



South Carolina General Assembly
116th Session, 2005-2006

Act #83 (2007) – S.243

Be it enacted by the General Assembly of the State of South Carolina:

Biomass Energy, Renewable Fuels, Solar Systems

Section [12-63-10](#). This chapter may be cited as the 'Energy Freedom and Rural Development Act'.

Section [12-63-20](#). (A)(1) A sales tax rebate must be applied to a vehicle purchase beginning after June 30, 2008, and ending before July 1, 2013, as follows:

(a) three hundred dollars for an in-state purchase or lease of a Flex-Fuel Vehicle (FFV), which is capable of operating on E85 motor fuel. An eligible vehicle for each model year is a model identified by the manufacturer as being a flexible-fuel vehicle capable of operating on E85 motor fuel. E85 motor fuel is a fuel comprised of eighty-five percent ethanol fuel and fifteen percent gasoline fuel;

(b) three hundred dollars for an in-state purchase or lease of a hydrogen-fueled vehicle and an advanced lean-burn vehicle. A hydrogen-fueled vehicle and an advanced lean-burn vehicle is a vehicle classified by the United States Department of Energy as a hydrogen-fueled vehicle or lean-burn vehicle;

(c) three hundred dollars for an in-state purchase or lease of a hybrid vehicle, an electric vehicle, and a plug-in hybrid vehicle. A hybrid vehicle is defined as a hybrid gasoline-electric vehicle that is partially powered by a large on-board battery. An electric vehicle is defined as having at least three wheels, uses a large on-board battery or electrical storage device, and is rated for more than thirty-five miles per hour and approved for use by the United States Department of Transportation for use on United States highways (excludes neighborhood electric vehicles (NEVs)). A plug-in hybrid vehicle is a vehicle classified by the United States Department of Energy as a hybrid vehicle capable of being propelled by both a gasoline-fueled internal combustion engine and an electric motor powered by a battery that can be recharged by being plugged into an external source of electricity;

(d) three hundred dollars for the in-state purchase or lease of a high fuel-economy vehicle with a city fuel-economy rating by the United States Environmental Protection Agency (EPA) of thirty miles a gallon or higher; and

(e) not more than five hundred dollars for the purchase of equipment for conversion of a conventional hybrid electric vehicle to a plug-in hybrid electric vehicle or for the in-state purchase of EPA-certified equipment for conversion of conventional vehicles to

operate on propane, compressed natural gas, liquefied natural gas, hydrogen, or E85 (eighty-five percent ethanol and fifteen percent gasoline).

(2) The rebates allowed pursuant to this subsection must be in the form of a payment sent to the buyer upon completion of a form created by the Department of Revenue and made available to the public, dealers, and the Department of Motor Vehicles.

(3) The rebates allowed pursuant to this subsection shall be phased in at twenty percent a year until the rebate equals three hundred dollars for subitems (a) through (d) of subsection (A)(1) and five hundred dollars for subitem (e) of subsection (A)(1). The amount of rebate that a person may claim is limited to the amount of rebate in effect for the year in which the vehicle was purchased or converted, whichever is applicable.

(B)(1) An incentive payment for an alternative fuel purchase is provided beginning after June 30, 2009, and ending before July 1, 2012, and shall be provided from the general fund, excluding revenue derived from the sales and use tax as follows:

(a) five cents to the retailer for each gallon of E70 fuel or greater sold provided that the ethanol-based fuel is subject to the South Carolina motor fuel user fee;

(b) twenty-five cents to the retailer for each gallon of pure biodiesel fuel sold so that the biodiesel in the blend is at least two percent B2 or greater, provided that the qualified biodiesel content fuel is subject to the South Carolina motor fuel user fee. Biodiesel fuel is a fuel for motor vehicle diesel engines comprised of vegetable oils or animal fats and meeting the specifications of the American Society of Testing and Materials (ASTM) D6751; and

(c) twenty-five cents to the retailer or wholesaler for each gallon of pure biodiesel fuel sold as dyed diesel fuel for 'off-road' uses, so that the biodiesel in the blend is at least two percent B2 or greater.

(2) The payments allowed pursuant to this subsection must be made to the retailer upon compliance with verification procedures set forth by the Department of Agriculture.

