel in our products," notes Ted Breidenbach, Manager of Worldwide Engine Engineering for John Deere Power Systems. "Biodiesel is a valuable tool for helping reduce engine emissions. It also stands as one of the linchpins in the movement to develop alternative uses for commodity products that can ultimately deliver more value to our producer customers.

"The quality of Biodiesel as a fuel source has improved tremendously in recent years," Breidenbach adds. "We're confident that when it's used per factory specifications it will generate the performance producers have come to expect from their John Deere equipment."

After thorough testing and analysis John Deere engineers have developed the following guidelines to help ensure optimum use of Biodiesel:

- Customers should consult with their local fuel suppliers to be sure the Biodiesel fuel meets the ASTM PS 121-99 or DIN 51606 fuel specifications.

- Biodiesel, by definition is biodegradable, so the higher the concentration of Biodiesel in a fuel blend, the more susceptible the fuel is to degradation and water absorption. Concentrations of no more than five percent Biodiesel are approved to minimize the potential problems associated with fuel degradation. Concentrations beyond 5%, by volume, could adversely affect engine performance and fuel system durability.
- Operators should keep storage and vehicle tanks as full as possible to prevent moisture. Storage tanks should be protected from extreme temperatures and extended storage of Biodiesel fuel should be limited. Routine monitoring of the fuel's water content is also recommended.

Following these guidelines will ensure normal warranty coverage on products fueled by Biodiesel blends.**

John Deere will continue to support further development and use of Biodiesel and additional alternative uses for agricultural commodities. This commitment is evident in the company's support of renewable fuels legislation and in John Deere's ongoing exploration and use of soy-based resins to replace sheet metal on products. An example of this technology is the HarvestForm panels that will be used on John Deere Combines built in 2002. These panels are made from a special polymer derived from corn and soybeans.

"These are exciting technologies that will have long-term benefits for producers, consumers and every citizen with environmental concerns," Breidenbach says.

One of the world's oldest and most respected enterprises, John Deere (www.JohnDeereAg.com) creates smart and innovative solutions, in the form of advanced machines, services and concepts, for customers on the farmsite, worksite, and homesite worldwide.

**Editor's note: This is a revised news release, the original was distributed December 3, 2001.*

*** Users of John Deere Emission Certified Engines, are responsible for obtaining any appropriate local, state, and national exemptions required for the use of Biodiesel.*

###

Notes to Table 5-1

1. The flash point temperature is a safety-related property which must be established according to applicable local requirements.
2. The cloud point should be 10° F (6° C) below the lowest ambient temperature to prevent clogging of fuel filters by wax crystals.
3. The filter plugging point temperature should be equal to or below the lowest expected fuel temperature.
4. No free water visible.

NOTE:

When prolonged idling periods or cold weather conditions below 32 °F(0 °C) are encountered, the use of 1-D fuel is recommended. Note, however, that transit coach engines are emission certified on either No.1 or No.2 fuel. To maintain emission compliance, only the correct certified fuel should be used.

5.1.1 FUEL LUBRICITY

It is recommended that all fuels used in DDC engines meet the minimum lubricity requirements listed in Table 5-1, "Diesel Fuel Specifications." Fuels not meeting the lubricity requirements may be additized to meet them.

5.1.2 PREMIUM DIESEL FUEL

Premium diesel fuels are not covered by any existing industry specification. It is recommended that the customer obtain additional information from the fuel marketer and compare properties to those listed in Table 5-1 before using.

5.1.3 HEAVY FUELS NOT RECOMMENDED

Heavy fuels intended for use in slow speed diesel engines and as burner fuel are not recommended for use in any Detroit Diesel engine. Marine fuels specified by ASTM D2609 are examples of such fuels. These fuels are known to cause combustion deposits and will likely reduce engine durability.

5.1.4 BIODIESEL FUELS

Biodiesel fuels are alkyl esters of long chain fatty acids derived from renewable resources. Biodiesel fuels must meet ASTM Specification D 6751. Biodiesel meeting the D 6751 specifications can be blended up to 20% maximum by volume in diesel fuel. The resulting mixture must meet the fuel properties listed in Table 5-1. Failures attributed to the use of biodiesel will not be covered by Detroit Diesel product warranty.

The following quotation is extracted from *World-Wide Fuel Charter – Draft for comments – June 2002, page 46* for reference and guidance:

"Based on the technical effects of FAME [Fatty Acid Methyl Esters], it is strongly advised that FAME content be restricted to less than 5%. As a pure fuel, or at higher levels in diesel fuel, the vehicles need to be adapted to the fuel, and particular care is needed to avoid problems."

5.1.5 OTHER FUELS

Fuels listed in Table 5-2 and Table 5-3 have provided economic and availability advantages for some applications, particularly where No. 1 type fuels are required. These do not meet requirements listed in Table 5-1. Although not recommended, they have demonstrated acceptable performance in controlled applications.

Property	Jet A/A-1 D 1655	JP-5	JP-8 ¹	CONUS DF-1	CONUS DF-2	OCONUS DF-2
API Gravity, @ 60° F	44.3	41.1	45.6	42.3	34.2	38.5
Flash Point, °C	38	62	45	50	74	70
Viscosity, Kin., cSt @ 40° C	—	1.5	1.2	1.6	2.8	3.0
Cloud Point °C	-40	-46	-47	-41	-12	-19
Sulfur, % mass	0.3 Max.	0.4 Max.	0.4 Max.	0.05 Max.	0.05 Max.	0.3 Max.
Cetane Number	—	42	45	44	47	49
Distillation % Vol. Rec., °C						
—IBP	—	180	157	174	190	176
—10% Typical	205	191	175	196	222	219
—50% Typical	Report	215	200	219	265	365
—90% Max.	Report	242	236	246	313	311
Final Boiling Point, Max. Temp.	300	—	—	—	—	—
Heat Content, Btu/gal., Net	123, 608	125, 270	123, 069	125, 960	131, 207	127, 820

1. JP + 100 is not recommended in equipment with water-coalescing filters.

Table 5-2 Selected Typical Fuel Properties

Type	NATO Spec.	Mil. Spec	Application
JP-4	F-40	Mil-T-5624	Jet Fuel, Contains 50% Gasoline: Not Recommended
JP-5	F-44	Mil-T-5624	Jet Fuel, Kerosene Based
JP-8	F-34	Mil-T-83133	Jet A-1 with De-Icer and Corrosion Inhibitor
Jet A	None	None	Industry Standard Jet Fuel
Jet A-1	F-35	None	Jet Fuel, ASTM D 1655
DL-1/DL-2	F-54	W-F 800 CONUS	Specified Military Use Inside Continental U.S.
DA-2	F-54	W-F 800 OCONUS	Specified Military Use Outside Continental U.S.

Table 5-3 Fuel Type Specifications and Applications

Lower density fuels, such as those listed in Table 5-2 and Table 5-3 and “winter blended” diesel fuels, have a lower volumetric heat content than the standard No. 2 fuel listed in Table 5-1, “Diesel Fuel Specifications.” Operating with these fuels will result in reduced engine output and reduced fuel mileage, compared to standard No. 2 fuel. Reductions of 5% are not unusual and may be as high as 10%. A good rule of thumb is this: *The engine power is proportional to the heating value of the fuel.*

Lower density fuels also tend to have lower viscosity and poor lubrication characteristics. Fuel filtration should be changed to that recommended for “Severe Duty Service” to prevent potential injector seizure from dirt contamination of fuel.

Field Announcement – August 30, 2001

Subject: Cummins Position on the use of Biodiesel Fuel

Background

With increased interest in emissions and reducing the use of petroleum distillate based fuels, some governments and regulating bodies are encouraging the use of bio fuels. Biodiesel fuels should be considered experimental at this time. Governmental incentives and/or environmental legislation to use bio fuels may have an impact on the sales and use of Cummins engines. This document outlines Cummins criteria and parameters when using biodiesel fuel.

SME or SOME 'Soy Methyl Ester' Diesel is the most common bio diesel in the U.S. and is derived from soybean oil. Soy Diesel is a biodiesel/petrodiesel blend based on SME. RME 'Rape Methyl Ester' Diesel is the most common biodiesel in Europe and is derived from rapeseed oil. These fuels are collectively known as Fatty Acid Methyl Esters (FAME).

Fuel Characteristics

Biodiesel fuels are methyl/ethyl ester-based oxygenates derived from a broad variety of renewable sources such as vegetable oils, animal fats, and cooking oils. Their properties are similar to diesel fuel, as opposed to gasoline or gaseous fuels, and thus are capable of being used in compression ignition engines. Biodiesel fuels have a lower energy content; about 89% of #2 diesel fuel, and is therefore a less efficient fuel. Its higher viscosity range (1.9-6.0 centistokes) vs 1.3-5.8 centistokes for diesel) helps offset the lower energy content through reduced barrel/plunger leakage resulting in slightly improved injection efficiency. Combining lower energy content and slightly improved injection efficiency, biodiesel fuel provides 5-7% less energy per gallon compared to diesel fuel. The cetane value of biodiesel fuel is 40 minimum compared to 42 minimum for Cummins diesel fuel specification. Biodiesel fuel has improved lubricity compared to standard diesel fuel.

