

OFFICE OF ENERGY - OVERSIGHT

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Thomas V. Hatch

House Sponsor: Ben C. Ferry

LONG TITLE

General Description:

This bill eliminates the Utah Energy Office, moves the Clean Fuels Vehicle program and fund from the Department of Natural Resources to the Department of Environmental Quality, and transfers authority for certain federally-related programs and the Renewable Energy Tax Credit to the Utah Geological Survey.

Highlighted Provisions:

This bill:

- ▶ eliminates the Utah Energy Office;
- ▶ moves the Clean Fuels Vehicle program and fund from the Department of Natural Resources to the Department of Environmental Quality;
- ▶ transfers authority for certain federally-related programs and the Renewable Energy Tax Credit to the Utah Geological Survey; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

59-7-605, as last amended by Chapter 90, Laws of Utah 2004

59-7-614, as enacted by Chapter 6, Laws of Utah 2001, First Special Session

59-10-127, as last amended by Chapter 90, Laws of Utah 2004

59-10-134, as enacted by Chapter 6, Laws of Utah 2001, First Special Session

63-65-2, as last amended by Chapter 313, Laws of Utah 2003

63-73-6, as last amended by Chapter 170, Laws of Utah 1995

63A-3-205, as last amended by Chapter 90, Laws of Utah 2004

RENUMBERS AND AMENDS:

19-1-401, (Renumbered from 63-34-201, as enacted by Chapter 231, Laws of Utah 2002)

19-1-402, (Renumbered from 63-34-202, as enacted by Chapter 231, Laws of Utah 2002)

19-1-403, (Renumbered from 63-34-203, as enacted by Chapter 231, Laws of Utah 2002)

19-1-404, (Renumbered from 63-34-204, as enacted by Chapter 231, Laws of Utah 2002)

REPEALS:

63-34-101, as last amended by Chapter 352, Laws of Utah 2004

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section **19-1-401**, which is renumbered from Section 63-34-201 is renumbered and amended to read:

Part 4. Clean Fuels Conversion Program Act

[63-34-201]. 19-1-401. Title.

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

Section 2. Section **19-1-402**, which is renumbered from Section 63-34-202 is renumbered and amended to read:

[63-34-202]. 19-1-402. 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~~]
19-1-403.

(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 3. Section **19-1-403**, which is renumbered from Section 63-34-203 is renumbered and amended to read:

~~[63-34-203]~~. 19-1-403. 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 4. Section **19-1-404**, which is renumbered from Section 63-34-204 is renumbered and amended to read:

~~[63-34-204]~~. **19-1-404. 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 5. Section **59-7-605** is amended to read:

59-7-605. Definitions -- Tax 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 C.F.R. Part 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 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, 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 ~~[63]~~ 19, Chapter ~~[34]~~ 1, Part ~~[2]~~ 4, 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 ~~[63-34-202]~~ 19-1-402.

(f) "OEM vehicle" has the same meaning as in Section ~~[63-34-202]~~ 19-1-402.

(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 tax 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, 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, 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 tax 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) retaining the written statement described in Subsection (3)(b).
- (4) Except as provided by Subsection (5), the tax credit under this section 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 tax 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 tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 6. Section **59-7-614** is amended to read:

59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations -- State tax credit in addition to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure which a business entity uses to transact its business except as provided in Subsection (1)(f)(ii); and

(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

~~[(i) "Office of Energy and Resource Planning" means the Office of Energy and Resource Planning, Department of Natural Resources.]~~

~~[(j)]~~ (i) "Passive solar system":

(i) means a direct thermal system which utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

~~[(k)]~~ (j) "Residential energy system" means any active solar, passive solar, wind, or

hydroenergy system used to supply energy to or for any residential unit.

[(†)] (k) "Residential unit" means any house, condominium, apartment, or similar dwelling unit which serves as a dwelling for a person, group of persons, or a family but does not include property subject to the fees in lieu of the ad valorem tax under:

- (i) Section 59-2-404;
- (ii) Section 59-2-405; or
- (iii) Section 59-2-405.1.

