

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2217

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, 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