

1 **CORPORATE FRANCHISE AND INCOME TAX**
2 **CREDITS FOR BIODIESEL FUEL**
3 **PRODUCTION**

4 2006 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Michael E. Noel**

7 Senate Sponsor: _____

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies the Revenue and Taxation Code by creating two corporate franchise
12 and income tax credits for the production of biodiesel fuel.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides definitions;
- 16 ▶ creates a nonrefundable corporate franchise and income tax credit for:
 - 17 • the machinery, equipment, or materials used to construct or remodel a biodiesel
 - 18 production facility; and
 - 19 • the production of biodiesel that is distributed for use in Utah;
- 20 ▶ provides that the tax credits may be carried forward for a three taxable-year period
- 21 under certain circumstances; and
- 22 ▶ requires the State Tax Commission to make rules for:
 - 23 • qualification for the tax credit; and
 - 24 • verification of amounts of the tax credit claimed.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 This bill takes effect for taxable years beginning on or after January 1, 2007.

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **59-7-614.2**, Utah Code Annotated 1953

32

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **59-7-614.2** is enacted to read:

35 **59-7-614.2. Definitions -- Tax credits for biodiesel production facility or**
36 **production of biodiesel -- Rulemaking authority.**

37 (1) As used in this section:

38 (a) "Biodiesel" means a renewable diesel fuel derived from biomass that is intended for
39 use in diesel engines.

40 (b) "Biodiesel production facility" means a system of apparatus and equipment if that
41 system is:

42 (i) capable of producing biodiesel;

43 (ii) located in this state; and

44 (iii) primarily used to produce biodiesel.

45 (c) "Biomass" means:

46 (i) material from a plant or tree; or

47 (ii) other organic matter that is available on a renewable basis.

48 (2) Subject to Subsection (4)(a)(i), for taxable years beginning on or after January 1,
49 2007, a taxpayer that constructs or remodels a biodiesel production facility may claim a
50 nonrefundable tax credit equal to 50% of the purchase price of machinery, equipment, or
51 materials:

52 (a) purchased by the taxpayer;

53 (b) subject to sales and use taxes under Chapter 12, Sales and Use Tax Act; and

54 (c) used to construct or remodel a biodiesel production facility.

55 (3) Subject to Subsection (4)(a)(ii), for taxable years beginning on or after January 1,
56 2007, a taxpayer that owns a biodiesel production facility may claim a nonrefundable tax credit
57 of \$.25 for each gallon of biodiesel that is:

58 (a) produced at the biodiesel production facility; and

- 59 (b) distributed for use in this state.
60 (4) (a) (i) A tax credit under Subsection (2) may be claimed for the taxable year in
61 which the biodiesel production facility is completed and placed into service.
62 (ii) A tax credit under Subsection (3) may be claimed for the taxable year in which the
63 biodiesel is distributed for use in Utah.
64 (b) If the amount of a tax credit under this section exceeds a taxpayer's tax liability
65 under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability
66 may be carried forward for a time period that does not exceed the next three taxable years.
67 (5) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
68 Administrative Rulemaking Act, governing the information that is required from a taxpayer to
69 verify:
70 (a) qualification for the tax credit; and
71 (b) amounts of the tax credit claimed.
72 Section 2. **Effective date.**
73 This bill takes effect for taxable years beginning on or after January 1, 2007.

Legislative Review Note
as of 2-8-06 11:39 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0385

Corporate Franchise and Income Tax Credits for Biodiesel Fuel Production 21-Feb-06
8:45 AM

AMENDED NOTE

State Impact

Passage of this bill would have no impact on current revenues. There is a potential diversion of future income tax revenues.

Individual and Business Impact

This bill may benefit biodiesel fuel producers.

Office of the Legislative Fiscal Analyst