(l) "Utah Geological Survey" means the Utah Geological Survey established in Section 63-73-5.

(m) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2006, a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(iii) If a business entity sells a residential unit to an individual taxpayer prior to making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-134.

(b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2006, a business entity that purchases or participates in the financing of a commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

(C) The credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax

credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(c) (i) A tax credit under this section may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried over for a period which does not exceed the next four taxable years.

(3) (a) The tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) (i) The [~~Office of Energy and Resource Planning~~] Utah Geological Survey may [~~promulgate~~] set standards for residential and commercial energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) A tax credit may not be taken under Subsection (2) until the [~~Office of Energy and Resource Planning~~] Utah Geological Survey has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(c) The [~~Office of Energy and Resource Planning~~] Utah Geological Survey and the commission are authorized to promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are necessary to implement this section.

(d) The Uniform School Fund shall be reimbursed by transfers from the General Fund for any credits taken under this section.

Section 7. Section **59-10-127** is amended to read:

59-10-127. Definitions -- Tax 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 C.F.R. Part 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 C.F.R. Part 86, Control Emissions from New and In-use Highway Vehicles and Engines, 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 [63] 19, Chapter

[34] 1, Part [2] 4, 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 [63-34-202] 19-1-402.

(f) "OEM vehicle" has the same meaning as in Section [63-34-202] 19-1-402.

(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 tax 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, 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, 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 tax 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) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section 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 tax 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 tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 8. Section **59-10-134** is amended to read:

59-10-134. Renewable energy systems tax credit -- Definitions -- Individual tax credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of

Uniform School Fund.

(1) As used in this part:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure which a business entity uses to transact its business, except as provided in Subsection (1)(f)(ii); and

(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Individual taxpayer" means any person who is a taxpayer as defined in Section

59-10-103 and an individual as defined in Section 59-10-103.

~~[(i) "Office of Energy and Resource Planning" means the Office of Energy and Resource Planning, Department of Natural Resources.]~~

~~[(j)]~~ (i) "Passive solar system":

(i) means a direct thermal system which utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

~~[(k)]~~ (j) "Residential energy system" means any active solar, passive solar, wind, or hydroenergy system used to supply energy to or for any residential unit.

~~[(l)]~~ (k) "Residential unit" means any house, condominium, apartment, or similar dwelling unit which serves as a dwelling for a person, group of persons, or a family but does not include property subject to the fees in lieu of the ad valorem tax under:

- (i) Section 59-2-404;
- (ii) Section 59-2-405; or
- (iii) Section 59-2-405.1.

(l) "Utah Geological Survey" means the Utah Geological Survey established in Section 63-73-5.

(m) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2006, any individual taxpayer may claim a tax credit as provided in this section if:

(a) the individual taxpayer purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy for the individual taxpayer's residential unit in the state; or

(b) (i) a business entity sells a residential unit to an individual taxpayer prior to making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

(ii) the business entity assigns its right to the tax credit to the individual taxpayer as provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

(3) (a) An individual taxpayer meeting the requirements of Subsection (2) is entitled to a tax credit equal to 25% of the costs of the energy system, including installation costs, against any income tax liability of the individual taxpayer under this chapter for the taxable year in which the residential energy system is completed and placed in service.

(b) The total amount of the credit under this section may not exceed \$2,000 per residential unit.

(c) The credit under this section is allowed for any residential energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(4) (a) The tax credit provided for in this section shall be claimed in the return for the taxable year in which the energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be similarly claimed in returns for subsequent taxable years as long as the total amount claimed does not exceed \$2,000 per residential unit.

(c) If the amount of the tax credit under this section exceeds the income tax liability of the individual taxpayer for that taxable year, then the amount not used may be carried over for a period which does not exceed the next four taxable years.

(5) (a) Individual taxpayers who lease a residential energy system installed on a residential unit are eligible for the residential energy tax credits if the lessee can confirm that the lessor irrevocably elects not to claim the state tax credit.

