

UTAH ENERGY OFFICE AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Stephen H. Urquhart

This act modifies the Natural Resources Code to create the Utah Energy Office within the Department of Natural Resources. This act moves certain energy-related programs, including the Clean Fuels Vehicle program and fund, from the Department of Community and Economic Development to the Department of Natural Resources to be administered by the Utah Energy Office.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

9-1-201, as last amended by Chapter 66, Laws of Utah 1993

59-7-605, as last amended by Chapter 287, Laws of Utah 2000

59-10-127, as last amended by Chapter 287, Laws of Utah 2000

63-34-5, as last amended by Chapter 66, Laws of Utah 1993

ENACTS:

63-34-101, Utah Code Annotated 1953

63-34-201, Utah Code Annotated 1953

63-34-202, Utah Code Annotated 1953

63-34-203, Utah Code Annotated 1953

63-34-204, Utah Code Annotated 1953

REPEALS:

9-1-702, as last amended by Chapter 287, Laws of Utah 2000

9-1-703, as last amended by Chapter 287, Laws of Utah 2000

9-1-706, as last amended by Chapter 287, Laws of Utah 2000

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

Section 1. Section **9-1-201** is amended to read:

9-1-201. Department of Community and Economic Development -- Creation -- Powers and duties.

- (1) There is created the Department of Community and Economic Development.
- (2) The department shall:
 - (a) be responsible for community and economic development within the state;
 - (b) perform economic development planning for the state;
 - (c) coordinate the program plans of the various divisions within the department;
 - (d) administer and coordinate all state or federal grant programs which are, or become, available for community and economic development;
 - ~~[(e) (i) coordinate state governmental functions regarding energy conservation and program management;]~~
 - ~~[(ii) facilitate the development and implementation of programs relating to energy conservation;]~~
 - ~~[(iii) administer federal funds in accordance with applicable federal program guidelines; and]~~
 - ~~[(iv) prepare a state energy emergency plan in accordance with Title 63, Chapter 53a, Energy Emergency Powers of Governor;]~~
 - ~~[(f)]~~ (e) administer any other programs over which the department is given administrative supervision by the governor;
 - ~~[(g)]~~ (f) annually submit a report to the governor and the Legislature; and
 - ~~[(h)]~~ (g) perform any other duties as provided by the Legislature.
- (3) The department may solicit and accept contributions of moneys, services, and facilities from any other sources, public or private, but may not use these funds for publicizing the exclusive interest of the donor.
- (4) Moneys received pursuant to Subsection (3) shall be deposited in the General Fund as restricted revenues of the department.

Section 2. Section **59-7-605** is amended to read:

59-7-605. Definitions -- Credit -- Cleaner burning fuels.

- (1) As used in this section:
 - (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

(B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(b), is less than the emissions were before the installation of conversion equipment; and

(C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

(II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

(III) any other test or standard recognized by board rule; or

(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:

(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(c), is less than the emissions were before the installation of conversion equipment; and

(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or

(II) any other test or standard recognized by board rule.

(c) "Clean fuel grant" means a grant awarded under Title 9, Chapter 1, Part 7, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(d) "Conversion equipment" means equipment referred to in Subsection (2)(b) or (2)(c).

(e) "Incremental cost" has the same meaning as in Section [~~9-1-702~~] 63-34-202.

(f) "OEM vehicle" has the same meaning as in Section [~~9-1-702~~] 63-34-202.

(g) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2005, a taxpayer may claim a credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

(i) is fueled by propane, natural gas, or electricity;

(ii) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i); or

(iii) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, [~~Title H,~~] 42 U.S.C. Sec. 7521 et seq.;

(b) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2) (b)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, [~~Title H,~~] 42 U.S.C. Sec. 7521 et seq.; and

(c) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit

of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

- (i) propane, natural gas, or electricity; or
- (ii) other fuel the board determines annually on or before July 1 to be:
 - (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i); or
 - (B) substantially more effective in reducing air pollution than the fuel for which the engine

was originally designed.

(3) A taxpayer shall provide proof of the purchase of an item for which a credit is allowed under this section by:

- (a) providing proof to the board in the form the board requires by rule;
- (b) receiving a written statement from the board acknowledging receipt of the proof; and
- (c) attaching the written statement obtained from the board to the tax return in which the

credit is claimed.

(4) Except as provided by Subsection (5), this credit is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer;
- (b) in the taxable year in which the item is purchased for which the credit is claimed; and
- (c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried forward for a period that does not exceed the next five taxable years.

Section 3. Section **59-10-127** is amended to read:

59-10-127. Definition -- Credit -- Cleaner burning fuels.

