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SESSION 2005

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SENATE BILL 1149
Agriculture/Environment/Natural Resources Committee Substitute Adopted
8/11/05
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Short Title: Energy Credit Banking/Selling Program/Fund.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A BANKING AND SELLING PROGRAM FOR CREDITS
ISSUED UNDER THE FEDERAL ENERGY POLICY ACT IN ORDER TO
GENERATE FUNDS FOR THE USE OF ALTERNATIVE FUELS AND
ALTERNATIVE FUELED VEHICLES BY STATE DEPARTMENTS,
INSTITUTIONS, AND AGENCIES AND TO EXTEND AND EXPAND THE
CREDIT FOR INVESTMENT IN RENEWABLE ENERGY PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 143 of the General Statutes is amended by
adding two new sections to read:

"§ 143-58.4. Energy credit banking and selling program.

(a) As used in this section:

- (1) 'AFV' means a hybrid electric vehicle that derives its transportation energy from gasoline and electricity. AFV also means an original equipment manufactured vehicle that operates on compressed natural gas, propane, or electricity.
- (2) 'Alternative fuel' means biodiesel, ethanol, compressed natural gas, propane, and electricity used as a transportation fuel in blends or in a manner as defined by the Energy Policy Act.
- (3) 'B-20' means a blend of twenty percent (20%) by volume biodiesel fuel and eighty percent (80%) by volume petroleum-based diesel fuel.
- (4) 'Department' means the Department of Administration.
- (5) 'Energy Policy Act' means the federal Energy Policy Act of 1992, Pub. L. No. 102-486, 106 Stat. 2782, 42 U.S.C. § 13201, et seq.
- (6) 'EPAct credit' means a credit issued pursuant to the Energy Policy Act.
- (7) 'E-85' means a blend of eighty-five percent (85%) by volume ethanol and fifteen percent (15%) by volume gasoline.

1 (8) 'Incremental fuel cost' means the difference in cost between an
2 alternative fuel and conventional petroleum fuel at the time the fuel is
3 purchased.

4 (9) 'Incremental vehicle cost' means the difference in cost between an
5 AFV and conventional vehicle of the same make and model. For
6 vehicles with no comparable conventional model, incremental vehicle
7 cost means the generally accepted difference in cost between an AFV
8 and a similar conventional model.

9 (b) Establish Program. – The State Energy Office of the Department, in
10 cooperation with State departments, institutions, and agencies, shall establish and
11 administer an energy credit banking and selling program to allow State departments,
12 institutions, and agencies to use moneys generated by the sale of EAct credits to
13 purchase alternative fuel, develop alternative fuel refueling infrastructure, and purchase
14 AFVs for use by State departments, institutions, and agencies. Each State department,
15 institution, and agency shall provide the State Energy Office with all vehicle fleet
16 information necessary to determine the number of EAct credits generated annually by
17 the State. The State Energy Office may sell credits in any manner that is in accordance
18 with the provisions of the Energy Policy Act.

19 (c) Adopt Rules. – The Secretary of Administration shall adopt rules as necessary
20 to implement this section.

21 **"§ 143-58.5. Alternative Fuel Revolving Fund.**

22 (a) The definitions set out in G.S. 143-58.4 apply to this section.

23 (b) The Alternative Fuel Revolving Fund is created and shall be held by the State
24 Treasurer. The Fund shall consist of moneys received from the sale of EAct credits
25 under G.S. 143-58.4, any moneys appropriated to the Fund by the General Assembly,
26 and any moneys obtained or accepted by the Department for deposit into the Fund. The
27 Fund shall be managed to maximize benefits to the State for the purchase of alternative
28 fuel, related refueling infrastructure, and AFV purchases. To the extent possible,
29 benefits from the sale of EAct credit shall be distributed to State departments,
30 institutions, and agencies in proportion to the number of EAct credits generated by
31 each. No portion of the Fund shall be transferred to the General Fund, and any
32 appropriation made to the Fund shall not revert. The State Treasurer shall invest moneys
33 in the Fund in the same manner as other funds are invested. Interest and moneys earned
34 on such investments shall be credited to the Fund.

35 (c) The Fund shall be used to offset the incremental fuel cost of biodiesel fuel
36 with a minimum biodiesel concentration of B-20 for use in State vehicles, for the
37 purchase of ethanol fuel with a minimum ethanol concentration of E-85 for use in State
38 vehicles, the incremental vehicle cost of purchasing AFVs, for the development of
39 related refueling infrastructure, for the costs of administering the Fund, and for projects
40 approved by the Energy Policy Council.

41 (d) The Secretary of Administration shall adopt rules as necessary to implement
42 this section.

1 (e) The Department shall submit to the Joint Legislative Commission on
2 Governmental Operations and the Fiscal Research Division no later than 1 October of
3 each year a report on the expenditures from the Fund during the preceding fiscal year."

4 **SECTION 2.** Article 2 of Chapter 136 of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 136-28.13. Participation in the energy credit banking and selling program.**

7 The Department of Transportation shall participate in the energy credit banking and
8 selling program under G.S. 143-58.4 and is eligible to receive proceeds from the
9 Alternative Fuel Revolving Fund under G.S. 143-58.5 to purchase alternative fuel,
10 develop alternative fuel refueling infrastructure, or purchase AFVs as defined in
11 G.S. 143-58.4."

12 **SECTION 3.** G.S. 143-341(8)i. reads as rewritten:

13 "i. To establish and operate a central motor pool and such
14 subsidiary related facilities as the Secretary may deem
15 necessary, and to that end:

16 1. To establish and operate central facilities for the
17 maintenance, repair, and storage of state-owned
18 passenger motor vehicles for the use of State agencies; to
19 utilize any available State facilities for that purpose; and
20 to establish such subsidiary facilities as the Secretary
21 may deem necessary.

22 2. To acquire passenger motor vehicles by transfer from
23 other State agencies and by purchase. All motor vehicles
24 transferred to or purchased by the Department shall
25 become part of a central motor pool.

26 2a. To participate in the energy credit banking and selling
27 program under G.S. 143-58.4. The Division of Motor
28 Fleet Management of the Department of Administration
29 is eligible to receive proceeds from the Alternative Fuel
30 Revolving Fund under G.S. 143-58.5 to purchase
31 alternative fuel, develop alternative fuel refueling
32 infrastructure, or purchase AFVs as defined in
33 G.S. 143-58.4.

34 "...."

35 **SECTION 4.** G.S. 105-129.15(7) reads as rewritten:

36 "**§ 105-129.15. Definitions.**

37 The following definitions apply in this Article:

38 ...

39 (6) Renewable biomass resources. – Organic matter produced by
40 terrestrial and aquatic plants and animals, such as standing vegetation,
41 aquatic crops, forestry and agricultural residues, spent pulping liquor,
42 landfill wastes, and animal wastes.

43 (7) Renewable energy property. – Any of the following machinery and
44 equipment or real property:

- 1 a. Biomass equipment that uses renewable biomass resources for
2 biofuel production of ethanol, methanol, and biodiesel;
3 anaerobic biogas production of methane utilizing agricultural
4 and animal waste or garbage; or commercial thermal or
5 electrical ~~generation from renewable energy crops or wood~~
6 ~~waste materials generation~~. The term also includes related
7 devices for converting, conditioning, and storing the liquid
8 fuels, gas, and electricity produced with biomass equipment.
- 9 b. Hydroelectric generators located at existing dams or in
10 free-flowing waterways, and related devices for water supply
11 and control, and converting, conditioning, and storing the
12 electricity generated.
- 13 c. Solar energy equipment that uses solar radiation as a substitute
14 for traditional energy for water heating, active space heating
15 and cooling, passive heating, daylighting, generating electricity,
16 distillation, desalination, detoxification, or the production of
17 industrial or commercial process heat. The term also includes
18 related devices necessary for collecting, storing, exchanging,
19 conditioning, or converting solar energy to other useful forms
20 of energy.
- 21 d. Wind equipment required to capture and convert wind energy
22 into electricity or mechanical power, and related devices for
23 converting, conditioning, and storing the electricity produced.

24 ..."

25 **SECTION 5.** G.S. 105-129.16A reads as rewritten:

26 **"§ 105-129.16A. Credit for investing in renewable energy property.**

27 (a) Credit. – If a taxpayer that has constructed, purchased, or leased renewable
28 energy property places it in service in this State during the taxable year, the taxpayer is
29 allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the
30 case of renewable energy property that serves a single-family dwelling, the credit must
31 be taken for the taxable year in which the property is placed in service. For all other
32 renewable energy property, the entire credit may not be taken for the taxable year in
33 which the property is placed in service but must be taken in five equal installments
34 beginning with the taxable year in which the property is placed in service.

35 (b) Expiration. – If, in one of the years in which the installment of a credit
36 accrues, the renewable energy property with respect to which the credit was claimed is
37 disposed of, taken out of service, or moved out of State, the credit expires and the
38 taxpayer may not take any remaining installment of the credit. The taxpayer may,
39 however, take the portion of an installment that accrued in a previous year and was
40 carried forward to the extent permitted under G.S. 105-129.17. No credit is allowed
41 under this section to the extent the cost of the renewable energy property was provided
42 by public funds.

43 (c) Ceilings. – The credit allowed by this section may not exceed the applicable
44 ceilings provided in this subsection.

1 (1) Nonresidential Property. – A ceiling of two ~~hundred fifty million five~~
2 hundred thousand dollars ~~(\$250,000)~~(\$2,500,000) per installation
3 applies to renewable energy property placed in service for any purpose
4 other than residential.

5 (2) Residential Property. – The following ceilings apply to renewable
6 energy property placed in service for residential purposes:

7 a. One thousand four hundred dollars (\$1,400) per dwelling unit
8 for solar energy equipment for domestic water ~~heating~~heating,
9 including pool heating.

10 b. Three thousand five hundred dollars (\$3,500) per dwelling unit
11 for solar energy equipment for active space heating, combined
12 active space and domestic hot water systems, and passive space
13 heating.

14 c. Ten thousand five hundred dollars (\$10,500) per installation for
15 any other renewable energy property for residential purposes.

16 (d) No Double Credit. – A taxpayer that claims any other credit allowed under
17 this Chapter with respect to renewable energy property may not take the credit allowed
18 in this section with respect to the same property. A taxpayer may not take the credit
19 allowed in this section for renewable energy property the taxpayer leases from another
20 unless the taxpayer obtains the lessor's written certification that the lessor will not claim
21 a credit under this Chapter with respect to the property.

22 (e) Sunset. – This section is repealed effective for renewable energy property
23 placed into service on or after January 1, 2011."

24 **SECTION 6.** G.S. 105-129.15A is repealed.

25 **SECTION 7.** G.S. 105-129.16 is repealed.

26 **SECTION 8.** G.S. 105-129.16C is amended by adding a new subsection to
27 read:

28 "(d) Sunset. – This section is repealed for taxable years beginning on or after
29 January 1, 2006."

30 **SECTION 9.** Sections 1 through 3 of this act become effective January 1,
31 2006. Sections 4 and 5 of this act are effective for taxable years beginning on or after
32 January 1, 2006. The remainder of this act is effective when it becomes law.