(b) Only the principal recovery portion of the lease payments, which is the cost incurred by the taxpayer in acquiring the residential energy system excluding interest charges and maintenance expenses, is eligible for the tax credits.

(c) Individual taxpayers who lease residential energy systems are eligible to use the tax credits for a period no greater than seven years from the initiation of the lease.

(6) (a) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a tax credit as provided in this Subsection (6).

(b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2006, a business entity is entitled to a tax credit equal to 25% of the costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(ii) The total amount of the credit under this Subsection (6) may not exceed \$2,000 per residential unit.

(iii) The credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(c) If a business entity sells a residential unit to an individual taxpayer prior to making a claim for the tax credit under this Subsection (6), the business entity may:

(i) assign its right to this tax credit to the individual taxpayer; and

(ii) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (6)(c)(i), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under this section.

(7) (a) A business entity that purchases or participates in the financing of a commercial energy system is entitled to a tax credit as provided in this Subsection (7) if:

(i) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(ii) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any commercial energy system installed, including installation costs, against any tax due under this

chapter for the taxable year in which the commercial energy system is completed and placed in service.

(ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000 per commercial unit.

(iii) The credit under this Subsection (7) is allowed for any commercial energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

(c) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(d) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).

(e) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (7) for a period no greater than seven years from the initiation of the lease.

(8) (a) A tax credit under this section may be claimed for the taxable year in which the energy system is completed and placed in service.

(b) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(c) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried over for a period which does not exceed the next four taxable years.

(9) The tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(10) (a) The [~~Office of Energy and Resource Planning~~] Utah Geological Survey may [~~promulgate~~] set standards for residential and commercial energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems

eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(b) A tax credit may not be taken under this section until the [~~Office of Energy and Resource Planning~~] Utah Geological Survey has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(11) The [~~Office of Energy and Resource Planning~~] Utah Geological Survey and the commission are authorized to promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are necessary to implement this section.

(12) The Uniform School Fund shall be reimbursed by transfers from the General Fund for any credits taken under this section.

Section 9. Section **63-65-2** is amended to read:

63-65-2. Definitions.

As used in this chapter:

(1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness representing loans or grants made by an authorizing agency.

(2) "Authorized official" means the state treasurer or other person authorized by a bond document to perform the required action.

(3) "Authorizing agency" means the board, person, or unit with legal responsibility for administering and managing revolving loan funds.

(4) "Bond document" means:

(a) a resolution of the commission; or

(b) an indenture or other similar document authorized by the commission that authorizes and secures outstanding revenue bonds from time to time.

(5) "Commission" means the State Bonding Commission created in Section 63B-1-201.

(6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

(7) "Revolving Loan Funds" means:

(a) the Water Resources Conservation and Development Fund, created in Section

73-10-24;

- (b) the Water Resources Construction Fund, created in Section 73-10-8;
- (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;
- (d) the Clean Fuel Conversion Funds, created in Title ~~[63]~~ 19, Chapter ~~[34]~~ 1, Part ~~[2]~~ 4,

Clean Fuels Conversion Program Act;

(e) the Water Development Security Fund and its subaccounts created in Section 73-10c-5;

- (f) the Agriculture Resource Development Fund, created in Section 4-18-6;
- (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;
- (h) the Permanent Community Impact Fund, created in Section 9-4-303;
- (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and
- (j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.

Section 10. Section ~~63-73-6~~ is amended to read:

63-73-6. Powers and duties of survey.

- (1) The survey shall:
 - (a) assist and advise state and local governmental agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;
 - (b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;
 - (c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;
 - (d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;
 - (e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;

(f) assist local and state government agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;

(g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;

(h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until they are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records; [~~and~~]

(p) edit and publish critical paleontological records and reports[-]; and

(q) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds

Procedures, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:

- (i) renewable energy;
- (ii) energy efficiency; and
- (iii) energy conservation.

