

**Representative Michael E. Noel** proposes the following substitute bill:

**CORPORATE FRANCHISE AND INCOME TAX  
CREDITS RELATING TO BIODIESEL OR  
SYNGAS PRODUCTION OR USED OIL REREFINING**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to provide nonrefundable tax credits relating to biodiesel production, syngas production, or used oil rerefining.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides nonrefundable tax credits for:
  - a portion of the cost of certain equipment, machinery, or materials used in the construction or remodel of a biodiesel production facility or a facility for used oil rerefining;
  - the production of biodiesel fuel;
  - the conversion of syngas into diesel fuel; or
  - the production of diesel fuel through used oil rerefining;
- ▶ addresses a taxpayer's ability to claim or carry forward the tax credits;
- ▶ provides that the total amount of the above tax credits that a taxpayer may claim or



26 carry forward for a taxable year may not exceed \$1,000,000;

27       ▶ grants rulemaking authority to the Air Quality Board and the State Tax

28 Commission;

29       ▶ requires the Air Quality Board to provide a written verification to a taxpayer for  
30 purposes of the tax credit; and

31       ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill takes effect for taxable years beginning on or after January 1, 2008.

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **19-2-104**, as last amended by Chapter 223, Laws of Utah 2006

39       **19-2-105**, as last amended by Chapter 2, Laws of Utah 2005

40 ENACTS:

41       **59-7-614.2**, Utah Code Annotated 1953

42       **59-10-1015.1**, Utah Code Annotated 1953



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

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

46       **19-2-104. Powers of board.**

47       (1) The board may make rules in accordance with Title 63, Chapter 46a, Utah

48 Administrative Rulemaking Act:

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

52       (b) establishing air quality standards;

53       (c) requiring persons engaged in operations which result in air pollution to:

54       (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

55       (ii) file periodic reports containing information relating to the rate, period of emission,

56 and composition of the air contaminant; and

57 (iii) provide access to records relating to emissions which cause or contribute to air  
58 pollution;

59 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter  
60 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management  
61 plans submitted by local education agencies under that act;

62 (e) establishing a requirement for a diesel emission opacity inspection and maintenance  
63 program for diesel-powered motor vehicles;

64 (f) implementing an operating permit program as required by and in conformity with  
65 Titles IV and V of the federal Clean Air Act Amendments of 1990;

66 (g) establishing requirements for county emissions inspection and maintenance  
67 programs after obtaining agreement from the counties that would be affected by the  
68 requirements;

69 (h) with the approval of the governor, implementing in air quality nonattainment areas  
70 employer-based trip reduction programs applicable to businesses having more than 100  
71 employees at a single location and applicable to federal, state, and local governments to the  
72 extent necessary to attain and maintain ambient air quality standards consistent with the state  
73 implementation plan and federal requirements under the standards set forth in Subsection (2);  
74 [~~and~~]

75 (i) implementing lead-based paint remediation training, certification, and performance  
76 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,  
77 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406[-]; and

78 (j) providing the written verification required by Section 19-2-105.

79 (2) When implementing Subsection (1)(h) the board shall take into consideration:

80 (a) the impact of the business on overall air quality; and

81 (b) the need of the business to use automobiles in order to carry out its business  
82 purposes.

83 (3) The board may:

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

87 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders

88 by appropriate administrative and judicial proceedings, and institute judicial proceedings to  
89 secure compliance with this chapter;

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

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

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

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

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

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

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

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

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

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

112 (m) consult, upon request, with any person proposing to construct, install, or otherwise  
113 acquire an air contaminant source in the state concerning the efficacy of any proposed control  
114 device, or system for this source, or the air pollution problem which may be related to the  
115 source, device, or system, but a consultation does not relieve any person from compliance with  
116 this chapter, the rules adopted under it, or any other provision of law;

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

119 functions of this chapter;

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

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

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

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

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

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

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

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

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

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

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

147 (t) establish certification requirements for asbestos project monitors, which shall  
148 provide for experience-based certification of persons who, prior to establishment of the  
149 certification requirements, had received relevant asbestos training, as defined by rule, and had

150 acquired at least 1,000 hours of experience as project monitors;

151 (u) establish certification procedures and requirements for certification of the  
152 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the  
153 tax credit granted in Section 59-7-605 or 59-10-1009;