There are provisional specifications for FAME issued in Germany under DIN V 51 606, and also recently through ASTM PS-121, however these standards are under development and are subject to change. For additional information, refer to the Cummins diesel fuel specifications listed in Table 1 and to the ASTM provisional specification PS-121 for biodiesel fuels.

Emissions

It is the responsibility of the user to obtain the proper local, regional, and/or national exemptions required for the use of biodiesel in any emissions regulated Cummins engine. From the Comprehensive Health and Environmental Effects testing, a fuel blend consisting of 20% biodiesel and 80% diesel fuel (B20) can yield percent reductions ranging from 16-

33% in particulates, 11-25% in Carbon Monoxide (CO), and 19-32% in Hydrocarbon (HC) emissions. The B20 biodiesel fuel blend will cause an increase in NOx of 2%.

Performance and Durability Results

Cummins test data on the operating effects of biodiesel fuels indicates that typically smoke, power, and fuel economy are all reduced. However, as there are no firm industry standards on the content and properties for bio fuels, consistency and predictability of biodiesel operation is not well documented.

Biodiesel provides approximately 5-7% less energy per gallon of fuel when compared to distillate fuels. To avoid engine problems when the engine is converted back to 100% distillate diesel fuel, do not change the engine rating to compensate for the power loss when operated with biodiesel fuels.

Elastomer compatibility with bio diesel is still being monitored. The condition of seals, hoses, gaskets, and wire coatings should be monitored regularly.

Cummins certifies its engines using the prescribed EPA and European Certification Fuels. Cummins does not certify engines on any other fuel. It is the user's responsibility to use the correct fuel as recommended by the manufacturer and allowed by EPA or other local regulatory agencies. In the United States, the EPA allows use of only registered fuels for on-highway applications. The EPA has additional alternative fuel information at: <http://www.epa.gov/otaq/consumer/fuels/altfuels/altfuels.htm>

Given the current industry understanding of bio fuels and blending with quality diesel fuel, it would be expected that blending up to a 5% volume concentration should not cause serious problems. For customers intent on blending bio fuels above a 5% volume concentration, the following concerns represent what is currently known in the industry. Concentrations beyond 5% by volume could have an adverse effect on the engine's performance and the fuel system integrity/durability. The affects are more serious with increasing concentration levels.

Areas of concern when operating with biodiesel fuels include low temperature operability (fuel gelation, filter plugging), heat content (poor fuel economy), and storage and thermal stability (filter plugging, injector deposits). The oil change interval can be affected by the use of biodiesel fuels and some applications may require shortening intervals to half of the diesel equivalent. Lube oil dilution in applications with significant part load operation will fall under this guideline.

In addition, from Cummins' fuel systems suppliers, the following issues are also noted: swelling and hardening/cracking of some elastomer seals within the fuel system/engine, corrosion of fuel system and engine hardware - especially aluminum and zinc, solid particle blockage of fuel nozzles and passages, filter plugging, injector coking, higher injection pressures due to physical flow properties - reduced fuel system life, added stress and heat to injection components - especially rotary fuel pumps - increased pump seizures and early life failures, poor fuel spray atomization - reduced fuel economy. Pure biodiesel fuel is not

stable and its acid content increases over time which can damage powder metal components

Fuel System Vehicle Issues and Storage

The oil change interval can be affected by the use of biodiesel fuel. End users are advised to use oil sampling to monitor the engine oil condition and to determine the optimum oil change interval. Pure biodiesel fuel can cause a chemical reaction with lube oil resulting in oil sludging.

Elastomer compatibility with biodiesel is still being monitored. The condition of seals, hoses, gaskets, and wire coatings should be monitored regularly.

Biodiesel fuels contain residual alcohol from the esterification process, which can remove deposits from fuel tanks and lines causing filter plugging during initial testing. The fuel system should be flushed with this fuel before operation, and the fuel filters will need frequent replacement in the early stages of operation in older units.

Biodiesel fuels may pose low ambient temperature problems for both storage and operation. At low ambient temperatures, fuel may need to be stored in a heated building or a heated storage tank. The fuel system may require heated fuel lines, filters, and tanks. Filters may plug and fuel in the tank may solidify at low ambient temperatures if precautions are not taken. Consult your bio diesel supplier for assistance in the blending and attainment of the proper cloud point fuel.

Biodiesel has poor oxidation stability, which can result in long term storage problems. The poor oxidation stability qualities may accelerate fuel oxidation in the fuel system. This is especially true in engines with electronic fuel systems because they operate at higher temperatures. Consult the fuel supplier for oxidation stability additives.

Biodiesel fuel is an excellent medium for microbial growth. Microbes cause fuel system corrosion and premature filter plugging. The effectiveness of conventional anti-microbial additives, when used in biodiesel is not known. Consult your fuel and additive supplier for assistance.

Care must be taken to remove water from fuel tanks. Water accelerates microbial growth. Water is naturally more prevalent in biodiesel fuels than in distillate fuels.

Warranty and the use of Biodiesel Fuel In Cummins Engines

Cummins neither approves or disapproves of the use of biodiesel fuel. Cummins is not in a position to evaluate the many variations of biodiesel fuels or other additives, and their long-term effects on performance, durability or emissions compliance of Cummins products. The use of biodiesel fuel does not affect Cummins Material and Workmanship warranty. Failures caused by the use of biodiesel fuels or other fuel additives are **NOT** defects of workmanship and/or material as supplied by Cummins, Inc and can **NOT** be compensated under the Cummins' warranty.

Bosch states in their Diesel Fuel Quality – Common Position Paper (03/05/99) that no guarantee on FIE is given so far to any alternative fuel except for Diesel + 5% FAME. There is a major difference between operating on pure (100% concentration) biodiesel fuels and biodiesel/petro diesel fuel blends.

From the ASTM provisional specification PS-121, Base 100% biodiesel must meet the following specifications before being mixed :

ASTM PS-121 Provisional Specification for Biodiesel Fuel B100				
Property	Test Method	Test Method	Units	Limits
	United States	International	Fuel Specific Properties	
Density @ 15°C	ASTM D1298	DIN/ISO 3675	g/cm ³	0.86-0.90
Viscosity @ 40°C	ASTM D445	DIN/ISO 3104	mm ² /s	4.0-6.0
Flash Point	ASTM D93	DIN/ISO 22719	°C	100 min
Cold Filter Plugging - Summer - Winter	ASTM D4539	DIN EN 116	°C	0 6 below ambient
Pour Point - Summer - Winter	ASTM D97	ISO 3016	°C	-9 max -20 max
Sulfur Content	ASTM D2622	ISO 8754	% weight	0.01 max
Distillation - 10% Evaporation - 90% Evaporation	ASTM D1160	ISO 340	°C	To Be Determined 345
Carbon Residue, Conradson (CCR)	ASTM D189	DIN/ISO 10370	% weight	0.5 max
Cetane Number	ASTM D613	ISO 5165		45 min
Ash Content	ASTM D482	DIN 51575 ISO 6245	mg/kg	0.02 max
Water Content	ASTM D1796	DIN 51777-1 ISO 3733	g/m ³	500 max
Particulate Matter	DIN 51419	DIN 51419		15
Copper Corrosion	ASTM D130	DIN/ISO 2160		No.1
Oxidation Stability	ASTM D2274	IP 306 mod.	mg/100 mL	15 max
Esterification			% volume	98.0 min
Acid Value	ASTM D664	DIN 51558	mg NaOH/g	0.5 max
Methanol Content	GC Method	DIN 51608	% weight	0.2 max
Monoglycerides	GC Method	DIN 51609	% weight	0.8 max
Diglycerides	GC Method	DIN 51609	% weight	0.2 max
Triglycerides	GC Method	DIN 51609	% weight	0.2 max
Free Glycerine	GC Method	DIN 51609	% weight	0.02 max
Total Glycerine	GC Method	DIN 51609	% weight	1.2 max
Iodine Number	DIN 53241 or IP 84/81	DIN 53241 or IP 84/81	cg I ₂ /g	110 max
Phosphorus Content	DGF C-VI4	DIN 51440-1	mg/kg	0.2