(2) (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept such information and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4) (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

- (i) the action is approved by the board;
- (ii) the projects are not inconsistent with the state's objectives; and
- (iii) the results of the projects are available to the public.

Section 11. Section **63A-3-205** is amended to read:

63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.

(1) As used in this section, "revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title ~~[63]~~ 19, Chapter ~~[34]~~ 1, Part ~~[2]~~ 4, Clean Fuels Conversion Program;

(e) the Water Development Security Account and its subaccounts created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-6;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(h) the Permanent Community Impact Fund, created in Section 9-4-303;

(i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;

(j) the Uintah Basin Revitalization Fund, created in Section 9-10-102; and

(k) the Navajo Revitalization Fund, created in Section 9-11-104.

(2) The division shall for each revolving loan fund:

(a) make rules establishing standards and procedures governing:

(i) payment schedules and due dates;

(ii) interest rate effective dates;

(iii) loan documentation requirements; and

(iv) interest rate calculation requirements;

(b) make an annual report to the Legislature containing:

(i) the total dollars loaned by that fund during the last fiscal year;

(ii) a listing of each loan currently more than 90 days delinquent, in default, or that was restructured during the last fiscal year;

(iii) a description of each project that received money from that revolving loan fund;

(iv) the amount of each loan made to that project;

(v) the specific purpose for which the proceeds of the loan were to be used, if any;

(vi) any restrictions on the use of the loan proceeds;

(vii) the present value of each loan at the end of the fiscal year calculated using the interest rate paid by the state on the bonds providing the revenue on which the loan is based or, if that is unknown, on the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold; and

(viii) the financial position of each revolving loan fund, including the fund's cash investments, cash forecasts, and equity position.

Section 12. Repealer.

This bill repeals:

Section **63-34-101, Utah Energy Office created -- Utah Energy Office duties.**

Section 13. Study regarding Governor's Office of Economic Development's role in the assumption of responsibility for state energy policy duties and programs.

(1) The Legislature's Public Utilities and Technology Interim Committee shall monitor and study the implementation and consequences of the elimination of the Energy Office and the assumption of the Energy Office duties and responsibilities by the Governor's Office of Economic Development.

(2) The Public Utilities and Technology Interim Committee shall conduct a study to determine what modifications, if any, may be needed to further enhance the state's energy programs and policies.

(3) The Governor's Office of Economic Development shall report to the Public Utilities and Technology Interim committee by September 30 to report on the Governor's Office's assumption of responsibility for energy policy duties and programs.

(4) The Public Utilities and Technology Interim Committee shall complete the study required by Subsection (1) and present its findings, including any proposed legislation, to the Legislative Management Committee by November 30, 2005.

Section 14. Intent language regarding application of rules relating to the Clean Fuels Conversion Program.

It is the intent of the Legislature that administrative rules in effect at the time this bill passes, which are issued under Section 63-34-204 by the Department of Natural Resources relating to the Clean Fuels Conversion Program, are not modified by this bill and remain in effect, except that the agency administering the administrative rules shall be the Department of Environmental Quality pursuant to Section 19-1-404. The Department of Environmental Quality shall coordinate with the Division of Administrative Rules and correct references within the

rules, within three months of the bill's effective date.

Section 15. Intent language regarding application of rules relating to the Renewable Energy Tax Credit.

It is the intent of the Legislature that administrative rules in effect at the time this bill passes, which are issued by the Utah Energy Office in the Department of Natural Resources relating to Renewable Energy Tax Credits, are not modified by this bill and remain in effect, except that the agency administering the administrative rules shall be the Utah Geological Survey pursuant to Section 63-73-4. The Utah Geological Survey shall coordinate with the Division of Administrative Rules and correct references within the rules, within three months of the bill's effective date.

Section 16. Effective date.

This bill takes effect May 15, 2005.

Section 17. Coordinating S.B. 199 with H.B. 34.

If this S.B. 199 and H.B. 34, Emergency Related Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication shall delete Subsection 53-2-110(2)(b) and renumber remaining subsections.