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

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

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

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

165 Section 2. Section **19-2-105** is amended to read:

166 **19-2-105. Duties of board.**

167 (1) The board, in conjunction with the governing body of each county identified in  
168 Section 41-6a-1643 and other interested parties, shall perform an evaluation of the inspection  
169 and maintenance program developed under Section 41-6a-1643 including issues relating to:

170 [~~(1)~~] (a) the implementation of a standardized inspection and maintenance program;

171 [~~(2)~~] (b) out-of-state registration of vehicles used in Utah;

172 [~~(3)~~] (c) out-of-county registration of vehicles used within the areas required to have an  
173 inspection and maintenance program;

174 [~~(4)~~] (d) use of the farm truck exemption;

175 [~~(5)~~] (e) mechanic training programs;

176 [~~(6)~~] (f) emissions standards; and

177 [~~(7)~~] (g) emissions waivers.

178 (2) (a) As used in this Subsection (2):

179 (i) "Biodiesel" is as defined in:

180 (A) Section 59-7-614.2 for purposes of a tax credit claimed in accordance with Section

181 59-7-614.2; or  
182 (B) Section 59-10-1015.1 for purposes of a tax credit claimed in accordance with  
183 Section 59-10-1015.1.  
184 (ii) "Diesel fuel" is as defined in:  
185 (A) Section 59-7-614.2 for purposes of a tax credit claimed in accordance with Section  
186 59-7-614.2; or  
187 (B) Section 59-10-1015.1 for purposes of a tax credit claimed in accordance with  
188 Section 59-10-1015.1.  
189 (iii) "Syngas" is as defined in:  
190 (A) Section 59-7-614.2 for purposes of a tax credit claimed in accordance with Section  
191 59-7-614.2; or  
192 (B) Section 59-10-1015.1 for purposes of a tax credit claimed in accordance with  
193 Section 59-10-1015.1.  
194 (iv) "Used oil rerefining" is as defined in:  
195 (A) Section 59-7-614.2 for purposes of a tax credit claimed in accordance with Section  
196 59-7-614.2; or  
197 (B) Section 59-10-1015.1 for purposes of a tax credit claimed in accordance with  
198 Section 59-10-1015.1.  
199 (b) The board shall provide written verification to a facility that seeks to claim a tax  
200 credit in accordance with:  
201 (i) (A) Subsection 59-7-614.2(3), that the facility produces biodiesel if the board  
202 determines that the facility produces biodiesel; or  
203 (B) Subsection 59-10-1015.1(3), that the facility produces biodiesel if the board  
204 determines that the facility produces biodiesel;  
205 (ii) (A) Subsection 59-7-614.2(4), that the facility converts syngas into diesel fuel if the  
206 board determines that the facility converts syngas into diesel fuel; or  
207 (B) Subsection 59-10-1015.1(4), that the facility converts syngas into diesel fuel if the  
208 board determines that the facility converts syngas into diesel fuel; or  
209 (iii) (A) Subsection 59-7-614.2(5), that the facility produces diesel fuel through used  
210 oil rerefining if the board determines that the facility produces diesel fuel through used oil  
211 rerefining; or

212 (B) Subsection 59-10-1015.1(5), that the facility produces diesel fuel through used oil  
213 rerefining if the board determines that the facility produces diesel fuel through used oil  
214 rerefining.

215 Section 3. Section **59-7-614.2** is enacted to read:

216 **59-7-614.2. Definitions -- Tax credits for biodiesel production facility, production**  
217 **of biodiesel, or production of syngas -- Rulemaking authority.**

218 (1) As used in this section:

219 (a) "Base production amount" means:

220 (i) for the production of biodiesel, the first 1,000 gallons of biodiesel a taxpayer  
221 produces in this state for the taxable year for which the taxpayer claims a tax credit under  
222 Subsection (3);

223 (ii) for the conversion of syngas into diesel fuel, the first 1,000 gallons of diesel fuel  
224 the taxpayer converts from syngas in this state for the taxable year for which the taxpayer  
225 claims a tax credit under Subsection (4); or

226 (iii) for the production of diesel fuel through used oil rerefining, the first 1,000 gallons  
227 of diesel fuel the taxpayer produces in this state through used oil rerefining for the taxable year  
228 for which the taxpayer claims a tax credit under Subsection (5).