(C)(1) An incentive payment for production of electricity or methane gas fuel is provided beginning after June 30, 2008, and ending before July 1, 2018, and shall be provided from the general fund, excluding revenue derived from the sales and use tax as follows:

(a) One cent per kilowatt-hour (kwh) for electricity produced from biomass resources in a facility not using biomass resources before June 30, 2008, or facilities which produce at least twenty-five percent more electricity from biomass resources than the greatest three-year average before June 30, 2008, up to a maximum of one hundred thousand dollars per year per taxpayer for five years. The rebate is applicable to energy from a qualifying facility placed in service and first producing energy on or after July 1, 2008, and extends for five years, ending on July 1, 2013, or, if later, five years from the date the facility was

placed in service and first produced electricity. In no case shall the rebate apply after June 30, 2018.

(b) Nine cents per therm for methane gas fuel produced from biomass resources in a facility not using biomass resources before June 30, 2008, or facilities which produce at least twenty-five percent more methane gas from biomass resources than the greatest three-year average before June 30, 2008, up to a maximum of one hundred thousand dollars per year per taxpayer for five years. The rebate is applicable to energy from a qualifying facility placed in service and first producing energy on or after July 1, 2008, and extends for five years, and ending before July 1, 2013, or, if later, five years from the date the facility was placed in service and first produced electricity. In no case shall the rebate apply after June 30, 2018.

(2) For purposes of this subsection, a biomass resource means wood, wood waste, agricultural waste, animal waste, sewage, landfill gas, and other organic materials.

(D) The Department of Revenue may prescribe forms and procedures, issue policy documents, and distribute funds as necessary to ensure the orderly and timely implementation of the provisions of this section. The Department of Revenue shall coordinate with the Department of Agriculture as necessary.

(E) Notwithstanding the incentive amounts provided pursuant to this section:

(1) for a fiscal year all claims made pursuant to subsection (A)(1)(a) of this section must not exceed 2,050,000 dollars and must apply proportionately to all eligible claimants;

(2) for a fiscal year all claims made pursuant to subitems (b) through (e) of subsection (A)(1) of this section must not exceed 2.1 million dollars and must apply proportionately to all eligible claimants; and

(3) for a fiscal year all claims made pursuant to subsections (B) and (C) of this section must not exceed 2.1 million dollars and must apply proportionately to all eligible claimants.

Section [12-63-30](#). A state-owned diesel fueling facility shall provide fuel containing at least five percent biodiesel fuel in all diesel pumps."

B. All state-owned diesel fueling facilities must be in compliance with Section [12-63-30](#) by January 1, 2008.

Income tax credit; hybrid vehicle

SECTION 11. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3376](#). (A) For taxable years beginning after 2007, and before 2011, a taxpayer is allowed a tax credit against the income tax imposed pursuant to this chapter for the in-state purchase or lease of a plug-in hybrid vehicle. A plug-in hybrid vehicle is a vehicle that shares the same benefits as an internal combustion and electric engine with an all-electric range of no less than nine miles. The credit is equal to two thousand dollars. The credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer's liability for the applicable taxable year, any unused credit may be carried forward for five years.

(B) Notwithstanding the credit amount allowed pursuant to this section, for a fiscal year all claims made pursuant to this section must not exceed two hundred thousand dollars and must apply proportionately to all eligible claimants."

Income tax credit; biodiesel expenditures

SECTION 12. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3631](#). (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to this chapter for qualified expenditures for research and development.

(B) For purposes of this section:

(1) 'Qualified expenditures for research and development' include expenditures to develop feedstocks and processes for cellulosic ethanol and for algae-derived biodiesel.

(2) 'Cellulosic ethanol' means fuel from ligno-cellulosic materials, including wood chips, corn stover, and switchgrass.

(C) The credit is equal to twenty-five percent of qualified expenditures for research and development. A taxpayer's total credit in all years, for all expenditures allowed pursuant to this section, must not exceed one hundred thousand dollars. Unused credits may be carried forward for five years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(D) The amount of the credit provided by this section to a taxpayer must be invested by the taxpayer in demonstration projects on or research and development of:

(1) enzymes and catalysts;

(2) best and most cost efficient feedstocks for South Carolina; and

(3) product development.

(E) Expenditures qualifying for a tax credit allowed by this section and investments made by a taxpayer pursuant to subsection (D) must be certified by the State Energy

Office, in consultation with the Department of Agriculture and the South Carolina Institute for Energy Studies.

(F) Notwithstanding the credit amount allowed pursuant to this section, for a fiscal year all claims made pursuant to this section must not exceed one hundred thousand dollars and must apply proportionately to all eligible claimants."

