

By: Senator(s) Lee (35th)

To: Finance

SENATE BILL NO. 3111
(As Passed the Senate)

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS IN THE
2 BUSINESS OF DISTRIBUTING MOTOR FUEL IN THE AMOUNT OF 25% OF THE
3 COST OF NONMOVABLE EQUIPMENT FOR THE DISTRIBUTION OF BIODIESEL AND
4 THE COST OF INSTALLATION OF SUCH EQUIPMENT; TO REQUIRE THAT THE
5 CREDIT MAY NOT BE CLAIMED UNTIL THE NONMOVABLE EQUIPMENT HAS BEEN
6 UTILIZED EXCLUSIVELY FOR THE DISTRIBUTION OF BIODIESEL FOR NOT
7 LESS THAN 12 CONSECUTIVE MONTHS; TO PROVIDE THAT ANY TAX CREDIT
8 CLAIMED UNDER THIS ACT BUT NOT USED MAY BE CARRIED FORWARD FOR
9 FIVE CONSECUTIVE TAXABLE YEARS; TO PROVIDE THAT THE CREDIT
10 UTILIZED IN ANY YEAR SHALL BE LIMITED TO AN AMOUNT NOT GREATER
11 THAN THE TOTAL STATE INCOME TAX LIABILITY OF THE TAXPAYER; AND FOR
12 RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** (1) A taxpayer in the business of distributing
15 motor fuel shall be allowed a credit against the taxes imposed by
16 this chapter in the amount of twenty-five percent (25%) of the
17 expenses that he incurred for the cost of nonmovable equipment
18 that he purchased for the distribution of biodiesel and for the
19 cost of installation of such equipment. The credit may not be
20 claimed until the nonmovable equipment has been utilized
21 exclusively for the distribution of biodiesel for not less than
22 twelve (12) consecutive months. The credit may be claimed for the
23 taxable year in which the twelfth consecutive month of use of the
24 equipment for the distribution of biodiesel occurs.

25 (2) Any tax credit claimed under this section but not used
26 in any taxable year may be carried forward for five (5)
27 consecutive years from the close of the tax year in which the
28 credits were earned. The credit that may be utilized each year
29 shall be limited to an amount not greater than the total state
30 income tax liability of the taxpayer.

31 (3) As used in this section:

32 (a) "Biodiesel" means:

33 (i) A fuel composed of mono-alkyl esters of
34 long-chain fatty acids generally derived from vegetable oils,
35 animal fats or biomass designated B100, and meeting the
36 requirements of American Society of Testing Materials (ASTM)
37 designation D-6751; or

38 (ii) A fuel which meets the registration
39 requirements for fuels and fuel additives established under 40 CFR
40 part 79, is not a mono-alkyl ester, is intended for use in engines
41 that are designed to run on conventional petroleum derived diesel
42 fuel and is derived or refined in a unit that normally processes
43 gasoline or diesel from crude oil from nonpetroleum renewable
44 resources, including, but not limited to, biomass, animal wastes,
45 including poultry fats and poultry wastes, and other waste
46 materials, or municipal solid waste and sludges and oils derived
47 from wastewater and the treatment of wastewater.

48 (b) "Biomass" means:

49 (i) Any organic material grown for the purpose of
50 being converted to energy;

51 (ii) Any organic byproduct of agriculture
52 (including wastes from food production and processing) that can be
53 converted into energy; or

54 (iii) Any material that can be converted to energy
55 and is derived from:

56 1. Any of the following forest-related
57 resources: mill residues, precommercial or commercial thinnings,
58 slash, brush, or otherwise nonmerchantable or merchantable
59 material; or

60 2. Wood waste materials, including waste
61 pallets, crates, dunnage, manufacturing and construction wood
62 wastes (other than pressure-treated, chemically treated, or
63 painted wood wastes), and landscape or right-of-way tree
64 trimmings, but not including municipal solid waste, gas derived

65 from the biodegradation of municipal solid waste or paper that is
66 commonly recycled.

67 **SECTION 2.** The provisions of Section 1 of this act shall be
68 codified in Chapter 7, Title 27, Mississippi Code of 1972.

69 **SECTION 3.** This act shall take effect and be in force from
70 and after January 1, 2008.