229 (b) "Biodiesel" means a renewable diesel fuel:

230 (i) derived from biomass; and

231 (ii) intended for use in a diesel engine.

232 (c) "Biodiesel production facility" means a facility that is:

233 (i) located in this state; and

234 (ii) primarily used to produce biodiesel.

235 (d) "Biomass" means any of the following that is used as the primary source of energy  
236 to produce biodiesel:

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

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

239 (e) "Diesel fuel" is as defined in Section 59-13-102.

240 (f) (i) "Gasification" means a process that:

241 (A) converts any organic matter into syngas;

242 (B) uses:



- 243 (I) heat; and  
244 (II) pressure; and  
245 (C) may use:  
246 (I) hydrogen;  
247 (II) oxygen, including;  
248 (Aa) air;  
249 (Bb) pure oxygen; or  
250 (Cc) steam; or  
251 (III) a combination of Subsections (1)(f)(i)(C)(I) and (II).  
252 (ii) "Gasification" includes hydrogasification.  
253 (g) (i) "Qualifying tangible personal property" means:  
254 (A) equipment;  
255 (B) machinery;  
256 (C) materials; or  
257 (D) a combination of Subsections (1)(g)(i)(A) through (C).  
258 (ii) "Qualifying tangible personal property" does not include the tangible personal  
259 property described in Subsection (1)(g)(i) if that tangible personal property is used in the  
260 production process.  
261 (h) "Syngas" means a synthesized gas that:  
262 (i) consists primarily of:  
263 (A) carbon; and  
264 (B) hydrogen;  
265 (ii) is produced using gasification; and  
266 (iii) is used in a diesel engine.  
267 (i) "Used oil rerefining" means a process by which used oil is rerefined into diesel fuel.  
268 (j) "Used oil rerefining facility" means a facility that is:  
269 (i) located in this state; and  
270 (ii) primarily used for used oil rerefining.  
271 (2) Subject to Subsection (7), for taxable years beginning on or after January 1, 2008, a  
272 taxpayer that pays for the cost of the construction or remodel of:  
273 (a) a biodiesel production facility may claim a nonrefundable tax credit equal to 10%

274 of the purchase price of the qualifying tangible personal property used in that construction or  
275 remodel; or

276 (b) a used oil rerefining facility may claim a nonrefundable tax credit equal to 10% of  
277 the purchase price of the qualifying tangible personal property used in that construction or  
278 remodel.

279 (3) Subject to Subsections (6) and (7), for taxable years beginning on or after January  
280 1, 2008, a taxpayer that produces biodiesel at a biodiesel production facility may claim a  
281 nonrefundable tax credit equal to the product of:

282 (a) the difference between:

283 (i) the number of gallons of biodiesel that the taxpayer produces in this state for the  
284 taxable year for which the taxpayer claims a tax credit under this section; and

285 (ii) the base production amount; and

286 (b) \$.25.

287 (4) Subject to Subsections (6) and (7), for taxable years beginning on or after January  
288 1, 2008, a taxpayer that converts syngas into diesel fuel in this state may claim a nonrefundable  
289 tax credit equal to the product of:

290 (a) the difference between:

291 (i) the number of gallons of diesel fuel that the taxpayer converts from syngas in this  
292 state for the taxable year for which the taxpayer claims a tax credit under this section; and

293 (ii) the base production amount; and

294 (b) \$.25.

295 (5) Subject to Subsections (6) and (7), for taxable years beginning on or after January  
296 1, 2008, a taxpayer that produces diesel fuel through used oil rerefining may claim a  
297 nonrefundable tax credit equal to the product of:

298 (a) the difference between:

299 (i) the number of gallons of diesel fuel that the taxpayer produces in this state through  
300 used oil rerefining for the taxable year for which the taxpayer claims a tax credit under this  
301 section; and

302 (ii) the base production amount; and

303 (b) \$.25.