Table 1: Cummins Recommended Diesel Fuel Properties

Property (Test Method)	Recommended Specifications	General Description
Viscosity (ASTM D 445, ISO 3104)	1.3 to 5.8 centistokes (1.3 to 5.8 mm per second) at 40 °C (104 °F)	Proper viscosity provides adequate pumping and lubricating characteristics to fuel system components.
Cetane Number (ASTM D 613, ISO 5165))	42 Minimum above 0 °C (32 °F) 45 Minimum below 0°C (32 °F)	Cetane number is a measure of the starting and warm-up characteristics of a fuel. In cold weather or in service with prolonged low loads, a higher cetane number is desirable.
Sulfur Content (ASTM D2622, ISO 4260)	Not to exceed 0.5 mass percent*	Diesel fuels contain varying amounts of various sulfur compounds. Fuel sulfur contributes to acid formation and exhaust particulates. Reduced sulfur is required to meet particulate emissions and to avoid poisoning aftertreatment devices. Higher sulfur fuel also needs higher TBN lubricants to compensate for acid corrosion.
Active Sulfur (ASTM D 130, ISO 2160)	Copper Strip Corrosion not to exceed No. 2 rating after three hours at 50°C (122-F).	Some sulfur compounds in fuel are actively corrosive.
Water and Sediment (ASTM D1796)	Not to exceed 0.05 volume percent.	The amount of water and solid debris in the fuel is generally classified as water and sediment. It is good practice to filter fuel while it is being put into the fuel tank. More water vapor condenses in partially filled tanks due to tank breathing caused by temperature changes. Filter elements, fuel screens in the fuel pump and fuel inlet connections on injectors must be cleaned or replaced whenever they become dirty. These screens and filters, in performing their intended function, become clogged when using a poor or dirty fuel and will need to be changed more often.
Carbon Residue (ASTM D524, ASTM D189, ISO 10370)	Not to exceed 0.35 mass percent on 10 volume percent residuum.	The tendency of a diesel fuel to form carbon deposits in an engine can be estimated by determining the Ramsbottom or Conradson carbon residue of the fuel after 90 percent of the fuel has been evaporated.
Density (ASTM D287, D4052, ISO 3675)	0.816 to 0.876 g/cc at 15°C(60°F).	Density is an indication of the energy content of the fuel. Higher density indicates more thermal energy and better fuel economy.
Cloud Point (ASTM D97, ISO 3015)	6°C [10°F] below lowest ambient temperature at which the fuel is expected to operate.	The cloud point of the fuel is the temperature at which crystals of paraffin wax first appear. Crystals can be detected by cloudiness of the fuel. These crystals will cause filters to plug.
Ash (ASTM D482, ISO 6245)	Not to exceed 0.02 mass percent (0.05 mass percent with lubricating oil blending).	The small amount of non-combustible metallic material found in almost all petroleum products commonly is called ash.
Distillation (ASTM D86, ISO 3405)	The distillation curve must be smooth and continuous.	At least 90 percent of the fuel must evaporate at less than 360 degC (680 degF). All of the fuel must evaporate at less than 385 degC (725 degF).
Lubricity SLBOCLE (ASTM D6078), HFRR (ASTM D6079, ISO 12156)	3100 grams or greater SLBOCLE, or Wear Scar Diameter (WSD) less than 0.45 mm at 60°C HFRR.	Lubricity is the ability of a liquid to provide hydrodynamic and/or boundary lubrication to prevent wear between moving parts. Fuel with lower sulfur and/or viscosity tends to have lower lubricity.

*Regional, national, or international regulations may require a lower sulfur content than 0.5%. Consult all applicable regulations before selecting a fuel for a given engine application. Fuel with sulfur higher than 0.5% is not allowed without prior approval by Cummins. Fuel system corrosion, heightened emissions, and reduced oil drain intervals are just some of the possible adverse effects of fuels with very high sulfur.

NOTE: Special hardened parts are available for some PT and HPI fuel systems to operate on fuel with lubricity lower than required. Contact Cummins distributors for options.



Preventive Maintenance Products

March 2001

CATERPILLAR POSITION ON THE USE OF BIODIESEL FUEL

This document applies, within the stated limitations, to Caterpillar engines.

Introduction:

With increased world interest in emissions and reducing the use of petroleum distillate based fuels, many governments and regulating bodies encourage the use of biofuels. Governmental incentives and/or environmental legislation to use biofuels may have an impact on the sales and use of Caterpillar engines and equipment. This document outlines Caterpillar's criteria and parameters when using biodiesel fuel.

Biodiesel is a fuel that can be made from a variety of sources, primarily from soybean oil or rapeseed oil. Without esterification, these oils gel in the crankcase and fuel tank and may not be compatible with many of the elastomers used in today's engines. In their original form, these oils are not suitable for use as a fuel in compression ignition engines. To use these oils as fuel, they must be esterified. Alternate base stocks for biofuel may include animal tallow, waste cooking oils, or a variety of other feedstocks.

ASTM has recently authored a provisional specification for biodiesel, PS121. Caterpillar recognizes BioFuels meeting the ASTM PS121, DIN 51606 or the Caterpillar biodiesel specification.

Caterpillar certifies its engines using the prescribed EPA and European Certification Fuels. Caterpillar does not certify engines on any other fuel. It is the user's responsibility to use the correct fuel as recommended by the manufacturer and allowed by EPA or other local regulatory agencies. It is the responsibility of the user to obtain the proper local, regional, and/or national exemptions required for the use of biodiesel in any emissions regulated Caterpillar engine.

Warranty and the Use of Biodiesel Fuel in Caterpillar Engines

Caterpillar neither approves nor prohibits the use of biodiesel fuels. Caterpillar is not in a position to evaluate the many variations of biodiesel fuels, and the long-term effects on performance, durability or emissions compliance of Caterpillar products. The use of biodiesel fuel does not affect Caterpillar's materials and workmanship warranty. **Failures resulting from the use of any fuel are not Caterpillar factory defects and therefore the cost of repair would NOT be covered by Caterpillar's warranty.**

Recommendation for the use of Biodiesel Fuel in Caterpillar Engines

For Caterpillar 3046, 3064, 3066, 3114, 3116, 3126, 3176, 3196, 3208, 3306, C-10, C-12, 3406, C-15, C-16, 3456, 3408, 3412, 3500 series, 3600 series, CM20, CM25 and CM32 engines: Biodiesel meeting the requirements listed in Caterpillar's biodiesel specification or, meeting either ASTM PS121 or DIN 51606, are acceptable. They may also be blended in any percentage with an acceptable diesel fuel, provided the biodiesel constituent meets the requirements outlined in the Table prior to blending.

For Caterpillar 3003 through 3034, 3054 and 3056 engines: Biodiesel meeting the requirements listed in Caterpillar's biodiesel specification, or meeting either ASTM PS121 or DIN 51606, may be blended with an acceptable diesel fuel at a maximum of 5% biodiesel fuel blended with 95% diesel fuel. The biodiesel must meet the requirements outlined in the Table prior to blending. Use of more than a 5% biodiesel fuel can cause premature failures whose repair would not be covered under Caterpillar warranty.

When burning biodiesel, or any blend of biodiesel, it is the responsibility of the user to obtain the proper local, regional, and/or national exemptions required for the use of biodiesel in any emissions regulated Caterpillar engine. When using a fuel that meets the Caterpillar's Biodiesel specification, ASTM PS121, or DIN 51606 specifications, and when adhering to the following recommendations, the use of biodiesel should pose no problems.

Recommendations:

- The oil change interval can be affected by the use of biodiesel fuel. Use Scheduled Oil Sampling (SOS) to monitor the engine oil condition and to determine the optimum oil change interval.
- Biodiesel provides approximately 5-7% less energy per gallon of fuel when compared to distillate fuels. To avoid engine problems when the engine is converted back to 100% distillate diesel fuel, do not change the engine rating to compensate for the power loss.
- Elastomer compatibility with biodiesel is still being monitored. The condition of seals and hoses should be monitored regularly.
- Biodiesel fuels may pose low ambient temperature problems for both storage and operation. At low ambient temperatures, fuel may need to be stored in a heated building or a heated storage tank. The fuel system may require heated fuel lines, filters, and tanks. Filters may plug and fuel in the tank may solidify at low ambient temperatures if precautions are not taken. Consult your biodiesel supplier for assistance in the blending and attainment of the proper cloud point fuel.
- Biodiesel has poor oxidation stability, which can result in long term storage problems. The poor oxidation stability qualities may accelerate fuel oxidation in the fuel system. This is especially true in engines with electronic fuel systems because they operate at higher temperatures. Consult the fuel supplier for oxidation stability additives.
- Biodiesel fuel is an excellent medium for microbial growth. Microbes cause fuel system corrosion and premature filter plugging. The effectiveness of conventional anti-microbial additives, when used in biodiesel is not known. Consult your fuel and additive supplier for assistance.
- Care must be taken to remove water from fuel tanks. Water accelerates microbial growth. Water is naturally more prevalent in biodiesel fuels than in distillate fuels.