Income tax credit; solar energy systems

SECTION 13. Section [12-6-3587](#) of the 1976 Code, as added by Act 386 of 2006, is amended to read:

"Section [12-6-3587](#). (A) There is allowed as a tax credit against the income tax liability of a taxpayer imposed by this chapter an amount equal to twenty-five percent of the costs incurred by the taxpayer in the purchase and installation of a solar energy system for heating water, space heating, air cooling, or the generation of electricity in or on a facility in South Carolina and owned by the taxpayer. The tax credit allowed by this section must not be claimed before the completion of the installation. The amount of the credit in any year may not exceed three thousand five hundred dollars for each facility or fifty percent of the taxpayer's tax liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars for each facility, the taxpayer may carry forward the excess for up to ten years.

(B) 'System' includes all controls, tanks, pumps, heat exchangers, and other equipment used directly and exclusively for the solar energy system. The term 'system' does not include any land or structural elements of the building such as walls and roofs or other equipment ordinarily contained in the structure. No credit shall be allowed for a solar system unless the system is certified for performance by the nonprofit Solar Rating and Certification Corporation or a comparable entity endorsed by the State Energy Office."

Income tax credit; solar energy systems

SECTION 14. A. Subsections (A), (B), and (C) of Section [12-6-3600](#) of the 1976 Code, as added by Act 386 of 2006, are amended to read:

"(A) For taxable years beginning after 2006, and before 2014, there is allowed a credit against the tax imposed pursuant to this chapter for any corn-based ethanol or soy-based biodiesel facility which is in production at the rate of at least twenty-five percent of its name plate design capacity for the production of corn-based ethanol or soy-based biodiesel, before denaturing, on or before December 31, 2009. The credit equals twenty cents a gallon of corn-based ethanol or soy-based biodiesel produced and is allowed for sixty months beginning with the first month for which the facility is eligible to receive the credit and ending not later than December 31, 2014. The credit only may be claimed if the corn-based ethanol or soy-based biodiesel facility maintains an average production rate of at least twenty-five percent of its name plate design capacity for at least six months after the first month for which it is eligible to receive the credit.

(B) For taxable years beginning after 2006, and before 2014, there is allowed a credit against the tax imposed pursuant to this chapter for an ethanol facility using a feedstock other than corn or a biodiesel facility using a feedstock other than soy oil which is in production at the minimum rates provided pursuant to this subsection of its name plate design capacity for the production of ethanol or biodiesel, before denaturing, on or before December 31, 2009. The credit equals thirty cents a gallon of noncorn ethanol or nonsoy oil biodiesel produced and is allowed for sixty months beginning with the first month for which the facility is eligible to receive the credit and ending no later than December 31, 2014. The credit is continued only if the ethanol or biodiesel facility maintains the average minimum production rates provided pursuant to this subsection of its name plate design capacity for at least six months after the first month for which it is eligible to receive the credit.

(C) As used in this section:

(1) 'Ethanol facility' means a plant or facility primarily engaged in the production of ethanol or ethyl alcohol derived from renewable and sustainable bioproducts used as a substitute for gasoline fuel.

(2) 'Biodiesel facility' means a plant or facility primarily engaged in the production of plant- or animal-based fuels used as a substitute for diesel fuel.

(3) 'Name plate design capacity' means the original designed capacity of an ethanol or biodiesel facility. Capacity may be specified as bushels of grain ground or gallons of ethanol or biodiesel produced a year."

B. Section [12-6-3600](#) of the 1976 Code, as added by Act 386 of 2006, is amended by adding a new subsection at the end to read:

"(H) Notwithstanding the credit amount allowed by this section, for a fiscal year all claims made pursuant to this section must not exceed eight hundred thousand dollars and must apply proportionately to all eligible claimants."

Income tax credit; renewable fuel property

SECTION 15. A. Section [12-6-3610](#) of the 1976 Code, as added by Act 386 of 2006, is amended to read:

"Section [12-6-3610](#). (A) As used in this section, 'renewable fuel' means liquid nonpetroleum based fuels that can be placed in motor vehicle fuel tanks and used as a fuel in a highway vehicle. It includes all forms of fuel commonly or commercially known or sold as biodiesel and ethanol.