304 (6) (a) Before a taxpayer may claim a tax credit under Subsections (3) through (5), the

305 taxpayer shall obtain written verification from the Air Quality Board in accordance with  
306 Section 19-2-105:

307 (i) for a taxpayer seeking to claim a tax credit in accordance with Subsection (3), that  
308 the taxpayer produces biodiesel;

309 (ii) for a taxpayer seeking to claim a tax credit in accordance with Subsection (4), that  
310 the taxpayer converts syngas into diesel fuel; or

311 (iii) for a taxpayer seeking to claim a tax credit in accordance with Subsection (5), that  
312 the taxpayer produces diesel fuel through used oil rerefining.

313 (b) A taxpayer that obtains written verification from the Air Quality Board in  
314 accordance with Subsection (6)(a) shall retain that written verification.

315 (7) (a) Subject to Subsections (7)(b) and (c):

316 (i) a tax credit under Subsection (2) may be claimed for the taxable year in which the  
317 construction or model is completed;

318 (ii) a tax credit under Subsection (3) may be claimed for the taxable year in which the  
319 biodiesel is produced;

320 (iii) a tax credit under Subsection (4) may be claimed for the taxable year in which the  
321 diesel fuel is converted from syngas; or

322 (iv) a tax credit under Subsection (5) may be claimed for the taxable year in which the  
323 diesel fuel is produced through used oil rerefining.

324 (b) Subject to Subsection (7)(c), if the amount of a tax credit allowed under this section  
325 exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax  
326 credit exceeding the tax liability may be carried forward for a time period that does not exceed  
327 the next three taxable years.

328 (c) The total amount of tax credit that a taxpayer may claim or carry forward under this  
329 section for a taxable year may not exceed \$1,000,000.

330 (8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
331 commission may by rule define the term:

332 (a) "construction";

333 (b) "production process"; or

334 (c) "remodel."

335 Section 4. Section **59-10-1015.1** is enacted to read:

336 59-10-1015.1. Definitions -- Tax credits for biodiesel production facility,  
337 production of biodiesel, or production of syngas -- Rulemaking authority.

338 (1) As used in this section:

339 (a) "Base production amount" means:

340 (i) for the production of biodiesel, the first 1,000 gallons of biodiesel a taxpayer  
341 produces in this state for the taxable year for which the taxpayer claims a tax credit under  
342 Subsection (3);

343 (ii) for the conversion of syngas into diesel fuel, the first 1,000 gallons of diesel fuel  
344 the taxpayer converts from syngas in this state for the taxable year for which the taxpayer  
345 claims a tax credit under Subsection (4); or

346 (iii) for the production of diesel fuel through used oil rerefining, the first 1,000 gallons  
347 of diesel fuel the taxpayer produces in this state through used oil rerefining for the taxable year  
348 for which the taxpayer claims a tax credit under Subsection (5).

349 (b) "Biodiesel" means a renewable diesel fuel:

350 (i) derived from biomass; and

351 (ii) intended for use in a diesel engine.

352 (c) "Biodiesel production facility" means a facility that is:

353 (i) located in this state; and

354 (ii) primarily used to produce biodiesel.

355 (d) "Biomass" means any of the following that is used as the primary source of energy  
356 to produce biodiesel:

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

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

359 (e) "Diesel fuel" is as defined in Section 59-13-102.

360 (f) (i) "Gasification" means a process that:

361 (A) converts any organic matter into syngas;

362 (B) uses:

363 (I) heat; and

364 (II) pressure; and

365 (C) may use:

366 (I) hydrogen;

- 367 (II) oxygen, including:  
368 (Aa) air;  
369 (Bb) pure oxygen; or  
370 (Cc) steam; or  
371 (III) a combination of Subsections (1)(f)(i)(C)(I) and (II).  
372 (ii) "Gasification" includes hydrogasification.  
373 (g) (i) "Qualifying tangible personal property" means:  
374 (A) equipment;  
375 (B) machinery;  
376 (C) materials; or  
377 (D) a combination of Subsections (1)(g)(i)(A) through (C).  
378 (ii) "Qualifying tangible personal property" does not include the tangible personal  
379 property described in Subsection (1)(g)(i) if that tangible personal property is used in the  
380 production process.  
381 (h) "Syngas" means a synthesized gas that:  
382 (i) consists primarily of:  
383 (A) carbon; and  
384 (B) hydrogen;  
385 (ii) is produced using gasification; and  
386 (iii) is used in a diesel engine.  
387 (i) "Used oil rerefining" means a process by which used oil is rerefined into diesel fuel.  
388 (j) "Used oil rerefining facility" means a facility that is:  
389 (i) located in this state; and  
390 (ii) primarily used for used oil rerefining.  
391 (2) Subject to Subsection (7), for taxable years beginning on or after January 1, 2008, a  
392 taxpayer that is a claimant, estate, or trust that pays for the cost of the construction or remodel  
393 of:  
394 (a) a biodiesel production facility may claim a nonrefundable tax credit equal to 10%  
395 of the purchase price of the qualifying tangible personal property used in that construction or  
396 remodel; or  
397 (b) a used oil rerefining facility may claim a nonrefundable tax credit equal to 10% of