Caterpillar Biofuel Specification

Property	Test Method	Test Method	Units	Limits
	United States	International	Fuel Specific Properties	
Density @ 15°C	ASTM D1298	DIN/ISO 3675	g/cm ³	0.86-0.90
Viscosity @ 40°C	ASTM D445	DIN/ISO 3104	mm ² /s	4.0-6.0
Flash Point	ASTM D93	DIN/ISO 22719	°C	100 min
Cold Filter Plugging	ASTM D4539	DIN EN 116	°C	0
- Summer				6 below ambient
- Winter				
Pour Point	ASTM D97	ISO 3016	°C	-9 max
- Summer				-20 max
- Winter				
Sulfur Content	ASTM D2622	ISO 8734	% weight	0.01 max
Distillation	ASTM D1160	ISO 340	°C	To Be Determined
- 10% Evaporation				345
- 90% Evaporation				
Carbon Residue, Conradson (CCR)	ASTM D189	DIN/ISO 10370	% weight	0.5 max
Cetane Number	ASTM D613	ISO 5165		45 min
Ash Content	ASTM D482	DIN 51575 ISO 6245	mg/kg	0.02 max
Water Content	ASTM D1796	DIN 51777-1 ISO 3733	g/m ³	500 max
Particulate Matter	DIN 51419	DIN 51419		15
Copper Corrosion	ASTM D130	DIN/ISO 2160		No.1
Oxidation Stability	ASTM D2274	IP 306 mod.	mg/100 mL	15 max
Esterification			% volume	98.0 min
Acid Value	ASTM D664	DIN 51558	mg NaOH/g	0.5 max
Methanol Content	GC Method	DIN 51608	% weight	0.2 max
Monoglycerides	GC Method	DIN 51609	% weight	0.8 max
Diglycerides	GC Method	DIN 51609	% weight	0.2 max
Triglycerides	GC Method	DIN 51609	% weight	0.2 max
Free Glycerin	GC Method	DIN 51609	% weight	0.02 max
Total Glycerin	GC Method	DIN 51609	% weight	1.2 max
Iodine Number	DIN 53241 or IP 84/81	DIN 53241 or IP 84/81	cg I ₂ /g	110 max
Phosphorus Content	DGF C-VI4	DIN 51440-1	mg/kg	0.2

Maintenance Products and Services Group
Product Support Division
LC2172 - 309-636-5136

This IRM can be viewed and downloaded electronically from the Internet. Please refer to your marketing organization specific site for access to the Electronic Sales Library which contains all of the active IRMs and product support communication materials.

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 CofA Dealers - <https://cofa.cat.com/infocast/frames/SalesTools/SalesLib/>
 Cat Asia Dealers - <https://catasia.cat.com/infocast/frames/mktgcom/elecsale/>
 Internal Caterpillar Employees - [http://cat-mcsd-02.cis.cat.com/multimedia/PSMprev.nsf/\\$\\$ModelSearch](http://cat-mcsd-02.cis.cat.com/multimedia/PSMprev.nsf/$$ModelSearch)



Biodiesel Myths and Facts

Myth: Biodiesel is an experimental fuel and has not been thoroughly tested.

Fact: Biodiesel is one of the most thoroughly tested alternative fuels on the market. A number of independent studies have been completed with the results showing biodiesel performs similar to petroleum diesel while benefiting the environment and human health compared to diesel. That research includes studies performed by the U.S. Department of Energy, the U.S. Department of Agriculture, Stanadyne Automotive Corp. (the largest diesel fuel injection equipment manufacturer in the U.S.), Lovelace Respiratory Research Institute, and Southwest Research Institute. Biodiesel is the first and only alternative fuel to have completed the rigorous Health Effects testing requirements of the Clean Air Act. Biodiesel has been proven to perform similarly to diesel in more 50 million successful road miles in virtually all types of diesel engines, countless off-road miles and countless marine hours. Currently more than 300 major fleets use the fuel.

Myth: Biodiesel does not perform as well as diesel.

Fact: One of the major advantages of biodiesel is the fact that it can be used in existing engines and fuel injection equipment with little impact to operating performance. Biodiesel has a higher cetane number than U.S. diesel fuel. In more than 50 million miles of in-field demonstrations, B20 showed similar fuel consumption, horsepower, torque, and haulage rates as conventional diesel fuel. Biodiesel also has superior lubricity and it has the highest BTU content of any alternative fuel (falling in the range between #1 and #2 diesel fuel).

Myth: Biodiesel doesn't perform well in cold weather.

Fact: Biodiesel will gel in very cold temperatures, just as the common #2 diesel does. Although pure biodiesel has a higher cloud point than #2 diesel fuel, typical blends of 20% biodiesel are managed with the same fuel management techniques as #2 diesel. Blends of 5% biodiesel and less have virtually no impact on cold flow.

Myth: Biodiesel causes filters to plug.

Fact: Biodiesel can be operated in any diesel engine with little or no modification to the engine or the fuel system. Pure biodiesel (B100) has a solvent effect, which may release deposits accumulated on tank walls and pipes from previous diesel fuel use. With high blends of biodiesel, the release of deposits may clog filters initially and precautions should be taken to replace fuel filters until the petroleum build-up is eliminated. This issue is less prevalent with B20 blends, and there is no evidence that lower-blend levels such as B2 have caused filters to plug.

Myth: A low-blend of biodiesel in diesel fuel will cost too much.

Fact: Using a 2% blend of biodiesel is estimated to increase the cost of diesel by 2 or 3 cents per gallon, including the fuel, transportation, storage and blending costs. Any increase in cost will be accompanied by an increase in diesel quality since low-blend levels of biodiesel greatly enhance the lubricity of diesel fuel.

Myth: Biodiesel causes degradation of engine gaskets and seals.



Biodiesel Myths and Facts

Fact: The recent switch to low-sulfur diesel fuel has caused most Original Equipment Manufacturers (OEMs) to switch to components that are also suitable for use with biodiesel. In general, biodiesel used in pure form can soften and degrade certain types of elastomers and natural rubber compounds over time. Using high percent blends can impact fuel system components (primarily fuel hoses and fuel pump seals) that contain elastomer compounds incompatible with biodiesel, although the effect is lessened as the biodiesel blend level is decreased. Experience with B20 has found that no changes to gaskets or hoses are necessary.

Myth: No objective biodiesel fuel formulation standard exists.

Fact: The biodiesel industry has been active in setting standards for biodiesel since 1994 when the first biodiesel taskforce was formed within the American Society for Testing and Materials (ASTM). ASTM approved a provisional standard for biodiesel (ASTM PS 121) in July of 1999. The final specification (D-6751) was issued in December 2001. Copies of specifications are available from ASTM at <http://www.astm.org>.

Myth: Biodiesel does not have sufficient shelf life.

Fact: Most fuel today is used up long before six months, and many petroleum companies do not recommend storing petroleum diesel for more than six months. The current industry recommendation is that biodiesel be used within six months, or reanalyzed after six months to ensure the fuel meets ASTM specifications (D-6751). A longer shelf life is possible depending on the fuel composition and the use of storage-enhancing additives.

Myth: Engine warranty coverage would be at risk.

Fact: The use of biodiesel in existing diesel engines does not void parts and materials workmanship warranties of any major US engine manufacturer.

Myth: The U.S. lacks the infrastructure to prevent shortages of the product.

Fact: There are presently more than 14 companies that have invested millions of dollars into the development of the biodiesel manufacturing plants actively marketing biodiesel. Based on existing dedicated biodiesel processing capacity and long-term production agreements, more than 200 million gallons of biodiesel capacity currently exists. Many facilities are capable of doubling their production capacity within 18 months.

Myth: There is no government program to support development of a biodiesel industry.

Fact: The U.S. Department of Agriculture announced in January 2001 the implementation of the first program providing cost incentives for the production of 36 million gallons of biodiesel. Bills supporting the use of biodiesel and ethanol were also introduced to the U.S. Congress in 2003, including one that would set a renewable standard for fuel in the U.S. and one that would give biodiesel a partial fuel excise tax exemption. More than a dozen states have passed favorable biodiesel legislation.

North Dakota Farmers Union

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SB 2217 S-FINTAX

Chairman Urlacher and Members of the Senate Finance and Tax Committee.

My name is Richard Schlosser; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in support of SB 2217, which relates to corporate income tax credits and a sales tax exemption for blending of biodiesel fuel and purchase of biodiesel production equipment and to provide for a transfer to the highway tax distribution fund.

We support the use of biodiesel and biodiesel-blended fuels in all possible applications, Farm incomes could be better and less variable if a portion of every farm's production was used for energy uses, and oilseed crops, crop residues, and even animal by-products could be used as feedstock for biodiesel fuels.

The use of crop residues, animal waste, and other products of recycling to produce methane from biomass holds much potential and research using switchgrass or other crop products should be encouraged.

North Dakota Farmers Union (NDFU) encourages and supports research and development of all innovative and renewable energy sources. In addition, our cooperatives can play a leading role in the distribution and marketing of these energy products.

NDFU supports legislation providing incentives, tax credits, and/or requirements to move North Dakota ahead in the use of renewable energy sources.

North Dakota Farmers Union urges a do pass on SB 2217.

Thank you Chairman Urlacher and members of the committee, I will answer any questions at this time.

February 1, 2005

Testimony before the Senate Finance & Taxation Committee
Lewis & Clark Room
Senator Herb Urlacher, Chair.

*Same
given to
House*

**Senate Bill 2217 – Relating to corporate income tax credits, sales tax credits and
excise tax exemption for blending of biodiesel**

Chairman Urlacher and members of the Senate Finance & Taxation Committee,
My name is Jared Hagert from Emerado, North Dakota. I am a soybean producer and
Vice President of the North Dakota Soybean Growers Association and I am here to testify
in favor of Senate Bill 2217.

