

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2217

Introduced by

Senators Klein, Grindberg, Taylor

Representatives DeKrey, Mueller, Pollert

1 A BILL for an Act to create and enact two new sections to chapter 57-38 and a new subsection
2 to section 57-39.2-04 of the North Dakota Century Code, relating to corporate income tax
3 credits and a sales tax exemption for blending of biodiesel fuel and purchase of biodiesel
4 production equipment; and to provide an effective date.

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

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

8 **Corporate income tax credit for blending of biodiesel fuel.** A fuel supplier licensed
9 pursuant to section 57-43.2-05 who blends biodiesel fuel is entitled to a credit against tax
10 liability determined under section 57-38-30 in the amount of five cents per gallon [3.79 liters] of
11 biodiesel fuel of at least five percent blend, otherwise known as B5. For purposes of this
12 section, "biodiesel" means fuel meeting the specifications adopted by the American society for
13 testing and materials. The credit under this section may not exceed the taxpayer's liability as
14 determined under this chapter for the taxable year and each year's unused credit amount may
15 be carried forward for up to five taxable years.

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

18 **Corporate income tax credit for biodiesel sales equipment costs.** A taxpayer is
19 entitled to a credit against tax liability determined under section 57-38-30 in the amount of ten
20 percent per year for five years of the taxpayer's direct costs incurred after December 31, 2004,
21 to adapt or add equipment to a facility, licensed and authorized by the state of North Dakota, to
22 enable the facility to sell diesel fuel containing at least two percent biodiesel fuel by volume.
23 For purposes of this section, "biodiesel fuel" means fuel meeting the specifications adopted by
24 the American society for testing and materials. The credit under this section may not exceed

1 the taxpayer's liability as determined under this chapter for the taxable year and each year's
2 unused credit amount may be carried forward for up to five taxable years. A taxpayer is limited
3 to fifty thousand dollars in the cumulative amount of credits under this section for all taxable
4 years. A taxpayer may not claim a credit under this section for any taxable year before the
5 taxable year in which the facility begins selling biodiesel fuel containing at least two percent
6 biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be
7 claimed for purposes of the credit under this section for taxable years on or after the taxable
8 year sales of biodiesel fuel begin.

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

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

16 **SECTION 4. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable
17 years beginning after December 1, 2004. Section 3 of this Act is effective for taxable events
18 occurring after June 30, 2005.