(1) As used in this section:

(a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(b) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission

cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

(B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection(2)(b), is less than the emissions were before the installation of conversion equipment; and

(C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

(II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuels the motor vehicle is capable of using; or

(III) any other test or standard recognized by board rule; or

(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:

(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(c), is less than the emissions were before the installation of conversion equipment; and

(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or

(II) any other test or standard recognized by the board.

(c) "Clean fuel grant" means a grant the taxpayer receives under Title 9, Chapter 1, Part 7, Clean Fuels Conversion Program Act for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(d) "Conversion equipment" means equipment referred to in Subsection (2)(b) or (2)(c).

(e) "Incremental cost" has the same meaning as in Section [~~9-1-702~~] 63-34-202.

(f) "OEM vehicle" has the same meaning as in Section [~~9-1-702~~] 63-34-202.

(g) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2005, a taxpayer may claim a credit against tax otherwise due under this chapter in an amount equal to:

(a) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

(i) is fueled by propane, natural gas, or electricity;

(ii) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i); or

(iii) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, [~~Title H,~~] 42 U.S.C. Sec. 7521 et seq.;

(b) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2) (b)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, [~~Title H,~~] 42 U.S.C. Sec. 7521 et seq.; and

(c) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(3) An individual shall provide proof of the purchase of an item for which a credit is allowed under this section by:

- (a) providing proof to the board in the form the board requires by rule;
- (b) receiving a written statement from the board acknowledging receipt of the proof; and
- (c) attaching the written statement obtained from the board to the tax return in which the credit is claimed.

(4) Except as provided by Subsection (5), this credit is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer;
- (b) in the taxable year in which the item is purchased for which the credit is claimed; and
- (c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried forward for a period that does not exceed the next five taxable years.

Section 4. Section **63-34-5** is amended to read:

63-34-5. Executive director of natural resources -- Appointment -- Removal -- Compensation -- Responsibilities -- Department fee schedule.

(1) (a) The chief administrative officer of the Department of Natural Resources shall be an executive director appointed by the governor with the advice and consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the Department of Natural Resources and provide for coordination and cooperation among the boards ~~[and]~~, divisions, and offices of the department;

(b) approve the budget of each board and division;

(c) (i) coordinate state governmental functions regarding energy development and use;

- (ii) facilitate the development and implementation of policies and programs relating to energy production, processing, utilization, and technology in the state;
- (iii) coordinate and consolidate energy resource data collection throughout state government;
- (iv) perform forecasts of state-level energy production, consumption, and prices;
- (v) monitor federal laws and regulations relating to energy development, processing, or use, and recommend policy positions for the state;
- (vi) participate in regulatory proceedings as appropriate to the functions and duties of the department;
- (vii) represent the state on regional and national energy matters on his own initiative or as requested by the governor; and
- (viii) provide the Legislature and the governor with:
 - (A) a biennial report addressing the current status of energy markets in the state; and
 - (B) an independent assessment of energy issues.
- (d) report at the end of each fiscal year to the governor on department activities, and activities of the boards and divisions; and
- (e) perform other duties as provided by the Legislature by statute.

(3) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department. The fee shall be reasonable and fair and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the department's annual appropriations request. The department may not charge or collect any fee proposed in this manner without approval of the Legislature.

Section 5. Section **63-34-101** is enacted to read:

Part 1. Utah Energy Office

63-34-101. Utah Energy Office created -- Utah Energy Office duties.

- (1) There is created within the Department of Natural Resources the Utah Energy Office.
- (2) The Utah Energy Office shall:
 - (a) administer federally funded state programs regarding renewable energy, energy

efficiency, and energy conservation in accordance with applicable federal program guidelines;

(b) coordinate and facilitate the development and implementation of programs relating to procurement, consumption, conservation, and efficient use of energy in state buildings;

(c) if requested by the governor, prepare a state energy emergency plan in accordance with Title 63, Chapter 53a, Energy Emergency Powers of Governor; and

(d) participate in regulatory proceedings as appropriate to promote the development, conservation, and efficient use of energy.

Section 6. Section **63-34-201** is enacted to read:

Part 2. Clean Fuels Conversion Program

63-34-201. Title.

This part is known as the "Clean Fuels Conversion Program Act."

Section 7. Section **63-34-202** is enacted to read:

63-34-202. Definitions.

As used in this part:

(1) "Certified by the Air Quality Board" means that a motor vehicle on which conversion equipment has been installed meets the following criteria:

(a) before the installation of conversion equipment, the motor vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the motor vehicle;

(b) the motor vehicle's emissions of regulated pollutants, when operating with clean fuel, is less than the emissions were before the installation of conversion equipment; and

(c) a reduction in emissions under Subsection (1)(b) is demonstrated by:

(i) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the Air Quality Board;

(ii) testing the motor vehicle, before and after the installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

(iii) any other test or standard recognized by Air Quality Board rule.