I am an advocate and user of biodiesel in my farming operation. I am fortunate to
have biodiesel available to me from my fuel supplier in Emerado. Unfortunately, there is
a very large untapped market of consumers in our state who do not have access to
biodiesel because it is simply not available in their area.

In a study that was conducted by "The Tarrance Group, Inc" in March of 2004
showed that only about forty four percent of North Dakota Farmers are using biodiesel in
their operations and fifty four percent were not. When the non users were asked why
they were not using biodiesel, the most common response was the lack of availability.
Eighty one percent of those non-users said they would use biodiesel if it was available in
their area.

Last year North Dakota had 79 year round retail sites for biodiesel with as many
as 160 seasonal sites. The main reason for this fluctuation in the number of sites is the
need to have to pull one product out of their tanks to offer biodiesel. The winter time

blends of fuel are not used in the summer so it is easy to put biodiesel in those tanks but when winter time fuels are needed again biodiesel loses its position at the pump.

In the year 2004 it has been estimated by the North Dakota Soybean Council that North Dakota consumed approximately 400,000 gallons of B100. With the current federal biodiesel tax incentives and the potential state incentives outlined in SB 2217 in place North Dakota could increase in the number of retail sites and easily double its usage within the next year.

Chairman Urlacher and committee members, on behalf of the North Dakota Soybean Growers Association and myself, I am asking for a do pass on SB 2217.

February 1, 2005

Testimony before the Senate Finance & Taxation Committee
Lewis & Clark Room
Senator Herb Urlacher, Chair

Senate Bill 2217 – Relating to corporate income tax credits, sales tax credits and excise tax exemption for blending of biodiesel

Chairman Urlacher and members of the Senate Finance & Taxation Committee,
My name is Jeff Leinen and I reside in Great Bend, North Dakota. I am a farmer, producer of soybeans and the current President of the North Dakota Soybean Growers Association and I am here to testify in favor of Senate Bill 2217.

This bill is not only important to the renewable fuels industry in North Dakota it is a crucial first step towards biodiesel production in our great state. I have been using biodiesel in my farming operation for the past three years. In year one I used a two percent blend, year two a ten percent blend and then in year three I was forced to cut my use down to a five percent blend due to the incremental costs of biodiesel. Right now biodiesel blends cost more than straight petroleum. As a rule of thumb for every one percent of biodiesel blended into a gallon of petroleum it adds approximately 1.2 cents to the cost. As an example a ten percent blend would cost an additional twelve cents per gallon.

Incentives in this bill, like the five cent excise tax credit combined with the excise tax provisions in the American Jobs Creation Act of 2004, which is a one cent excise tax reduction per percent of biodiesel added to petroleum, would help make biodiesel a preferred fuel in North Dakota. Reducing the final cost of the blended fuel would make it more attractive to the consumer to use and allowing income tax credits and sales tax

credits to distributors to build infrastructure would help increase the availability of biodiesel to all consumers and allow higher blends of biodiesel to be maintained and consumed.

Building the distribution network for biodiesel and making it available at the same price as petroleum diesel are crucial first steps towards biodiesel production in the state. With your help we can make North Dakota an economically friendly environment for renewable fuels.

On behalf of myself and the North Dakota Soybean Growers Association I ask for your support of SB 2217 and a do pass recommendation.

TESTIMONY ON SENATE BILL 2217

Senate Finance and Taxation Committee

**Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
North Dakota State Water Commission**

February 1, 2005

Mr. Chairman and Members of the Senate Finance and Taxation Committee, I am Dale Frink, North Dakota State Engineer, and Chief Engineer-Secretary to the North Dakota State Water Commission. I appear before you today in opposition to the proposed transfer of funds from the Resources Trust Fund to the Highway Tax Distribution Fund contained in Senate Bill 2217.

Senate Bill 2217 does not include a fiscal limit for the withdrawals from the Resources Trust Fund. The fiscal note prepared by the Tax Department indicates that the "fiscal impact cannot be estimated". Similar bills, I believe, were introduced in 2001 and 2003. The fiscal notes for these bills were about \$1.7 million.

The executive budget recommendation for the State Water Commission includes revenue of \$15,384,487 from the Resources Trust Fund for water projects. This is all the new revenues projected to come into the Resources Trust Fund. In addition, the State Water Commission will be bonding for additional critical water needs. If Senate Bill 2217 passes, the State Water Commission will either have to incur more debt or the allocation to water projects will have to be reduced.

I urge that you consider eliminating the transfer of funds from the Resources Trust Fund to the Highway Tax Distribution Fund contained in Senate Bill 2217.

Thank you for your time, and I will respond to any questions that you have.

Fuel Tax Agreement (IFTA) for base state fuel tax reporting and reporting. The State Tax Commissioner and non-IFTA importer for use tax administration.

1989 Referral Election. The tax rate increases passed by the 1989 Legislature were rejected in a Special Election. The tax rates for the motor vehicle fuel tax and the special fuels tax remained 17 cents per gallon.

1991 Session. An additional 2 cents per gallon was withheld from farmers' refunds and deposited in the Highway Tax Distribution Fund for incentives to North Dakota ethanol plants. The rate reduction for alcohol blended fuel was eliminated.

1993 Session. The legislature provided for a "triggered" increase in the motor vehicle fuel tax and special fuels tax depending on the availability of federal highway matching funds. Under this provision the rate increased from 17 cents to 18 cents per gallon for the period December 1, 1993 through December 31, 1995.

1995 Session. The legislature continued to "trigger" changes in the motor vehicle fuel tax and special fuels tax rates depending on the availability of additional federal highway matching funds. The rate increased to 20 cents per gallon for the period January 1, 1996 through December 31, 1997.

1997 Session. The legislature provided for a permanent \$.20 per gallon motor vehicle fuel tax and special fuels tax through December 31, 1999 and added a provision to the special fuels tax chapter allowing the 2% special fuels excise tax to be charged on fuel dyed for federal motor fuel tax exemption purposes. The legislature also revised refund requirements to allow refunds of motor vehicle fuel tax and special fuels tax to industrial fuel users when the fuel was used in nonlicensed equipment on publicly funded projects. An additional 4 cents per gallon is withheld from agricultural consumer refund claims for deposit into an agricultural research fund, and the amount withheld for ethanol production incentives was lowered from 2 cents per gallon to 1 cent per gallon.

1999 Session. The legislature reenacted the motor vehicle fuel and special fuels tax statutes and increased the taxes to 21 cents per gallon. The legislature also repealed the refund provisions for special fuel taxes and enacted a dyed fuel enforcement program. Dyed diesel fuel may not be used in licensed motor vehicles, and in the event of a violation, administrative fees may be assessed.

2001 Session. The legislature enacted a decrease in special fuels taxes on diesel fuel containing at least two percent biodiesel fuel by weight. The decrease is contingent upon the opening of a biodiesel refining facility in this state with a production capacity of at least ten million gallons biodiesel per year. If triggered, the tax on undyed diesel fuel containing biodiesel is reduced by one and five-hundredths cents per gallon, and the tax on dyed diesel fuel containing biodiesel is reduced to one and nine-tenths percent.

Distribution of Revenue

Tax Types	
Motor Vehicle Fuel Tax (21¢ per gallon):	
20¢	Highway Tax Distribution Fund
1¢	Township Highway Aid Fund
Withheld from farmers' refunds (8¢ per gallon):	
1¢	Township Highway Aid Fund
2¢	Agricultural Fuel Tax Fund
1¢	Ethanol Production Fund
4¢	Agricultural Research Fund
Withheld from Industrial users' refunds (1½¢ per gallon):	
1¢	Township Highway Aid Fund
½¢	Agricultural Fuel Tax Fund
Special Fuels Tax (21¢ per gallon):	
20¢	Highway Tax Distribution Fund
1¢	Township Highway Aid Fund
Special Fuels Excise Tax (2% of sales price):	
100% Highway Tax Distribution Fund	
Aviation Fuel Tax (8¢ per gallon):	
8¢	Aeronautics Commission Special Fund
Withheld from refunds:	
4% Aviation fuel excise tax	
Aviation Fuel Excise Tax (4% of sales price):	
100% Aeronautics Commission Special Fund	
Highway Tax Distribution Fund	
• 63% allocated to state highway purposes	
• 37% allocated to the counties and cities	

Fuel Taxes and Fees Disbursements

For a full list of...

P1

SB2217

First Engrossment with House Amendments

"Amend and reenact section 7 of chapter 531 of the 2004 Session Laws" -- SECTION 6, p. 5

Tax rate changes

- Undyed diesel with 2% or more biodiesel blend – tax rate = \$.1995 (based upon one and five-hundredths cents per gallon reduction to current \$.21 per gallon)
- Dyed diesel fuel with 2% or more biodiesel blend – tax rate = .019 times price of fuel (based upon one and nine-tenths percent of current 2%).

