

## HOUSE BILL NO. 822

INTRODUCED BY M. REINHART, BRUEGGEMAN, HAWKS, WEINBERG, KITZENBERG, SMITH,  
HANSEN, STEINBEISSER, LEWIS, GEBHARDT, STAHL, PHILLIPS, SQUIRES, ERICKSON, MCALPIN,  
HANDS, JOPEK, HENRY, FRENCH, RASER, AUGARE, COHENOUR, DRISCOLL, WILMER, BERGREN,  
NOONEY, POMNICHOWSKI, SANDS, WILSON, VILLA, HOLLENBAUGH, MILBURN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT FOR BIODIESEL AND BIODIESEL BLEND PURCHASED FOR USE BY AN INDIVIDUAL OR A BUSINESS IN THE ~~INDIVIDUAL'S~~ TAXPAYER'S VEHICLES AND EQUIPMENT; AND PROVIDING ~~AN IMMEDIATE~~ A DELAYED EFFECTIVE DATE, ~~AND A RETROACTIVE~~ AN APPLICABILITY DATE, AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Biodiesel tax credit -- purpose -- definitions.** (1) The purpose of this section is to promote the use of biodiesel and to assist in making biodiesel economically competitive with petroleum-based diesel fuels.

(2) For purposes of this section, "biodiesel" and "biodiesel blend" have the meanings provided in 15-70-301.

(3) (a) An individual taxpayer who purchases biodiesel or biodiesel blend from biodiesel producers or biodiesel distributors or at retail for use in the taxpayer's diesel vehicles and equipment after December 31, ~~2006~~ 2007, is entitled to claim a tax credit against taxes imposed by this chapter.

(b) (i) Except as provided in subsection (3)(b)(ii), the maximum credit that a taxpayer may claim in a year under this section is an amount equal to the cost of the biodiesel or biodiesel blend purchased, not to exceed \$500.

(ii) The credit is nonrefundable and may not exceed the amount of the individual's tax liability. The credit may not be carried forward or carried back.

(C) IF THE CREDIT ALLOWED UNDER THIS SECTION IS CLAIMED, THE AMOUNT OF THE DEDUCTION ALLOWED OR ALLOWABLE UNDER THIS CHAPTER FOR THE AMOUNT THAT QUALIFIES FOR THE CREDIT MUST BE REDUCED BY THE DOLLAR AMOUNT OF THE CREDIT ALLOWED.

(4) ~~The~~ SUBJECT TO THE LIMITATION OF SUBSECTION (3)(B) AND THIS SUBSECTION, THE tax credit is available only for biodiesel blends that contain more than the state minimum requirement of biodiesel, if a minimum

requirement is in effect. The credit for purchase of biodiesel blend must be calculated ~~on the pro rata share of the biodiesel blend to the total diesel fuel purchased~~ ACCORDING TO THE FOLLOWING SCHEDULE:

(A) FOR A BIODIESEL BLEND THAT CONTAINS AT LEAST 2% BIODIESEL BUT LESS THAN 5%, THE CREDIT IS EQUAL TO 0.02 TIMES THE TOTAL COST OF THE DIESEL FUEL PURCHASED;

(B) FOR A BIODIESEL BLEND THAT CONTAINS AT LEAST 5% BIODIESEL BUT LESS THAN 10%, THE CREDIT IS EQUAL TO 0.05 TIMES THE TOTAL COST OF THE DIESEL FUEL PURCHASED;

(C) FOR A BIODIESEL BLEND THAT CONTAINS AT LEAST 10% BIODIESEL BUT LESS THAN 20%, THE CREDIT IS EQUAL TO 0.1 TIMES THE TOTAL COST OF THE DIESEL FUEL PURCHASED;

(D) FOR A BIODIESEL BLEND THAT CONTAINS AT LEAST 20% BIODIESEL BUT LESS THAN 100%, THE CREDIT IS EQUAL TO 0.2 TIMES THE TOTAL COST OF THE DIESEL FUEL PURCHASED;

(E) FOR BIODIESEL THAT MEETS THE REQUIREMENTS OF 15-70-301(2), THE CREDIT IS EQUAL TO THE TOTAL COST OF THE DIESEL FUEL PURCHASED.

(5) A taxpayer shall keep records of biodiesel and biodiesel blend purchases in order to substantiate the claimed tax credit.

**NEW SECTION. SECTION 2. BIODIESEL TAX CREDIT.** (1)(A) SUBJECT TO THE PROVISIONS OF [SECTION 1] AND THIS SECTION, A CORPORATION, SMALL BUSINESS CORPORATION, AS DEFINED IN 15-30-1101, A PARTNERSHIP, OR A LIMITED LIABILITY COMPANY, AS DEFINED IN 35-8-102, CARRYING ON A TRADE OR BUSINESS IS ALLOWED THE CREDIT PROVIDED FOR IN [SECTION 1] AGAINST THE TAXES DUE UNDER 15-31-101.

(B) THE CREDIT MAY BE CLAIMED ONLY BY A CORPORATION, A SMALL BUSINESS CORPORATION, A PARTNERSHIP, OR A LIMITED LIABILITY COMPANY THAT EMPLOYS FEWER THAN 16 EMPLOYEES.

(2) IF THE CREDIT ALLOWED UNDER THIS SECTION IS CLAIMED, THE AMOUNT OF THE DEDUCTION ALLOWED OR ALLOWABLE UNDER THIS CHAPTER FOR THE AMOUNT THAT QUALIFIES FOR THE CREDIT MUST BE REDUCED BY THE DOLLAR AMOUNT OF THE CREDIT ALLOWED.

(3) THE CREDIT MUST BE ATTRIBUTED TO SHAREHOLDERS, PARTNERS, OR MEMBERS OF A LIMITED LIABILITY COMPANY IN THE SAME PROPORTION USED TO REPORT THE CORPORATION'S, PARTNERSHIP'S, OR LIMITED LIABILITY COMPANY'S INCOME OR LOSS FOR MONTANA INCOME TAX PURPOSES.

**NEW SECTION. Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 31, PART 1, AND THE

PROVISIONS OF TITLE 15, CHAPTER 31, PART 1, APPLY TO [SECTION 2].

NEW SECTION. Section 4. Effective date. [This act] is effective ~~on passage and approval~~ JANUARY 1, 2008.

NEW SECTION. Section 5. ~~Retroactive applicability~~ APPLICABILITY. [This act] applies ~~retroactively,~~ within the meaning of 1-2-109, to tax years beginning after December 31, ~~2006~~ 2007.

NEW SECTION. SECTION 6. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2013.

- END -