398 the purchase price of the qualifying tangible personal property used in that construction or  
399 remodel.

400 (3) Subject to Subsections (6) and (7), for taxable years beginning on or after January  
401 1, 2008, a taxpayer that is a claimant, estate, or trust that produces biodiesel at a biodiesel  
402 production facility may claim a nonrefundable tax credit equal to the product of:

403 (a) the difference between:

404 (i) the number of gallons of biodiesel that the taxpayer produces in this state for the  
405 taxable year for which the taxpayer claims a tax credit under this section; and

406 (ii) the base production amount; and

407 (b) \$.25.

408 (4) Subject to Subsections (6) and (7), for taxable years beginning on or after January  
409 1, 2008, a taxpayer that is a claimant, estate, or trust that converts syngas into diesel fuel in this  
410 state may claim a nonrefundable tax credit equal to the product of:

411 (a) the difference between:

412 (i) the number of gallons of diesel fuel that the taxpayer converts from syngas in this  
413 state for the taxable year for which the taxpayer claims a tax credit under this section; and

414 (ii) the base production amount; and

415 (b) \$.25.

416 (5) Subject to Subsections (6) and (7), for taxable years beginning on or after January  
417 1, 2008, a taxpayer that is a claimant, estate, or trust that produces diesel fuel through used oil  
418 rerefining may claim a nonrefundable tax credit equal to the product of:

419 (a) the difference between:

420 (i) the number of gallons of diesel fuel that the taxpayer produces in this state through  
421 used oil rerefining for the taxable year for which the taxpayer claims a tax credit under this  
422 section; and

423 (ii) the base production amount; and

424 (b) \$.25.

425 (6) (a) Before a taxpayer may claim a tax credit under Subsections (3) through (5), the  
426 taxpayer shall obtain written verification from the Air Quality Board in accordance with  
427 Section 19-2-105:

428 (i) for a taxpayer seeking to claim a tax credit in accordance with Subsection (3), that

429 the taxpayer produces biodiesel;

430 (ii) for a taxpayer seeking to claim a tax credit in accordance with Subsection (4), that

431 the taxpayer converts syngas into diesel fuel; or

432 (iii) for a taxpayer seeking to claim a tax credit in accordance with Subsection (5), that

433 the taxpayer produces diesel fuel through used oil rerefining.

434 (b) A taxpayer that obtains written verification from the Air Quality Board in

435 accordance with Subsection (6)(a) shall retain that written verification.

436 (7) (a) Subject to Subsections (7)(b) and (c):

437 (i) a tax credit under Subsection (2) may be claimed for the taxable year in which the

438 construction or model is completed;

439 (ii) a tax credit under Subsection (3) may be claimed for the taxable year in which the

440 biodiesel is produced;

441 (iii) a tax credit under Subsection (4) may be claimed for the taxable year in which the

442 diesel fuel is converted from syngas; or

443 (iv) a tax credit under Subsection (5) may be claimed for the taxable year in which the

444 diesel fuel is produced through used oil rerefining.

445 (b) Subject to Subsection (7)(c), if the amount of a tax credit allowed under this section

446 exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax

447 credit exceeding the tax liability may be carried forward for a time period that does not exceed

448 the next three taxable years.

449 (c) The total amount of tax credit that a taxpayer may claim or carry forward under this

450 section for a taxable year may not exceed \$1,000,000.

451 (8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

452 commission may by rule define the term:

453 (a) "construction";

454 (b) "production process"; or

455 (c) "remodel."

456 **Section 5. Effective date.**

457 This bill takes effect for taxable years beginning on or after January 1, 2008.

458