(B)(1) A taxpayer that purchases or constructs and installs and places in service in this State property that is used for distribution or dispensing renewable fuel specified in this subsection, at a new or existing commercial fuel distribution or dispensing facility is

allowed a credit equal to twenty-five percent of the cost to the taxpayer of purchasing, constructing, and installing the property against the taxpayer's liability for a tax imposed pursuant to this chapter. Eligible property includes pumps, storage tanks, and related equipment that is directly and exclusively used for distribution, dispensing, or storing renewable fuel. A taxpayer is qualified for a tax credit provided pursuant to this subsection if the equipment used to store, distribute, or dispense renewable fuel is labeled for this purpose and clearly identified as associated with renewable fuel. The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the property is placed in service. If, in one of the years in which the installment of a credit accrues, property directly and exclusively used for distributing, dispensing, or storing renewable fuel is disposed of or taken out of service and is not replaced, so that the facility no longer distributes, dispenses, or stores renewable fuel, the credit expires and the taxpayer may not take any remaining installment of the credit. The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(2) For purposes of this subsection, 'renewable fuel' means E70 or greater ethanol fuel dispensed at the retail level for use in motor vehicles and pure ethanol or biodiesel fuel dispensed by a distributor or facility that blends these nonpetroleum liquids with gasoline fuel or diesel fuel for use in motor vehicles.

(C) A taxpayer that constructs and places in service in this State a commercial facility for the production of renewable fuel is allowed a credit equal to twenty-five percent of the cost to the taxpayer of constructing or renovating a building and equipping the facility for the purpose of producing renewable fuel. Production of renewable fuel includes intermediate steps such as milling, crushing, and handling of feedstock and the distillation and manufacturing of the final product. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. A taxpayer's total credit in all years, for all expenditures allowed pursuant to this subsection, must not exceed one million dollars. The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(D) A taxpayer that claims any other credit allowed under this article with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(E) Notwithstanding the credit amounts allowed pursuant to this section, for a fiscal year all claims made pursuant to this section must not exceed one hundred fifty thousand dollars and must apply proportionately to all eligible claimants."

B. This section takes effect January 1, 2008.

Income tax credit; biomass resources

SECTION 16. Section [12-6-3620](#) of the 1976 Code, as added by Act 386 of 2006, is amended to read:

"Section [12-6-3620](#). (A) For taxable years beginning after 2007, there is allowed a credit against the income tax imposed pursuant to Section [12-6-530](#) or license fees imposed pursuant to Section [12-20-50](#), or both, for twenty-five percent of the costs incurred by a taxpayer for the purchase and installation of equipment used to create heat, power, steam, electricity, or another form of energy for commercial use from a fuel consisting of no less than ninety percent biomass resource. Costs incurred by a taxpayer and qualifying for the credit allowed by this section must be certified by the State Energy Office, in consultation with the Department of Agriculture and the South Carolina Institute for Energy Studies.

(B) A taxpayer's credit utilization in any one year, for all expenditures allowed pursuant to this section, must not exceed six hundred fifty thousand dollars. The tax credit allowed by this section may not exceed the liability of the taxpayer for the taxes imposed pursuant to Sections [12-6-530](#) and [12-20-50](#). Unused credits may be carried forward for fifteen years.

(C) For purposes of this section:

(1) 'Biomass resource' means wood, wood waste, agricultural waste, animal waste, sewage, landfill gas, and other organic materials.

(2) 'Commercial use' means a use intended for the purpose of generating a profit.

(3) If the facility ceases to use biomass resources as its primary fuel source before the entire credit has been utilized, it is ineligible to utilize any remaining credit until it resumes using biomass resources as its primary fuel source (at least ninety percent). The fifteen-year carry forward period must not be extended due to periods of noncompliance.

(D) Notwithstanding the credit amount allowed pursuant to this section, for a fiscal year all claims made pursuant to this section must not exceed six hundred fifty thousand dollars and must apply proportionately to all eligible claimants."

Definition; biodiesel

SECTION 17. Section [12-28-110](#)(70) of the 1976 Code, as added by Act 386 of 2006, is amended to read:

"(70) 'Biodiesel' means a fuel composed of mono-alkyl esters of long chain fatty acids generally derived from vegetable oils or animal fats, commonly known as B100, that is commonly and commercially known or sold as a fuel that is suitable for use in a highway vehicle. The fuel meets this requirement if, without further processing or blending, the

fuel is a fluid and has practical and commercial fitness for use in the propulsion of a highway vehicle. 'Biodiesel' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency pursuant to Section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751-02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels."