



# House of Representatives *State of Utah*

W030 STATE CAPITOL COMPLEX • P.O. BOX 145030  
SALT LAKE CITY, UTAH 84114-5030 • (801) 538-1029

February 22, 2006

Mr. Speaker:

The Revenue and Taxation Committee reports a favorable recommendation on **H.B. 385**, CORPORATE FRANCHISE AND INCOME TAX CREDITS FOR BIODIESEL FUEL PRODUCTION, by Representative M. Noel, with the following amendments:

1. *Page 1, Line 19:*

19           •     the production of biodiesel {~~that is distributed for use in Utah~~} ;

2. *Page 1, Lines 20 through 21:*

20           ▶     provides that the tax credits may be carried forward for a three taxable-year  
                  period

21     under certain circumstances; {~~and~~}

▶ grants the Air Quality Board rulemaking authority to establish standards  
for biodiesel to qualify for the tax credits; and

3. *Page 2, Line 29:*

29     Utah Code Sections Affected:

**AMENDS:**

**19-2-104, as last amended by Chapter 131, Laws of Utah 2003**

4. *Page 2, Line 33:*

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

=     **Section 1. Section 19-2-104 is amended to read:**

**19-2-104. Powers of board.**

(1) The board may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source;

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- (b) establishing air quality standards;
  - (c) requiring persons engaged in operations which result in air pollution to:
    - (i) install, maintain, and use emission monitoring devices, as the board finds necessary;
    - (ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and
    - (iii) provide access to records relating to emissions which cause or contribute to air pollution;
  - (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management plans submitted by local education agencies under that act;
  - (e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;
  - (f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;
  - (g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;
  - (h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2); ~~{and}~~
  - (i) implementing lead-based paint remediation training, certification, and performance requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406 ~~{-}~~ and
  - (j) establishing standards for biodiesel to qualify for the tax credits created under Section 59-7-614.2.**
- (2) When implementing Subsection (1)(h) the board shall take into consideration:
- (a) the impact of the business on overall air quality; and
  - (b) the need of the business to use automobiles in order to carry out its business purposes.

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(3) The board may:

(a) hold hearings relating to any aspect of or matter in the administration of this chapter and compel the attendance of witnesses and the production of documents and other evidence, administer oaths and take testimony, and receive evidence as necessary;

(b) issue orders necessary to enforce the provisions of this chapter, enforce the orders by appropriate administrative and judicial proceedings, and institute judicial proceedings to secure compliance with this chapter;

(c) settle or compromise any civil action initiated to compel compliance with this chapter and the rules made under this chapter;

(d) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(e) prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state;

(f) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(g) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consultative assistance to them;

(h) encourage and conduct studies, investigations, and research relating to air contamination and air pollution and their causes, effects, prevention, abatement, and control;

(i) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(j) monitor the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere in all parts of this state and take appropriate action with respect to them;

(k) collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution;

(l) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, and with interested persons or groups;

(m) consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source in the state concerning the efficacy of any proposed control device, or system for this source, or the air pollution problem which may

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be related to the source, device, or system, but a consultation does not relieve any person from compliance with this chapter, the rules adopted under it, or any other provision of law;

(n) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(o) require the owner and operator of each new source which directly emits or has the potential to emit 100 tons per year or more of any air contaminant or the owner or operator of each existing source which by modification will increase emissions or have the potential of increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee sufficient to cover the reasonable costs of:

(i) reviewing and acting upon the notice required under Section 19-2-108; and

(ii) implementing and enforcing requirements placed on the sources by any approval order issued pursuant to notice, not including any court costs associated with any enforcement action;

(p) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Sec. 7420;

(q) meet the requirements of federal air pollution laws;

(r) establish work practice, certification, and clearance air sampling requirements for persons who:

(i) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections; or

(ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;

(iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

(iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

(s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as inspectors, management planners, abatement project designers, asbestos abatement contractors and supervisors, or asbestos abatement workers;

(t) establish certification requirements for asbestos project monitors, which shall

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provide for experience-based certification of persons who, prior to establishment of the certification requirements, had received relevant asbestos training, as defined by rule, and had acquired at least 1,000 hours of experience as project monitors;

(u) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-127;

(v) establish a program to certify private sector air quality permitting professionals (AQPP), as described in Section 19-2-109.5; and

(w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as inspectors, risk assessors, supervisors, project designers, or abatement workers.

(4) Any rules adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

**Renumber remaining sections accordingly.**

5. *Page 2, Lines 38 through 39:*

38        (a) "Biodiesel" means a renewable diesel fuel derived from biomass that is :  
      (i) intended for  
39 use in diesel engines {-} ; and  
      (ii) meets standards established in rule by the Air Quality Board under Section  
      19-2-104.

6. *Page 2, Line 55 through Page 3, Line 59:*

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

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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—~~} .

7. Page 3, Lines 62 through 63:

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—~~} produced .

1. Page 1, Lines 20 through 21:

20 ▶ provides that the tax credits :  
• may be carried forward for a three taxable-year period  
21 under certain circumstances; and  
• may not exceed a combined amount of \$250,000 per taxpayer in a taxable year; and

2. Page 2, Lines 48 through 51:

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%~~} 10% of the purchase price of  
machinery, equipment, or  
51 materials:

3. Page 3, Line 66:

66 may be carried forward for a time period that does not exceed the next three taxable years.  
(c) The total amount of the credits claimed under this section in a taxable year may not exceed \$250,000 per taxpayer.

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Respectfully,

Wayne A. Harper  
Committee Chair

Voting: 10-0-5

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