(2) "Clean fuel" means:

(a) propane, compressed natural gas, or electricity;

(b) other fuel the Air Quality Board determines to be at least as effective as fuels under Subsection (2)(a) in reducing air pollution; or

(c) other fuel that meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

(3) "Clean-fuel vehicle" means a vehicle that:

(a) uses a clean fuel; and

(b) meets clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

(4) "Fund" means the Clean Fuels Vehicle Fund created in Section 63-34-203.

(5) "Government vehicle" means a motor vehicle registered in Utah and owned and operated by the state, a public trust authority, a school district, a county, a municipality, a town, or a city, including a metropolitan rapid transit motor vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

(6) "Incremental cost" means the difference between the cost of the OEM vehicle and the same vehicle model manufactured without the clean-fuel fueling system.

(7) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.

(8) "Private sector business vehicle" means a motor vehicle registered in Utah that is owned and operated solely in the conduct of a private business enterprise.

(9) "Refueling equipment" means compressors when used separately, compressors used in combination with cascade tanks, and other equipment that constitute a central refueling system capable of dispensing vehicle fuel.

Section 8. Section **63-34-203** is enacted to read:

63-34-203. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with fund monies.

(1) (a) There is created a revolving fund known as the Clean Fuels Vehicle Fund.

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(d);

(iii) interest earnings on cash balances; and

(iv) all monies collected for loan repayments and interest on loans.

(c) All money appropriated to the fund is nonlapsing.

(d) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) The department may make loans or grants with monies available in the fund for:

(i) the conversion of private sector business vehicles and government vehicles to use a clean fuel, if certified by the Air Quality Board; or

(ii) the purchase of OEM vehicles for use as private sector business vehicles or government vehicles.

(b) The amount of a loan for any vehicle may not exceed:

(i) the actual cost of the vehicle conversion;

(ii) the incremental cost of purchasing the OEM vehicle; or

(iii) the cost of purchasing the OEM vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle may not exceed:

(i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested; or

(ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested.

(d) (i) Subject to the availability of monies in the fund, the department may make loans for the purchase of vehicle refueling equipment for private sector business vehicles and government vehicles.

(ii) The maximum amount loaned per installation of refueling equipment may not exceed the actual cost of the refueling equipment.

(3) Administrative costs of the fund shall be paid from the fund.

(4) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

(5) (a) Loans made from monies in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

Section 9. Section **63-34-204** is enacted to read:

63-34-204. Department duties -- Rulemaking -- Loan repayment.

(1) The department shall:

(a) establish and administer the loan and grant program to encourage government officials and private sector business vehicle owners and operators to obtain and use clean-fuel vehicles; and

(b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

(i) specifying the amount of money in the fund to be dedicated annually for grants;

(ii) limiting the amount of a grant given to any person claiming a tax credit under Section 59-7-605 or 59-10-127 for the motor vehicle for which a grant is requested to assure that the sum of the tax credit and grant does not exceed:

(A) 50% of the incremental cost of the OEM vehicle; or

(B) 50% of the cost of conversion equipment;

(iii) limiting the number of motor vehicles per fleet operator that may be eligible for a grant in a year;

(iv) specifying criteria the department shall consider in prioritizing and awarding loans and grants;

(v) specifying repayment periods;

(vi) specifying procedures for:

(A) awarding loans and grants; and

(B) collecting loans; and

(vii) requiring all loan and grant applicants to:

(A) apply on forms provided by the department;

(B) agree in writing to use the clean fuel for which each vehicle is converted or purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled beginning from the time of conversion or purchase of the vehicle;

(C) agree in writing to notify the department if a vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident and to pursue a remedy outlined in department rules;

(D) provide reasonable data to the department on vehicles converted or purchased with loan or grant proceeds; and

(E) submit vehicles converted or purchased with loan or grant proceeds to inspections by the department as required in department rules and as necessary for administration of the loan and grant program.

(2) (a) When developing repayment schedules for the loans, the department shall consider the projected savings from use of the clean-fuel vehicle.

(b) A repayment schedule may not exceed ten years.

(c) Loans made from the fund for private sector vehicles shall be made at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(d) Loans made from the fund for government vehicles shall be made at a zero interest rate.

(3) The Division of Finance is responsible for collection of and accounting for the loans and has custody of all loan documents, including all notes and contracts, evidencing the indebtedness of the fund.

Section 10. Repealer.

This act repeals:

Section 9-1-702, Definitions.

Section 9-1-703, Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with fund monies.

Section 9-1-706, Rulemaking -- Department duties -- Loan repayment.