Issues

- Taxpayers must track and report biodiesel blends separately.
Transfer product from two fuel types to blend into two other fuel types.
Deal with 4 tax rates instead of ~~1~~ 2.
Keep inventories straight.
Compute tax on excess losses between four tax rates.
- What tax rate applies when taxpayer sells straight B100 and does not know how the buyer will use it?

(This is an issue under current law, but due to low volume of such sales, we apply the 2% excise tax rate.

Reports – Add columns and lines to current report:

- Would be too wide for 8 ½ by 11 paper.
- Would be too long for landscape design on legal paper.
- Would lead to complicated instructions.
- Margin of error would increase dramatically.

Software and computer programming is needed if we add lines to current report.

- Taxpayers would need obtain significant enhancements to their current software.
(Many taxpayers just obtained or are in the process of obtaining new software.)
This would be an expensive process for taxpayers.
- Tax Department would need significant enhancements to their new ZyTax software and their state ITD mainframe programs.
(This would most likely be cost prohibitive, especially in light of new integrated tax system, and we probably could not integrate the ZyTax program into the new system as planned.
The Mainframe changes alone could be quite expensive.)

Reports - Create separate forms for biodiesel transactions:

- Taxpayers would need to complete two sets of forms (tax report, schedule of gallons received, and schedule of gallons disbursed for each set).

- Taxpayers would need to show transfer of product from one set of forms to the other.
- Taxpayer would either need to segregate transactions and process information manually, or incur high software development costs.
- Tax Department would need to process the biodiesel report set manually and then integrate the information into existing statistical data and data for tax distribution.
 - Could result in the need of an additional FTE.
 - Manual processing increases the margin of error and is not efficient.

Product Codes and Schedule Types

There are currently no nationally uniform product codes or schedule types to accommodate the separation of transactions for the purpose of different tax rates. If this law goes into effect, ND would no longer be in compliance with national standards. This being the case, we could not update our software to include the split in tax rates.

Tax Distribution

- Tax receipts must be split between Highway Distribution and Township Fund.
- Would need to obtain and add new transaction codes for the Treasurer's Distribution Schedule.

Special Fuels - Gallons

Fiscal Year Comparison Summary

Fiscal Year	Special Fuels - Taxable Gallons Diesel, Heating, Kerosene, Compressed Natural Gas		
	Gallons Per Gallon Taxable	Gallons 2% Excise Taxable	Gallons Total Taxable
July 1997 -- June 1998	168,031,391	247,151,399	415,182,790
July 1998 -- June 1999	166,872,176	228,323,000	395,195,176
July 1999 -- June 2000	161,090,040	212,178,062	373,268,102
July 2000 -- June 2001	157,318,870	229,831,883	387,150,753
July 2001 -- June 2002	158,767,998	242,535,266	401,303,264
July 2002 -- June 2003	164,855,293	213,957,367	378,812,660
July 2003 -- June 2004	176,149,058	235,694,954	411,844,012
Bio 5% Est	8,807,453	11,784,748	26,422,359
Bio 10% Est	17,614,906	23,569,495	41,184,401
\$.21 tax on 8,807,453	1,849,565		
\$.1995 tax on 8,807,453	1,757,087		
Loss	92,478	92,478	
\$.21 tax on 17614906	3,699,130		
\$.1995 tax on 17614906	3,514,174		
Loss	184,957		184,957
Assume 1.95 * 11784748	22,980,258		
Times 2% Excise	459,605.16		
Times 1.9 Excise	436,624.90		
Loss	22,980.26	22,980.26	
Assume 1.95 * 11784748	45,960,516.03		
Times 2% Excise	919,210.32		
Times 1.9% Excise	873,249.80		
Loss	45,960.52		45,960.52
Total Revenue loss at 5% usage		115,458.51	
Total Revenue loss at 10% usage			230,917.03

Special Fuel Schedule of Gallons Received

Tax Type 62

(Submit with Special Fuel Tax Report J01)

Schedule Types:										Product Types:										Mode Codes:												
1	Gallons received in North Dakota - ND tax paid										072	Kerosene - Dye Added										J	Truck									
2	Gallons received in North Dakota - ND tax NOT paid										091	Waste Oil										R	Railroad									
3	Gallons imported into ND by your business - ND tax NOT paid										122	Blending Components										B	Barge									
											142	Kerosene - Undyed										PL	Pipeline									
											152	Heating Oil										S	Ship									
											160	Diesel Fuel - Undyed										GS	Gas Station									
																						CE	Summary									

Special Fuel Schedule of Gallons Disbursed

Tax Type 62

(Submit with Special Fuel Tax Report J01)

Schedule Types:										Product Types:										Mode Codes:																
Sch. Type	Pro. Type	(1) Carrier Name	(2) Carrier FEIN	(3) Mode	Point of Origin			Point of Destination			(5) Sold to Purchaser Name	(6) Purchaser FEIN	Suffix	(7) Transaction Date	(8) Document Number	(9) Net Gallons	(10) Gross Gallons	(11) Billed Gallons		J	R	B	PL	S	GS	CE	Summary									
5		Gallons sold to retailers for resale - ND \$.21 per gallon taxable																			072 Kerosene - Dye Added															
5Q		Gallons sold to consumers, or used - ND \$.21 per gallon taxable																			224 Compressed Natural Gas (CNG)															
5X		Gallons sold to consumers, or used - ND 2% excise taxable																			228 Diesel Fuel - Dye Added															
5Y		Gallons sold to railroads - ND 2% excise taxable																			284 Biodiesel - Undyed (B100)															
6		Gallons sold to licensed suppliers or distributors for resale - ND non-taxable																			285 Soy Oil															
7		Gallons exported out of North Dakota by your business to - ND non-taxable																			280 Biodiesel - Dye Added (B100)															
8		Gallons sold to agencies of the U.S. Government - ND tax-exempt (or tax credit taken)																			152 Heating Oil															
10		Gallons sold to Native Americans - ND tax-exempt																			160 Diesel Fuel - Undyed															
10G		Gallons sold from tax-paid inventory																																		

Sch. Type	Pro. Type	(1) Carrier Name	(2) Carrier FEIN	(3) Mode	Point of Origin			Point of Destination			(5) Sold to Purchaser Name	(6) Purchaser FEIN	Suffix	(7) Transaction Date	(8) Document Number	(9) Net Gallons	(10) Gross Gallons	(11) Billed Gallons
5Q	160	Name		J	ND			ND			Consumer	999999999	99	04/30/2005	SUM		12,000	
5X	228	Name		J	ND			ND			Consumer	999999999	99	04/30/2005	SUM		12,000	
5X	285	Name		J	ND			ND			Consumer	999999999	99	04/30/2005	SUM		50	

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**Testimony of Roger Johnson
Agriculture Commissioner
SB 2217
House Finance & Taxation Committee
Fort Totten Room
March 8, 2005**

Chairman Belter and members of the House Finance & Taxation Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2217, which provides a tax credit to biodiesel blenders and provides a tax credit (10 percent for five years) to a facility that adapts or adds equipment to a facility for the sale of biodiesel.

Biodiesel: Great Potential for North Dakota

Biodiesel is a growing industry that holds promise for North Dakota – if we choose to seize the opportunity. As a leading producer of soybeans, North Dakota has great potential for the development of a biodiesel industry that would add further value to these commodities. The production of biodiesel not only produces fuel but also co-products that can be used to feed our growing livestock industry.

Biodiesel is the name for a variety of ester-based oxygenated fuels made from soybean oil or other vegetable or animal fats. Biodiesel can be used as a pure fuel and as a blending stock with petrodiesel. According to the ND Soybean Council, 79 retail locations in North Dakota currently offer biodiesel for sale to their customers.

Although biodiesel can be made from plants or animals, North Dakota's focus is primarily on biodiesel produced from soybean or canola oil. Soybeans are a plentiful cash crop in North Dakota generating nearly 14% of our agricultural cash receipts. Cass County was the #1 soybean producing county in the United States in three out of the last four years. Cass County has also been the leading county of soybean acres planted in the U.S. since 1997. North Dakota is also the leading producer of canola, growing 91% of the nation's crop (Source: ND Agricultural Statistics Service).

Based on statistics compiled by the North Dakota Soybean Growers Association, approximately 3% of North Dakota's soybean production would be processed and utilized as biodiesel if a 2% biodiesel requirement in diesel fuel was put in place. North Dakota's annual diesel usage is approximately 162,422,000 gallons. The ND State Fleet's annual diesel usage is 900,000 gallons.

Biodiesel can be substituted for petroleum diesel in virtually any standardized diesel engine. And, used in small percentages biodiesel can dramatically increase the lubricity of diesel fuel. Since the implementation of EPA regulations that require reduced sulfur content in diesel fuel from 5000 to 500 parts per million, significant wear problems have emerged in high-pressure diesel fuel pumps. These problems are expected to increase as EPA phases in an additional sulfur content reduction of diesel fuel to 15 parts per million by 2006. Biodiesel may very well be the best lubricity additive on the market, thus becoming an even more important renewable fuel.

Biodiesel is an industry poised for tremendous growth in the coming years. New federal incentives provide a federal excise tax credit that equates to one penny per percent of biodiesel in a fuel blend made from agricultural products. The National Biodiesel Board estimates that the tax incentive could lower the price of B20 to be approximately the same price as diesel in some cases.

Biodiesel is also an energy efficient renewable fuel. According to a study conducted by the DOE and USDA, "...Biodiesel yields 3.2 units of fuel product energy for every unit of fossil energy consumed in its life cycle." The report continues, "By contrast, Petroleum diesel's life cycle yields only 0.83 units of fuel energy per unit of fossil energy consumed." According to this analysis, the energy yield of biodiesel is nearly four times that of petroleum diesel fuel (Life Cycle Inventory of Biodiesel and Petroleum Diesel for Use in an Urban Bus – May 1998).

North Dakota does not have a biodiesel production facility; however, the North Dakota Biodiesel Taskforce continues to work to develop a favorable plan for a biodiesel plant in the state.

Below is a listing of current and proposed biodiesel plants around the country. As you can see, states like Iowa and Minnesota are much farther ahead of us on the development curve (Table 1).

State	Operational Facility	Proposed Facility
Texas	5	1
California	4	
Iowa	3	1
Utah	2	2
Illinois	2	
Hawaii	2	
Nevada	2	2
Minnesota	1	2
Missouri	1	2
Georgia	1	2
Ohio	1	2
Florida	1	1
Colorado	1	1
North Carolina		2
Kentucky	1	
Virginia	1	
Mississippi	1	1
Wisconsin	1	1
South Dakota		1
Washington		1
Montana		1
New Mexico		2
Massachusetts		1
Delaware		1

Table 1

North Dakota Can and Should Do More to Promote Biodiesel and Other Renewable Energies

Elected officials on both sides of the aisle continually pledge their support for and speak to the benefits of value-added agriculture. I believe that it is time to put action behind the words. If we are truly looking to add value to agricultural products in this state and to encourage new markets and new products, we in government have to be willing to play an appropriate role to foster that process.

In 2003, the North Dakota Department of Agriculture organized the first-ever 2003 Renewable Energy Summit: *A Vision for the Future*. The focus of that conference was to bring together all of the interests in four major renewable energy sectors – biodiesel, biomass, ethanol and wind – to formulate a vision and a plan of action for the future.

A recommendation from that summit was to create an ongoing coalition of renewable energy interests that could work to advance issues and initiatives that would foster the growth of the industry. That recommendation led to the creation of the North Dakota Renewable Energy Partnership (NDREP). The NDREP has 41 general and associate members, including the North Dakota Department of Agriculture.

The NDREP, along with my office, organized a second summit – the 2004 Renewable Energy Summit: *A Call to Action*, which was held on December 6-7, 2004. The summit participants

were challenged to formulate state legislative ideas and initiatives – some of which are encompassed in SB 2217 and other pieces of renewable energy legislation before you this session. The NDREP has been working with legislators on both sides of the aisle to try and advance renewable energy legislation that will have a meaningful impact in North Dakota. Unfortunately, the legislature has killed many of the renewable energy bills.

SB 2217 is one of the only remaining pieces of legislation and I would urge you to amend this legislation to include funding and incentives for all renewables in North Dakota. Specifically, I would urge you to restore the components of HB 1308, which include establishing a renewable energy commission, creating recommendations for state use of wind for electricity and biofuels, establishing the office of renewable energy and efficiency in state statute, and providing an appropriation to the commission for the purposes of administering a fund to provide feasibility studies, applied research and demonstrations, venture capital investments, grants and matching grants, and low-interest loans and loan buydowns to foster the development of renewable energy (including wind, biofuels, biomass, solar, hydroelectric, geothermal and hydrogen [that is produced from the foregoing renewable energy sources]).

The budget forecast for the state of North Dakota released on March 7 reaffirms that North Dakota is in an economic position to make significant investments in priority areas. Renewable energy development should be a priority for this state, as these industries have the potential to create thousands of new jobs and generate significant economic activity at the local level and the state level.

March 8, 2005

Testimony before the House Finance & Taxation Committee
Representative Wes Belter, Chair

Senate Bill 2217 -- Relating to corporate income tax and sales tax credits

Chairman Belter and members of the House Finance & Taxation Committee, My name is Doug Goehring and I am a producer in south central North Dakota, I raise spring wheat, corn and soybeans. I have been using Biodiesel for 4 years now I am here to testify in favor of Senate Bill 2217.

The petroleum industry faces several problems in the very near future with diesel fuel. In 2006 EPA has mandated that refined fuels used in agriculture and over the road reduce their sulfur content from 1500ppm and 500ppm down to 15ppm. Doing this strips the fuel of its lubricating properties. Biodiesel can be a solution for this problem. By adding Biodiesel to petroleum fuel you can not only replace the lubricity lost by the removal sulfur but increase it by over 66%. This is a unique opportunity for Biodiesel and renewable fuel industry. If Biodiesel is positioned properly in the market place and priced competitively it can be the additive of choice to replace the lost lubricity in the fuel.

The Biodiesel industry has come a long way in a few years. The industry now has the support of major engine manufactures. Detroit, Cummings, International, John Deere and Caterpillar all support the use of Biodiesel in their engines up to a five percent blend. In fact it was recently announced that John Deere would be putting a 2% Biodiesel blend in all of their tractors and combines leaving the factory going to dealerships across the country. It is also important to keep in mind that the use of Biodiesel in any blend does

not void warranties as long as it meets ASTM D9751 standards. The ASTM D9751 is a standard set for Biodiesel that meets the criteria required by engine manufactures.

Biodiesel sold by a licensed retailer must meet these standards.

North Dakota has an opportunity to support the renewable fuels industry, expanding availability. A public investment in Biodiesel will show industry that we want to create a favorable environment for renewable fuels.

Chairman Belter and committee members, I thank for the opportunity to come before you today, and ask for your support and a do pass on SB 2217.

1
Proposed Amendments to SB2217
Submitted by Rep. Scot Kelsh
8 March, 2005

On page 1, line 4, after "date", delete period, and insert ", and to create and enact a new section to chapter 4-14.1, two new sections to chapter 54-44.4, and two new sections to chapter 54-44.5 of the North Dakota Century Code, relating to duties of the agricultural products utilization commission, state purchasing of energy, and assignment of renewable energy responsibilities to the division of community services; to provide an appropriation; and to provide an effective date."
On page 2, line 18, after the period insert:

SECTION 5. A new section to Chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Agricultural products utilization commission – renewable energy development fund.

The commission shall:

1. Administer and use the renewable energy development fund to carry out the renewable energy policy of this state.
2. Provide feasibility studies, applied research and demonstrations, venture capital investments, grants and matching grants, and low-interest loans and loan buydowns to foster the development of renewable energy, including wind, biofuels, biomass, solar, hydroelectric, geothermal, and hydrogen, that is produced from the foregoing renewable energy sources.

Renewable energy development fund - Funding - Continuing appropriation.

The renewable energy development fund is a special fund in the state treasury. All funds in the renewable energy development fund are appropriated to the renewable energy 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 6. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Purchase of electricity - Requirements. Beginning on the effective date of this Act, the office of management and budget, and any state agency or institution that has authority to purchase electricity, shall make a good faith effort to meet an objective that 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 objective, 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.

Beginning on the effective date of this Act, the office of management and budget, and any state agency or institution that has authority to purchase products, shall make a good

faith effort to meet an objective that all state-owned vehicles and equipment powered by diesel or gasoline utilize renewable fuels as provided in this section. Gasoline engines may operate on gasoline containing at least a ten percent ethanol blend and diesel engines may operate on diesel fuel containing at least a five percent biodiesel blend.

SECTION 7. Two new sections to chapter 54-44.5 of the North Dakota Century Code are created and enacted as follows:

Renewable energy policy. It is the public policy of this state to stimulate the development of renewable energy within the state to provide secure, diverse, sustainable, and competitive renewable energy supplies that are complimentary to our traditional energy industries, and to promote the conservation of energy and wise use of energy resources. It is the public policy of this state to promote the development of new technologies, provide innovative opportunities for farmers, and create additional employment and wealth that contributes to rural economic development, decreases dependence on foreign energy supplies, improves the environment, and encourages a renewable energy industry within this state which is competitive for domestic and export markets.

Renewable energy responsibilities. The division is responsible for promoting and administering programs to research, develop, and market renewable energy from wind, solar, hydropower, geothermal, biomass, ethanol, biodiesel, and other renewable energy sources.

SECTION 8. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the renewable energy development fund for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 9. EFFECTIVE DATE. Section 6 of this Act becomes effective on July 1, 2006.



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Mr Chariman and members of the Committee. My name is Terry Goerger and I am a farmer/businessman from Mantador, ND in Richland County. I am representing the North Dakota Renewable Energy Partnership. The REP is a non-partisan grass roots organization formed to represent the sectors of ethanol, biodiesel, wind and biomass. I have attached a membership list with my testimony. As you can see it is a cross section of individuals and organization who have been involved with the sectors of renewable energy and believe in the promotion and building of the industries of renewable energy here in North Dakota.

I am here today to ask for your support of SB 2217. Moving ahead with legislation to assist in marketing and building economic development in the renewable energy arena is a very positive step for the state of North Dakota. It will help agriculture and main street business to be more prosperous which in turn supports the tax base of our state. The trickle down method does work in this case as agriculture does invest money it earns. Renewable energy is an answer to many concerns of current supplies of energy use. We grow it here and produce it here year after year.

Please help a new industry begin building by your support of SB 2217. Thank you and I would be happy to try and answer any questions you may have.

Chair
Jocie Iszler
ND Corn Utilization Council
jiszler@state.nd.us

Vice-Chair
Jay Haley
Wind Energy Council
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Secretary-Treasurer
Terry Goerger
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General Members

Cass County Electric Coop
Stutsman County Development Corporation
ND Association of REC's
ND Barley Council
ND Biodiesel Task Force
ND Corn Growers Association
ND Corn Council
ND Department of Commerce
ND Department of Agriculture
ND Farmers Union
ND Natural Resources Trust
ND Soybean Growers Association
NDSU Dept of Biosystems and Engineering
National Ethanol Vehicle Coalition (E85)
Northern Canola Growers Association
Wind Energy Council
Xcel Energy

Associate Members

Bank of ND
BBI International
Biodiesel Magazine
Doug Goehring
Dunn Cty Jobs Dev. Authority
EERC
Ethanol Producer Magazine
FCS of Grand Forks
FCS of Mandan
Golden Growers Coop.
Great River Energy
Griggs Steele Empowerment
Industrial Contract Services
Joseph Richardson
ND Soybean Council
Pam Gulleson
Rolla Job Dev. Authority
Rutland Oil Co.
S&S Transportation
USDA Rural Development
Wind Development Group

Policy Committee

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Vice Chair: Jay Haley
Farmers Union: Mindy Greive
NDREC: Harlan Fuglested (Committee Chair)
ND Ag Dept.: Patrice Lahlum
ND Dept of Commerce: Kim Christianson
Biomass representative: Arnold Kruse
Biodiesel representative: Tim Radermacher
Ethanol representative: Jocie Iszler
Investor Owned Utility: Sue Gerhardt, Xcel

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North Dakota Farmers Union

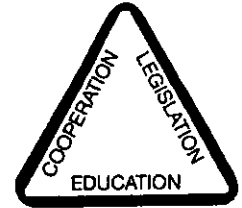
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SB 2217 H-FINTAX

Chairman Belter and Members of the House Finance and Tax Committee.

My name is Woody Barth; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in support of SB 2217, which relates to corporate income tax credits and a sales tax exemption for blending of biodiesel fuel and purchase of biodiesel production equipment and to provide for a transfer to the highway tax distribution fund.

We support the use of biodiesel and biodiesel-blended fuels in all possible applications. Farm incomes could be better and less variable if a portion of every farm's production was used for energy uses, and oilseed crops, crop residues, and even animal by-products could be used as feedstock for biodiesel fuels.

The use of crop residues, animal waste, and other products of recycling to produce methane from biomass holds much potential and research using switchgrass or other crop products should be encouraged.

North Dakota Farmers Union (NDFU) encourages and supports research and development of all innovative and renewable energy sources. In addition, our cooperatives can play a leading role in the distribution and marketing of these energy products.

NDFU supports legislation providing incentives, tax credits, and/or requirements to move North Dakota ahead in the use of renewable energy sources.

North Dakota Farmers Union urges a do pass on SB 2217.

Thank you Chairman Belter and members of the committee, I will answer any questions at this time.



Testimony of Barry Coleman
Northern Canola Growers Association
Senate Bill 2217
House Finance and Taxation Committee
Fort Totten Room
March 8, 2005

Mr. Chairman, members of the committee, my name is Barry Coleman. I am Executive Director of the Northern Canola Growers Association. I am here to offer support for SB 2217, which provides incentives for biodiesel production in the state.

North Dakota grows over 90 percent of the canola in the United States. Canola has worked well in rotations with small grains and has been a good cash crop, especially for growers in the northern regions of the state. Acreage dropped last year due to wet weather in the spring and also due to competing crops, but is expected to bounce back this year due to record yields in 2004.

There has been talk of a potential biodiesel plant in the Minot area to utilize canola from the surrounding region and we feel this legislation would increase the likelihood of a biodiesel plant locating here. Canola oil works well in biodiesel applications and the NC Research Center in Minot is even going to test canola biodiesel in its tractors at the station this year. The Northern Canola Growers Association believes that biodiesel applications may serve as another market for canola oil and therefore supports measures to increase biodiesel production in the state.

I would be happy to answer any questions you may have.

TESTIMONY OF BRUCE R. CARLSON
MANAGER OF VERENDRYE ELECTRIC COOPERATIVE
TO THE HOUSE FINANCE AND TAXATION COMMITTEE
SENATE BILL 2217
March 8, 2005

Mr. Chairman and members of the committee, my name is Bruce Carlson, General Manager of Verendrye Electric Cooperative, Velva, North Dakota. Verendrye is a "member owned" electric cooperative, which serves over 10,000 meters in six counties over 4,100 miles of power line surrounding Minot.

I offer this written testimony in strong support of SB 2217. For years, Verendrye Electric Cooperative has promoted biodiesel and "agricultural based" renewable fuels as part of our long range strategic planning. It makes sense to utilize the crops grown by our local member owners right here in North Dakota to help offset the 60% of this country's fuel supply that is imported.

SB2217 will help encourage potential producers of biodiesel fuels to locate in our state. Verendrye Electric Cooperative and the Minot Area Development Corporation have been working for quite some time to entice a biodiesel producer to locate in our area, especially if they are interested in using canola oil as a feedstock. We are extremely proud of the fact that North Dakota is rated number one in the nation's production of canola. In fact, 90% of this country's canola is grown in our state with the vast majority coming from our seven county service area around Minot. North Dakota also grows 59% of the country's sunflowers and 3.1 million acres of soybeans making us a prime location for biodiesel production. The North Central Research Extension Center south of Minot will be using canola biodiesel this summer in several tractors as a testament to the growing popularity of canola and biodiesel in this area.

Verendrye Electric Cooperative was a primary sponsor of a five-year "Flower Power" demonstration project back in the early 80's. A number of area farmers, including our board president, successfully operated their farm tractors at various blends of diesel fuel and sunflower oil. Final tests conducted by North Dakota State University indicated the engines had only "normal engine wear" even with fuel blends up to 50% sunflower oil. A fuel based on 100% methyl esters, which is processed agricultural oil, was also successfully burned in a test diesel engine. We know biodiesel fuels work. Now is the time to encourage the industry to locate in North Dakota.

In conclusion, SB2217 is a good bill to enhance economic development and add value to our state's oil crop producers. A corporate income tax credit for the blending of biodiesel fuel and for biodiesel sales equipment costs only make sense. I would also ask the committee to seriously consider adding an excise tax reduction on the sale or delivery of biodiesel fuel back into SB2217. Therefore, we strongly urge consideration of an amendment providing an excise tax reduction and then a "do pass" committee vote on SB2217.

March 8th, 2005

Testimony before the House Finance & Taxation Committee
Fort Totten Room
Representative W. Belter, Chairman

Senate Bill 2217 – Relating to corporate income tax credits for the blending and equipment for sale of biodiesel.

Chairman Belter and members of the House Finance & Taxation Committee, My name is Edmund Goerger and I reside in Wyndmere, North Dakota. I am a farmer, producer of soybeans and the past President of the North Dakota Soybean Growers Association and I am here to testify in favor of Senate Bill 2217.

This bill is not only important to the renewable fuels industry in North Dakota it is a crucial first step toward biodiesel production in our great state. I have been using biodiesel in my farming operation for the past five years. I use a twenty percent blend and have found performance, and ease of use equal to or better than the premium diesel I had used in the past. While it does add an additional cost to my operation, it is one I believe as producers we need to step forward and accept the leadership of using this new fuel that is developing into a promising industry for the rural economy and our nation as a whole. As a rule of thumb for every one percent of biodiesel blended into a gallon of petroleum it can add approximately 1.2 cents to the cost per percentage of B100, but I have also purchased 20% for an additional cost of only thirteen cents per gallon.

Incentives in this bill, combined with the excise tax provisions in the American Jobs Creation Act of 2004, which is a one-cent excise tax reduction per percent of biodiesel added to petroleum, would help make biodiesel a preferred fuel in North Dakota. Allowing income tax credits to distributors to build infrastructure would help increase the

availability of biodiesel to all consumers and allow higher blends of biodiesel to be maintained and consumed.

Building the distribution network for biodiesel and making it available at the same price as petroleum diesel are crucial first steps towards biodiesel production in the state. With your help we can make North Dakota an economically friendly environment for renewable fuels.

On behalf of myself and the North Dakota Soybean Growers Association I ask for your support of SB 2217 and a do pass recommendation.